

1 **DECRIMINALIZATION OF TRAFFIC**

2 **OFFENSES**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Lyle W. Hillyard**

6 AN ACT RELATING TO STATE AFFAIRS IN GENERAL; PROHIBITING COUNTIES AND
7 MUNICIPALITIES FROM DECRIMINALIZING TRAFFIC OFFENSES; PROVIDING
8 GRANDFATHERING FOR CERTAIN ADMINISTRATIVE TRAFFIC PROCEEDINGS;
9 CREATING ADMINISTRATIVE PROCEDURES AND APPEALS; CREATING A TASK
10 FORCE TO STUDY THE DECRIMINALIZATION OF TRAFFIC OFFENSES; PROVIDING
11 FOR MEMBERSHIP; DELINEATING DUTIES AND RESPONSIBILITIES; PROVIDING A
12 REPORTING DATE; APPROPRIATING \$34,500 FROM THE GENERAL FUND FOR FISCAL
13 YEAR 2000-01 ONLY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING A REPEAL
14 DATE.

15 This act affects sections of Utah Code Annotated 1953 as follows:

16 AMENDS:

17 **10-3-703**, as last amended by Chapter 178, Laws of Utah 1986

18 **10-8-84**, as last amended by Chapter 178, Laws of Utah 1986

19 **17-5-263**, as renumbered and amended by Chapters 146 and 147, Laws of Utah 1994

20 **21-1-5**, as last amended by Chapter 309, Laws of Utah 1999

21 **53-3-218**, as last amended by Chapter 216, Laws of Utah 1999

22 **63-63a-1**, as last amended by Chapter 94, Laws of Utah 1998

23 **63-63a-2**, as last amended by Chapter 198, Laws of Utah 1996

24 **78-3-4**, as last amended by Chapter 313, Laws of Utah 1998

25 ENACTS:

26 **10-3-703.5**, Utah Code Annotated 1953

27 **10-3-703.7**, Utah Code Annotated 1953

28 **63-55-210**, Utah Code Annotated 1953

29 This act enacts uncodified material.

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **10-3-703** is amended to read:

32 **10-3-703. Criminal penalties for violation of ordinance -- Civil penalties prohibited**
33 **-- Exceptions.**

34 [~~Unless otherwise specifically authorized by statute, the~~]

35 (1) The governing body of each municipality may [provide a] impose a minimum criminal
36 penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class
37 B misdemeanor fine under Section 76-3-301 or by a term of imprisonment up to six months, or by
38 both the fine and term of imprisonment. [The]

39 (2) (a) Except as provided in Subsection (2)(b), the governing body may prescribe a
40 minimum civil penalty for the violation of any municipal ordinance [and may impose] by a fine
41 not to exceed the maximum class B misdemeanor fine under Section 76-3-301.

42 (b) A municipality may not impose a civil penalty and adjudication for [the unauthorized
43 use of municipal property, including, but not limited to, the use of parks, streets, and other public
44 grounds or equipment. Rules of civil procedure shall be substantially followed.] the violation of
45 a municipal moving traffic ordinance, except as authorized in Section 10-3-703.5.

46 Section 2. Section **10-3-703.5** is enacted to read:

47 **10-3-703.5. Civil penalty for violation of municipal ordinance -- Administrative**
48 **traffic proceedings -- Appeals.**

49 (1) As used in this section, "municipality" means a municipality of the first class, as
50 defined in Section 10-2-301, that had ordinances in effect on or before January 1, 2000 that
51 provide a civil penalty for and administrative adjudication of moving traffic violations.

52 (2) (a) A municipality may, by ordinance, impose a civil penalty and provide adjudication
53 for a violation of a municipal moving traffic ordinance, including regulations described in Section
54 41-6-17, through an administrative traffic proceeding.

55 (b) The default civil penalty for a municipal traffic ordinance shall be consistent with the
56 uniform bail schedule adopted by the Judicial Council.

57 (c) A civil traffic violation constitutes a public offense for purposes of Section 77-7-15 and
58 may be enforced as provided in that section.

59 (3) An administrative traffic proceeding:

60 (a) shall, except as provided in this section, be conducted in accordance with Section
61 10-3-703.7; and

62 (b) may not be held for § : (i) A MOVING VIOLATION THAT WOULD BE A CLASS B
62a MISDEMEANOR IN A CRIMINAL PROCEEDING; (ii) § a violation of Title 41, Chapter 6, Article 5,
62b Driving While
63 Intoxicated and Reckless Driving § [] ; § or § (iii) § a traffic violation that occurs in conjunction
63a with another
64 criminal violation as part of a single criminal episode that will be prosecuted in a criminal
65 proceeding.

66 (4) If a final administrative determination in an administrative traffic proceeding is for a
67 violation:

68 (a) the civil penalty is subject to the fees or surcharges established in Subsections
69 21-1-5(2)(d)(ii) and 63-63a-1(1)(b)(ii):

70 (b) the final administrative determination constitutes a conviction as defined in Section
71 53-3-102; and

72 (c) the final administrative determination may be appealed by a party in accordance with
73 Section 10-3-703.7.

73a § (5)(a) A MUNICIPALITY THAT HAS A POPULATION GREATER THAN 150,000, ACCORDING TO THE
73b LAST OFFICIAL FEDERAL CENSUS, SHALL REMIT TO THE STATE BY JUNE 30 OF EACH FISCAL
73c YEAR:

73d (i) \$504,700 FOR FISCAL YEAR 2000-01; AND

73e (ii) \$580,400 FOR FISCAL YEAR 2001-02.

73f (b) A MUNICIPALITY THAT HAS A POPULATION LESS THAN 150,000, ACCORDING TO THE
73g LAST OFFICIAL FEDERAL CENSUS, SHALL REMIT TO THE STATE BY JUNE 30 OF EACH FISCAL
73h YEAR:

73i (i) \$388,600 FOR FISCAL YEAR 2000-01; AND

73j (ii) \$446,900 FOR FISCAL YEAR 2001-02.

73k (c) IF A MUNICIPALITY REPEALS THE ORDINANCE DESCRIBED IN SUBSECTION (2)(a)
73l PRIOR TO THE END OF A FISCAL YEAR, THE MUNICIPALITY SHALL REMIT TO THE STATE THE
73m AMOUNT DESCRIBED IN SUBSECTION (5)(a) OR (b) PRORATED ACCORDING TO THE DATE THE
73n ORDINANCE IS REPEALED.

73o (d) MONIES REMITTED TO THE STATE UNDER THIS SUBSECTION (5) SHALL BE REMITTED
73p TO THE STATE TREASURER AND DEPOSITED IN THE STATE GENERAL FUND. §

74 Section 3. Section **10-3-703.7** is enacted to read:

75 **10-3-703.7. Administrative proceedings -- Procedures -- Appeals.**

76 (1) As used in this section, "administrative proceeding" means an adjudicative hearing for
77 a violation of a civil municipal ordinance, including an administrative traffic proceeding
78 authorized in Section 10-3-703.5.

79 (2) An administrative proceeding:

80 (a) shall be a public meeting with business transacted during regularly scheduled hours;

81 (b) shall be conducted by an administrative law judge;

82 (c) shall provide due process for the parties; § ~~and~~

82a **(d) SHALL BE RECORDED OR OTHERWISE DOCUMENTED SO THAT A TRUE AND CORRECT**
82b **TRANSCRIPT MAY BE MADE OF ITS PROCEEDINGS; AND**

83 ~~(d)~~ (e) § may not be held for a civil violation that occurs in conjunction with another
criminal

84 violation as part of a single criminal episode that will be prosecuted in a criminal proceeding.

85 (3) An administrative law judge:

86 (a) shall be appointed by the municipality to conduct administrative proceedings;

87 (b) may be an employee of the municipality; and

88 (c) shall make a final administrative determination for each administrative proceeding.

89 (4) (a) A final administrative determination under this section may be an order for the

90 municipality to abate the violation.

91 (b) If a final administrative determination under this section is for a violation, the final
 92 administrative determination may be appealed by a party in accordance with Subsection (5).

93 (5) (a) (i) Any person adversely affected by an administrative proceeding may petition a
 94 district court for review of the administrative determination.

95 (ii) In the petition, the petitioner may only allege that the administrative proceeding's
 96 decision was arbitrary, capricious, or illegal.

97 (iii) The petition is barred unless it is filed within 30 days after the administrative
 98 determination is final.

99 (b) (i) The administrative proceeding shall transmit to the reviewing district court the
 100 record of its proceedings, including its § [~~minutes,~~] § findings, orders, and § [~~if available,~~] § a
 100a true and
 101 correct transcript of its proceedings.

102 § [~~—(ii) If the proceeding was recorded, a transcript of the recording is a true and correct~~
 103 transcript for purposes of this section.

104 —(c) (i) If there is a record, the district court's review is limited to the record provided by the
 105 administrative proceeding:] §

106 (ii) The district court may not accept or consider any evidence that is not included in the
 107 administrative proceeding's record unless the evidence was offered to the administrative
 108 proceeding and the district court determines that the evidence was improperly excluded by the
 109 administrative proceeding.

110 Section 4. Section **10-8-84** is amended to read:

111 **10-8-84. Ordinances, rules, and regulations -- Passage -- Penalties.**

112 [~~They~~] (1) The municipal legislative body may pass all ordinances and rules, and make all
 113 regulations, not repugnant to law, necessary for carrying into effect or discharging all powers and
 114 duties conferred by this chapter, and as are necessary and proper to provide for the safety and
 115 preserve the health, and promote the prosperity, improve the morals, peace and good order,
 116 comfort, and convenience of the city and its inhabitants, and for the protection of property in the
 117 city[; and].

118 (2) The municipal legislative body may enforce obedience to the ordinances with fines or
 119 penalties [as they may deem proper, but the punishment of any offense shall be by fine not to
 120 exceed the maximum class B misdemeanor fine under Section 76-3-301 or by imprisonment not

121 ~~to exceed six months, or by both the fine and imprisonment]~~ in accordance with Section 10-3-703.

122 Section 5. Section **17-5-263** is amended to read:

123 **17-5-263. Ordinances -- Power to enact -- Penalty for violation.**

124 (1) The county legislative body may pass all ordinances and rules and make all regulations,
125 not repugnant to law, necessary for carrying into effect or discharging the powers and duties
126 conferred by this title, and as are necessary and proper to provide for the safety, and preserve the
127 health, promote the prosperity, improve the morals, peace, and good order, comfort, and
128 convenience of the county and its inhabitants, and for the protection of property in the county[
129 ~~and~~].

130 (2) The county legislative body may enforce obedience to ordinances with fines or
131 penalties as the county legislative body considers proper, provided that the punishment of any
132 offense shall be by fine, not to exceed the maximum fine for a class B misdemeanor under Section
133 76-3-301, imprisonment, or by both fine and imprisonment.

134 (3) The county legislative body may pass ordinances to control air pollution.

135 (4) (a) Except as specifically authorized by statute, the county legislative body may not
136 impose a civil penalty for the violation of a county traffic ordinance.

137 (b) Subsection (4)(a) does not apply to an ordinance regulating the parking of vehicles on
138 a highway.

139 Section 6. Section **21-1-5** is amended to read:

140 **21-1-5. Civil fees of the courts of record -- Courts complex design.**

141 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court
142 of record not governed by another subsection is \$120.

143 (b) The fee for filing a complaint or petition is:

144 (i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest,
145 and attorney fees is \$2,000 or less;

146 (ii) \$80 if the claim for damages or amount in interpleader exclusive of court costs,
147 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

148 (iii) \$120 if the claim for damages or amount in interpleader is \$10,000 or more; and

149 (iv) \$80 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4,
150 Separate Maintenance.

151 (c) The fee for filing a small claims affidavit is:

152 (i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest,
153 and attorney fees is \$2,000 or less; and

154 (ii) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
155 interest, and attorney fees is greater than \$2,000.

156 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
157 complaint, or other claim for relief against an existing or joined party other than the original
158 complaint or petition is:

159 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000
160 or less;

161 (ii) \$60 if the claim for relief exclusive of court costs, interest, and attorney fees is greater
162 than \$2,000 and less than \$10,000;

163 (iii) \$90 if the original petition is filed under Subsection (1)(a) or when the claim for relief
164 is \$10,000 or more; and

165 (iv) \$60 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
166 Chapter 4, Separate Maintenance.

167 (e) The fee for filing a small claims counter affidavit is:

168 (i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000
169 or less; and

170 (ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is greater
171 than \$2,000.

172 (f) The fee for depositing funds under Section 57-1-29 when not associated with an action
173 already before the court is determined under Subsection (1)(b) based on the amount deposited.

174 (g) The fee for filing a petition is:

175 (i) \$70 for trial de novo of an adjudication of the justice court or of the small claims
176 department [~~is \$70.~~]; and

177 (ii) \$40 for an appeal of a municipal administrative determination in accordance with
178 Section 10-3-703.7.

179 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
180 petition for writ of certiorari is \$190.

181 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a petition
182 for expungement is \$50.

- 183 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).
- 184 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
- 185 allocated to the Judges' Retirement Trust Fund, as provided in Title 49, Chapter 6, Judges'
- 186 Retirement Act.
- 187 (ii) Two dollars of the fees established by Subsections (1)(a) through (i) shall be allocated
- 188 by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account,
- 189 as provided in Section 63-63a-8.
- 190 (iii) One dollar of the fees established under Subsections (1)(a) through (e), (1)(g), and
- 191 (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in Section
- 192 78-31b-9.
- 193 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
- 194 United States is \$25.
- 195 (l) The fee for filing probate or child custody documents from another state is \$25.
- 196 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah
- 197 State Tax Commission is \$30.
- 198 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
- 199 or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing
- 200 officer of this state or of its political subdivisions other than the Utah State Tax Commission, is
- 201 \$40.
- 202 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is
- 203 \$25.
- 204 (o) The fee for filing an award of arbitration for confirmation, modification, or vacation
- 205 under Title 78, Chapter 31a, Utah Arbitration Act, that is not part of an action before the court is
- 206 \$25.
- 207 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$30.
- 208 (q) The fee for filing any accounting required by law is:
- 209 (i) \$10 for an estate valued at \$50,000 or less;
- 210 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;
- 211 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;
- 212 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and
- 213 (v) \$150 for an estate valued at more than \$168,000.

- 214 (r) The fee for filing a demand for a civil jury is \$50.
- 215 (s) The fee for filing a notice of deposition in this state concerning an action pending in
216 another state under Utah Rule of Civil Procedure 26 is \$25.
- 217 (t) The fee for filing documents that require judicial approval but are not part of an action
218 before the court is \$25.
- 219 (u) The fee for a petition to open a sealed record is \$25.
- 220 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$20 in addition
221 to any fee for a complaint or petition.
- 222 (w) The fee for a petition for authorization for a minor to marry required by Section 30-1-9
223 is \$5.
- 224 (x) The fee for a certificate issued under Section 26-2-25 is \$2.
- 225 (y) The fee for a certified copy of a document is \$2 per document plus 50 cents per page.
- 226 (z) The fee for an exemplified copy of a document is \$4 per document plus 50 cents per
227 page.
- 228 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of documents
229 and forms and for the search and retrieval of records under Title 63, Chapter 2, Government
230 Records Access and Management Act. Fees under this subsection shall be credited to the court
231 as a reimbursement of expenditures.
- 232 (bb) There is no fee for services or the filing of documents not listed in this section or
233 otherwise provided by law.
- 234 (cc) Except as provided in this section, all fees collected under this section are paid to the
235 General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts
236 the pleading for filing or performs the requested service.
- 237 (dd) The filing fees under this section may not be charged to the state, its agencies, or
238 political subdivisions filing or defending any action. In judgments awarded in favor of the state,
239 its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order
240 the filing fees and collection costs to be paid by the judgment debtor. The sums collected under
241 this subsection shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or
242 other penalty and costs permitted by law.
- 243 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts shall
244 transfer all revenues representing the difference between the fees in effect after May 2, 1994, and

245 the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities
246 Construction and Management Capital Projects Fund.

247 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
248 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital
249 Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the
250 development of a courts complex in Salt Lake City.

251 (B) If the Legislature approves funding for construction of a courts complex in Salt Lake
252 City in the 1995 Annual General Session, the Division of Facilities Construction and Management
253 shall use the revenue deposited in the Capital Projects Fund under Subsection (2)(a)(ii) to construct
254 a courts complex in Salt Lake City.

255 (C) After the courts complex is completed and all bills connected with its construction
256 have been paid, the Division of Facilities Construction and Management shall use any monies
257 remaining in the Capital Projects Fund under Subsection (2)(a)(ii) to fund the Vernal District Court
258 building.

259 (iii) The Division of Facilities Construction and Management may enter into agreements
260 and make expenditures related to this project before the receipt of revenues provided for under this
261 Subsection (2)(a)(iii).

262 (iv) The Division of Facilities Construction and Management shall:

263 (A) make those expenditures from unexpended and unencumbered building funds already
264 appropriated to the Capital Projects Fund; and

265 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under
266 this Subsection (2).

267 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
268 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
269 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
270 account.

271 (c) The Division of Finance shall deposit all revenues received from the court
272 administrator into the restricted account created by this section.

273 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall transfer
274 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a
275 court of record to the Division of Facilities Construction and Management Capital Projects Fund.

276 The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine
277 or bail forfeiture paid.

278 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7
279 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court
280 of record or an administrative traffic proceeding in accordance with Section 10-3-703.5 to the
281 Division of Finance for deposit in the restricted account created by this section. The division of
282 money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine or bail forfeiture
283 paid.

284 (3) (a) There is created within the General Fund a restricted account known as the State
285 Courts Complex Account.

286 (b) The Legislature may appropriate monies from the restricted account to the
287 administrator of the courts for the following purposes only:

288 (i) to repay costs associated with the construction of the court complex that were funded
289 from sources other than revenues provided for under this Subsection (3)(b)(i); and

290 (ii) to cover operations and maintenance costs on the court complex.

291 Section 7. Section **53-3-218** is amended to read:

292 **53-3-218. Court to report convictions and may recommend suspension of license --**
293 **Severity of speeding violation defined.**

294 (1) ~~[It]~~ As used in this section~~;~~:

295 (a) "conviction" means conviction by the court of first impression or final administrative
296 determination in an administrative traffic proceeding; and

297 (b) "court" includes an administrative traffic proceeding in accordance with Section
298 10-3-703.5.

299 (2) A court having jurisdiction over offenses committed under this chapter or any other
300 law of this state, or under any ~~[city]~~ municipal ordinance regulating driving motor vehicles on
301 highways, shall forward to the division within ten days, an abstract of the court record of the
302 conviction or plea held in abeyance of any person in the court for a reportable traffic violation of
303 any laws or ordinances, and may recommend the suspension of the license of the person convicted.

304 (3) The abstract shall be made upon a form approved and furnished by the division and
305 shall include:

306 (a) the name and address of the party charged;

- 307 (b) the number of his license certificate, if any;
 308 (c) the registration number of the motor vehicle involved;
 309 (d) whether the motor vehicle was a commercial motor vehicle;
 310 (e) whether the motor vehicle carried hazardous materials;
 311 (f) the nature of the offense;
 312 (g) the date of the hearing;
 313 (h) the plea;
 314 (i) the judgment or whether bail was forfeited; and
 315 (j) the severity of the violation, which shall be graded by the court as "minimum,"
 316 "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

317 (4) When a convicted person secures a judgment of acquittal or reversal in any appellate
 318 court after conviction in the court of first impression, the division shall reinstate his license
 319 immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

320 Section 8. Section **63-55-210** is enacted to read:

321 **63-55-210. Repeal dates, Title 10.**

322 Section 10-3-703.5 is repealed July 1, § [~~2001.~~] 2002 §

323 Section 9. Section **63-63a-1** is amended to read:

324 **63-63a-1. Surcharge -- Application and exemptions.**

325 (1) (a) A surcharge shall be paid on:

326 (i) all criminal fines, penalties, and forfeitures imposed by the courts[-]; and

327 (ii) a civil fine imposed by an administrative traffic proceeding in accordance with Section
 328 10-3-703.5.

329 (b) The surcharge shall be:

330 (i) 85% upon conviction of a:

331 (A) felony;

332 (B) class A misdemeanor;

333 (C) violation of Title 41, Chapter 6, Article 5, Driving While Intoxicated and Reckless
 334 Driving; or

335 (D) class B misdemeanor not classified within Title 41, Motor Vehicles, including
 336 violation of comparable county or municipal ordinances; or

337 (ii) 35% upon conviction of any other offense, including violation of county or municipal

338 ordinances not subject to the 85% surcharge.

339 (2) The surcharge [~~shall~~] may not be imposed:

340 (a) upon nonmoving traffic violations;

341 (b) upon court orders when the offender is ordered to perform compensatory service work
342 in lieu of paying a fine; and

343 (c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment of
344 a case under Section 78-3a-502.

345 (3) (a) The surcharge and the exceptions under Subsections (1) and (2) also apply to all
346 fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if
347 committed by an adult.

348 (b) However, the surcharge does not include amounts assessed or collected separately by
349 juvenile courts for the Juvenile Restitution Account, which is independent of this chapter and does
350 not affect the imposition or collection of the surcharge.

351 (4) The surcharge under this section shall be imposed in addition to the fine charged for
352 a civil or criminal offense, and no reduction may be made in the fine charged due to the surcharge
353 imposition.

354 (5) Fees, assessments, and surcharges related to criminal or traffic offenses shall be
355 authorized and managed by this chapter rather than attached to particular offenses.

356 Section 10. Section **63-63a-2** is amended to read:

357 **63-63a-2. Division of collected monies retained by state treasurer and local**
358 **governmental collecting entity -- Purpose of surcharge -- Allocation of collections -- Financial**
359 **information.**

360 (1) The amount of the surcharge imposed under this chapter by courts of record shall be
361 collected before any fine and deposited with the state treasurer.

362 (2) The amount of the surcharge and the amount of criminal fines, civil fines, penalties,
363 and forfeitures imposed under this chapter by courts not of record and administrative traffic
364 proceedings in accordance with Section 10-3-703.5 shall be collected concurrently.

365 (a) As monies are collected on criminal fines, civil fines, penalties, and forfeitures subject
366 to the 85% surcharge, the monies shall be divided pro rata so that the local governmental collecting
367 entity retains 54% of the collected monies and the state retains 46% of the collected monies.

368 (b) As monies are collected on criminal fines, civil fines, penalties, and forfeitures subject

369 to the 35% surcharge, the monies shall be divided pro rata so that the local governmental collecting
370 entity retains 74% of the collected monies and the state retains 26% of the collected monies.

371 (c) The court shall deposit with the state treasurer the surcharge portion of all monies as
372 they are collected.

373 (3) Courts of record [~~and~~], courts not of record, and administrative traffic proceedings shall
374 collect financial information to determine:

375 (a) the total number of cases in which:

376 (i) a final judgment has been rendered;

377 (ii) surcharges and fines are paid by partial or installment payment; and

378 (iii) the judgment is fulfilled by an alternative method upon the court's order;

379 (b) the total dollar amounts of surcharges owed to the state and fines owed to the state and
380 county or municipality, including:

381 (i) waived surcharges;

382 (ii) uncollected surcharges; and

383 (iii) collected surcharges.

384 (4) The courts of record [~~and~~], courts not of record, and administrative traffic proceedings
385 shall report all collected financial information monthly to the Administrative Office of the Courts.

386 The collected information shall be categorized by cases subject to the 85 % and 35% surcharge.

387 (5) The purpose of the surcharge is to finance the trust funds and support accounts as
388 provided in this chapter.

389 (6) (a) From the surcharge, the Division of Finance shall allocate in the manner and for
390 the purposes described in Sections 63-63a-3 through 63-63a-9.

391 (b) The balance of the collected surcharge shall be deposited in the General Fund.

392 (c) Allocations shall be made on a fiscal year basis.

393 (7) The provisions of Sections 63-63a-1 and 63-63a-2 may not impact the distribution and
394 allocation of fines and forfeitures imposed in accordance with Sections 23-14-13, 78-3-14.5, and
395 78-5-116.

396 Section 11. Section **78-3-4** is amended to read:

397 **78-3-4. Jurisdiction -- Appeals.**

398 (1) The district court has original jurisdiction in all matters civil and criminal, not excepted
399 in the Utah Constitution and not prohibited by law.

400 (2) The district court judges may issue all extraordinary writs and other writs necessary
401 to carry into effect their orders, judgments, and decrees.

402 (3) The district court has jurisdiction over matters of lawyer discipline consistent with the
403 rules of the Supreme Court.

404 (4) The district court has jurisdiction over all matters properly filed in the circuit court
405 prior to July 1, 1996.

406 (5) The district court has appellate jurisdiction to adjudicate trials de novo of the
407 judgments of the justice court and of the small claims department of the district court.

408 (6) Appeals from the final orders, judgments, and decrees of the district court are under
409 Sections 78-2-2 and 78-2a-3.

410 (7) The district court has jurisdiction to review:

411 (a) agency adjudicative proceedings as set forth in Title 63, Chapter 46b, Administrative
412 Procedures Act, and shall comply with the requirements of that chapter, in its review of agency
413 adjudicative proceedings; and

414 (b) municipal administrative proceedings in accordance with Section 10-3-703.7.

415 (8) Notwithstanding Subsection (1), the district court has subject matter jurisdiction in
416 class B misdemeanors, class C misdemeanors, infractions, and violations of ordinances only if:

417 (a) there is no justice court with territorial jurisdiction;

418 (b) the matter was properly filed in the circuit court prior to July 1, 1996;

419 (c) the offense occurred within the boundaries of the municipality in which the district
420 courthouse is located and that municipality has not formed a justice court; or

421 (d) they are included in an indictment or information covering a single criminal episode
422 alleging the commission of a felony or a class A misdemeanor.

423 **Section 12. Establishment of task force -- Membership -- Chair -- Quorum --**
424 **Expenses -- Salary -- Staff.**

425 (1) There is established a Decriminalization of Traffic Offenses Task Force consisting of
426 the following members:

427 (a) five members of the House of Representatives, no more than three of whom may be
428 from the same party, appointed by the speaker of the House of Representatives; and

429 (b) three members of the Senate, no more than two of whom may be from the same party,
430 appointed by the president of the Senate.

431 (2) The president of the Senate shall designate a member of the Senate appointed to the
432 task force under Subsection (1) as one cochair of the task force, and the speaker of the House of
433 Representatives shall designate a member of the House of Representatives appointed to the task
434 force under Subsection (1) to be the other cochair of the task force.

435 (3) In conducting its business, the task force shall comply with the rules of legislative
436 interim committees.

437 (4) Legislators on the task force shall receive compensation and expenses in accordance
438 with Section 36-2-2 and Joint Rule 15.03.

439 (5) The Office of Legislative Research and General Counsel shall provide staff support to
440 the task force.

441 **Section 13. Duties -- Report to interim committee.**

442 (1) The task force shall review, study, and make recommendations concerning:

443 (a) the decriminalization of traffic offenses, including administrative adjudication
444 proceedings and related fiscal issues;

445 (b) the oversight of the administrative proceedings, including oversight of the conduct of
446 administrative law judges; and

447 (c) other related issues of interest to the task force.

448 (2) A final report, including any proposed legislation, shall be presented to the Judiciary
449 and the Transportation Interim Committees before November 30, 2000.

450 **Section 14. Appropriation.**

451 There is appropriated from the General Fund for fiscal year 2000-01 only:

452 (1) \$3,500 to the Senate to pay for the compensation and expenses of senators on the task
453 force;

454 (2) \$6,000 to the House of Representatives to pay for the compensation and expenses of
455 representatives on the task force; and

456 (3) \$25,000 to the Office of Legislative Research and General Counsel to pay for staffing
457 the task force.

458 **Section 15. Effective date.**

459 If approved by two-thirds of all the members elected to each house, this act takes effect
460 upon approval by the governor, or the day following the constitutional time limit of Utah
461 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the

462 date of veto override.

463 Section 16. **Repeal date.**

464 Sections 11, 12, and 13 of this act are repealed November 30, 2000.

Legislative Review Note
as of 2-11-00 9:35 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel