

**ADMINISTRATIVE TRAFFIC CHECKPOINT**

**AMENDMENTS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: David Ure**

**This act modifies the Utah Code of Criminal Procedure by restricting the use of administrative traffic checkpoints.**

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

AMENDS:

**77-23-104**, as last amended by Chapter 284, Laws of Utah 1997

ENACTS:

**h [77-23-104.5, Utah Code Annotated 1953] h**

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

Section 1. Section **77-23-104** is amended to read:

**77-23-104. Written plan -- Approval of magistrate.**

(1) An administrative traffic checkpoint may be established and operated upon written authority of a magistrate.

(2) A magistrate may issue written authority to establish and operate an administrative traffic checkpoint if:

(a) a command level officer submits to the magistrate a written plan signed by the command level officer describing:

(i) the location of the checkpoint including geographical and topographical information;

(ii) the date, time, and duration of the checkpoint;

(iii) the sequence of traffic to be stopped;

(iv) the purpose of the checkpoint, including the inspection or inquiry to be conducted;

(v) the minimum number of personnel to be employed in operating the checkpoint, including the rank of the officer or officers in charge at the scene;



28 (vi) the configuration and location of signs, barriers, and other means of informing  
 29 approaching motorists that they must stop and directing them to the place to stop;

30 (vii) any advance notice to the public at large of the establishment of the checkpoint; and

31 (viii) the instructions to be given to the enforcement officers operating the checkpoint;

32 [~~and~~]

33 (b) the magistrate makes an independent judicial determination that the plan appropriately:

34 (i) minimizes the length of time the motorist will be delayed;

35 (ii) minimizes the intrusion of the inspection or inquiry;

36 (iii) minimizes the fear and anxiety the motorist will experience;

37 (iv) minimizes the degree of discretion to be exercised by the individual enforcement  
 38 officers operating the checkpoint; and

39 (v) maximizes the safety of the motorist and the enforcement officers[-]; and

40 (c) the administrative traffic checkpoint has the **h PRIMARY h** purpose of inspecting,

40a verifying, or

41 detecting:

42 (i) drivers that may be under the influence of alcohol or drugs;

43 (ii) license plates, registration certificates, insurance certificates, or driver licenses; **h [or]**

43a **(iii) VIOLATIONS OF TITLE 23, WILDLIFE RESOURCES CODE OF UTAH; OR h**

44 **h [(iii)] (iv) h** other **h [emergency] h** circumstances that are specifically distinguishable by  
 the

44a magistrate

45 from a general interest in crime control.

46 (3) Upon determination by the magistrate that the plan meets the requirements of  
 47 Subsection (2)[~~(b)~~], the magistrate shall sign the authorization and issue it to the command level  
 48 officer, retaining a copy for the court's file.

49 (4) A copy of the plan and signed authorization shall be issued to the checkpoint command  
 50 level officer participating in the operation of the checkpoint.

51 (5) Any enforcement officer participating in the operation of the checkpoint shall conform  
 52 his activities as nearly as practicable to the procedures outlined in the plan.

53 (6) The checkpoint command level officer shall be available to exhibit a copy of the plan  
 54 and signed authorization to any motorist who has been stopped at the checkpoint upon request of  
 55 the motorist.

56 **h [Section 2. Section 77-23-104.5 is enacted to read:**

57 ~~77-23-104.5. Signs -- Prohibitions.~~

58 ~~An enforcement officer may not display a sign that notifies motorists of an administrative] h~~

59 ~~h [traffic checkpoint unless the checkpoint is being operated under the authority of a magistrate as~~  
60 ~~provided in Section 77-23-104.] h~~

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**Legislative Review Note**  
as of 1-23-01 11:11 AM

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

**Office of Legislative Research and General Counsel**