

Representative Brent H. Goodfellow proposes to substitute the following bill:

**TRAFFIC OFFENSE ADJUDICATION**

**AMENDMENTS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Brent H. Goodfellow**

**This act modifies the Utah Municipal Code by amending provisions related to revenues from and the conducting of administrative traffic proceedings. The act takes effect on July 1, 2001.**

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

AMENDS:

**10-3-703.5**, as enacted by Chapter 323, Laws of Utah 2000

**10-3-703.7**, as enacted by Chapter 323, Laws of Utah 2000

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

Section 1. Section **10-3-703.5** is amended to read:

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

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

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

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

(c) A civil traffic violation constitutes a public offense for purposes of Section 77-7-15 and

26 may be enforced as provided in that section.

27 (3) An administrative traffic proceeding:

28 (a) shall, except as provided in this section, be conducted in accordance with Section  
29 10-3-703.7; and

30 (b) may not be held for:

31 (i) a moving violation that would be a class B misdemeanor or greater in a criminal  
32 proceeding;

33 (ii) a violation of Title 41, Chapter 6, Article 5, Driving While Intoxicated and Reckless  
34 Driving; or

35 (iii) a traffic violation that occurs in conjunction with another criminal violation as part  
36 of a single criminal episode that will be prosecuted in a criminal proceeding.

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

39 (a) the civil penalty is subject to the fees or surcharges established in Subsections  
40 21-1-5(2)(d)(ii) and 63-63a-1(1)(b)(ii);

41 (b) the final administrative determination constitutes a conviction as defined in Section  
42 53-3-102; and

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

45 (5) (a) A municipality that has a population greater than 150,000, according to the last  
46 official federal census, shall remit to the state by June 30 of each fiscal year:

47 (i) \$504,700 for fiscal year 2000-01; and

48 (ii) \$580,400 for fiscal year 2001-02.

49 [~~(b) A municipality that has a population less than 150,000, according to the last official  
50 federal census, shall remit to the state by June 30 of each fiscal year:]~~

51 [~~(i) \$388,600 for fiscal year 2000-01; and]~~

52 [~~(ii) \$446,900 for fiscal year 2001-02.]~~

53 [~~(c)~~] (b) If a municipality repeals the ordinance described in Subsection (2)(a) prior to the  
54 end of a fiscal year, the municipality shall remit to the state the amount described in Subsection  
55 (5)(a) [~~or (b)~~] prorated according to the date the ordinance is repealed.

56 [~~(d)~~] (c) Monies remitted to the state under this Subsection (5) shall be remitted to the state

57 treasurer and deposited in the state General Fund.

58 Section 2. Section **10-3-703.7** is amended to read:

59 **10-3-703.7. Administrative proceedings -- Procedures -- Appeals.**

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

63 (2) An administrative proceeding:

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

65 (b) shall be conducted by an administrative law judge or a justice court judge;

66 (c) shall provide due process for the parties;

67 (d) shall be recorded or otherwise documented so that a true and correct transcript may be  
68 made of its proceedings; and

69 (e) may not be held for a civil violation that occurs in conjunction with another criminal  
70 violation as part of a single criminal episode that will be prosecuted in a criminal proceeding.

71 (3) An administrative law judge:

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

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

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

75 (4) (a) A final administrative determination under this section may be an order for the  
76 municipality to abate the violation.

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

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

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

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

85 (b) (i) The administrative proceeding shall transmit to the reviewing district court the  
86 record of its proceedings, including its findings, orders, and a true and correct transcript of its  
87 proceedings.

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

92           Section 3. **Effective date.**

93           This act takes effect on July 1, 2001.