

**RESTRICTIONS ON USE OF UNMARKED
POLICE VEHICLES**

2004 GENERAL SESSION
STATE OF UTAH

Sponsor: John W. Hickman

LONG TITLE

General Description:

This bill modifies the Motor Vehicles Code, the Public Safety Code, the Utah Municipal Code, and the Counties Code to amend provisions related to unmarked vehicles used in traffic enforcement.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ clarifies that all law enforcement agencies are subject to restrictions for the use of unmarked vehicles in traffic enforcement;
- ▶ provides that if a vehicle is used by a law enforcement agency for traffic enforcement, the identification markings that are required on government vehicles must be plainly visible from a distance of 500 feet; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-913, as last amended by Chapter 219, Laws of Utah 2002



28 **10-3-918**, as last amended by Chapter 292, Laws of Utah 2003

29 **17-22-2**, as last amended by Chapters 140 and 219, Laws of Utah 2002

30 **41-1a-407**, as last amended by Chapter 58, Laws of Utah 2003

31 ENACTS:

32 **53-8-214**, Utah Code Annotated 1953

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

35 Section 1. Section **10-3-913** is amended to read:

36 **10-3-913. Authority of chief of police.**

37 (1) The chief of police has the same authority as the sheriff within the boundaries of
38 the municipality of appointment. The chief has authority to:

39 (a) suppress riots, disturbances, and breaches of the peace;

40 (b) apprehend all persons violating state laws or city ordinances;

41 (c) diligently discharge his duties and enforce all ordinances of the city to preserve the
42 peace, good order, and protection of the rights and property of all persons; and

43 (d) attend the municipal justice court located within the city when required, provide
44 security for the court, and obey its orders and directions.

45 (2) This section is not a limitation of a police chief's statewide authority as otherwise
46 provided by law.

47 (3) The chief of police shall, on or before January 1, 2003, adopt a written policy that
48 prohibits the stopping, detention, or search of any person when the action is solely motivated
49 by considerations of race, color, ethnicity, age, or gender.

50 (4) The chief of police shall ensure compliance with the requirements of Section
51 53-8-214 regarding limitations for a law enforcement agency on the use of unmarked vehicles
52 for traffic enforcement.

53 Section 2. Section **10-3-918** is amended to read:

54 **10-3-918. Chief of police or marshal in a city of the third, fourth, or fifth class or**
55 **town.**

56 The chief of police or marshal in each city of the third, fourth, or fifth class or town:

57 (1) shall:

58 (a) exercise and perform the duties that are prescribed by the legislative body;

(b) be under the direction, control, and supervision of the person or body that appointed the chief or marshal; ~~and~~

(c) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender; and

(d) ensure compliance with the requirements of Section 53-8-214 regarding limitations for a law enforcement agency on the use of unmarked vehicles for traffic enforcement; and

(2) may, with the consent of the person or body that appointed the chief or marshal, appoint assistants to the chief of police or marshal.

Section 3. Section **17-22-2** is amended to read:

17-22-2. Sheriff -- General duties.

(1) The sheriff shall:

(a) preserve the peace;

(b) make all lawful arrests;

(c) attend in person or by deputy the Supreme Court and the Court of Appeals when required or when the court is held within his county, all courts of record, and court commissioner and referee sessions held within his county, obey their lawful orders and directions, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial Administration;

(d) upon request of the juvenile court, aid the court in maintaining order during hearings and transport a minor to and from youth corrections facilities, other institutions, or other designated places;

(e) attend county justice courts if the judge finds that the matter before the court requires the sheriff's attendance for security, transportation, and escort of jail prisoners in his custody, or for the custody of jurors;

(f) command the aid of as many inhabitants of his county as he considers necessary in the execution of these duties;

(g) take charge of and keep the county jail and the jail prisoners;

(h) receive and safely keep all persons committed to his custody, file and preserve the commitments of those persons, and record the name, age, place of birth, and description of each person committed;

(i) release on the record all attachments of real property when the attachment he receives has been released or discharged;

(j) endorse on all process and notices the year, month, day, hour, and minute of reception, and, upon payment of fees, issue a certificate to the person delivering process or notice showing the names of the parties, title of paper, and the time of receipt;

(k) serve all process and notices as prescribed by law;

(l) if he makes service of process or notice, certify on the process or notices the manner, time, and place of service, or, if he fails to make service, certify the reason upon the process or notice, and return them without delay;

(m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public land within his county;

(n) perform as required by any contracts between the county and private contractors for management, maintenance, operation, and construction of county jails entered into under the authority of Section 17-53-311;

(o) manage search and rescue services in his county;

(p) obtain saliva DNA specimens as required under Section 53-10-404;

(q) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender; and

(r) perform any other duties that are required by law.

(2) Violation of Subsection (1)(j) is a class C misdemeanor. Violation of any other subsection under Subsection (1) is a class A misdemeanor.

(3) The sheriff shall ensure compliance with the requirements of Section 53-8-214 regarding limitations for a law enforcement agency on the use of unmarked vehicles for traffic enforcement.

Section 4. Section **41-1a-407** is amended to read:

41-1a-407. Plates issued to political subdivisions or state -- Use of "EX" letters -- Confidential information.

(1) (a) Except as provided in Subsection (2), each municipality, board of education, school district, state institution of learning, county, other governmental division, subdivision, or district, and the state shall:

121 ~~[(a)]~~ (i) place a license plate displaying the letters, "EX" on every vehicle owned and
122 operated by it or leased for its exclusive use; and

123 ~~[(b)]~~ (ii) display an identification mark designating the vehicle as the property of the
124 entity in a conspicuous place on both sides of the vehicle.

125 (b) The identification markings used to meet the requirements of Subsection (1)(a)(ii)
126 shall have lettering of a sufficient size to be plainly readable from a distance of 500 feet during
127 daylight if the vehicle is:

128 (i) owned and operated or leased by a law enforcement agency as defined under
129 Section 53-8-214; and

130 (ii) used for traffic enforcement.

131 (2) The entity need not display the "EX" license plate or the identification mark
132 required by Subsection (1) if:

133 (a) the vehicle is in the direct service of the governor, lieutenant governor, attorney
134 general, state auditor, or state treasurer of Utah;

135 (b) the vehicle is used in official investigative work where secrecy is essential;

136 (c) the vehicle is used in ~~[an organized Utah Highway Patrol operation that is:]~~ traffic
137 enforcement in accordance with Section 53-8-214;

138 ~~[(i) conducted within a county of the first or second class as defined under Section~~
139 ~~17-50-501, unless no more than one unmarked vehicle is used for the operation;]~~

140 ~~[(ii) approved by the Commissioner of Public Safety;]~~

141 ~~[(iii) of a duration of 14 consecutive days or less; and]~~

142 ~~[(iv) targeted toward aggressive driving and accidents involving;]~~

143 ~~[(A) violations of Title 41, Chapter 6, Article 5, Driving While Intoxicated and~~
144 ~~Reckless Driving;]~~

145 ~~[(B) speeding violations for exceeding the posted speed limit by 21 or more miles per~~
146 ~~hour;]~~

147 ~~[(C) speeding violations in a reduced speed school zone under Section 41-6-48.5;]~~

148 ~~[(D) violations of Section 41-6-78 related to pedestrian crosswalks; or]~~

149 ~~[(E) violations of Section 41-6-53.5 related to lane restrictions;]~~

150 (d) the vehicle is provided to an official of the entity as part of a compensation package
151 allowing unlimited personal use of that vehicle; or

(e) the personal security of the occupants of the vehicle would be jeopardized if the "EX" license plate were in place.

(3) Plates issued to Utah Highway Patrol vehicles may bear the capital letters "UHP," a beehive logo, and the call number of the trooper to whom the vehicle is issued.

(4) (a) The commission shall issue "EX" and "UHP" plates.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules establishing the procedure for application for and distribution of the plates.

(5) For a vehicle that qualifies for "EX" or "UHP" license plates, the entity is not required to display an annual registration decal.

(6) (a) Information shall be confidential for vehicles that are not required to display the "EX" license plate or the identification mark under [~~Subsections (2)(a), (b), (d), and (e)~~] Subsection (2).

(b) (i) If a law enforcement officer's identity must be kept secret, his agency head may request in writing that the division remove the license plate information of the officer's personal vehicles from all public access files and place it in a confidential file until the assignment is completed.

(ii) The agency head shall notify the division when the assignment is completed.

~~[(7) A peace officer engaged in an organized operation under Subsection (2)(c) shall be in a uniform clearly identifying the law enforcement agency the peace officer is representing during the operation.]~~

Section 5. Section **53-8-214** is enacted to read:

53-8-214. Unmarked vehicle use in traffic enforcement -- Restrictions.

(1) As used in this section:

(a) "Law enforcement agency" means an entity of the state, or a political subdivision of the state, including a state institution of higher education, that exists primarily to prevent and detect crime and enforce criminal laws, statutes, and ordinances.

(b) "Unmarked vehicle" means a vehicle that appears to be owned by a member of the general public or that is not identified with license plates or identification markings under Section 41-1a-407.

(2) Except as provided under Subsection (3), a law enforcement agency may not use an

183 unmarked vehicle to enforce traffic laws.
184 (3) A law enforcement agency may use an unmarked vehicle to enforce traffic laws if
185 the unmarked vehicle is used in an organized Utah Highway Patrol operation that is:
186 (a) approved by the Commissioner of Public Safety;
187 (b) utilizing no more than one unmarked vehicle for each operation unless the
188 operation is being conducted within a county of the first or second class as defined under
189 Section 17-50-501;
190 (c) of a duration of 14 consecutive days or less; and
191 (d) targeted toward aggressive driving and accidents involving:
192 (i) violations of Title 41, Chapter 6, Article 5, Driving While Intoxicated and Reckless
193 Driving;
194 (ii) speeding violations for exceeding the posted speed limit by 21 or more miles per
195 hour;
196 (iii) speeding violations in a reduced speed school zone under Section 41-6-48.5;
197 (iv) violations of Section 41-6-78 related to pedestrian crosswalks; or
198 (v) violations of Section 41-6-53.5 related to lane restrictions.
199 (4) A peace officer engaged in an organized operation under Subsection (3) shall be in
200 a uniform clearly identifying the law enforcement agency that the peace officer is representing
201 during the operation.

Legislative Review Note
as of 1-22-04 8:55 AM

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

Office of Legislative Research and General Counsel

Fiscal Note**Restrictions on Use of Unmarked Police Vehicles***02-Feb-04***Bill Number: SB0130***10:53 AM*

State Impact

It is estimated that provisions of this bill will reduce state General Fund revenues by \$8,300 in FY 2004 and \$50,000 annually thereafter. Also, It is estimated that local law enforcement jurisdictions will experience a loss in revenues.

	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>
	<u>Approp.</u>	<u>Approp.</u>	<u>Approp.</u>	<u>Revenue</u>	<u>Revenue</u>	<u>Revenue</u>
General Fund	\$0	\$0	\$0	(\$8,300)	(\$50,000)	(\$50,000)
TOTAL	\$0	\$0	\$0	(\$8,300)	(\$50,000)	(\$50,000)

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst