



House of Representatives *State of Utah*

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February 14, 2005

Mr. Speaker:

The Judiciary Committee reports a favorable recommendation on **H.B. 306**, AMENDMENT REGARDING CONTROLLED SUBSTANCES, by Representative C. Oda, with the following amendments:

1. *Page 1, Lines 15 through 17:*

- 15 members of Indian tribes regarding the peyote use exemption; ~~{and}~~
16 ▶ provides a reference to the exemption created by the definitions under the
listing of
17 Schedule I controlled substances ; and
 ▶ provides related qualifying language regarding driving with any
measurable controlled substance in the body .

2. *Page 1, Lines 23 through 24:*

- 23 AMENDS:
24 = 41-6a-517, as renumbered and amended by Chapter 2, Laws of Utah 2005

3. *Page , Line 28 through Page 2, Line 28:*

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

Section 1. Section 41-6A-517 is amended to read:

41-6a-517. Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

(a) "Controlled substance" means any substance scheduled under Section 58-37-4.

(b) "Practitioner" has the same meaning as provided in Section 58-37-2.

(c) "Prescribe" has the same meaning as provided in Section 58-37-2.

(d) "Prescription" has the same meaning as provided in Section 58-37-2.

(2) In cases not amounting to a violation of Section 41-6a-502, a person

Bill Number



HB0306

Action Class



H

Action Code



HCRAMD

may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was :

(a) involuntarily ingested by the accused ~~{or}~~ :

(b) prescribed by a practitioner for use by the accused ; or

(c) otherwise legally ingested .

(4) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall:

(a) suspend, for 90 days, the driver license of a person convicted under Subsection (2);

(b) revoke, for one year, the driver license of a person convicted of a second or subsequent offense under Subsection (2) or if the person has a prior conviction as defined under Subsection 41-6a-501(2), if the violation is committed within a period of ten years after the date of the prior violation; and

(c) subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(7) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification, the division shall suspend the

Bill Number



HB0306

Action Class



H

Action Code



HCRAMD

person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(8) The court shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2).

Renumber remaining sections accordingly.

Respectfully,

James A. Ferrin
Committee Chair

Voting: 10-0-3

3 HB0306.HC1.WPD 2/14/05 9:47 am jdhowe/JDH SCA/SES

Bill Number



HB0306

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