

Representative Ben C. Ferry proposes the following substitute bill:

ADMINISTRATIVE RULE PENALTY

AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ben C. Ferry

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill modifies specified provisions of law by removing authority of certain state agencies to impose by administrative rule criminal penalties for the violation of rules.

Highlighted Provisions:

This bill:

► repeals statutory grants of authority to the Alcoholic Beverage Control Commission, Department of Workforce Services, State Tax Commission, Public Service Commission, Department of Public Safety, and Division of Parks and Recreation which allow the imposition of a criminal penalty for the violation of administrative rule provisions; and

► makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a delayed effect date for certain sections.

Utah Code Sections Affected:

AMENDS:



- 26 **32A-13-106**, as last amended by Laws of Utah 1991, Chapter 5
- 27 **35A-4-103**, as last amended by Laws of Utah 1998, Chapters 13 and 116
- 28 **41-1a-712**, as enacted by Laws of Utah 2003, Chapter 250
- 29 **54-7-26**, as last amended by Laws of Utah 1986, Chapter 178
- 30 **54-7-28**, as last amended by Laws of Utah 1986, Chapter 178
- 31 **58-37d-4**, as last amended by Laws of Utah 2007, Chapter 358
- 32 **59-14-208**, as last amended by Laws of Utah 2007, Chapter 306
- 33 **72-7-406**, as last amended by Laws of Utah 2006, Chapter 212
- 34 **73-18-20**, as last amended by Laws of Utah 2005, Chapter 2
- 35 **73-18-21**, as last amended by Laws of Utah 1987, Chapter 99
- 36 **73-18a-10**, as last amended by Laws of Utah 1987, Chapter 99
- 37 **73-18a-14**, as last amended by Laws of Utah 1987, Chapter 99
- 38 **73-18a-15**, as last amended by Laws of Utah 2005, Chapter 2
- 39 **76-8-1301**, as last amended by Laws of Utah 2007, Chapter 264

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

42 Section 1. Section **32A-13-106** is amended to read:

43 **32A-13-106. Nuisances.**

44 (1) (a) Any room, house, building, structure, place, aircraft, vehicle, vessel, or other
 45 conveyance, where alcoholic products are possessed, kept, used, offered for sale, sold, given,
 46 furnished, supplied, received, purchased, stored, warehoused, manufactured, adulterated,
 47 shipped, carried, transported, or distributed in violation of this title [~~or commission rules,~~] and
 48 all alcoholic products, packages, equipment, or other property kept or used in maintaining the
 49 same, are common nuisances.

50 (b) Any person who maintains or assists in maintaining any common nuisance is guilty
 51 of a class B misdemeanor.

52 (2) If any person has knowledge, or has reason to believe that the person's room, house,
 53 building, structure, place, aircraft, vehicle, vessel, or other conveyance is occupied or used in
 54 violation of this title or commission rules as described in this section, or allows it to be so
 55 occupied or used, it is subject to a lien for and may be sold to pay all fines and costs assessed
 56 against the person guilty of the nuisance. This lien may be enforced by action in any court

57 having jurisdiction.

58 (3) Any action to abate any nuisance defined in this title shall be brought in the name
59 of the department in any court having jurisdiction. It shall be tried as an action in equity. No
60 bond is required to initiate proceedings.

61 (4) The court may issue a temporary writ of injunction, if it appears that the nuisance
62 exists, restraining the defendant from conducting or permitting the continuance of the nuisance
63 until the conclusion of the trial. The court may also issue an order restraining the defendant
64 and all other persons from removing or interfering with the alcoholic products, packages,
65 equipment, or other property kept or used in violation of this title or commission rules.

66 (5) (a) In any action to abate or enjoin any nuisance, the court need not find that the
67 property involved was being unlawfully used at the time of the hearing.

68 (b) On finding that the material allegations of the petition or complaint are true, the
69 court shall order that no alcoholic product may be possessed, kept, used, offered for sale, sold,
70 given, furnished, supplied, received, purchased, stored, warehoused, manufactured, adulterated,
71 shipped, carried, transported, or distributed in the room, house, building, structure, place,
72 aircraft, vehicle, vessel, or other conveyance or in any part of these.

73 (c) Upon judgment of the court ordering abatement of the nuisance, the court may
74 order that the premises or conveyance in question may not be occupied or used for any purpose
75 for one year, except under Subsection (5)(d).

76 (d) The court may permit the premises or conveyance to be occupied or used if its
77 owner, lessee, tenant, or occupant gives bond in an appropriate amount with sufficient surety,
78 approved by the court, payable to the state of Utah, and on the conditions that alcoholic
79 products will not be present [~~therein or thereon~~] in or on the premises or the conveyance, and
80 that payment of all fines, costs, and damages that may be assessed for any violation of this title
81 or commission rules upon the property will be made.

82 (6) If a tenant of any premises uses the premises or any part of them in maintaining a
83 common nuisance as defined in this section, or knowingly permits use by another, the lease is
84 rendered void and the right to possession reverts to the owner or lessor who is entitled to the
85 remedy provided by law for forcible detention of the premises.

86 (7) Any person who knowingly permits any building or premises owned or leased by
87 the person, or under the person's control, or any part of any building or premises, to be used in

88 maintaining a common nuisance as defined in this section, or who, after being notified in
89 writing by a prosecuting officer or any citizen of the unlawful use, and who fails to take all
90 proper measures, either to abate the nuisance or to remove the person or persons from the
91 premises, is guilty of assisting in the maintaining of the nuisance as provided in Section
92 76-10-804.

93 Section 2. Section **35A-4-103** is amended to read:

94 **35A-4-103. Void agreements -- Child support obligations -- Penalties.**

95 (1) (a) Any agreement by an individual to waive, release, or commute his rights to
96 benefits or any other rights under this chapter is void.

97 (b) Any agreement by any individual in the employ of any person or concern to pay all
98 or any portion of an employer's contributions, required under this chapter from the employer, is
99 void.

100 (c) An employer may not directly or indirectly:

101 (i) make, require, or accept any deduction from wages to finance the employer's
102 contributions required from the employer;

103 (ii) require or accept any waiver of any right under this chapter by any individual in the
104 employer's employ;

105 (iii) discriminate in regard to the hiring or tenure of work on any term or condition of
106 work of any individual on account of the individual claiming benefits under this chapter; or

107 (iv) in any manner obstruct or impede the filing of claims for benefits.

108 (d) (i) Any employer or officer or agent of an employer who violates Subsection (1)(c)
109 is, for each offense, guilty of a class B misdemeanor.

110 (ii) Notwithstanding Sections 76-3-204 and 76-3-301, a fine imposed under Subsection
111 (1) shall be not less than \$100, and a penalty of imprisonment shall be not more than six
112 months.

113 (2) An individual claiming benefits may not be charged fees or costs of any kind in any
114 proceeding under this chapter by the department or its representatives, or by any court or any
115 officer of the court.

116 (3) (a) Any individual claiming benefits in any proceeding before the department or its
117 representatives or a court may be represented by counsel or any other [duty] authorized agent.

118 (b) A counsel or agent may not either charge or receive for the counsel's or agent's

119 services more than an amount approved by the division or administrative law judge in
120 accordance with rules made by the department.

121 ~~[(c) Any person who violates any provision of Subsection (3) is guilty of a class B~~
122 ~~misdemeanor for each offense.]~~

123 ~~[(d) Notwithstanding Sections 76-3-204 and 76-3-301, a fine imposed under~~
124 ~~Subsection (3) shall be not less than \$50 nor more than \$500, and a penalty for imprisonment~~
125 ~~shall be not more than six months.]~~

126 (4) Except as provided for in Subsection (5):

127 (a) any assignment, pledge, or encumbrance of any right to benefits that are or may
128 become due or payable under this chapter is void;

129 (b) rights to benefits are exempt from levy, execution, attachment, or any other remedy
130 provided for the collection of debt;

131 (c) benefits received by any individual, so long as they are not mingled with other
132 funds of the recipient, are exempt from any remedy for the collection of all debts except debts
133 incurred for necessities furnished to the individual or the individual's spouse or dependents
134 during the time when the individual was unemployed; and

135 (d) any waiver of any exemption provided for in Subsection (4) is void.

136 (5) (a) An individual filing a new claim for unemployment compensation shall, at the
137 time of filing the claim, disclose whether or not the individual owes:

138 (i) child support obligations; or

139 (ii) an uncollected overissuance of food stamp benefits.

140 (b) If the individual owes child support obligations, and is determined to be eligible for
141 unemployment compensation, the division shall notify the state or local child support agency
142 charged with enforcing that obligation that the individual is eligible for unemployment
143 compensation.

144 (c) The division shall deduct and withhold from any unemployment compensation
145 payable to an individual that owes child support obligations:

146 (i) any amount required to be deducted and withheld from unemployment
147 compensation under legal process, as defined in the Social Security Act, 42 U.S.C. Sec. 659(i),
148 properly served upon the department;

149 (ii) the amount determined under an agreement submitted to the division under

150 Subsection 454 (19)(B)(i) of the Social Security Act, 42 U.S.C. Sec. 654, by the state or local
151 child support enforcement agency, except if Subsection (5)(c)(i) is applicable; or

152 (iii) the amount specified by the claimant to the division if neither Subsection (5)(c)(i)
153 nor (ii) is applicable.

154 (d) The division shall notify the state food stamp agency that an individual is eligible
155 for unemployment compensation if the individual:

156 (i) owes an uncollected overissuance of food stamp benefits; and

157 (ii) is determined to be eligible for unemployment compensation.

158 (e) The division shall deduct and withhold from any unemployment compensation
159 payable to an individual who owes an uncollected overissuance of food stamp benefits:

160 (i) the amount specified by the individual to the division to be deducted and withheld
161 under this Subsection (5)(e);

162 (ii) the amount, if any, determined pursuant to an agreement submitted to the state food
163 stamp agency under Section 13(c)(3)(B) of the Food Stamp Act of 1977; or

164 (iii) any amount otherwise required to be deducted and withheld from unemployment
165 compensation pursuant to Section 13(c)(3)(B) of the Food Stamp Act of 1977.

166 (f) Any amount deducted and withheld under Subsection (5)(c) or (e) shall:

167 (i) be paid by the department to the appropriate:

168 (A) state or local child support enforcement agency; or

169 (B) state food stamp agency; and

170 (ii) for all purposes, be treated as if it was paid to the individual as unemployment
171 compensation and then paid by the individual to the appropriate:

172 (A) state or local child support enforcement agency in satisfaction of the individual's
173 child support obligation; or

174 (B) state food stamp agency in satisfaction of the individual's uncollected overissuance.

175 (g) For purposes of Subsection (5):

176 (i) "Child support obligation" means obligations that are enforced under a plan
177 described in Section 454 of the Social Security Act, 42 U.S.C. Sec. 654, that has been approved
178 by the Secretary of Health and Human Services under Part D of Title IV of the Social Security
179 Act, 42 U.S.C. Sec. 651 et seq.

180 (ii) "State food stamp agency" means the Department of Workforce Services or its

181 designee responsible for the collection of uncollected overissuances.

182 (iii) "State or local child support enforcement agency" means any agency or political
183 subdivision of the state operating under a plan described in Subsection (5).

184 (iv) "Uncollected overissuance" is as defined in Section 13(c)(1) of the Food Stamp
185 Act of 1977.

186 (v) "Unemployment compensation" means any compensation payable under this
187 chapter, including amounts payable under an agreement directed by federal law that provides
188 compensation assistance or allowances for unemployment.

189 (h) Subsection (5) is applicable only if appropriate arrangements have been made for
190 reimbursement by the state or local child support enforcement agency or state food stamp
191 agency for the administrative costs of the department under Subsection (5) that are directly
192 related to the enforcement of child support obligations or the repayment of uncollected
193 overissuance of food stamp benefits.

194 Section 3. Section **41-1a-712** is amended to read:

195 **41-1a-712. Foreign vehicle disclosure requirements -- Penalties -- Civil damages.**

196 (1) A person may not knowingly sell or offer for sale in this state any vehicle that was
197 initially delivered for disposition or sale in a country other than the United States of America
198 unless, prior to the sale, the person provides written notice to the purchaser on a separate form
199 furnished by the Motor Vehicle Enforcement Division;

200 (a) that indicates:

201 ~~[(a)]~~ (i) that the vehicle was initially delivered for disposition or sale in a country
202 outside of the United States as indicated on the Manufacturer's Statement of Origin or similar
203 ownership document; and

204 ~~[(b)]~~ (ii) the country where the vehicle was initially delivered for the disposition or
205 sale; and

206 ~~[(c) any other information required by the commission under rules made by the
207 commission in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.]~~

208 (b) that contains language substantially similar to each of the following statements:

209 (i) "the odometer for this vehicle may have been converted to miles";

210 (ii) "this vehicle meets U.S. Department of Transportation safety standards"; and

211 (iii) "this vehicle may have manufacturer warranty exclusions if sold or offered for sale

212 in this country".

213 (2) A person who violates this section is guilty of a class B misdemeanor.

214 (3) (a) In addition to any other penalties, a purchaser may bring a civil action to recover
215 damages resulting from a seller's failure to provide notice as required under this section.

216 (b) The amount of damages that may be recovered in a civil action are the actual
217 damages or \$1,500, whichever is greater.

218 Section 4. Section **54-7-26** is amended to read:

219 **54-7-26. Violations by officers or agents of utility -- Penalty.**

220 Every officer, agent, or employee of any public utility who violates or fails to comply
221 with, or who procures, aids, or abets any violation by any public utility of any provision of the
222 Constitution of this state or of this title, or who fails to obey, observe, or comply with any
223 order, decision, [~~rule,~~] direction, demand, or requirement, or any part or provision thereof, of
224 the commission, or who procures, aids, or abets any public utility in its failure to obey, observe,
225 and comply with any order, decision, [~~rule,~~] direction, demand, or requirement, or any part or
226 provision thereof, in a case in which a penalty has not been provided for, the officer, agent, or
227 employee is guilty of a class A misdemeanor.

228 Section 5. Section **54-7-28** is amended to read:

229 **54-7-28. Violations by individuals -- Penalty.**

230 Every person who, either individually, or acting as an officer, agent, or employee of a
231 corporation other than a public utility, violates any provision of this title or fails to observe,
232 obey, or comply with any order, decision, [~~rule,~~] direction, demand, or requirement, or any part
233 or provision thereof, of the commission, or who procures, aids, or abets any public utility in its
234 violation of this title or in its failure to obey, observe, or comply with any order, decision,
235 [~~rule,~~] direction, demand, or requirement, or any part or portion thereof, in a case in which a
236 penalty has not been provided for the person, is guilty of a class A misdemeanor.

237 Section 6. Section **58-37d-4** is amended to read:

238 **58-37d-4. Prohibited acts -- Second degree felony.**

239 (1) It is unlawful for any person to knowingly or intentionally:

240 (a) possess a controlled substance precursor with the intent to engage in a clandestine
241 laboratory operation;

242 (b) possess laboratory equipment or supplies with the intent to engage in a clandestine

243 laboratory operation;

244 (c) sell, distribute, or otherwise supply a precursor chemical, laboratory equipment, or
245 laboratory supplies, knowing or having reasonable cause to believe any of these items will be
246 used for a clandestine laboratory operation;

247 (d) evade the recordkeeping provisions of Title 58, Chapter 37c, Utah Controlled
248 Substance Precursor Act, [~~or the administrative rules issued under that chapter,~~] knowing or
249 having reasonable cause to believe that the material distributed or received will be used for a
250 clandestine laboratory operation;

251 (e) conspire with or aid another to engage in a clandestine laboratory operation;

252 (f) produce or manufacture, or possess with intent to produce or manufacture a
253 controlled or counterfeit substance except as authorized under Title 58, Chapter 37, Utah
254 Controlled Substances Act;

255 (g) transport or convey a controlled or counterfeit substance with the intent to
256 distribute or to be distributed by the person transporting or conveying the controlled or
257 counterfeit substance or by any other person regardless of whether the final destination for the
258 distribution is within this state or any other location; or

259 (h) engage in compounding, synthesis, concentration, purification, separation,
260 extraction, or other physical or chemical processing of any substance, including a controlled
261 substance precursor, or the packaging, repackaging, labeling, or relabeling of a container
262 holding a substance that is a product of any of these activities, knowing or having reasonable
263 cause to believe that the substance is a product of any of these activities and will be used in the
264 illegal manufacture of specified controlled substances.

265 (2) A person who violates any provision of Subsection (1) is guilty of a second degree
266 felony punishable by imprisonment for an indeterminate term of not less than 3 years nor more
267 than 15 years.

268 Section 7. Section **59-14-208** is amended to read:

269 **59-14-208. Rules for stamping and packaging procedures -- Penalty.**

270 (1) The commission may by rule provide for the method of breaking packages, the
271 forms and kinds of containers, and the method of affixing or cancelling stamps. These rules
272 shall allow for the enforcement of payment by inspection.

273 (2) A person is guilty of a class B misdemeanor who:

274 (a) engages in or permits any practice which is prohibited by law [~~or by rules of the~~
275 ~~commission~~] and makes it difficult to enforce the provisions of this chapter by inspection;

276 (b) refuses to allow full inspection of his premises by any peace officer or of any agent
277 of the commission upon demand; or

278 (c) hinders or in any way delays or prevents inspection when the demand is made.

279 Section 8. Section **72-7-406** is amended to read:

280 **72-7-406. Oversize permits and oversize and overweight permits for vehicles of**
281 **excessive size or weight -- Applications -- Restrictions -- Fees -- Rulemaking provisions --**
282 **Penalty.**

283 (1) (a) The department may, upon receipt of an application and good cause shown,
284 issue in writing an oversize permit or an oversize and overweight permit. The oversize permit
285 or oversize and overweight permit may authorize the applicant to operate or move upon a
286 highway:

287 (i) a vehicle or combination of vehicles, unladen or with a load weighing more than the
288 maximum weight specified in Section 72-7-404 for any wheel, axle, group of axles, or total
289 gross weight; or

290 (ii) a vehicle or combination of vehicles that exceeds the vehicle width, height, or
291 length provisions under Section 72-7-402.

292 (b) Except as provided under Subsection (8), an oversize and overweight permit may
293 not be issued under this section to allow the transportation of a load that is reasonably divisible.

294 (c) The maximum size or weight authorized by a permit under this section shall be
295 within limits that do not impair the state's ability to qualify for federal-aid highway funds.

296 (d) The department may deny or issue a permit under this section to protect the safety
297 of the traveling public and to protect highway foundation, surfaces, or structures from undue
298 damage by one or more of the following:

299 (i) limiting the number of trips the vehicle may make;

300 (ii) establishing seasonal or other time limits within which the vehicle may operate or
301 move on the highway indicated;

302 (iii) requiring security in addition to the permit to compensate for any potential damage
303 by the vehicle to any highway; and

304 (iv) otherwise limiting the conditions of operation or movement of the vehicle.

305 (e) Prior to granting a permit under this section, the department shall approve the route
306 of any vehicle or combination of vehicles.

307 (2) An application for a permit under this section shall state:

308 (a) the proposed maximum wheel loads, maximum axle loads, all axle spacings of each
309 vehicle or combination of vehicles;

310 (b) the proposed maximum load size and maximum size of each vehicle or
311 combination of vehicles;

312 (c) the specific roads requested to be used under authority of the permit; and

313 (d) if the permit is requested for a single trip or if other seasonal limits or time limits
314 apply.

315 (3) Each oversize permit or oversize and overweight permit shall be carried in the
316 vehicle or combination of vehicles to which it refers and shall be available for inspection by
317 any peace officer, special function officer, port of entry agent, or other personnel authorized by
318 the department.

319 (4) A permit under this section may not be issued or is not valid unless the vehicle or
320 combination of vehicles is:

321 (a) properly registered for the weight authorized by the permit; or

322 (b) registered for a gross laden weight of 78,001 pounds or over, if the gross laden
323 weight authorized by the permit exceeds 80,000 pounds.

324 (5) (a) (i) An oversize permit may be issued under this section for a vehicle or
325 combination of vehicles that exceeds one or more of the maximum width, height, or length
326 provisions under Section 72-7-402.

327 (ii) Except for an annual oversize permit for an implement of husbandry under Section
328 72-7-407 or for an annual oversize permit issued under Subsection (5)(a)(iii), only a single trip
329 oversize permit may be issued for a vehicle or combination of vehicles that is more than 14 feet
330 6 inches wide, 14 feet high, or 105 feet long.

331 (iii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
332 the department shall make rules for the issuance of an annual oversize permit for a vehicle or
333 combination of vehicles that is more than 14 feet 6 inches wide, 14 feet high, or 105 feet long
334 if the department determines that the permit is needed to accommodate highway transportation
335 needs for multiple trips on a specified route.

336 (b) The fee is \$25 for a single trip oversize permit under this Subsection (5). This
337 permit is valid for not more than 96 continuous hours.

338 (c) The fee is \$60 for a semiannual oversize permit under this Subsection (5). This
339 permit is valid for not more than 180 continuous days.

340 (d) The fee is \$75 for an annual oversize permit under this Subsection (5). This permit
341 is valid for not more than 365 continuous days.

342 (6) (a) An oversize and overweight permit may be issued under this section for a
343 vehicle or combination of vehicles carrying a nondivisible load that exceeds one or more of the
344 maximum weight provisions of Section 72-7-404 by not more than 25%, except that the gross
345 weight may not exceed 125,000 pounds.

346 (b) The fee is \$50 for a single trip oversize and overweight permit under this
347 Subsection (6). This permit is valid for not more than 96 continuous hours.

348 (c) A semiannual oversize and overweight permit under this Subsection (6) is valid for
349 not more than 180 continuous days. The fee for this permit is:

350 (i) \$150 for a vehicle or combination of vehicles with gross vehicle weight of more
351 than 80,000 pounds, but not exceeding 84,000 pounds;

352 (ii) \$260 for a vehicle or combination of vehicles with gross vehicle weight of more
353 than 84,000 pounds, but not exceeding 112,000 pounds; and

354 (iii) \$350 for a vehicle or combination of vehicles with gross vehicle weight of more
355 than 112,000 pounds, but not exceeding 125,000 pounds.

356 (d) An annual oversize and overweight permit under this Subsection (6) is valid for not
357 more than 365 continuous days. The fee for this permit is:

358 (i) \$200 for a vehicle or combination of vehicles with gross vehicle weight of more
359 than 80,000 pounds, but not exceeding 84,000 pounds;

360 (ii) \$400 for a vehicle or combination of vehicles with gross vehicle weight of more
361 than 84,000 pounds, but not exceeding 112,000 pounds; and

362 (iii) \$450 for a vehicle or combination of vehicles with gross vehicle weight of more
363 than 112,000 pounds, but not exceeding 125,000 pounds.

364 (7) (a) A single trip oversize and overweight permit may be issued under this section
365 for a vehicle or combination of vehicles carrying a nondivisible load that exceeds one or more
366 of the maximum weight provisions of Section 72-7-404 by more than 25% or that exceeds a

367 gross weight of 125,000 pounds.

368 (b) (i) The fee for a single trip oversize and overweight permit under this Subsection
369 (7), which is valid for not more than 96 continuous hours, is \$.01 per mile for each 1,000
370 pounds above 80,000 pounds subject to the rounding described in Subsection (7)(c).

371 (ii) The minimum fee that may be charged under this Subsection (7) is \$65.

372 (iii) The maximum fee that may be charged under this Subsection (7) is \$450.

373 (c) (i) The miles used to calculate the fee under this Subsection (7) shall be rounded up
374 to the nearest 50 mile increment.

375 (ii) The pounds used to calculate the fee under this Subsection (7) shall be rounded up
376 to the nearest 25,000 pound increment.

377 (8) (a) An oversize and overweight permit may be issued under this section for a
378 vehicle or combination of vehicles carrying a divisible load if:

379 (i) the bridge formula under Subsection 72-7-404(3) is not exceeded; and

380 (ii) the length of the vehicle or combination of vehicles is:

381 (A) more than the limitations specified under Subsections 72-7-402(4)(c) and (d) but
382 not exceeding 81 feet in cargo carrying length and the application is for a single trip,
383 semiannual trip, or annual trip permit; or

384 (B) more than 81 feet in cargo carrying length but not exceeding 95 feet in cargo
385 carrying length and the application is for an annual trip permit.

386 (b) The fee is \$50 for a single trip oversize and overweight permit under this
387 Subsection (8). The permit is valid for not more than 96 continuous hours.

388 (c) The fee for a semiannual oversize and overweight permit under this Subsection (8),
389 which permit is valid for not more than 180 continuous days is:

390 (i) \$150 for a vehicle or combination of vehicles with gross vehicle weight of more
391 than 80,000 pounds, but not exceeding 84,000 pounds;

392 (ii) \$260 for a vehicle or combination of vehicles with gross vehicle weight of more
393 than 84,000 pounds, but not exceeding 112,000 pounds; and

394 (iii) \$350 for a vehicle or combination of vehicles with gross vehicle weight of more
395 than 112,000 pounds, but not exceeding 129,000 pounds.

396 (d) The fee for an annual oversize and overweight permit under this Subsection (8),
397 which permit is valid for not more than 365 continuous days is:

398 (i) \$200 for a vehicle or combination of vehicles with gross vehicle weight of more
399 than 80,000 pounds, but not exceeding 84,000 pounds;

400 (ii) \$400 for a vehicle or combination of vehicles with gross vehicle weight of more
401 than 84,000 pounds, but not exceeding 112,000 pounds; and

402 (iii) \$450 for a vehicle or combination of vehicles with gross vehicle weight of more
403 than 112,000 pounds, but not exceeding 129,000 pounds.

404 (9) Permits under Subsections (7) and (8) may be issued only upon authorization of the
405 commission.

406 (10) Permit fees collected under this section shall be credited monthly to the
407 Transportation Fund.

408 (11) The department shall prepare maps, drawings, and instructions as guidance when
409 issuing permits under this section.

410 (12) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
411 the department shall make rules governing the issuance and revocation of all permits under this
412 section and Section 72-7-407.

413 (13) Any person who violates any of the terms or conditions of a permit issued under
414 this section:

415 (a) may have his permit revoked; and

416 (b) is guilty of a class B misdemeanor, except that a violation of any rule made under
417 Subsection (12) is not subject to a criminal penalty.

418 Section 9. Section **73-18-20** is amended to read:

419 **73-18-20. Enforcement of chapter -- Authority to stop and board vessels --**

420 **Disregarding law enforcement signal to stop as misdemeanor -- Procedure for arrest.**

421 (1) Any law enforcement officer authorized under Title 53, Chapter 13, Peace Officer
422 Classifications, may enforce the provisions of this chapter [~~and the rules promulgated under~~
423 ~~this chapter~~].

424 (2) Any law enforcement officer authorized under Title 53, Chapter 13, Peace Officer
425 Classifications, has the authority to stop and board any vessel subject to this chapter, whether
426 the vessel is on water or land. If that officer determines the vessel is overloaded, unseaworthy,
427 or the safety equipment required by this chapter or rules of the board is not on the vessel, that
428 officer may prohibit the launching of the vessel or stop the vessel from operating.

429 (3) An operator who, having received a visual or audible signal from a law
430 enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to
431 bring his vessel to a stop, operates his vessel in willful or wanton disregard of the signal so as
432 to interfere with or endanger the operation of any vessel or endanger any person, or who
433 attempts to flee or elude the officer whether by vessel or otherwise is guilty of a class A
434 misdemeanor.

435 (4) Whenever any person is arrested for any violation of the provisions of this chapter
436 [~~or of the rules promulgated under this chapter~~], the procedure for arrest is the same as outlined
437 in Sections 77-7-22 through 77-7-24.

438 Section 10. Section **73-18-21** is amended to read:

439 **73-18-21. Violation of chapter as class B misdemeanor.**

440 Unless otherwise specified, any person who violates any provision of this chapter [~~or~~
441 ~~rule promulgated under this chapter~~] is guilty of a class B misdemeanor.

442 Section 11. Section **73-18a-10** is amended to read:

443 **73-18a-10. Enforcement -- Inspection of vessels, marinas, and other boating**
444 **facilities.**

445 (1) Enforcement of this chapter [~~or the rules promulgated under it~~] shall be by law
446 enforcement officers.

447 (2) Any vessel in this state is subject to inspection by the officers for the purpose of
448 determining whether the vessel is equipped in compliance with this chapter. If the vessel is not
449 so equipped, the division may suspend its registration until the proper installation is completed
450 or the marine toilet is sealed in a manner which prohibits its use.

451 (3) The division may inspect marinas or other waterside public facilities used by
452 vessels for launching, docking, or mooring purposes to determine whether they are adequately
453 equipped for proper handling, storing, or disposal of waste, litter, or human body waste.

454 Section 12. Section **73-18a-14** is amended to read:

455 **73-18a-14. Violation of chapter as class B misdemeanor.**

456 Unless otherwise specified, any person who violates any provision of this chapter [~~or~~
457 ~~rule promulgated under this chapter~~] is guilty of a class B misdemeanor.

458 Section 13. Section **73-18a-15** is amended to read:

459 **73-18a-15. Arrest for violation -- Procedure.**

460 Whenever any person is arrested for any violation of the provisions of this chapter [~~or~~
461 ~~rule promulgated under this chapter~~], the procedure for arrest is the same as specified in
462 Sections 77-7-22 through 77-7-24.

463 Section 14. Section **76-8-1301** is amended to read:

464 **76-8-1301. False statements regarding unemployment compensation -- Penalties.**

465 (1) (a) A person who makes a false statement or representation knowing it to be false
466 or knowingly fails to disclose a material fact, to obtain or increase a benefit or other payment
467 under Title 35A, Chapter 4, Employment Security Act, or under the Unemployment
468 Compensation Law of any state or of the federal government for any person is guilty of
469 unemployment insurance fraud.

470 (b) A violation of Subsection (1)(a) is:

471 (i) a class B misdemeanor when the value of the money obtained or sought to be
472 obtained is less than \$300;

473 (ii) a class A misdemeanor when the value of the money obtained or sought to be
474 obtained is or exceeds \$300 but is less than \$1,000;

475 (iii) a third degree felony when the value of the money obtained or sought to be
476 obtained is or exceeds \$1,000 but is less than \$5,000; or

477 (iv) a second degree felony when the value of the money obtained or sought to be
478 obtained is or exceeds \$5,000.

479 (c) The determination of the degree of an offense under Subsection (1)(b) shall be
480 measured by the total value of all money obtained or sought to be obtained by the unlawful
481 conduct.

482 (2) (a) An officer or agent of an employing unit as defined in Section 35A-4-202 or any
483 other person who makes a false statement or representation knowing it to be false, or who
484 knowingly fails to disclose a material fact, to prevent or reduce the payment of unemployment
485 compensation benefits to an individual entitled to those benefits, or to avoid becoming or
486 remaining a subject employer or to avoid or reduce any contribution or other payment required
487 from an employing unit under Title 35A, Chapter 4, Employment Security Act, or under the
488 Unemployment Compensation Law of any state or of the federal government, or who willfully
489 fails or refuses to make a contribution or other payment or to furnish any report required in
490 Title 35A, Chapter 4, Employment Security Act, or to produce or permit the inspection or

491 copying of records as required under that chapter is guilty of unemployment insurance fraud.

492 (b) A violation of Subsection (2)(a) is:

493 (i) a class B misdemeanor when the value of the money obtained or sought to be
494 obtained is less than \$300;

495 (ii) a class A misdemeanor when the value of the money obtained or sought to be
496 obtained is or exceeds \$300 but is less than \$1,000;

497 (iii) a third degree felony when the value of the money obtained or sought to be
498 obtained is or exceeds \$1,000 but is less than \$5,000; or

499 (iv) a second degree felony when the value of the money obtained or sought to be
500 obtained is or exceeds \$5,000.

501 (3) (a) A person who willfully violates any provision of Title 35A, Chapter 4,
502 Employment Security Act, or any order [~~or rule~~] made under that chapter, the violation of
503 which is made unlawful or the observance of which is required under the terms of that chapter,
504 and for which a penalty is neither prescribed in that chapter nor provided by any other
505 applicable statute is guilty of a class A misdemeanor.

506 (b) Each day a violation of Subsection (3)(a) continues shall be a separate offense.

507 (4) A person is guilty of a class C misdemeanor if:

508 (a) as an employee of the Department of Workforce Services, in willful violation of
509 Section 35A-4-312, the employee makes a disclosure of information obtained from an
510 employing unit or individual in the administration of Title 35A, Chapter 4, Employment
511 Security Act; or

512 (b) the person has obtained a list of applicants for work or of claimants or recipients of
513 benefits under Title 35A, Chapter 4, Employment Security Act, and uses or permits the use of
514 the list for any political purpose.

515 Section 15. **Effective date.**

516 This bill takes effect on May 5, 2008, except that the amendments to Sections 78-18-20,
517 73-18-21, 73-18a-10, 73-18a-14, and 73-18a-15 in this bill take effect on May 4, 2009.

H.B. 80 1st Sub. (Buff) - Administrative Rule Penalty Amendments

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
