

1 **TRAFFIC VIOLATION AND CITATION**
2 **AMENDMENTS**

3 2009 GENERAL SESSION
4 STATE OF UTAH

5 **Chief Sponsor: Don L. Ipson**

6 Senate Sponsor: Stephen H. Urquhart

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions relating to traffic violations and traffic citations.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ clarifies that a single continuous period of driving for a reckless driving or careless
14 driving violation only covers three miles or less in total distance;

15 ▶ provides that an operator of a vehicle operating on a roadway divided into two or
16 more clearly marked lanes for traffic may not move the vehicle from the lane until

17 ~~the movement can be made safely rather than when~~ the operator reasonably
17a determines that the
18 movement can be made safely;

19 ▶ requires the Criminal Investigations and Technical Services Division to include all
20 warrants issued for failure to appear on a traffic citation on the statewide warrant
21 system;

22 ▶ provides that a prosecution is commenced upon the issuance of a citation;

23 ▶ provides that a person receiving a certain citation shall appear before a magistrate
24 on or before the date and time specified;

25 ▶ provides that a magistrate may issue a warrant of arrest for a person who fails to
26 comply with certain citation requirements;

27 ▶ amends the required notice language on a citation issued for a misdemeanor or



28 infraction charge; and
29 ▶ makes technical changes.

30 **Monies Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **41-6a-528**, as renumbered and amended by Laws of Utah 2005, Chapter 2

37 **41-6a-710**, as renumbered and amended by Laws of Utah 2005, Chapter 2

38 **41-6a-1715**, as enacted by Laws of Utah 2007, Chapter 52

39 **53-10-208**, as last amended by Laws of Utah 2008, Chapter 3

40 **76-1-302**, as last amended by Laws of Utah 2008, Chapter 129

41 **77-7-19**, as last amended by Laws of Utah 2001, Chapter 118

42 **77-7-20**, as enacted by Laws of Utah 1980, Chapter 15

43 **77-7-21**, as last amended by Laws of Utah 1994, Chapter 100



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

46 Section 1. Section **41-6a-528** is amended to read:

47 **41-6a-528. Reckless driving -- Penalty.**

48 (1) A person is guilty of reckless driving who operates a vehicle:

49 (a) in willful or wanton disregard for the safety of persons or property; or

50 (b) while committing three or more moving traffic violations under Title 41, Chapter

51 6a, Traffic Code, in a series of acts occurring within a single continuous period of driving

52 covering three miles or less in total distance.

53 (2) A person who violates Subsection (1) is guilty of a class B misdemeanor.

54 Section 2. Section **41-6a-710** is amended to read:

55 **41-6a-710. Roadway divided into marked lanes -- Provisions -- Traffic-control**
56 **devices.**

57 On a roadway divided into two or more clearly marked lanes for traffic the following
58 provisions apply:

59 (1) ~~Ĥ~~ (a) ~~Ĥ~~ A person operating a vehicle:
60 ~~Ĥ~~ [(a)] (i) ~~Ĥ~~ shall keep the vehicle as nearly as practical entirely within a single lane;
60a and

61 ~~Ĥ~~ [(b)] (ii) ~~Ĥ~~ may not move the vehicle from the lane until ~~Ĥ~~ [f] the operator
61a has reasonably determined [f] ~~Ĥ~~ the
62 movement can be made safely.

62a ~~Ĥ~~ (b) A determination under Subsection (1)(a)(ii) is reasonable if a reasonable person
62b acting under the same conditions and having regard for actual and potential hazards then
62c existing would determine that the movement could be made safely. ~~Ĥ~~

63 (2) On a roadway divided into three or more lanes and providing for two-way
64 movement of traffic, a person operating a vehicle may not drive in the center lane except:

65 (a) when overtaking and passing another vehicle traveling in the same direction, and
66 when the center lane is:

67 (i) clear of traffic within a safe distance; and

68 (ii) not a two-way left turn lane;

69 (b) in preparation of making or completing a left turn in compliance with Section
70 41-6a-801; or

71 (c) where the center lane is allocated exclusively to traffic moving in the same
72 direction that the vehicle is proceeding as indicated by traffic-control devices.

73 (3) (a) A highway authority may erect traffic-control devices directing specified traffic
74 to use a designated lane or designating those lanes to be used by traffic moving in a particular
75 direction regardless of the center of the roadway.

76 (b) An operator of a vehicle shall obey the directions of a traffic-control device erected
77 under Subsection (3)(a).

78 Section 3. Section **41-6a-1715** is amended to read:

79 **41-6a-1715. Careless driving defined and prohibited.**

80 (1) A person operating a motor vehicle is guilty of careless driving if the person:

81 (a) commits two ~~Ĥ~~ [f] or more [f] ~~Ĥ~~ moving traffic violations under this chapter in a
81a series of



82 acts within a single continuous period of driving covering three miles or less in total distance;

83 or

84 (b) commits a moving traffic violation under this chapter other than a moving traffic
85 violation under Part 6, Speed Restrictions, while being distracted by one or more activities
86 taking place within the vehicle that are not related to the operation of a motor vehicle,
87 including:

88 (i) using a wireless telephone or other electronic device unless the person is using
89 hands-free talking and listening features while operating the motor vehicle;

90 (ii) searching for an item in the vehicle; or

91 (iii) attending to personal hygiene or grooming.

92 (2) A violation of this section is a class C misdemeanor.

93 Section 4. Section **53-10-208** is amended to read:

94 **53-10-208. Definition -- Offenses included on statewide warrant system --**

95 **Transportation fee to be included -- Statewide warrant system responsibility -- Quality**
96 **control -- Training -- Technical support -- Transaction costs.**

97 (1) "Statewide warrant system" means the portion of the state court computer system
98 that is accessible by modem from the state mainframe computer and contains:

99 (a) records of criminal warrant information; and

100 (b) after notice and hearing, records of protective orders issued pursuant to:

101 (i) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act; or

102 (ii) Title 77, Chapter 36, Cohabitant Abuse Procedures Act.

103 (2) (a) ~~(f)~~ The division shall include on the statewide warrant system all warrants
104 issued for felony offenses and class A, B, and C misdemeanor offenses in the state.

105 ~~[(ii) For each offense the division shall indicate whether the magistrate ordered under~~
106 ~~Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in~~
107 ~~court.]~~

108 ~~[(b) Infractions shall not be included on the statewide warrant system, including any~~
109 ~~subsequent failure to appear warrants issued on an infraction.]~~

110 (b) The division shall include on the statewide warrant system all warrants issued for
111 failure to appear on a traffic citation as ordered by a magistrate under Subsection 77-7-19(3).

112 (c) For each warrant, the division shall indicate whether the magistrate ordered under
113 Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.

114 (3) The division is the agency responsible for the statewide warrant system and shall:

115 (a) ensure quality control of all warrants of arrest or commitment and protective orders
116 contained in the statewide warrant system by conducting regular validation checks with every
117 clerk of a court responsible for entering the information on the system;

118 (b) upon the expiration of the protective orders and in the manner prescribed by the
119 division, purge information regarding protective orders described in Subsection 53-10-208.1(4)
120 within 30 days of the time after expiration;



121 (c) establish system procedures and provide training to all criminal justice agencies
122 having access to information contained on the state warrant system;

123 (d) provide technical support, program development, and systems maintenance for the
124 operation of the system; and

125 (e) pay data processing and transaction costs for state, county, and city law
126 enforcement agencies and criminal justice agencies having access to information contained on
127 the state warrant system.

128 (4) (a) Any data processing or transaction costs not funded by legislative appropriation
129 shall be paid on a pro rata basis by all agencies using the system during the fiscal year.

130 (b) This Subsection (4) supersedes any conflicting provision in Subsection (3)(e).

131 Section 5. Section **76-1-302** is amended to read:

132 **76-1-302. Time limitations for prosecution of offenses -- Provisions if DNA**
133 **evidence would identify the defendant -- Commencement of prosecution.**

134 (1) Except as otherwise provided, a prosecution for:

135 (a) a felony or negligent homicide shall be commenced within four years after it is
136 committed, except that prosecution for forcible sexual abuse shall be commenced within eight
137 years after the offense is committed, if within four years after its commission the offense is
138 reported to a law enforcement agency;

139 (b) a misdemeanor other than negligent homicide shall be commenced within two years
140 after it is committed; and

141 (c) any infraction shall be commenced within one year after it is committed.

142 (2) (a) Notwithstanding Subsection (1), prosecution for the offenses listed in
143 Subsections 76-3-203.5(1)(c)(i)(A) through (AA) may be commenced at any time if the identity
144 of the person who committed the crime is unknown but DNA evidence is collected that would
145 identify the person at a later date.

146 (b) Subsection (2)(a) does not apply if the statute of limitations on a crime has run as of
147 May 5, 2003, and no charges have been filed.

148 (3) If the statute of limitations would have run but for the provisions of Subsection (2)
149 and identification of a perpetrator is made through DNA, a prosecution shall be commenced
150 within one year of the discovery of the identity of the perpetrator.

151 (4) A prosecution is commenced upon:

152 (a) the finding and filing of an indictment by a grand jury [~~or upon~~];

153 (b) the filing of a complaint or information; or

154 (c) the issuance of a citation.

155 Section 6. Section **77-7-19** is amended to read:

156 **77-7-19. Appearance required by citation -- Arrest for failure to appear --**

157 **Transfer of cases -- Motor vehicle violations -- Disposition of fines and costs.**

158 (1) [~~Persons~~] A person receiving [~~misdemeanor citations~~] a citation issued pursuant to
159 Section 77-7-18 shall appear before the magistrate designated in the citation on or before the
160 time and date specified in the citation unless the uniform bail schedule adopted by the Judicial
161 Council or Subsection 77-7-21(1) permits forfeiture of bail for the offense charged.

162 (2) A citation may not require a person to appear sooner than five days or later than 14
163 days following its issuance.

164 (3) (a) A person who receives a citation and who fails to comply with Section 77-7-21
165 on or before the time and date and at the court specified is subject to arrest.

166 (b) The magistrate may issue a warrant of arrest based upon a citation that was served
167 and filed in accordance with Section 77-7-20.

168 (4) Except where otherwise provided by law, a citation or information issued for
169 violations of Title 41, Motor Vehicles, shall state that the person receiving the citation or
170 information shall appear before the magistrate who has jurisdiction over the offense charged.

171 (5) Any justice court judge may, upon the motion of either the defense attorney or
172 prosecuting attorney, based on a lack of territorial jurisdiction or the disqualification of the
173 judge, transfer cases to a justice court with territorial jurisdiction or the district court within the
174 county.

175 (6) (a) Clerks and other administrative personnel serving the courts shall ensure that all
176 citations for violation of Title 41, Motor Vehicles, are filed in a court with jurisdiction and
177 venue and shall refuse to receive citations that should be filed in another court.

178 (b) Fines, fees, costs, and forfeitures imposed or collected for violations of Title 41,
179 Motor Vehicles, which are filed contrary to this section shall be paid to the entitled
180 municipality or county by the state, county, or municipal treasurer who has received the fines,



181 fees, costs, or forfeitures from the court which collected them.

182 (c) The accounting and remitting of sums due shall be at the close of the fiscal year of

183 the municipality or county which has received fines, fees, costs, or forfeitures as a result of any
184 improperly filed citations.

185 Section 7. Section **77-7-20** is amended to read:

186 **77-7-20. Service of citation on defendant -- Filing in court -- Contents of citations.**

187 (1) If a citation is issued pursuant to Section 77-7-18, the peace officer or public official
188 shall issue one copy to the person cited and shall within five days file a duplicate copy with the
189 court specified in the citation.

190 (2) Each copy of the citation issued under authority of this chapter shall contain:

191 (a) the name of the court before which the person is to appear;

192 (b) the name of the person cited;

193 (c) a brief description of the offense charged;

194 (d) the date, time and place at which the offense is alleged to have occurred;

195 (e) the date on which the citation was issued;

196 (f) the name of the peace officer or public official who issued the citation, and the
197 name of the arresting person if an arrest was made by a private party and the citation was
198 issued in lieu of taking the arrested person before a magistrate;

199 (g) the time and date on or before and after which the person is to appear;

200 (h) the address of the court in which the person is to appear;

201 (i) a certification above the signature of the officer issuing the citation in substantially
202 the following language: "I certify that a copy of this citation or information (Summons and
203 Complaint) was duly served upon the defendant according to law on the above date and I know
204 or believe and so allege that the above-named defendant did commit the offense herein set forth
205 contrary to law. I further certify that the court to which the defendant has been directed to
206 appear is the proper court pursuant to Section 77-7-21."; and

207 (j) a notice containing substantially the following language:

208 READ CAREFULLY

209 This citation is not an information and will not be used as an information without your
210 consent. If an information is filed you will be provided a copy by the court. You MUST appear
211 in court on or before the time set in this citation. IF YOU FAIL TO APPEAR [~~AN~~



212 ~~INFORMATION WILL BE FILED AND]~~, THE COURT MAY ISSUE A WARRANT FOR
213 YOUR ARREST.

214 Section 8. Section **77-7-21** is amended to read:

215 **77-7-21. Proceeding on citation -- Voluntary forfeiture of bail -- Parent signature**
216 **required -- Information, when required.**

217 (1) (a) A copy of the citation issued under Section 77-7-18 that is filed with the
218 magistrate may be used in lieu of an information to which the person cited may plead guilty or
219 no contest and be sentenced or on which bail may be forfeited.

220 (b) With the magistrate's approval, a person may voluntarily forfeit bail without
221 appearance being required in any case of a class B misdemeanor or less.

222 (c) Voluntary forfeiture of bail shall be entered as a conviction and treated the same as
223 if the accused pleaded guilty.

224 (d) If the person cited is under 18 years of age, and if any of the charges allege a
225 violation of Title 41, the court shall promptly mail a copy of the citation or a notice of the
226 citation to the address as shown on the citation, to the attention of the parent or guardian of the
227 defendant.

228 (2) An information shall be filed and proceedings held in accordance with the Rules of
229 Criminal Procedure and all other applicable provisions of this code if the person cited [~~:(a)~~
230 ~~willfully fails to appear before a magistrate pursuant to a citation issued under Section 77-7-18;~~
231 ~~(b)~~] pleads not guilty to the offense charged [~~; or~~].

232 [~~(c) does not deposit bail on or before the date set for the person's appearance.~~]

233 (3) (a) The information is an original pleading.

234 (b) If a person cited waives by written agreement the filing of the information, the
235 prosecution may proceed on the citation.

Legislative Review Note
as of 1-29-09 3:43 PM

Office of Legislative Research and General Counsel

H.B. 292



H.B. 292 - Traffic Violation and Citation Amendments

Fiscal Note

2009 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.
