

MOTOR VEHICLE FORFEITURE AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christopher N. Herrod

Senate Sponsor: Sheldon L. Killpack

LONG TITLE

General Description:

This bill modifies the Motor Vehicles Code by amending provisions relating to motor vehicle forfeiture for violating certain driving under the influence provisions.

Highlighted Provisions:

This bill:

► provides that a motor vehicle is subject to criminal or civil forfeiture upon a finding by the court that:

- the motor vehicle was used in a violation of certain driving under the influence provisions;

- the operator of the vehicle has previously been convicted of a felony driving under the influence violation or automobile homicide; and

- the operator of the motor vehicle was driving on a denied, suspended, revoked, or disqualified license and the denial, suspension, revocation, or disqualification was imposed because of a violation of certain driving under the influence provisions; and

► makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30 **41-6a-527**, as last amended by Laws of Utah 2006, Chapters 168 and 341



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **41-6a-527** is amended to read:

34 **41-6a-527. Seizure and impoundment of vehicles by peace officers -- Impound**
35 **requirements -- Removal of vehicle by owner -- Forfeiture.**

36 (1) If a peace officer arrests, cites, or refers for administrative action the operator of a
37 vehicle for violating Section 41-6a-502, 41-6a-517, 41-6a-518.2, 41-6a-520, 41-6a-530,
38 41-6a-606, 53-3-231, 53-3-232, or a local ordinance similar to Section 41-6a-502 which
39 complies with Subsection 41-6a-510(1), the peace officer shall seize and impound the vehicle
40 in accordance with Section 41-6a-1406, except as provided under Subsection (2).

41 (2) If a registered owner of the vehicle, other than the operator, is present at the time of
42 arrest, the peace officer may release the vehicle to that registered owner, but only if:

43 (a) the registered owner:

44 (i) requests to remove the vehicle from the scene; and

45 (ii) presents to the peace officer sufficient identification to prove ownership of the
46 vehicle or motorboat;

47 (b) the registered owner identifies a driver with a valid operator's license who:

48 (i) complies with all restrictions of his operator's license; and

49 (ii) would not, in the judgment of the officer, be in violation of Section 41-6a-502,
50 41-6a-517, 41-6a-518.2, 41-6a-520, 41-6a-530, 53-3-231, 53-3-232, or a local ordinance
51 similar to Section 41-6a-502 which complies with Subsection 41-6a-510(1) if permitted to
52 operate the vehicle; and

53 (c) the vehicle itself is legally operable.

54 (3) If necessary for transportation of a motorboat for impoundment under this section,
55 the motorboat's trailer may be used to transport the motorboat.

56 (4) A motor vehicle is subject to criminal or civil forfeiture under the procedures and
57 substantive protections established in Title 24, Chapter 1, Utah Uniform Forfeiture Procedures

58 Act, upon a finding by the court that:

59 (a) the motor vehicle was used in a violation of Section 41-6a-502, 41-6a-517, a local
60 ordinance which complies with the requirements of Subsection 41-6a-510(1), Subsection
61 58-37-8(2)(g), or Section 76-5-207;

62 (b) the operator of the vehicle has previously been convicted of a violation committed
63 after May 12, 2009, of:

64 (i) a felony driving under the influence violation under Section 41-6a-502;

65 (ii) a felony violation of Subsection 58-37-8(2)(g); or

66 (iii) automobile homicide under Section 76-5-207;

67 (c) the operator of the vehicle was driving on a denied, suspended, revoked, or
68 disqualified license; and

69 (d) (i) the denial, suspension, revocation, or disqualification under Subsection (4)(c)
70 was imposed because of a violation of:

71 (A) Section 41-6a-502;

72 (B) Section 41-6a-517;

73 (C) a local ordinance which complies with the requirements of Subsection
74 41-6a-510(1);

75 (D) Section 41-6a-520;

76 (E) Subsection 58-37-8(2)(g);

77 (F) Section 76-5-207; or

78 (G) a criminal prohibition that the person was charged with violating as a result of a
79 plea bargain after having been originally charged with violating one or more of the sections or
80 ordinances described in Subsections (4)(d)(i)(A) through (F); or

81 (ii) (A) the denial, suspension, revocation, or disqualification described in Subsection
82 (4)(c) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension,
83 revocation, or disqualification; and

84 (B) the original denial, suspension, revocation, or disqualification was imposed
85 because of a violation described in Subsection (4)(d)(i)(A) through (G).