

Representative Christopher N. Herrod proposes the following substitute bill:

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



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

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



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

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

33 **41-6a-527. Seizure and impoundment of vehicles by peace officers -- Impound**
34 **requirements -- Removal of vehicle by owner -- Forfeiture.**

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

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

42 (a) the registered owner:

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

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

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

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

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

52 (c) the vehicle itself is legally operable.

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

55 (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:

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

64 (ii) a felony violation of Subsection 58-37-8(2)(b); or

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

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

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

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

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

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

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

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

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

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

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

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

H.B. 151 1st Sub. (Buff) - Motor Vehicle Forfeiture Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will require \$3,500 per year from the General Fund appropriated to the Courts beginning in FY 2010. The bill will also generate new Criminal Forfeiture Restricted revenue beginning in FY 2010 from vehicles forfeited, but the amount is unknown.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$3,500	\$3,500	\$0	\$0	\$0
Total	\$0	\$3,500	\$3,500	\$0	\$0	\$0

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.
