



30 amended by Laws of Utah 2008, Chapter 382

31 **51-9-402**, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and

32 amended by Laws of Utah 2008, Chapter 382

33 ENACTS:

34 **51-9-412**, Utah Code Annotated 1953



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

37 Section 1. Section **51-9-401** is amended to read:

38 **51-9-401. Surcharge -- Application and exemptions.**

39 (1) (a) A surcharge shall be paid on all criminal fines, penalties, and forfeitures  
40 imposed by the courts.

41 (b) The surcharge shall be:

42 (i) [~~85%~~] 90% upon conviction of a:

43 (A) felony;

44 (B) class A misdemeanor;

45 (C) violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless  
46 Driving; or

47 (D) class B misdemeanor not classified within Title 41, Motor Vehicles, including  
48 violation of comparable county or municipal ordinances; or

49 (ii) 35% upon conviction of any other offense, including violation of county or  
50 municipal ordinances not subject to the [~~85%~~] 90% surcharge.

51 (c) The Division of Finance shall allocate the collected 90% surcharge in Subsection  
52 (1)(b)(i) in the following order:

53 (i) the first \$30,000 to the General Fund;

54 (ii) the next 4.5% to the Law Enforcement Services Account established in Section  
55 51-9-412; and

56 (iii) the remainder as prescribed in Sections 51-9-403 through 51-9-411.

57 (2) The surcharge may not be imposed:

- 58 (a) upon nonmoving traffic violations;
- 59 (b) upon court orders when the offender is ordered to perform compensatory service
- 60 work in lieu of paying a fine; and
- 61 (c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment
- 62 of a case under Section 78A-6-602.

63 (3) (a) The surcharge and the exceptions under Subsections (1) and (2) also apply to

64 all fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if

65 committed by an adult.

66 (b) However, the surcharge does not include amounts assessed or collected separately

67 by juvenile courts for the Juvenile Restitution Account, which is independent of this part and

68 does not affect the imposition or collection of the surcharge.

69 (4) The surcharge under this section shall be imposed in addition to the fine charged

70 for a civil or criminal offense, and no reduction may be made in the fine charged due to the

71 surcharge imposition.

72 (5) Fees, assessments, and surcharges related to criminal or traffic offenses shall be

73 authorized and managed by this part rather than attached to particular offenses.

74 Section 2. Section **51-9-402** is amended to read:

75 **51-9-402. Division of collected monies retained by state treasurer and local**

76 **governmental collecting entity -- Purpose of surcharge -- Allocation of collections --**

77 **Financial information.**

78 (1) The amount of the surcharge imposed under this part by courts of record shall be

79 collected before any fine and deposited with the state treasurer.

80 (2) The amount of the surcharge and the amount of criminal fines, penalties, and

81 forfeitures imposed under this part by courts not of record shall be collected concurrently.

82 (a) As monies are collected on criminal fines, penalties, and forfeitures subject to the

83 [~~85%~~] 90% surcharge, the monies shall be divided pro rata so that the local governmental

84 collecting entity retains [~~54%~~] 53% of the collected monies and the state retains [~~46%~~] 47% of

85 the collected monies.

86 (b) As monies are collected on criminal fines, penalties, and forfeitures subject to the  
87 35% surcharge, the monies shall be divided pro rata so that the local governmental collecting  
88 entity retains 74% of the collected monies and the state retains 26% of the collected monies.

89 (c) The court shall deposit with the state treasurer the surcharge portion of all monies  
90 as they are collected.

91 (3) Courts of record, courts not of record, and administrative traffic proceedings shall  
92 collect financial information to determine:

93 (a) the total number of cases in which:

94 (i) a final judgment has been rendered;

95 (ii) surcharges and fines are paid by partial or installment payment; and

96 (iii) the judgment is fulfilled by an alternative method upon the court's order; and

97 (b) the total dollar amounts of surcharges owed to the state and fines owed to the state  
98 and county or municipality, including:

99 (i) waived surcharges;

100 (ii) uncollected surcharges; and

101 (iii) collected surcharges.

102 (4) The courts of record, courts not of record, and administrative traffic proceedings  
103 shall report all collected financial information monthly to the Administrative Office of the  
104 Courts. The collected information shall be categorized by cases subject to the [~~85%~~] 90% and  
105 35% surcharge.

106 (5) The purpose of the surcharge is to finance the trust funds and support accounts as  
107 provided in this part.

108 (6) (a) From the surcharge, the Division of Finance shall allocate in the manner and  
109 for the purposes described in Sections 51-9-403 through 51-9-411.

110 (b) Allocations shall be made on a fiscal year basis.

111 (7) The provisions of this section and Section 51-9-401 may not impact the  
112 distribution and allocation of fines and forfeitures imposed in accordance with Sections  
113 23-14-13, 78A-5-110, and 78A-7-120.

114 Section 3. Section **51-9-412** is enacted to read:

115 **51-9-412. Law Enforcement Services Account -- Funding -- Uses.**

116 (1) As used in this section:

117 (a) "Account" means the Law Enforcement Services Account.

118 (b) "Commission" means the Commission on Criminal and Juvenile Justice created in  
119 Section 63M-7-201.

120 (c) "Law enforcement agency" means a local law enforcement agency.

121 (2) There is created a restricted account within the General Fund known as the "Law  
122 Enforcement Services Account."

123 (3) (a) The Division of Finance shall allocate funds from the collected surcharge in  
124 accordance with Subsection 51-9-401(1)(c) to the account, but not to exceed the amount  
125 appropriated by the Legislature.

126 (b) Money in the account shall be appropriated to the commission to administer and  
127 distribute to law enforcement agencies providing services directly to areas with halfway  
128 houses.

129 (4) The commission shall allocate funds from the account to local law enforcement  
130 agencies on a pro-rata basis determined by the number of beds in each agency's jurisdiction for  
131 increased enforcement in areas with halfway houses.

132 (5) A law enforcement agency may use funds received under this section only for the  
133 purposes stated in this section.

134 (6) For each fiscal year, any law enforcement agency that receives funds from the  
135 commission under this section shall prepare, and file with the commission and the state  
136 auditor, a report in a form specified by the commission. The report shall include the  
137 following:

138 (a) the agency's name;

139 (b) the amount received;

140 (c) how the funds were used, including the impact on crime reduction efforts in areas  
141 with halfway houses; and

142           (d) a statement signed by both the agency's or political subdivision's executive officer  
143 or designee and by the agency's legal counsel that all funds were used for law enforcement  
144 operations related to reducing criminal activity in areas with halfway houses.

145           (7) The commission shall report in writing to the legislative Law Enforcement and  
146 Criminal Justice Interim Committee annually regarding the funds allocated under this section,  
147 including the amounts and uses.

148           Section 4. **Appropriation.**

149           As an ongoing appropriation subject to future budget constraints, there is appropriated  
150 from the Law Enforcement Services Account established in Section 51-9-412 for fiscal year  
151 2010-11, \$619,000 to the Commission on Criminal and Juvenile Justice to allocate for the  
152 purposes set forth in Section 51-9-412.

153           Section 5. **Effective date.**

154           This bill takes effect on July 1, 2010.