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**VEHICLE CHECKPOINT AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David G. Butterfield**

Senate Sponsor: Margaret Dayton

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**LONG TITLE**

**General Description:**

This bill repeals authorization for traffic checkpoints regarding impaired driving and lawful vehicle operation.

**Highlighted Provisions:**

This bill:

- ▶ repeals authorization for administrative traffic checkpoints:
  - regarding drivers that may be under the influence of alcohol or drugs; and
  - regarding license plates, registration certificates, insurance certificates, or driver licenses.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**77-23-102**, as last amended by Laws of Utah 1998, Chapter 282

**77-23-103**, as enacted by Laws of Utah 1992, Chapter 72

**77-23-104**, as last amended by Laws of Utah 2001, Chapter 168

ENACTS:

**77-23-102.5**, Utah Code Annotated 1953



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

Section 1. Section **77-23-102** is amended to read:

**77-23-102. Definitions.**

As used in this part:

(1) "Administrative traffic checkpoint" means a roadblock procedure where enforcement officers stop all, or a designated sequence of, motor vehicles traveling on highways and roads and subject those vehicles to inspection or testing and the drivers or occupants to questioning or the production of documents.

(2) "Command level officer" includes all sheriffs, heads of law enforcement agencies, and all supervisory enforcement officers of sergeant rank or higher.

(3) "Emergency circumstances" means circumstances where enforcement officers reasonably believe road conditions, weather conditions, or persons present a significant hazard to persons or the property of other persons.

(4) "Enforcement officer" includes:

(a) peace officers as defined in Title 53, Chapter 13, Peace Officer Classifications;

(b) correctional officers as defined in Title 53, Chapter 13;

(c) special function officers as defined and under the restrictions of Title 53, Chapter 13; and

(d) federal officers as defined in Title 53, Chapter 13.

(5) "Magistrate" includes all judicial officers enumerated in Subsection 77-1-3(4).

(6) "Motor vehicle" includes all vehicles as defined in Title 41, Chapter 1a, Motor Vehicle Act.

Section 2. Section **77-23-102.5** is enacted to read:

**77-23-102.5. Administrative traffic checkpoints prohibited.**

All law enforcement agencies in this state, including state, local, and college or university law enforcement agencies, are prohibited from implementing or conducting administrative traffic checkpoints, except as provided in Section 77-23-103.

Section 3. Section **77-23-103** is amended to read:

**77-23-103. Circumstances permitting an administrative traffic checkpoint.**

A motor vehicle may be stopped and the occupants detained by an enforcement officer

59 when the enforcement officer:

- 60 (1) is acting pursuant to [~~a duty~~] an authorized search warrant or arrest warrant;
  - 61 (2) has probable cause to arrest or search;
  - 62 (3) has reasonable suspicion that criminal activity has occurred or is occurring; or
  - 63 (4) is acting under emergency circumstances; or
  - 64 (5) is acting pursuant to [~~duty~~] an authorized administrative traffic checkpoint authority
- 65 granted by a magistrate in accordance with Section 77-23-104.

66 Section 4. Section **77-23-104** is amended to read:

67 **77-23-104. Written plan -- Approval of magistrate.**

68 (1) An administrative traffic checkpoint may be established and operated upon written  
69 authority of a magistrate.

70 (2) A magistrate may issue written authority to establish and operate an administrative  
71 traffic checkpoint if:

72 (a) a command level officer submits to the magistrate a written plan signed by the  
73 command level officer describing:

- 74 (i) the location of the checkpoint including geographical and topographical  
75 information;
- 76 (ii) the date, time, and duration of the checkpoint;
- 77 (iii) the sequence of traffic to be stopped;
- 78 (iv) the purpose of the checkpoint, including the inspection or inquiry to be conducted;
- 79 (v) the minimum number of personnel to be employed in operating the checkpoint,  
80 including the rank of the officer or officers in charge at the scene;
- 81 (vi) the configuration and location of signs, barriers, and other means of informing  
82 approaching motorists that they must stop and directing them to the place to stop;
- 83 (vii) any advance notice to the public at large of the establishment of the checkpoint;

84 and

85 (viii) the instructions to be given to the enforcement officers operating the checkpoint;

86 (b) the magistrate makes an independent judicial determination that the plan

87 appropriately:

- 88 (i) minimizes the length of time the motorist will be delayed;
- 89 (ii) minimizes the intrusion of the inspection or inquiry;

- 90 (iii) minimizes the fear and anxiety the motorist will experience;
- 91 (iv) minimizes the degree of discretion to be exercised by the individual enforcement
- 92 officers operating the checkpoint; and
- 93 (v) maximizes the safety of the motorist and the enforcement officers; and
- 94 (c) the administrative traffic checkpoint has the primary purpose of inspecting,
- 95 verifying, or detecting:
  - 96 [~~(i) drivers that may be under the influence of alcohol or drugs;~~
  - 97 [~~(ii) license plates, registration certificates, insurance certificates, or driver licenses;~~]
  - 98 (i) invasive species under Section 23-27-301;
  - 99 [~~(iii)~~] (ii) violations of Title 23, Wildlife Resources Code of Utah; or
  - 100 [~~(iv)~~] (iii) other circumstances that are specifically distinguishable by the magistrate
  - 101 from a general interest in crime control.
- 102 (3) Upon determination by the magistrate that the plan meets the requirements of
- 103 Subsection (2), the magistrate shall sign the authorization and issue it to the command level
- 104 officer, retaining a copy for the court's file.
- 105 (4) A copy of the plan and signed authorization shall be issued to the checkpoint
- 106 command level officer participating in the operation of the checkpoint.
- 107 (5) Any enforcement officer participating in the operation of the checkpoint shall
- 108 conform his activities as nearly as practicable to the procedures outlined in the plan.
- 109 (6) The checkpoint command level officer shall be available to exhibit a copy of the
- 110 plan and signed authorization to any motorist who has been stopped at the checkpoint upon
- 111 request of the motorist.

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**Legislative Review Note**  
**as of 12-12-11 7:14 AM**

**Office of Legislative Research and General Counsel**