

1 **DRIVER LICENSE AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Rich Cunningham**

5 Senate Sponsor: \_\_\_\_\_

---

---

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to a driver license suspension for driving under the  
10 influence of alcohol.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ allows a person with a suspended driver license to elect to become an interlock  
14 restricted driver under certain circumstances;
- 15 ▶ repeals certain provisions related to driving with a controlled substance in the body;  
16 and
- 17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **17-43-201**, as last amended by Laws of Utah 2014, Chapter 213

25 **24-4-102**, as enacted by Laws of Utah 2013, Chapter 394

26 **41-6a-501**, as last amended by Laws of Utah 2010, Chapter 283

27 **41-6a-507**, as enacted by Laws of Utah 2005, Chapter 2



- 28 **41-6a-518**, as last amended by Laws of Utah 2015, Chapters 412 and 438
- 29 **41-6a-518.2**, as last amended by Laws of Utah 2009, Chapter 390
- 30 **41-6a-520**, as last amended by Laws of Utah 2006, Chapter 341
- 31 **41-6a-521**, as last amended by Laws of Utah 2011, Chapter 312
- 32 **41-6a-525**, as renumbered and amended by Laws of Utah 2005, Chapter 2
- 33 **41-6a-527**, as last amended by Laws of Utah 2013, Chapter 394
- 34 **41-6a-606**, as last amended by Laws of Utah 2006, Chapter 168
- 35 **53-3-220**, as last amended by Laws of Utah 2015, Chapter 165
- 36 **53-3-223**, as last amended by Laws of Utah 2014, Chapter 7
- 37 **53-3-227**, as last amended by Laws of Utah 2008, Chapter 250
- 38 **53-3-231**, as last amended by Laws of Utah 2014, Chapter 7
- 39 **62A-15-502**, as last amended by Laws of Utah 2005, Chapter 2
- 40 **76-5-303**, as repealed and reenacted by Laws of Utah 2010, Chapter 374

41 REPEALS:

- 42 **41-6a-517**, as last amended by Laws of Utah 2013, Chapter 333



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

45 Section 1. Section **17-43-201** is amended to read:

46 **17-43-201. Local substance abuse authorities -- Responsibilities.**

47 (1) (a) (i) In each county operating under a county executive-council form of  
 48 government under Section **17-52-504**, the county legislative body is the local substance abuse  
 49 authority, provided however that any contract for plan services shall be administered by the  
 50 county executive.

51 (ii) In each county operating under a council-manager form of government under  
 52 Section **17-52-505**, the county manager is the local substance abuse authority.

53 (iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the  
 54 county legislative body is the local substance abuse authority.

55 (b) Within legislative appropriations and county matching funds required by this  
 56 section, and under the direction of the division, each local substance abuse authority shall:

- 57 (i) develop substance abuse prevention and treatment services plans;
- 58 (ii) provide substance abuse services to residents of the county; and

59 (iii) cooperate with efforts of the Division of Substance Abuse and Mental Health to  
60 promote integrated programs that address an individual's substance abuse, mental health, and  
61 physical healthcare needs, as described in Section 62A-15-103.

62 (c) Within legislative appropriations and county matching funds required by this  
63 section, each local substance abuse authority shall cooperate with the efforts of the Department  
64 of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors  
65 with or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

66 (2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal  
67 Cooperation Act, two or more counties may join to provide substance abuse prevention and  
68 treatment services.

69 (b) The legislative bodies of counties joining to provide services may establish  
70 acceptable ways of apportioning the cost of substance abuse services.

71 (c) Each agreement for joint substance abuse services shall:

72 (i) (A) designate the treasurer of one of the participating counties or another person as  
73 the treasurer for the combined substance abuse authorities and as the custodian of money  
74 available for the joint services; and

75 (B) provide that the designated treasurer, or other disbursing officer authorized by the  
76 treasurer, may make payments from the money for the joint services upon audit of the  
77 appropriate auditing officer or officers representing the participating counties;

78 (ii) provide for the appointment of an independent auditor or a county auditor of one of  
79 the participating counties as the designated auditing officer for the combined substance abuse  
80 authorities;

81 (iii) (A) provide for the appointment of the county or district attorney of one of the  
82 participating counties as the designated legal officer for the combined substance abuse  
83 authorities; and

84 (B) authorize the designated legal officer to request and receive the assistance of the  
85 county or district attorneys of the other participating counties in defending or prosecuting  
86 actions within their counties relating to the combined substance abuse authorities; and

87 (iv) provide for the adoption of management, clinical, financial, procurement,  
88 personnel, and administrative policies as already established by one of the participating  
89 counties or as approved by the legislative body of each participating county or interlocal board.

90 (d) An agreement for joint substance abuse services may provide for joint operation of  
91 services and facilities or for operation of services and facilities under contract by one  
92 participating local substance abuse authority for other participating local substance abuse  
93 authorities.

94 (3) (a) Each local substance abuse authority is accountable to the department, the  
95 Department of Health, and the state with regard to the use of state and federal funds received  
96 from those departments for substance abuse services, regardless of whether the services are  
97 provided by a private contract provider.

98 (b) Each local substance abuse authority shall comply, and require compliance by its  
99 contract provider, with all directives issued by the department and the Department of Health  
100 regarding the use and expenditure of state and federal funds received from those departments  
101 for the purpose of providing substance abuse programs and services. The department and  
102 Department of Health shall ensure that those directives are not duplicative or conflicting, and  
103 shall consult and coordinate with local substance abuse authorities with regard to programs and  
104 services.

105 (4) Each local substance abuse authority shall:

106 (a) review and evaluate substance abuse prevention and treatment needs and services,  
107 including substance abuse needs and services for individuals incarcerated in a county jail or  
108 other county correctional facility;

109 (b) annually prepare and submit to the division a plan approved by the county  
110 legislative body for funding and service delivery that includes:

111 (i) provisions for services, either directly by the substance abuse authority or by  
112 contract, for adults, youth, and children, including those incarcerated in a county jail or other  
113 county correctional facility; and

114 (ii) primary prevention, targeted prevention, early intervention, and treatment services;

115 (c) establish and maintain, either directly or by contract, programs licensed under Title  
116 62A, Chapter 2, Licensure of Programs and Facilities;

117 (d) appoint directly or by contract a full or part time director for substance abuse  
118 programs, and prescribe the director's duties;

119 (e) provide input and comment on new and revised rules established by the division;

120 (f) establish and require contract providers to establish administrative, clinical,

121 procurement, personnel, financial, and management policies regarding substance abuse services  
122 and facilities, in accordance with the rules of the division, and state and federal law;

123 (g) establish mechanisms allowing for direct citizen input;

124 (h) annually contract with the division to provide substance abuse programs and  
125 services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and  
126 Mental Health Act;

127 (i) comply with all applicable state and federal statutes, policies, audit requirements,  
128 contract requirements, and any directives resulting from those audits and contract requirements;

129 (j) promote or establish programs for the prevention of substance abuse within the  
130 community setting through community-based prevention programs;

131 (k) provide funding equal to at least 20% of the state funds that it receives to fund  
132 services described in the plan;

133 (l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal  
134 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title  
135 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and  
136 Other Local Entities Act;

137 (m) for persons convicted of driving under the influence in violation of Section  
138 [41-6a-502](#) [~~or [41-6a-517](#)], conduct the following as defined in Section [41-6a-501](#):~~

139 (i) a screening;

140 (ii) an assessment;

141 (iii) an educational series; and

142 (iv) substance abuse treatment; and

143 (n) utilize proceeds of the accounts described in Subsection [62A-15-503](#)(1) to  
144 supplement the cost of providing the services described in Subsection (4)(m).

145 (5) Before disbursing any public funds, each local substance abuse authority shall  
146 require that each entity that receives any public funds from the local substance abuse authority  
147 agrees in writing that:

148 (a) the entity's financial records and other records relevant to the entity's performance  
149 of the services provided to the local substance abuse authority shall be subject to examination  
150 by:

151 (i) the division;

- 152 (ii) the local substance abuse authority director;
- 153 (iii) (A) the county treasurer and county or district attorney; or
- 154 (B) if two or more counties jointly provide substance abuse services under an
- 155 agreement under Subsection (2), the designated treasurer and the designated legal officer;
- 156 (iv) the county legislative body; and
- 157 (v) in a county with a county executive that is separate from the county legislative
- 158 body, the county executive;

159 (b) the county auditor may examine and audit the entity's financial and other records  
160 relevant to the entity's performance of the services provided to the local substance abuse  
161 authority; and

162 (c) the entity will comply with the provisions of Subsection (3)(b).

163 (6) A local substance abuse authority may receive property, grants, gifts, supplies,  
164 materials, contributions, and any benefit derived therefrom, for substance abuse services. If  
165 those gifts are conditioned upon their use for a specified service or program, they shall be so  
166 used.

167 (7) (a) As used in this section, "public funds" means the same as that term is defined in  
168 Section [17-43-203](#).

169 (b) Public funds received for the provision of services pursuant to the local substance  
170 abuse plan may not be used for any other purpose except those authorized in the contract  
171 between the local substance abuse authority and the provider for the provision of plan services.

172 (8) Subject to the requirements of the federal Substance Abuse Prevention and  
173 Treatment Block Grant, Public Law 102-321, a local substance abuse authority shall ensure  
174 that all substance abuse treatment programs that receive public funds:

175 (a) accept and provide priority for admission to a pregnant woman or a pregnant minor;  
176 and

177 (b) if admission of a pregnant woman or a pregnant minor is not possible within 24  
178 hours of the time that a request for admission is made, provide a comprehensive referral for  
179 interim services that:

- 180 (i) are accessible to the pregnant woman or pregnant minor;
- 181 (ii) are best suited to provide services to the pregnant woman or pregnant minor;
- 182 (iii) may include:

- 183 (A) counseling;
- 184 (B) case management; or
- 185 (C) a support group; and
- 186 (iv) shall include a referral for:
- 187 (A) prenatal care; and
- 188 (B) counseling on the effects of alcohol and drug use during pregnancy.
- 189 (9) If a substance abuse treatment program described in Subsection (8) is not able to
- 190 accept and admit a pregnant woman or pregnant minor under Subsection (8) within 48 hours of
- 191 the time that request for admission is made, the local substance abuse authority shall contact
- 192 the Division of Substance Abuse and Mental Health for assistance in providing services to the
- 193 pregnant woman or pregnant minor.

194 Section 2. Section **24-4-102** is amended to read:

195 **24-4-102. Property subject to forfeiture.**

196 (1) Except as provided in Subsection (3), all property that has been used to facilitate

197 the commission of a federal or state offense and any proceeds of criminal activity may be

198 forfeited under this chapter, including:

- 199 (a) real property, including things growing on, affixed to, and found in land; and
- 200 (b) tangible and intangible personal property, including money, rights, privileges,
- 201 interests, claims, and securities of any kind.

202 (2) If the property is used to facilitate a violation of Section 76-10-1204, 76-10-1205,

203 76-10-1206, or 76-10-1222, the property subject to forfeiture under this section is limited to

204 property, the seizure or forfeiture of which would not constitute a prior restraint on the exercise

205 of an affected party's rights under the First Amendment to the Constitution of the United States

206 or Utah Constitution, Article I, Section 15, or would not otherwise unlawfully interfere with the

207 exercise of those rights.

208 (3) A motor vehicle used in a violation of Section 41-6a-502, [~~41-6a-517~~], a local

209 ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection

210 58-37-8(2)(g), or Section 76-5-207 may not be forfeited unless:

- 211 (a) the operator of the vehicle has previously been convicted of a violation, committed
- 212 after May 12, 2009, of:
- 213 (i) a felony driving under the influence violation under Section 41-6a-502;

214 (ii) a felony violation under Subsection 58-37-8(2)(g); or  
 215 (iii) automobile homicide under Section 76-5-207; or  
 216 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or  
 217 disqualified license; and  
 218 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)  
 219 was imposed because of a violation under:  
 220 (A) Section 41-6a-502;  
 221 [~~(B)~~] Section 41-6a-517;  
 222 [~~(C)~~] (B) a local ordinance that complies with the requirements of Subsection  
 223 41-6a-510(1);  
 224 [~~(D)~~] (C) Section 41-6a-520;  
 225 [~~(E)~~] (D) Subsection 58-37-8(2)(g);  
 226 [~~(F)~~] (E) Section 76-5-207; or  
 227 [~~(G)~~] (F) a criminal prohibition that the person was charged with violating as a result of  
 228 a plea bargain after having been originally charged with violating one or more of the sections  
 229 or ordinances described in Subsections (3)(b)(i)(A) through [~~(F)~~] (E); or  
 230 (ii) the denial, suspension, revocation, or disqualification described in Subsections  
 231 (3)(b)(i)(A) through [~~(G)~~] (F):  
 232 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension,  
 233 revocation, or disqualification; and  
 234 (B) the original denial, suspension, revocation, or disqualification was imposed  
 235 because of a violation described in Subsections (3)(b)(i)(A) through [~~(G)~~] (F).  
 236 Section 3. Section 41-6a-501 is amended to read:  
 237 **41-6a-501. Definitions.**  
 238 (1) As used in this part:  
 239 (a) "Assessment" means an in-depth clinical interview with a licensed mental health  
 240 therapist:  
 241 (i) used to determine if a person is in need of:  
 242 (A) substance abuse treatment that is obtained at a substance abuse program;  
 243 (B) an educational series; or  
 244 (C) a combination of Subsections (1)(a)(i)(A) and (B); and



- 245 (ii) that is approved by the Division of Substance Abuse and Mental Health in  
246 accordance with Section 62A-15-105.
- 247 (b) "Driving under the influence court" means a court that is approved as a driving  
248 under the influence court by the Utah Judicial Council according to standards established by  
249 the Judicial Council.
- 250 (c) "Drug" or "drugs" means:
- 251 (i) a controlled substance as defined in Section 58-37-2;
- 252 (ii) a drug as defined in Section 58-17b-102; or
- 253 (iii) any substance that, when knowingly, intentionally, or recklessly taken into the  
254 human body, can impair the ability of a person to safely operate a motor vehicle.
- 255 (d) "Educational series" means an educational series obtained at a substance abuse  
256 program that is approved by the Division of Substance Abuse and Mental Health in accordance  
257 with Section 62A-15-105.
- 258 (e) "Negligence" means simple negligence, the failure to exercise that degree of care  
259 that an ordinarily reasonable and prudent person exercises under like or similar circumstances.
- 260 (f) "Screening" means a preliminary appraisal of a person:
- 261 (i) used to determine if the person is in need of:
- 262 (A) an assessment; or
- 263 (B) an educational series; and
- 264 (ii) that is approved by the Division of Substance Abuse and Mental Health in  
265 accordance with Section 62A-15-105.
- 266 (g) "Serious bodily injury" means bodily injury that creates or causes:
- 267 (i) serious permanent disfigurement;
- 268 (ii) protracted loss or impairment of the function of any bodily member or organ; or
- 269 (iii) a substantial risk of death.
- 270 (h) "Substance abuse treatment" means treatment obtained at a substance abuse  
271 program that is approved by the Division of Substance Abuse and Mental Health in accordance  
272 with Section 62A-15-105.
- 273 (i) "Substance abuse treatment program" means a state licensed substance abuse  
274 program.
- 275 (j) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in

276 Section 41-6a-102; and

277 (ii) "Vehicle" or "motor vehicle" includes:

278 (A) an off-highway vehicle as defined under Section 41-22-2; and

279 (B) a motorboat as defined in Section 73-18-2.

280 (2) As used in Section 41-6a-503:

281 (a) "Conviction" means any conviction arising from a separate episode of driving for a  
282 violation of:

283 (i) driving under the influence under Section 41-6a-502;

284 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a  
285 combination of both-related reckless driving under:

286 (I) Section 41-6a-512; and

287 (II) Section 41-6a-528; or

288 (B) for an offense committed on or after July 1, 2008, impaired driving under Section  
289 41-6a-502.5;

290 [~~(iii) driving with any measurable controlled substance that is taken illegally in the~~  
291 ~~body under Section 41-6a-517;~~]

292 [~~(iv)~~] (iii) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a  
293 combination of both-related reckless driving, or impaired driving under Section 41-6a-502.5  
294 adopted in compliance with Section 41-6a-510;

295 [~~(v)~~] (iv) automobile homicide under Section 76-5-207;

296 [~~(vi)~~] (v) Subsection 58-37-8(2)(g);

297 [~~(vii)~~] (vi) a violation described in Subsections (2)(a)(i) through [~~(vi)~~] (v), which  
298 judgment of conviction is reduced under Section 76-3-402; or

299 [~~(viii)~~] (vii) statutes or ordinances previously in effect in this state or in effect in any  
300 other state, the United States, or any district, possession, or territory of the United States which  
301 would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of  
302 both-related reckless driving if committed in this state, including punishments administered  
303 under 10 U.S.C. Sec. 815.

304 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i)  
305 through [~~(viii)~~] (vii) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in  
306 Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been

307 subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for  
308 purposes of:

309 (i) enhancement of penalties under:

310 (A) this Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

311 (B) automobile homicide under Section 76-5-207; and

312 (ii) expungement under Title 77, Chapter 40, Utah Expungement Act.

313 Section 4. Section 41-6a-507 is amended to read:

314 **41-6a-507. Supervised probation for certain driving under the influence**

315 **violations.**

316 (1) If supervised probation is ordered under Section 41-6a-505 [~~or 41-6a-517~~]:

317 (a) the court shall specify the period of the probation;

318 (b) the person shall pay all of the costs of the probation; and

319 (c) the court may order any other conditions of the probation.

320 (2) The court shall provide the probation described in this section by contract with a  
321 probation monitoring agency or a private probation provider.

322 (3) The probation provider described in Subsection (2) shall monitor the person's  
323 compliance with all conditions of the person's sentence, conditions of probation, and court  
324 orders received under this part and shall notify the court of any failure to comply with or  
325 complete that sentence or those conditions or orders.

326 (4) (a) The court may waive all or part of the costs associated with probation if the  
327 person is determined to be indigent by the court.

328 (b) The probation provider described in Subsection (2) shall cover the costs of waivers  
329 by the court under Subsection (4)(a).

330 Section 5. Section 41-6a-518 is amended to read:

331 **41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost --**

332 **Impecuniosity -- Fee.**

333 (1) As used in this section:

334 (a) "Commissioner" means the commissioner of the Department of Public Safety.

335 (b) "Ignition interlock system" or "system" means a constant monitoring device or any  
336 similar device certified by the commissioner that prevents a motor vehicle from being started  
337 or continuously operated without first determining the driver's breath alcohol concentration.

338 ~~[(c) "Probation provider" means the supervisor and monitor of the ignition interlock~~  
339 ~~system required as a condition of probation who contracts with the court in accordance with~~  
340 ~~Subsections 41-6a-507(2) and (3).]~~

341 (c) "Probation provider" means a person who contracts with the court in accordance  
342 with Subsections 41-6a-507(2) and (3) to supervise and monitor an ignition interlock system  
343 that is:

344 (i) required as a condition of probation; or

345 (ii) installed in lieu of a suspension of the driver license under Subsection 53-3-223(7).

346 (2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and  
347 41-6a-505, and in addition to any requirements imposed as a condition of probation, the court  
348 may require that any person who is convicted of violating Section 41-6a-502 and who is  
349 granted probation may not operate a motor vehicle during the period of probation unless that  
350 motor vehicle is equipped with a functioning, certified ignition interlock system installed and  
351 calibrated so that the motor vehicle will not start or continuously operate if the operator's blood  
352 alcohol concentration exceeds a level ordered by the court.

353 (b) If a person convicted of violating Section 41-6a-502 was under the age of 21 when  
354 the violation occurred, the court shall order the installation of the ignition interlock system as a  
355 condition of probation.

356 (c) (i) If a person is convicted of a violation of Section 41-6a-502 within 10 years of a  
357 prior conviction as defined in Subsection 41-6a-501(2), the court shall order the installation of  
358 the interlock ignition system, at the person's expense, for all motor vehicles registered to that  
359 person and all motor vehicles operated by that person.

360 (ii) A person who operates a motor vehicle without an ignition interlock device as  
361 required under this Subsection (2)(c) is in violation of Section 41-6a-518.2.

362 (d) The division shall post the ignition interlock restriction on the electronic record  
363 available to law enforcement.

364 (e) This section does not apply to a person convicted of a violation of Section  
365 41-6a-502 whose violation involves drugs other than alcohol.

366 (3) If the court imposes the use of an ignition interlock system as a condition of  
367 probation, the court shall:

368 (a) stipulate on the record the requirement for and the period of the use of an ignition

369 interlock system;

370 (b) order that an ignition interlock system be installed on each motor vehicle owned or  
371 operated by the probationer, at the probationer's expense;

372 (c) immediately notify the Driver License Division and the person's probation provider  
373 of the order; and

374 (d) require the probationer to provide proof of compliance with the court's order to the  
375 probation provider within 30 days of the order.

376 (4) (a) The probationer shall provide timely proof of installation within 30 days of an  
377 order imposing the use of a system or show cause why the order was not complied with to the  
378 court or to the probationer's probation provider.

379 (b) The probation provider shall notify the court of failure to comply under Subsection  
380 (4)(a).

381 (c) For failure to comply under Subsection (4)(a) or upon receiving the notification  
382 under Subsection (4)(b), the court shall order the Driver License Division to suspend the  
383 probationer's driving privileges for the remaining period during which the compliance was  
384 imposed.

385 (d) Cause for failure to comply means any reason that the court finds sufficiently  
386 justifiable to excuse the probationer's failure to comply with the court's order.

387 (5) (a) Any probationer required to install an ignition interlock system shall have the  
388 system monitored by the manufacturer or dealer of the system for proper use and accuracy at  
389 least semiannually and more frequently as the court may order.

390 (b) [~~(i) A report of the monitoring shall be issued by the manufacturer or dealer~~] The  
391 monitoring manufacturer or dealer shall provide each report to the court or the person's  
392 probation provider[~~:(ii) The report shall be issued~~] within 14 days following each monitoring.

393 (6) (a) [~~H~~] Except as provided in Subsection (6)(b), if an ignition interlock system is  
394 ordered installed, the probationer shall pay the reasonable costs of leasing or buying and  
395 installing and maintaining the system.

396 (b) A probationer [~~may not be excluded from this section for inability to~~] need not pay  
397 the costs[~~, unless~~] under Subsection (6)(a) if:

398 (i) the probationer files an affidavit of impecuniosity; and

399 (ii) the court enters a finding that the probationer is impecunious.

400 (c) In lieu of waiver of the entire amount of the cost, the court may direct the  
401 probationer to make partial or installment payments of costs when appropriate.

402 (d) The ignition interlock provider shall cover the costs of waivers by the court under  
403 this Subsection (6).

404 (7) (a) ~~[If]~~ Except as provided in Subsection (7)(b), if a probationer is required in the  
405 course and scope of employment to operate a motor vehicle owned by the probationer's  
406 employer, the probationer may operate that motor vehicle without installation of an ignition  
407 interlock system only if:

408 (i) the motor vehicle is used in the course and scope of employment;

409 (ii) the employer has been notified that the employee is restricted; and

410 (iii) the employee has proof of the notification in the employee's possession while  
411 operating the employer's motor vehicle.

412 (b) (i) To the extent that an employer-owned motor vehicle is made available to a  
413 probationer subject to this section for personal use, ~~[no]~~ the exemption ~~[under this section~~  
414 ~~shall]~~ does not apply.

415 (ii) A probationer intending to operate an employer-owned motor vehicle for personal  
416 use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock  
417 system shall notify the employer and obtain consent in writing from the employer to install a  
418 system in the employer-owned motor vehicle.

419 (c) A motor vehicle owned by a business entity that is all or partly owned or controlled  
420 by a probationer subject to this section is not a motor vehicle owned by the employer and does  
421 not qualify for an exemption under this Subsection (7).

422 (8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
423 the commissioner shall make rules setting standards for the certification of ignition interlock  
424 systems.

425 (b) The commissioner shall ensure that the standards established under Subsection  
426 (8)(a) ~~[shall]~~ require that the system:

427 (i) not impede the safe operation of the motor vehicle;

428 (ii) have features that make circumventing difficult and that do not interfere with the  
429 normal use of the motor vehicle;

430 (iii) require a deep lung breath sample as a measure of breath alcohol concentration;

431 (iv) prevent the motor vehicle from being started if the driver's breath alcohol  
432 concentration exceeds a specified level;

433 (v) work accurately and reliably in an unsupervised environment;

434 (vi) resist tampering and give evidence if tampering is attempted;

435 (vii) operate reliably over the range of motor vehicle environments; and

436 (viii) be manufactured by a party who will provide liability insurance.

437 (c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or  
438 independent laboratory tests relied upon in certification of ignition interlock systems by other  
439 states.

440 (d) ~~[A] The commissioner shall publish a list of certified systems [shall be published~~  
441 ~~by the commissioner]~~ and charge the cost of certification ~~[shall be borne by]~~ to the  
442 manufacturers or dealers of ignition interlock systems seeking to sell, offer for sale, or lease the  
443 systems.

444 (e) (i) In accordance with Section 63J-1-504, the commissioner may establish an  
445 annual dollar assessment against the manufacturers of ignition interlock systems distributed in  
446 the state for the costs incurred in certifying.

447 (ii) The commissioner shall ensure that the assessment under Subsection (8)(e)(i) ~~[shall~~  
448 ~~be]~~ is apportioned among the manufacturers on a fair and reasonable basis.

449 (f) The commissioner shall require a provider of an ignition interlock system certified  
450 in accordance with this section to comply with the requirements of Title 53, Chapter 3, Part 10,  
451 Ignition Interlock System Program Act.

452 (9) A violation of this section is a class C misdemeanor.

453 (10) There shall be no liability on the part of, and no cause of action of any nature shall  
454 arise against, the state or its employees in connection with the installation, use, operation,  
455 maintenance, or supervision of an interlock ignition system as required under this section.

456 Section 6. Section 41-6a-518.2 is amended to read:

457 **41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition**  
458 **interlock system.**

459 (1) As used in this section:

460 (a) "Ignition interlock system" means a constant monitoring device or any similar  
461 device that:

462 (i) is in working order at the time of operation or actual physical control; and  
 463 (ii) is certified by the Commissioner of Public Safety in accordance with Subsection  
 464 [41-6a-518\(8\)](#); and  
 465 (b) ~~(i)~~ "Interlock restricted driver" means a person who:  
 466 ~~(A)~~ (i) has been ordered by a court or the Board of Pardons and Parole as a condition  
 467 of probation or parole not to operate a motor vehicle without an ignition interlock system;  
 468 ~~(B)~~ (ii) within the last 18 months has been convicted of a driving under the influence  
 469 violation under Section [41-6a-502](#) that was committed on or after July 1, 2009;  
 470 ~~(C)~~ ~~(F)~~ (iii) within the last three years has been convicted of an offense that occurred  
 471 after May 1, 2006 which would be a conviction as defined under Section [41-6a-501](#) ~~;~~ ~~and (H)~~,  
 472 ~~and the offense described [under Subsection (1)(b)(i)(C)(F)]~~ is committed within 10 years from  
 473 the date that one or more prior offenses was committed if the prior offense resulted in a  
 474 conviction as defined in Subsection [41-6a-501\(2\)](#);  
 475 ~~(D)~~ (iv) within the last three years has been convicted of a violation of this section;  
 476 ~~(E)~~ (v) within the last three years has had the person's driving privilege revoked for  
 477 refusal to submit to a chemical test under Section [41-6a-520](#), which refusal occurred after May  
 478 1, 2006;  
 479 ~~(F)~~ (vi) within the last three years has been convicted of a violation of Section  
 480 [41-6a-502](#) and was under the age of 21 at the time the offense was committed;  
 481 ~~(G)~~ (vii) within the last six years has been convicted of a felony violation of Section  
 482 [41-6a-502](#) for an offense that occurred after May 1, 2006; ~~[or]~~  
 483 ~~(H)~~ (viii) within the last 10 years has been convicted of automobile homicide under  
 484 Section [76-5-207](#) for an offense that occurred after May 1, 2006; ~~[and]~~ or  
 485 (ix) has elected to become an interlock restricted driver in accordance with Subsection  
 486 [53-3-223\(7\)](#) in lieu of receiving a license suspension.  
 487 ~~[(ii) "interlock restricted driver" does not include a person if:]~~  
 488 ~~[(A) the person's conviction described in Subsection (1)(b)(i)(C)(F) is a conviction~~  
 489 ~~under Section [41-6a-517](#); and]~~  
 490 ~~[(B) all of the person's prior convictions described in Subsection (1)(b)(i)(C)(H) are~~  
 491 ~~convictions under Section [41-6a-517](#).]~~  
 492 (2) For purposes of this section, a plea of guilty or no contest to a violation of Section



493 [41-6a-502](#) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,  
494 prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently  
495 reduced or dismissed in accordance with the plea in abeyance agreement.

496 (3) An interlock restricted driver that operates or is in actual physical control of a  
497 vehicle in this state without an ignition interlock system is guilty of a class B misdemeanor.

498 (4) (a) It is an affirmative defense to a charge of a violation of Subsection (3) if:

499 (i) an interlock restricted driver:

500 (A) operated or was in actual physical control of a vehicle owned by the interlock  
501 restricted driver's employer;

502 (B) had given written notice to the employer of the interlock restricted driver's  
503 interlock restricted status prior to the operation or actual physical control under Subsection  
504 (4)(a)(i); and

505 (C) had on the interlock restricted driver's person or in the vehicle at the time of  
506 operation or physical control proof of having given notice to the interlock restricted driver's  
507 employer; and

508 (ii) the operation or actual physical control under Subsection (4)(a)(i)(A) was in the  
509 scope of the interlock restricted driver's employment.

510 (b) The affirmative defense under Subsection (4)(a) does not apply to:

511 (i) an employer-owned motor vehicle that is made available to an interlock restricted  
512 driver for personal use; or

513 (ii) a motor vehicle owned by a business entity that is all or partly owned or controlled  
514 by the interlock restricted driver.

515 Section 7. Section **41-6a-520** is amended to read:

516 **41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of**  
517 **tests -- Refusal -- Warning, report.**

518 (1) (a) A person operating a motor vehicle in this state is considered to have given the  
519 person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for  
520 the purpose of determining whether the person was operating or in actual physical control of a  
521 motor vehicle while:

522 (i) having a blood or breath alcohol content statutorily prohibited under Section

523 [41-6a-502](#), [41-6a-530](#), [or 53-3-231](#) [~~or 53-3-232~~]; [or](#)

524 (ii) under the influence of alcohol, any drug, or combination of alcohol and any drug  
525 under Section 41-6a-502[;or].

526 [~~(iii) having any measurable controlled substance or metabolite of a controlled~~  
527 ~~substance in the person's body in violation of Section 41-6a-517.~~]

528 (b) A test or tests authorized under this Subsection (1) must be administered at the  
529 direction of a peace officer having grounds to believe that person to have been operating or in  
530 actual physical control of a motor vehicle while in violation of any provision under  
531 [~~Subsections~~] Subsection (1)(a)[~~(i) through (iii)~~].

532 (c) (i) The peace officer determines which of the tests are administered and how many  
533 of them are administered.

534 (ii) If a peace officer requests more than one test, refusal by a person to take one or  
535 more requested tests, even though the person does submit to any other requested test or tests, is  
536 a refusal under this section.

537 (d) (i) A person who has been requested under this section to submit to a chemical test  
538 or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be  
539 administered.

540 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is  
541 not a defense to taking a test requested by a peace officer, and it is not a defense in any  
542 criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the  
543 requested test or tests.

544 (2) (a) A peace officer requesting a test or tests shall warn a person that refusal to  
545 submit to the test or tests may result in revocation of the person's license to operate a motor  
546 vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of  
547 alcohol in the person's body depending on the person's prior driving history, and a three-year  
548 prohibition of driving without an ignition interlock device if the person:

549 (i) has been placed under arrest;

550 (ii) has then been requested by a peace officer to submit to any one or more of the  
551 chemical tests under Subsection (1); and

552 (iii) refuses to submit to any chemical test requested.

553 (b) (i) Following the warning under Subsection (2)(a), if the person does not  
554 immediately request that the chemical test or tests as offered by a peace officer be

555 administered, a peace officer shall, on behalf of the Driver License Division and within 24  
556 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's  
557 privilege or license to operate a motor vehicle.

558 (ii) When a peace officer gives the notice on behalf of the Driver License Division, the  
559 peace officer shall:

560 (A) take the Utah license certificate or permit, if any, of the operator;

561 (B) issue a temporary license certificate effective for only 29 days from the date of  
562 arrest; and

563 (C) supply to the operator, in a manner specified by the Driver License Division, basic  
564 information regarding how to obtain a hearing before the Driver License Division.

565 (c) A citation issued by a peace officer may, if provided in a manner specified by the  
566 Driver License Division, also serve as the temporary license certificate.

567 (d) As a matter of procedure, the peace officer shall submit a signed report, within 10  
568 calendar days after the day on which notice is provided under Subsection (2)(b), that:

569 (i) the peace officer had grounds to believe the arrested person was in violation of any  
570 provision under [~~Subsections~~] Subsection (1)(a)[~~(i) through (iii)~~]; and

571 (ii) the person had refused to submit to a chemical test or tests under Subsection (1).

572 (3) Upon the request of the person who was tested, the results of the test or tests shall  
573 be made available to the person.

574 (4) (a) The person to be tested may, at the person's own expense, have a physician of  
575 the person's own choice administer a chemical test in addition to the test or tests administered  
576 at the direction of a peace officer.

577 (b) The failure or inability to obtain the additional test does not affect admissibility of  
578 the results of the test or tests taken at the direction of a peace officer, or preclude or delay the  
579 test or tests to be taken at the direction of a peace officer.

580 (c) The additional test shall be subsequent to the test or tests administered at the  
581 direction of a peace officer.

582 (5) For the purpose of determining whether to submit to a chemical test or tests, the  
583 person to be tested does not have the right to consult an attorney or have an attorney, physician,  
584 or other person present as a condition for the taking of any test.

585 Section 8. Section **41-6a-521** is amended to read:

586 **41-6a-521. Revocation hearing for refusal -- Appeal.**

587 (1) (a) A person who has been notified of the Driver License Division's intention to  
588 revoke the person's license under Section 41-6a-520 is entitled to a hearing.

589 (b) A request for the hearing shall be made in writing within 10 calendar days after the  
590 day on which notice is provided.

591 (c) Upon request in a manner specified by the Driver License Division, the Driver  
592 License Division shall grant to the person an opportunity to be heard within 29 days after the  
593 date of arrest.

594 (d) If the person does not make a request for a hearing before the Driver License  
595 Division under this Subsection (1), the person's privilege to operate a motor vehicle in the state  
596 is revoked beginning on the 30th day after the date of arrest:

597 (i) for a person 21 years of age or older on the date of arrest, for a period of:

598 (A) 18 months, unless Subsection (1)(d)(i)(B) applies; or

599 (B) 36 months, if the arrest was made on or after July 1, 2009, and the person has had a  
600 previous:

601 (I) license sanction for an offense that occurred within the previous 10 years from the  
602 date of arrest under Section [~~41-6a-517;~~] 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231[~~, or~~  
603 ~~53-3-232~~]; or

604 (II) conviction for an offense that occurred within the previous 10 years from the date  
605 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would  
606 constitute a violation of Section 41-6a-502;

607 (ii) for a person under 21 years of age on the date of arrest:

608 (A) until the person is 21 years of age or for a period of two years, whichever is longer,  
609 if the arrest was made on or after July 1, 2011, unless Subsection (1)(d)(ii)(B) applies; or

610 (B) until the person is 21 years of age or for a period of 36 months, whichever is  
611 longer, if the arrest was made on or after July 1, 2009, and the person has had a previous:

612 (I) license sanction for an offense that occurred within the previous 10 years from the  
613 date of arrest under Section [~~41-6a-517;~~] 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231[~~, or~~  
614 ~~53-3-232~~]; or

615 (II) conviction for an offense that occurred within the previous 10 years from the date  
616 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would

617 constitute a violation of Section 41-6a-502; or

618 (iii) for a person that was arrested prior to July 1, 2009, for the suspension periods in  
619 effect prior to July 1, 2009.

620 (2) (a) Except as provided in Subsection (2)(b), if a hearing is requested by the person,  
621 the hearing shall be conducted by the Driver License Division in:

622 (i) the county in which the offense occurred; or

623 (ii) a county which is adjacent to the county in which the offense occurred.

624 (b) The Driver License Division may hold a hearing in some other county if the Driver  
625 License Division and the person both agree.

626 (3) The hearing shall be documented and shall cover the issues of:

627 (a) whether a peace officer had reasonable grounds to believe that a person was  
628 operating a motor vehicle in violation of Section 41-6a-502, [~~41-6a-517~~], 41-6a-530, or  
629 53-3-231 [~~, or 53-3-232~~]; and

630 (b) whether the person refused to submit to the test or tests under Section 41-6a-520.

631 (4) (a) In connection with the hearing, the division or its authorized agent:

632 (i) may administer oaths and may issue subpoenas for the attendance of witnesses and  
633 the production of relevant books and papers; and

634 (ii) shall issue subpoenas for the attendance of necessary peace officers.

635 (b) The Driver License Division shall pay witness fees and mileage from the  
636 Transportation Fund in accordance with the rates established in Section 78B-1-119.

637 (5) (a) If after a hearing, the Driver License Division determines that the person was  
638 requested to submit to a chemical test or tests and refused to submit to the test or tests, or if the  
639 person fails to appear before the Driver License Division as required in the notice, the Driver  
640 License Division shall revoke the person's license or permit to operate a motor vehicle in Utah  
641 beginning on the date the hearing is held:

642 (i) for a person 21 years of age or older on the date of arrest, for a period of:

643 (A) 18 months unless Subsection (5)(a)(i)(B) applies; or

644 (B) 36 months, if the arrest was made on or after July 1, 2009, and the person has had a  
645 previous:

646 (I) license sanction for an offense that occurred within the previous 10 years from the  
647 date of arrest under Section [~~41-6a-517~~], 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231 [~~, or~~

648 ~~53-3-232~~]; or

649 (II) conviction for an offense that occurred within the previous 10 years from the date  
650 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would  
651 constitute a violation of Section 41-6a-502;

652 (ii) for a person under 21 years of age on the date of arrest:

653 (A) until the person is 21 years of age or for a period of two years, whichever is longer,  
654 for an arrest that was made on or after July 1, 2011, and unless Subsection (5)(a)(ii)(B) applies;  
655 or

656 (B) until the person is 21 years of age or for a period of 36 months, whichever is  
657 longer, if the arrest was made on or after July 1, 2009, and the person has had a previous:

658 (I) license sanction for an offense that occurred within the previous 10 years from the  
659 date of arrest under Section [~~41-6a-517~~], 41-6a-520, 41-6a-530, ~~53-3-223~~, or ~~53-3-231~~, [~~or~~  
660 ~~53-3-232~~]; or

661 (II) conviction for an offense that occurred within the previous 10 years from the date  
662 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would  
663 constitute a violation of Section 41-6a-502; or

664 (iii) for a person that was arrested prior to July 1, 2009, for the revocation periods in  
665 effect prior to July 1, 2009.

666 (b) The Driver License Division shall also assess against the person, in addition to any  
667 fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid  
668 before the person's driving privilege is reinstated, to cover administrative costs.

669 (c) The fee shall be cancelled if the person obtains an unappealed court decision  
670 following a proceeding allowed under Subsection (2) that the revocation was improper.

671 (6) (a) Any person whose license has been revoked by the Driver License Division  
672 under this section following an administrative hearing may seek judicial review.

673 (b) Judicial review of an informal adjudicative proceeding is a trial.

674 (c) Venue is in the district court in the county in which the offense occurred.

675 Section 9. Section 41-6a-525 is amended to read:

676 **41-6a-525. Reporting test results -- Immunity from liability.**

677 (1) As used in this section, "health care provider" means a person licensed under:

678 (a) Title 58, Chapter 31b, Nurse Practice Act;

679 (b) Title 58, Chapter 67, Utah Medical Practice Act; or

680 (c) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

681 (2) A health care provider who is providing medical care to any person involved in a  
682 motor vehicle crash may notify, as soon as reasonably possible, the nearest peace officer or law  
683 enforcement agency if the health care provider has reason to believe, as a result of any test  
684 performed in the course of medical treatment, that the:

685 (a) person's blood alcohol concentration meets or exceeds the limits under Subsection  
686 41-6a-502(1)(a);

687 (b) person is younger than 21 years of age and has any measurable blood, breath, or  
688 urine alcohol concentration in the person's body; or

689 (c) person has any measurable controlled substance or metabolite of a controlled  
690 substance in the person's body which could be a violation of Subsection 41-6a-502(1)(b) [~~or~~  
691 Section 41-6a-517].

692 (3) The report under Subsection (2) shall consist of the:

693 (a) name of the person being treated;

694 (b) date and time of the administration of the test; and

695 (c) results disclosed by the test.

696 (4) A health care provider participating in good faith in making a report or assisting an  
697 investigator from a law enforcement agency pursuant to this section is immune from any  
698 liability, civil or criminal, that otherwise might result by reason of those actions.

699 (5) A report under Subsection (2) may not be used to support a finding of probable  
700 cause that a person who is not a driver of a vehicle has committed an offense.

701 Section 10. Section 41-6a-527 is amended to read:

702 **41-6a-527. Seizure and impoundment of vehicles by peace officers -- Impound**  
703 **requirements -- Removal of vehicle by owner.**

704 (1) If a peace officer arrests, cites, or refers for administrative action the operator of a  
705 vehicle for violating Section 41-6a-502, [~~41-6a-517;~~] 41-6a-518.2, 41-6a-520, 41-6a-530,  
706 41-6a-606, 53-3-231, [~~53-3-232;~~] Subsections 53-3-227(3)(a)(i) through [~~(vi)~~] (v), Subsection  
707 53-3-227(3)(a)[~~(ix)~~](viii), or a local ordinance similar to Section 41-6a-502 which complies  
708 with Subsection 41-6a-510(1), the peace officer shall seize and impound the vehicle in  
709 accordance with Section 41-6a-1406, except as provided under Subsection (2).

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

712 (a) the registered owner:

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

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

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

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

718 (ii) would not, in the judgment of the officer, be in violation of Section 41-6a-502,  
719 [~~41-6a-517;~~] 41-6a-518.2, 41-6a-520, 41-6a-530, 53-3-231, [~~53-3-232;~~] or a local ordinance  
720 similar to Section 41-6a-502 which complies with Subsection 41-6a-510(1) if permitted to  
721 operate the vehicle; and

722 (c) the vehicle itself is legally operable.

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

725 Section 11. Section 41-6a-606 is amended to read:

726 **41-6a-606. Speed contest or exhibition on highway -- Barricade or obstruction.**

727 (1) A person may not engage in any motor vehicle speed contest or exhibition of speed  
728 on a highway.

729 (2) A person may not, in any manner, obstruct or place any barricade or obstruction or  
730 assist or participate in placing any barricade or obstruction upon any highway for any purpose  
731 prohibited under Subsection (1).

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

733 (4) (a) In addition to the penalty provided under this section or any other section, a  
734 person who violates Subsection (1) shall have the person's driver license suspended under  
735 Subsection 53-3-220(1)(a)[~~(xvi)~~](xiv) for a period of:

736 (i) 60 days for a first offense; and

737 (ii) 90 days for a second offense within three years of a prior offense.

738 (b) The court shall forward the report of the conviction to the Driver License Division  
739 in accordance with Section 53-3-218.

740 Section 12. Section 53-3-220 is amended to read:



741           **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**  
742 **disqualification of license -- Offense requiring an extension of period -- Hearing --**  
743 **Limited driving privileges.**

744           (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter  
745 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or  
746 disqualification, the division shall deny, suspend, or disqualify the license of a person upon  
747 receiving a record of the person's conviction for:

748           (i) manslaughter or negligent homicide resulting from driving a motor vehicle, or  
749 automobile homicide under Section 76-5-207 or 76-5-207.5;

750           (ii) driving or being in actual physical control of a motor vehicle while under the  
751 influence of alcohol, any drug, or combination of them to a degree that renders the person  
752 incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited  
753 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

754           (iii) driving or being in actual physical control of a motor vehicle while having a blood  
755 or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance  
756 that complies with the requirements of Subsection 41-6a-510(1);

757           (iv) perjury or the making of a false affidavit to the division under this chapter, Title  
758 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or  
759 regulating driving on highways;

760           (v) any felony under the motor vehicle laws of this state;

761           (vi) any other felony in which a motor vehicle is used to facilitate the offense;

762           (vii) failure to stop and render aid as required under the laws of this state if a motor  
763 vehicle accident results in the death or personal injury of another;

764           (viii) two charges of reckless driving, impaired driving, or any combination of reckless  
765 driving and impaired driving committed within a period of 12 months; but if upon a first  
766 conviction of reckless driving or impaired driving the judge or justice recommends suspension  
767 of the convicted person's license, the division may after a hearing suspend the license for a  
768 period of three months;

769           (ix) failure to bring a motor vehicle to a stop at the command of a peace officer as  
770 required in Section 41-6a-210;

771           (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that

772 requires disqualification;

773 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or  
774 allowing the discharge of a firearm from a vehicle;

775 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or  
776 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

777 ~~[(xiii) operating or being in actual physical control of a motor vehicle while having any  
778 measurable controlled substance or metabolite of a controlled substance in the person's body in  
779 violation of Section 41-6a-517;]~~

780 ~~[(xiv) until July 30, 2015, operating or being in actual physical control of a motor  
781 vehicle while having any alcohol in the person's body in violation of Section 53-3-232;]~~

782 ~~[(xv)]~~ (xiii) operating or being in actual physical control of a motor vehicle while  
783 having any measurable or detectable amount of alcohol in the person's body in violation of  
784 Section 41-6a-530;

785 ~~[(xvi)]~~ (xiv) engaging in a motor vehicle speed contest or exhibition of speed on a  
786 highway in violation of Section 41-6a-606;

787 ~~[(xvii)]~~ (xv) operating or being in actual physical control of a motor vehicle in this  
788 state without an ignition interlock system in violation of Section 41-6a-518.2; or

789 ~~[(xviii)]~~ (xvi) custodial interference, under:

790 (A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless  
791 the court provides the division with an order of suspension for a shorter period of time;

792 (B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless  
793 the court provides the division with an order of suspension for a shorter period of time; or

794 (C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless  
795 the court provides the division with an order of suspension for a shorter period of time.

796 (b) The division shall immediately revoke the license of a person upon receiving a  
797 record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for:

798 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or  
799 allowing the discharge of a firearm from a vehicle; or

800 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or  
801 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

802 (c) Except when action is taken under Section 53-3-219 for the same offense, the

803 division shall immediately suspend for six months the license of a person upon receiving a  
804 record of conviction for:

805 (i) any violation of:

806 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

807 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

808 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

809 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

810 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

811 (ii) any criminal offense that prohibits:

812 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance  
813 that is prohibited under the acts described in Subsection (1)(c)(i); or

814 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or  
815 transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

816 (d) (i) The division shall immediately suspend a person's driver license for conviction  
817 of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

818 (A) an order from the sentencing court requiring that the person's driver license be  
819 suspended; and

820 (B) a record of the conviction.

821 (ii) An order of suspension under this section is at the discretion of the sentencing  
822 court, and may not be for more than 90 days for each offense.

823 (e) (i) The division shall immediately suspend for one year the license of a person upon  
824 receiving a record of:

825 (A) conviction for the first time for a violation under Section 32B-4-411; or

826 (B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a  
827 violation under Section 32B-4-411.

828 (ii) The division shall immediately suspend for a period of two years the license of a  
829 person upon receiving a record of:

830 (A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

831 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior  
832 conviction for a violation under Section 32B-4-411; or

833 (B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court

834 Act of 1996, for a violation under Section 32B-4-411; and  
835 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior  
836 adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under  
837 Section 32B-4-411.

838 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:  
839 (A) for a conviction or adjudication described in Subsection (1)(e)(i):  
840 (I) impose a suspension for one year beginning on the date of conviction; or  
841 (II) if the person is under the age of eligibility for a driver license, impose a suspension  
842 that begins on the date of conviction and continues for one year beginning on the date of  
843 eligibility for a driver license; or  
844 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):  
845 (I) impose a suspension for a period of two years; or  
846 (II) if the person is under the age of eligibility for a driver license, impose a suspension  
847 that begins on the date of conviction and continues for two years beginning on the date of  
848 eligibility for a driver license.

849 (iv) Upon receipt of the first order suspending a person's driving privileges under  
850 Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if  
851 ordered by the court in accordance with Subsection 32B-4-411(3)(a).

852 (v) Upon receipt of the second or subsequent order suspending a person's driving  
853 privileges under Section 32B-4-411, the division shall reduce the suspension period under  
854 Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

855 (2) The division shall extend the period of the first denial, suspension, revocation, or  
856 disqualification for an additional like period, to a maximum of one year for each subsequent  
857 occurrence, upon receiving:

858 (a) a record of the conviction of any person on a charge of driving a motor vehicle  
859 while the person's license is denied, suspended, revoked, or disqualified;

860 (b) a record of a conviction of the person for any violation of the motor vehicle law in  
861 which the person was involved as a driver;

862 (c) a report of an arrest of the person for any violation of the motor vehicle law in  
863 which the person was involved as a driver; or

864 (d) a report of an accident in which the person was involved as a driver.

865 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is  
866 driving while the person's license is denied, suspended, disqualified, or revoked, the person is  
867 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,  
868 or revocation originally imposed under Section 53-3-221.

869 (4) (a) The division may extend to a person the limited privilege of driving a motor  
870 vehicle to and from the person's place of employment or within other specified limits on  
871 recommendation of the judge in any case where a person is convicted of any of the offenses  
872 referred to in Subsections (1) and (2) except:

873 (i) automobile homicide under Subsection (1)(a)(i);

874 (ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), [~~xiii~~], (1)(b),  
875 and (1)(c); and

876 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,  
877 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,  
878 [~~41-6a-517~~]; a local ordinance which complies with the requirements of Subsection  
879 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person  
880 was charged with violating as a result of a plea bargain after having been originally charged  
881 with violating one or more of these sections or ordinances, unless:

882 (A) the person has had the period of the first denial, suspension, revocation, or  
883 disqualification extended for a period of at least three years;

884 (B) the division receives written verification from the person's primary care physician  
885 that:

886 (I) to the physician's knowledge the person has not used any narcotic drug or other  
887 controlled substance except as prescribed by a licensed medical practitioner within the last  
888 three years; and

889 (II) the physician is not aware of any physical, emotional, or mental impairment that  
890 would affect the person's ability to operate a motor vehicle safely; and

891 (C) for a period of one year prior to the date of the request for a limited driving  
892 privilege:

893 (I) the person has not been convicted of a violation of any motor vehicle law in which  
894 the person was involved as the operator of the vehicle;

895 (II) the division has not received a report of an arrest for a violation of any motor

896 vehicle law in which the person was involved as the operator of the vehicle; and

897 (III) the division has not received a report of an accident in which the person was  
898 involved as an operator of a vehicle.

899 (b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege  
900 authorized in this Subsection (4):

901 (A) is limited to when undue hardship would result from a failure to grant the  
902 privilege; and

903 (B) may be granted only once to any person during any single period of denial,  
904 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,  
905 or disqualification.

906 (ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

907 (A) is limited to when the limited privilege is necessary for the person to commute to  
908 school or work; and

909 (B) may be granted only once to any person during any single period of denial,  
910 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,  
911 or disqualification.

912 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform  
913 Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or  
914 denied under this chapter.

915 Section 13. Section **53-3-223** is amended to read:

916 **53-3-223. Chemical test for driving under the influence -- Temporary license --**  
917 **Hearing and decision -- Suspension and fee -- Judicial review.**

918 (1) (a) If a peace officer has reasonable grounds to believe that a person may be  
919 violating or has violated Section [41-6a-502](#), prohibiting the operation of a vehicle with a  
920 certain blood or breath alcohol concentration and driving under the influence of any drug,  
921 alcohol, or combination of a drug and alcohol [~~or while having any measurable controlled~~  
922 ~~substance or metabolite of a controlled substance in the person's body in violation of Section~~  
923 [41-6a-517](#)], the peace officer may, in connection with arresting the person, request that the  
924 person submit to a chemical test or tests to be administered in compliance with the standards  
925 under Section [41-6a-520](#).

926 (b) In this section, a reference to Section [41-6a-502](#) includes any similar local

927 ordinance adopted in compliance with Subsection 41-6a-510(1).

928 (2) ~~[The peace officer shall advise a person prior to the]~~ Before a person's submission  
929 to a chemical test, the peace officer shall advise the person that a test result indicating a  
930 violation of Section 41-6a-502 ~~[or 41-6a-517]~~ shall, and the existence of a blood alcohol  
931 content sufficient to render the person incapable of safely driving a motor vehicle may, result in  
932 suspension or revocation of the person's license to drive a motor vehicle.

933 (3) If the person submits to a chemical test and the test results indicate a blood or  
934 breath alcohol content in violation of Section 41-6a-502 ~~[or 41-6a-517]~~, or if a peace officer  
935 makes a determination, based on reasonable grounds, that the person is otherwise in violation  
936 of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of  
937 arrest, give notice of the division's intention to suspend the person's license to drive a motor  
938 vehicle.

939 (4) (a) When a peace officer gives notice on behalf of the division, the peace officer  
940 shall:

- 941 (i) take the Utah license certificate or permit, if any, of the driver;  
942 (ii) issue a temporary license certificate effective for only 29 days from the date of  
943 arrest; and  
944 (iii) supply to the driver, in a manner specified by the division, basic information  
945 regarding how to obtain a prompt hearing before the division.

946 (b) A citation issued by a peace officer may, if provided in a manner specified by the  
947 division, also serve as the temporary license certificate.

948 (5) As a matter of procedure, a peace officer shall send to the division within 10  
949 calendar days after the day on which notice is provided:

- 950 (a) the person's license certificate;  
951 (b) a copy of the citation issued for the offense;  
952 (c) a signed report in a manner specified by the division indicating the chemical test  
953 results, if any; and

954 (d) any other basis for the peace officer's determination that the person has violated  
955 Section 41-6a-502 ~~[or 41-6a-517]~~.

956 ~~[(6) (a) Upon request in a manner specified by the division, the division shall grant to~~  
957 ~~the person an opportunity to be heard within 29 days after the date of arrest. The request to be~~

958 heard shall be made within 10 calendar days of the day on which notice is provided under  
959 Subsection (5).]

960 (6) (a) (i) A person may file a request to be heard with the division within 10 calendar  
961 days of the day on which notice is provided under Subsection (5) in the manner specified by the  
962 division; and

963 (ii) upon request in the manner specified by the division, the division shall grant to the  
964 person an opportunity to be heard within 29 days after the date of the arrest.

965 (b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the  
966 division in:

967 (A) the county in which the arrest occurred; or

968 (B) a county that is adjacent to the county in which the arrest occurred.

969 (ii) The division may hold a hearing in some other county if the division and the person  
970 both agree.

971 (c) The ~~[hearing]~~ division shall ~~[be documented and shall cover the issues of]:~~

972 (i) document the hearing; and

973 (ii) determine:

974 ~~[(i)]~~ (A) whether a peace officer had reasonable grounds to believe the person was  
975 driving a motor vehicle in violation of Section 41-6a-502 ~~[or 41-6a-517];~~

976 ~~[(ii)]~~ (B) whether the person refused to submit to the test; and

977 ~~[(iii)]~~ (C) the application of the test results, if any.

978 (d) (i) In connection with a hearing, the division or its authorized agent:

979 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and  
980 the production of relevant books and papers; ~~[or]~~ and

981 (B) may issue subpoenas for the attendance of necessary peace officers.

982 (ii) The division shall pay witness fees and mileage from the Transportation Fund in  
983 accordance with the rates established in Section 78B-1-119.

984 (e) The division may designate one or more employees to conduct the hearing.

985 (f) Any decision made after a hearing before any designated employee is as valid as if  
986 made by the division.

987 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable  
988 grounds to believe that the person was driving a motor vehicle in violation of Section



989 41-6a-502 [~~or 41-6a-517~~], if the person failed to appear before the division as required in the  
990 notice, or if a hearing is not requested under this section, the division shall:

991 (i) if the person is 21 years of age or older at the time of arrest and the arrest was made  
992 on or after July 1, 2009, suspend the person's license or permit to operate a motor vehicle for a  
993 period of:

994 (A) 120 days beginning on the 30th day after the date of arrest for a first suspension; or

995 (B) two years beginning on the 30th day after the date of arrest for a second or  
996 subsequent suspension for an offense that occurred within the previous 10 years; or

997 (ii) if the person is under 21 years of age at the time of arrest and the arrest was made  
998 on or after May 14, 2013:

999 (A) suspend the person's license or permit to operate a motor vehicle:

1000 (I) for a period of six months, beginning on the 30th day after the date of arrest for a  
1001 first suspension; or

1002 (II) until the person is 21 years of age or for a period of two years, whichever is longer,  
1003 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an  
1004 offense that occurred within the previous 10 years; or

1005 (B) deny the person's application for a license or learner's permit:

1006 (I) for a period of six months for a first suspension, if the person has not been issued an  
1007 operator license; or

1008 (II) until the person is 21 years of age or for a period of two years, whichever is longer,  
1009 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an  
1010 offense that occurred within the previous 10 years.

1011 (b) The division shall deny or suspend a person's license for the denial and suspension  
1012 periods in effect:

1013 (i) prior to July 1, 2009, for an offense that was committed prior to July 1, 2009;

1014 (ii) from July 1, 2009, through June 30, 2011, if:

1015 (A) the person was 20 years 6 months of age or older but under 21 years of age at the  
1016 time of arrest; and

1017 (B) the conviction under Subsection (2) is for an offense that was committed on or  
1018 after July 1, 2009, and prior to July 1, 2011; or

1019 (iii) prior to May 14, 2013, for an offense that was committed prior to May 14, 2013.

1020 (c) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall  
1021 reinstate a person's license [~~prior to~~] before completion of the 120 day suspension period  
1022 imposed under Subsection (7)(a)(i)(A):

1023 (A) immediately upon receiving written verification of the person's dismissal of a  
1024 charge for a violation of Section 41-6a-502 [~~or 41-6a-517~~], if the written verification is  
1025 received [~~prior to~~] before completion of the suspension period; or

1026 (B) no sooner than 60 days beginning on the 30th day after the date of arrest upon  
1027 receiving written verification of the person's reduction of a charge for a violation of Section  
1028 41-6a-502 [~~or 41-6a-517~~], if the written verification is received [~~prior to~~] before completion of  
1029 the suspension period.

1030 (ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A) or (7)(b), the division  
1031 shall reinstate a person's license prior to completion of the 120-day suspension period imposed  
1032 under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's  
1033 conviction of impaired driving under Section 41-6a-502.5 if:

1034 (A) the written verification is received [~~prior to~~] before completion of the suspension  
1035 period; and

1036 (B) the reporting court notifies the Driver License Division that the defendant is  
1037 participating in or has successfully completed the program of a driving under the influence  
1038 court as defined in Section 41-6a-501.

1039 (iii) If a person's license is reinstated under this Subsection (7)(c), the person is  
1040 required to pay the license reinstatement fees under Subsections 53-3-105(23) and (24).

1041 (iv) The driver license reinstatements authorized under this Subsection (7)(c) only  
1042 apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

1043 (d) (i) Notwithstanding the provisions in Subsections (7)(a) through (c), if the division  
1044 suspends a person's license for an alcohol related offense in accordance with this section, the  
1045 person may elect to become an interlock restricted driver and install an ignition interlock  
1046 device in any vehicle driven by the person in lieu of receiving the license suspension.

1047 (ii) If the person elects to become an interlock restricted driver in lieu of suspension,  
1048 the person shall:

1049 (A) install an ignition interlock device in any vehicle driven by the person and keep the  
1050 ignition interlock device installed in any vehicle driven by the person for the same time period

1051 as the prescribed license suspension;

1052 (B) provide proof of installation to the division through a probation provider; and

1053 (C) pay the license reinstatement application fees described in Subsections

1054 53-3-105(23) and (24).

1055 (iii) The division shall reinstate the person's driver license and the person shall become

1056 an interlock restricted driver once the driver provides to the division:

1057 (A) proof of installation of an ignition interlock device from a probation provider; and

1058 (B) payment of the license reinstatement application fees described in Subsections

1059 53-3-105(23) and (24).

1060 (iv) The probation provider shall immediately notify the division of any tampering or

1061 removal of the installed ignition interlock devices associated with the interlock restricted

1062 driver.

1063 (v) If the division receives notice that a ignition interlock device required by this

1064 section has been tampered with or removed, the division shall reinstate the license suspension

1065 and restart the time period of the suspension.

1066 (8) (a) Notwithstanding the provisions in Subsection (7)(b)(iii), the division shall

1067 shorten a person's two-year license suspension period that is currently in effect to a six-month

1068 suspension period if:

1069 (i) the driver was under the age of 19 at the time of arrest;

1070 (ii) the offense was a first offense that was committed prior to May 14, 2013; and

1071 (iii) the suspension under Subsection (7)(b)(iii) was based on the same occurrence

1072 upon which the following written verifications are based:

1073 (A) a court order shortening the driver license suspension for a violation of Section

1074 41-6a-502 pursuant to Subsection 41-6a-509(8);

1075 [~~(B) a court order shortening the driver license suspension for a violation of Section~~

1076 ~~41-6a-517 pursuant to Subsection 41-6a-517(11);]~~

1077 [~~(C)~~] (B) a court order shortening the driver license suspension for a violation of

1078 Section 32B-4-409;

1079 [~~(D)~~] (C) a dismissal for a violation of [~~Section 41-6a-502, Section 41-6a-517, or~~

1080 Section 32B-4-409 or 41-6a-502;

1081 [~~(E)~~] (D) a notice of declination to prosecute for a charge under [~~Section 41-6a-502~~;

1082 ~~Section 41-6a-517, or~~ Section 32B-4-409 or 41-6a-502;

1083 [~~F~~](E) a reduction of a charge under [~~Section 41-6a-502, Section 41-6a-517, or~~

1084 Section 32B-4-409 or 41-6a-502; or

1085 [~~G~~](F) other written documentation acceptable to the division.

1086 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1087 division may make rules establishing requirements for acceptable written documentation to  
1088 shorten a person's driver license suspension period under Subsection (8)(a)(iii)[~~G~~](F).

1089 (c) If a person's license sanction is shortened under this Subsection (8), the person is  
1090 required to pay the license reinstatement fees under Subsections 53-3-105(23) and (24).

1091 (9) (a) [~~The division shall assess against a person, in~~] In addition to any fee imposed  
1092 under Subsection 53-3-205(12) for driving under the influence, the division shall:

1093 (i) assess a fee under Section 53-3-105 to cover administrative costs against a person,  
1094 which shall be paid before the person's driving privilege is reinstated[~~. This fee shall be~~  
1095 ~~cancelled~~]; and

1096 (ii) cancel the fee if the person obtains an unappealed division hearing or court decision  
1097 that the suspension was not proper.

1098 (b) A person whose license has been suspended by the division under this section  
1099 following an administrative hearing may file a petition within 30 days after the suspension for a  
1100 hearing on the matter which, if held, is governed by Section 53-3-224.

1101 Section 14. Section 53-3-227 is amended to read:

1102 **53-3-227. Driving a motor vehicle prohibited while driving privilege denied,**  
1103 **suspended, disqualified, or revoked -- Penalties.**

1104 (1) A person whose driving privilege has been denied, suspended, disqualified, or  
1105 revoked under this chapter or under the laws of the state in which the person's driving privilege  
1106 was granted and who drives any motor vehicle upon the highways of this state while that  
1107 driving privilege is denied, suspended, disqualified, or revoked shall be punished as provided  
1108 in this section.

1109 (2) A person convicted of a violation of Subsection (1), other than a violation specified  
1110 in Subsection (3), is guilty of a class C misdemeanor.

1111 (3) (a) A person is guilty of a class B misdemeanor if the person's conviction under  
1112 Subsection (1) is based on the person driving a motor vehicle while the person's driving

1113 privilege is suspended, disqualified, or revoked for:

1114 (i) a refusal to submit to a chemical test under Section 41-6a-520;

1115 (ii) a violation of Section 41-6a-502;

1116 (iii) a violation of a local ordinance that complies with the requirements of Section

1117 41-6a-510;

1118 [~~(iv)~~] a violation of Section 41-6a-517;]

1119 [~~(v)~~] (iv) a violation of Section 76-5-207;

1120 [~~(vi)~~] (v) a criminal action that the person plead guilty to as a result of a plea bargain

1121 after having been originally charged with violating one or more of the sections or ordinances

1122 under this Subsection (3);

1123 [~~(vii)~~] (vi) a revocation or suspension which has been extended under Subsection

1124 53-3-220(2);

1125 [~~(viii)~~] (vii) where disqualification is the result of driving a commercial motor vehicle

1126 while the person's CDL is disqualified, suspended, canceled, or revoked under Subsection

1127 53-3-414(1); or

1128 [~~(ix)~~] (viii) a violation of Section 41-6a-530.

1129 (b) A person is guilty of a class B misdemeanor if the person's conviction under

1130 Subsection (1) is based on the person driving a motor vehicle while the person's driving

1131 privilege is suspended, disqualified, or revoked by any state, the United States, or any district,

1132 possession, or territory of the United States for violations corresponding to the violations listed

1133 in Subsection (3)(a).

1134 (c) A fine imposed under this Subsection (3) shall be at least the maximum fine for a

1135 class C misdemeanor under Section 76-3-301.

1136 Section 15. Section 53-3-231 is amended to read:

1137 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**

1138 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**

1139 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**

1140 **Referral to local substance abuse authority or program.**

1141 (1) (a) As used in this section:

1142 (i) "Local substance abuse authority" has the same meaning as provided in Section

1143 62A-15-102.

1144 (ii) "Substance abuse program" means any substance abuse program licensed by the  
1145 Department of Human Services or the Department of Health and approved by the local  
1146 substance abuse authority.

1147 (b) Calculations of blood, breath, or urine alcohol concentration under this section shall  
1148 be made in accordance with the procedures in Subsection 41-6a-502(1).

1149 (2) (a) A person younger than 21 years of age may not operate or be in actual physical  
1150 control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol  
1151 concentration in the person's body as shown by a chemical test.

1152 (b) A person who violates Subsection (2)(a), in addition to any other applicable  
1153 penalties arising out of the incident, shall have the person's operator license denied or  
1154 suspended as provided in Subsection (8).

1155 (3) (a) When a peace officer has reasonable grounds to believe that a person may be  
1156 violating or has violated Subsection (2), the peace officer may, in connection with arresting the  
1157 person for a violation of Section 32B-4-409, request that the person submit to a chemical test  
1158 or tests to be administered in compliance with the standards under Section 41-6a-520.

1159 (b) The peace officer shall advise a person prior to the person's submission to a  
1160 chemical test that a test result indicating a violation of Subsection (2)(a) will result in denial or  
1161 suspension of the person's license to operate a motor vehicle or a refusal to issue a license.

1162 (c) If the person submits to a chemical test and the test results indicate a blood, breath,  
1163 or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a  
1164 determination, based on reasonable grounds, that the person is otherwise in violation of  
1165 Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the  
1166 arrest, give notice of the division's intention to deny or suspend the person's license to operate a  
1167 vehicle or refusal to issue a license under this section.

1168 (4) When a peace officer gives notice on behalf of the division, the peace officer shall:

1169 (a) take the Utah license certificate or permit, if any, of the operator;

1170 (b) issue a temporary license certificate effective for only 29 days from the date of  
1171 arrest if the driver had a valid operator's license; and

1172 (c) supply to the operator, in a manner specified by the division, basic information  
1173 regarding how to obtain a prompt hearing before the division.

1174 (5) A citation issued by a peace officer may, if provided in a manner specified by the

1175 division, also serve as the temporary license certificate under Subsection (4)(b).

1176 (6) As a matter of procedure, a peace officer shall send to the division within 10  
1177 calendar days after the day on which notice is provided:

1178 (a) the person's driver license certificate, if any;

1179 (b) a copy of the citation issued for the offense;

1180 (c) a signed report in a manner specified by the Driver License Division indicating the  
1181 chemical test results, if any; and

1182 (d) any other basis for a peace officer's determination that the person has violated  
1183 Subsection (2).

1184 (7) (a) (i) Upon request in a manner specified by the division, the Driver License  
1185 Division shall grant to the person an opportunity to be heard within 29 days after the date of  
1186 arrest under Section [32B-4-409](#).

1187 (ii) The request shall be made within 10 calendar days of the day on which notice is  
1188 provided.

1189 (b) (i) Except as provided in Subsection (7)(b)(ii), a hearing, if held, shall be before the  
1190 division in:

1191 (A) the county in which the arrest occurred; or

1192 (B) a county that is adjacent to the county in which the arrest occurred.

1193 (ii) The division may hold a hearing in some other county if the division and the person  
1194 both agree.

1195 (c) The hearing shall be documented and shall cover the issues of:

1196 (i) whether a peace officer had reasonable grounds to believe the person was operating  
1197 a motor vehicle or motorboat in violation of Subsection (2)(a);

1198 (ii) whether the person refused to submit to the test; and

1199 (iii) the test results, if any.

1200 (d) In connection with a hearing, the division or its authorized agent may administer  
1201 oaths and may issue subpoenas for the attendance of witnesses and the production of relevant  
1202 books and papers and records as defined in Section [46-4-102](#).

1203 (e) One or more members of the division may conduct the hearing.

1204 (f) Any decision made after a hearing before any number of the members of the  
1205 division is as valid as if made after a hearing before the full membership of the division.

1206 (8) If, after a hearing, the division determines that a peace officer had reasonable  
1207 grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a),  
1208 if the person fails to appear before the division as required in the notice, or if the person does  
1209 not request a hearing under this section, the division shall for a person under 21 years of age on  
1210 the date of arrest:

1211 (a) deny the person's license until the person complies with Subsection (12)(b)(i) but  
1212 for a period of not less than six months beginning on the 30th day after the date of arrest for a  
1213 first offense under Subsection (2)(a) committed on or after May 14, 2013;

1214 (b) suspend the person's license until the person complies with Subsection (12)(b)(i)  
1215 and until the person is 21 years of age or for a period of two years, whichever is longer,  
1216 beginning on the 30th day after the date of arrest for a second or subsequent offense under  
1217 Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or  
1218 suspension;

1219 (c) deny the person's application for a license or learner's permit until the person  
1220 complies with Subsection (12)(b)(i) but for a period of not less than six months if:

1221 (i) the person has not been issued an operator license; and

1222 (ii) the suspension is for a first offense under Subsection (2)(a) committed on or after  
1223 July 1, 2009;

1224 (d) deny the person's application for a license or learner's permit until the person  
1225 complies with Subsection (12)(b)(i) and until the person is 21 years of age or for a period of  
1226 two years, whichever is longer, if:

1227 (i) the person has not been issued an operator license; and

1228 (ii) the suspension is for a second or subsequent offense under Subsection (2)(a)  
1229 committed on or after July 1, 2009, and within 10 years of a prior denial or suspension; or

1230 (e) deny or suspend a person's license for the denial and suspension periods in effect:

1231 (i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed  
1232 prior to July 1, 2009;

1233 (ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of  
1234 age or older but under 21 years of age at the time of arrest and the conviction under Subsection  
1235 (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

1236 (iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed



1237 prior to May 14, 2013.

1238 (9) (a) Notwithstanding the provisions in Subsection (8)(e)(iii), the division shall  
1239 shorten a person's one-year license suspension or denial period that is currently in effect to a  
1240 six-month suspension or denial period if:

1241 (i) the driver was under the age of 19 at the time of arrest;

1242 (ii) the offense was a first offense that was committed prior to May 14, 2013; and

1243 (iii) the suspension or denial under Subsection (8)(e)(iii) was based on the same  
1244 occurrence upon which the following written verifications are based:

1245 (A) a court order shortening the driver license suspension for a violation of Section  
1246 [41-6a-502](#) pursuant to Subsection [41-6a-509](#)(8);

1247 [~~(B)~~] ~~a court order shortening the driver license suspension for a violation of Section~~  
1248 ~~[41-6a-517](#) pursuant to Subsection [41-6a-517](#)(11);]~~

1249 [~~(C)~~] (B) a court order shortening the driver license suspension for a violation of  
1250 Section [32B-4-409](#);

1251 [~~(D)~~] (C) a dismissal for a violation of [~~Section [41-6a-502](#), Section [41-6a-517](#), or]~~  
1252 Section [32B-4-409](#) or [41-6a-502](#);

1253 [~~(E)~~] (D) a notice of declination to prosecute for a charge under [~~Section [41-6a-502](#);~~  
1254 ~~Section [41-6a-517](#), or]~~ Section [32B-4-409](#) or [41-6a-502](#);

1255 [~~(F)~~] (E) a reduction of a charge under [~~Section [41-6a-502](#), Section [41-6a-517](#), or]~~  
1256 Section [32B-4-409](#) or [41-6a-502](#); or

1257 [~~(G)~~] (F) other written documentation acceptable to the division.

1258 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1259 division may make rules establishing requirements for acceptable documentation to shorten a  
1260 person's driver license suspension or denial period under this Subsection (9).

1261 (c) If a person's license sanction is shortened under this Subsection (9), the person is  
1262 required to pay the license reinstatement fees under Subsections [53-3-105](#)(23) and (24).

1263 (10) (a) (i) Following denial or suspension the division shall assess against a person, in  
1264 addition to any fee imposed under Subsection [53-3-205](#)(12), a fee under Section [53-3-105](#),  
1265 which shall be paid before the person's driving privilege is reinstated, to cover administrative  
1266 costs.

1267 (ii) This fee shall be canceled if the person obtains an unappealed division hearing or

1268 court decision that the suspension was not proper.

1269 (b) A person whose operator license has been denied, suspended, or postponed by the  
1270 division under this section following an administrative hearing may file a petition within 30  
1271 days after the suspension for a hearing on the matter which, if held, is governed by Section  
1272 [53-3-224](#).

1273 (11) After reinstatement of an operator license for a first offense under this section, a  
1274 report authorized under Section [53-3-104](#) may not contain evidence of the denial or suspension  
1275 of the person's operator license under this section if the person has not been convicted of any  
1276 other offense for which the denial or suspension may be extended.

1277 (12) (a) In addition to the penalties in Subsection (8), a person who violates Subsection  
1278 (2)(a) shall:

1279 (i) obtain an assessment and recommendation for appropriate action from a substance  
1280 abuse program, but any associated costs shall be the person's responsibility; or

1281 (ii) be referred by the division to the local substance abuse authority for an assessment  
1282 and recommendation for appropriate action.

1283 (b) (i) Reinstatement of the person's operator license or the right to obtain an operator  
1284 license within five years of the effective date of the license sanction under Subsection (8) is  
1285 contingent upon successful completion of the action recommended by the local substance  
1286 abuse authority or the substance abuse program.

1287 (ii) The local substance abuse authority's or the substance abuse program's  
1288 recommended action shall be determined by an assessment of the person's alcohol abuse and  
1289 may include:

1290 (A) a targeted education and prevention program;

1291 (B) an early intervention program; or

1292 (C) a substance abuse treatment program.

1293 (iii) Successful completion of the recommended action shall be determined by  
1294 standards established by the Division of Substance Abuse and Mental Health.

1295 (c) At the conclusion of the penalty period imposed under Subsection (2), the local  
1296 substance abuse authority or the substance abuse program shall notify the division of the  
1297 person's status regarding completion of the recommended action.

1298 (d) The local substance abuse authorities and the substance abuse programs shall

1299 cooperate with the division in:

1300 (i) conducting the assessments;

1301 (ii) making appropriate recommendations for action; and

1302 (iii) notifying the division about the person's status regarding completion of the

1303 recommended action.

1304 (e) (i) The local substance abuse authority is responsible for the cost of the assessment  
1305 of the person's alcohol abuse, if the assessment is conducted by the local substance abuse  
1306 authority.

1307 (ii) The local substance abuse authority or a substance abuse program selected by a  
1308 person is responsible for:

1309 (A) conducting an assessment of the person's alcohol abuse; and

1310 (B) for making a referral to an appropriate program on the basis of the findings of the  
1311 assessment.

1312 (iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees  
1313 associated with the recommended program to which the person selected or is referred.

1314 (B) The costs and fees under Subsection (12)(e)(iii)(A) shall be based on a sliding scale  
1315 consistent with the local substance abuse authority's policies and practices regarding fees for  
1316 services or determined by the substance abuse program.

1317 Section 16. Section **62A-15-502** is amended to read:

1318 **62A-15-502. Penalty for DUI conviction -- Amounts.**

1319 (1) Courts of record and not of record may at sentencing assess against the defendant,  
1320 in addition to any fine, an amount that will fully compensate agencies that treat the defendant  
1321 for their costs in each case where a defendant is convicted of violating:

1322 (a) Section [41-6a-502](#) [~~or [41-6a-517](#)~~];

1323 (b) a criminal prohibition resulting from a plea bargain after an original charge of  
1324 violating Section [41-6a-502](#); or

1325 (c) an ordinance that complies with the requirements of Subsection [41-6a-510](#)(1).

1326 (2) The fee assessed shall be collected by the court or an entity appointed by the court.

1327 Section 17. Section **76-5-303** is amended to read:

1328 **76-5-303. Custodial interference.**

1329 (1) As used in this section:

1330 (a) "Child" means a person under the age of 18.

1331 (b) "Custody" means court-ordered physical custody entered by a court of competent  
1332 jurisdiction.

1333 (c) "Visitation" means court-ordered parent-time or visitation entered by a court of  
1334 competent jurisdiction.

1335 (2) (a) A person who is entitled to custody of a child is guilty of custodial interference  
1336 if, during a period of time when another person is entitled to visitation of the child, the person  
1337 takes, entices, conceals, detains, or withholds the child from the person entitled to visitation of  
1338 the child, with the intent to interfere with the visitation of the child.

1339 (b) A person who is entitled to visitation of a child is guilty of custodial interference if,  
1340 during a period of time when the person is not entitled to visitation of the child, the person  
1341 takes, entices, conceals, detains, or withholds the child from a person who is entitled to custody  
1342 of the child, with the intent to interfere with the custody of the child.

1343 (3) Except as provided in Subsection (4) or (5), custodial interference is a class B  
1344 misdemeanor.

1345 (4) Except as provided in Subsection (5), the actor described in Subsection (2) is guilty  
1346 of a class A misdemeanor if the actor:

1347 (a) commits custodial interference; and

1348 (b) has been convicted of custodial interference at least twice in the two-year period  
1349 immediately preceding the day on which the commission of custodial interference described in  
1350 Subsection (4)(a) occurs.

1351 (5) Custodial interference is a felony of the third degree if, during the course of the  
1352 custodial interference, the actor described in Subsection (2) removes, causes the removal, or  
1353 directs the removal of the child from the state.

1354 (6) In addition to the affirmative defenses described in Section [76-5-305](#), it is an  
1355 affirmative defense to the crime of custodial interference that:

1356 (a) the action is consented to by the person whose custody or visitation of the child was  
1357 interfered with; or

1358 (b) (i) the action is based on a reasonable belief that the action is necessary to protect a  
1359 child from abuse, including sexual abuse; and

1360 (ii) before engaging in the action, the person reports the person's intention to engage in

1361 the action, and the basis for the belief described in Subsection (6)(b)(i), to the Division of  
1362 Child and Family Services or law enforcement.

1363 (7) In addition to the other penalties described in this section, a person who is  
1364 convicted of custodial interference is subject to the driver license suspension provisions of  
1365 Subsection [53-3-220](#)(1)(a)[~~(xviii)~~](xvi).

1366 Section 18. **Repealer.**

1367 This bill repeals:

1368 Section [41-6a-517](#), **Definitions -- Driving with any measurable controlled substance**  
1369 **in the body -- Penalties -- Arrest without warrant.**

---

---

**Legislative Review Note**  
**Office of Legislative Research and General Counsel**