

**AMENDMENTS TO DRIVER LICENSE**

**SANCTION REQUIREMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Richard A. Greenwood**

Senate Sponsor: Jon J. Greiner

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**LONG TITLE**

**Committee Note:**

The Transportation Interim Committee recommended this bill.

**General Description:**

This bill modifies the Uniform Driver License Act by amending provisions relating to persons under 21 years of age operating a vehicle with a detectable amount of alcohol in the person's body.

**Highlighted Provisions:**

This bill:

- ▶ provides that the requirement that the reinstatement of a person's license for a person under 21 years of age operating a vehicle with a detectable amount of alcohol in the person's body is contingent upon the person's completion of an action recommended by a local substance abuse authority or substance abuse program is only applicable within five years after the effective date of the license sanction.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



28           **53-3-231**, as last amended by Laws of Utah 2008, Chapter 304



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

31           Section 1. Section **53-3-231** is amended to read:

32           **53-3-231. Person under 21 may not operate a vehicle or motorboat with**  
33 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**  
34 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**  
35 **Referral to local substance abuse authority or program.**

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

37           (i) "Local substance abuse authority" has the same meaning as provided in Section  
38 62A-15-102.

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

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

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

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

50           (3) (a) When a peace officer has reasonable grounds to believe that a person may be  
51 violating or has violated Subsection (2), the peace officer may, in connection with arresting the  
52 person for a violation of Section 32A-12-209, request that the person submit to a chemical test  
53 or tests to be administered in compliance with the standards under Section 41-6a-520.

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

57           (c) If the person submits to a chemical test and the test results indicate a blood, breath,  
58 or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a

59 determination, based on reasonable grounds, that the person is otherwise in violation of  
60 Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the  
61 arrest, give notice of the division's intention to deny or suspend the person's license to operate a  
62 vehicle or refusal to issue a license under this section.

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

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

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

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

69 (5) A citation issued by a peace officer may, if provided in a manner specified by the  
70 division, also serve as the temporary license certificate under Subsection (4)(b).

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

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

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

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

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

79 (7) (a) (i) Upon request in a manner specified by the division, the Driver License  
80 Division shall grant to the person an opportunity to be heard within 29 days after the date of  
81 arrest under Section 32A-12-209.

82 (ii) The request shall be made within ten calendar days of the day on which notice is  
83 provided.

84 (b) (i) Except as provided in Subsection (7)(b)(ii), a hearing, if held, shall be before the  
85 division in the county in which the arrest occurred.

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

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

89 (i) whether a peace officer had reasonable grounds to believe the person was operating

90 a motor vehicle or motorboat in violation of Subsection (2)(a);

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

92 (iii) the test results, if any.

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

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

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

99 (8) If, after a hearing, the division determines that a peace officer had reasonable  
100 grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a),  
101 if the person fails to appear before the division as required in the notice, or if the person does  
102 not request a hearing under this section, the division shall:

103 (a) deny the person's license for a period of 90 days beginning on the 30th day after the  
104 date of arrest for a first offense under Subsection (2)(a);

105 (b) suspend the person's license for a period of one year beginning on the 30th day after  
106 the date of arrest for a second or subsequent offense under Subsection (2)(a) within three years  
107 of a prior denial or suspension; or

108 (c) deny the person's application for a license or learner's permit until the person is 17  
109 years of age or for a period of one year, whichever is longer, if the person has not been issued  
110 an operator license.

111 (9) (a) (i) Following denial or suspension the division shall assess against a person, in  
112 addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105,  
113 which shall be paid before the person's driving privilege is reinstated, to cover administrative  
114 costs.

115 (ii) This fee shall be canceled if the person obtains an unappealed division hearing or  
116 court decision that the suspension was not proper.

117 (b) A person whose operator license has been denied, suspended, or postponed by the  
118 division under this section following an administrative hearing may file a petition within 30  
119 days after the suspension for a hearing on the matter which, if held, is governed by Section  
120 53-3-224.

121 (10) After reinstatement of an operator license for a first offense under this section, a  
122 report authorized under Section 53-3-104 may not contain evidence of the denial or suspension  
123 of the person's operator license under this section if the person has not been convicted of any  
124 other offense for which the denial or suspension may be extended.

125 (11) (a) In addition to the penalties in Subsection (8), a person who violates Subsection  
126 (2)(a) shall:

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

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

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

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

138 (A) a targeted education and prevention program;

139 (B) an early intervention program; or

140 (C) a substance abuse treatment program.

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

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

146 (d) The local substance abuse authorities and the substance abuse programs shall  
147 cooperate with the division in:

148 (i) conducting the assessments;

149 (ii) making appropriate recommendations for action; and

150 (iii) notifying the division about the person's status regarding completion of the  
151 recommended action.

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

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

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

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

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

162 (B) The costs and fees under Subsection (11)(e)(iii)(A) shall be based on a sliding scale  
163 consistent with the local substance abuse authority's policies and practices regarding fees for  
164 services or determined by the substance abuse program.

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**Legislative Review Note**  
**as of 9-11-08 7:24 AM**

**Office of Legislative Research and General Counsel**

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**H.B. 21 - Amendments to Driver License Sanction Requirements**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments but may result in cost savings to some individuals.

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*1/16/2009, 2:52:18 PM, Lead Analyst: Ricks, G.*

**Office of the Legislative Fiscal Analyst**