

DRIVER LICENSE SUSPENSION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: Evan J. Vickers

LONG TITLE

Committee Note:

The Transportation Interim Committee recommended this bill.

General Description:

This bill modifies Title 53, Chapter 3, Uniform Driver License Act, by amending provisions relating to driver license suspensions.

Highlighted Provisions:

This bill:

► requires the Driver License Division to shorten a person's one- or two-year license suspension or denial period that is currently in effect for certain alcohol related offenses to a six-month period if:

- the driver was under the age of 19 at the time of arrest;
- the offense was a first offense that was committed prior to May 14, 2013; and
- the suspension or denial was based on the same occurrence upon which certain written verifications are based;

► grants the Driver License Division rulemaking authority to make rules establishing requirements for acceptable documentation to shorten a person's driver license suspension or denial period in certain circumstances;

► requires a person to pay the license reinstatement fees if a person's license sanction is shortened; and

► makes technical corrections.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 This bill provides an immediate effective date.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **53-3-223**, as last amended by Laws of Utah 2013, Chapter 333

35 **53-3-231**, as last amended by Laws of Utah 2013, Chapter 333



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

38 Section 1. Section **53-3-223** is amended to read:

39 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
40 **Hearing and decision -- Suspension and fee -- Judicial review.**

41 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
42 violating or has violated Section **41-6a-502**, prohibiting the operation of a vehicle with a
43 certain blood or breath alcohol concentration and driving under the influence of any drug,
44 alcohol, or combination of a drug and alcohol or while having any measurable controlled
45 substance or metabolite of a controlled substance in the person's body in violation of Section
46 **41-6a-517**, the peace officer may, in connection with arresting the person, request that the
47 person submit to a chemical test or tests to be administered in compliance with the standards
48 under Section **41-6a-520**.

49 (b) In this section, a reference to Section **41-6a-502** includes any similar local
50 ordinance adopted in compliance with Subsection **41-6a-510**(1).

51 (2) The peace officer shall advise a person prior to the person's submission to a
52 chemical test that a test result indicating a violation of Section **41-6a-502** or **41-6a-517** shall,
53 and the existence of a blood alcohol content sufficient to render the person incapable of safely
54 driving a motor vehicle may, result in suspension or revocation of the person's license to drive
55 a motor vehicle.

56 (3) If the person submits to a chemical test and the test results indicate a blood or
57 breath alcohol content in violation of Section **41-6a-502** or **41-6a-517**, or if a peace officer
58 makes a determination, based on reasonable grounds, that the person is otherwise in violation

59 of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of
60 arrest, give notice of the division's intention to suspend the person's license to drive a motor
61 vehicle.

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

64 (i) take the Utah license certificate or permit, if any, of the driver;

65 (ii) issue a temporary license certificate effective for only 29 days from the date of
66 arrest; and

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

69 (b) 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.

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

73 (a) the person's license certificate;

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

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

77 (d) any other basis for the peace officer's determination that the person has violated
78 Section 41-6a-502 or 41-6a-517.

79 (6) (a) Upon request in a manner specified by the division, the division shall grant to
80 the person an opportunity to be heard within 29 days after the date of arrest. The request to be
81 heard shall be made within 10 calendar days of the day on which notice is provided under
82 Subsection (5).

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

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

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

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

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

90 (i) whether a peace officer had reasonable grounds to believe the person was driving a
91 motor vehicle in violation of Section 41-6a-502 or 41-6a-517;

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

93 (iii) the test results, if any.

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

95 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and
96 the production of relevant books and papers; or

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

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

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

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

103 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
104 grounds to believe that the person was driving a motor vehicle in violation of Section
105 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the
106 notice, or if a hearing is not requested under this section, the division shall:

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

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

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

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

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

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

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

- 121 (B) deny the person's application for a license or learner's permit:
- 122 (I) for a period of six months for a first suspension, if the person has not been issued an
123 operator license; or
- 124 (II) until the person is 21 years of age or for a period of two years, whichever is longer,
125 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an
126 offense that occurred within the previous 10 years.
- 127 (b) The division shall deny or suspend a person's license for the denial and suspension
128 periods in effect:
- 129 (i) prior to July 1, 2009, for an offense that was committed prior to July 1, 2009;
- 130 (ii) from July 1, 2009, through June 30, 2011, if:
- 131 (A) the person was 20 years 6 months of age or older but under 21 years of age at the
132 time of arrest; and
- 133 (B) the conviction under Subsection (2) is for an offense that was committed on or
134 after July 1, 2009, and prior to July 1, 2011; or
- 135 (iii) prior to May 14, 2013, for an offense that was committed prior to May 14, 2013.
- 136 (c) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall
137 reinstate a person's license prior to completion of the 120 day suspension period imposed under
138 Subsection (7)(a)(i)(A):
- 139 (A) immediately upon receiving written verification of the person's dismissal of a
140 charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received
141 prior to completion of the suspension period; or
- 142 (B) no sooner than 60 days beginning on the 30th day after the date of arrest upon
143 receiving written verification of the person's reduction of a charge for a violation of Section
144 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the
145 suspension period.
- 146 (ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A) or (7)(b), the division
147 shall reinstate a person's license prior to completion of the 120-day suspension period imposed
148 under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's
149 conviction of impaired driving under Section 41-6a-502.5 if:
- 150 (A) the written verification is received prior to completion of the suspension period;
- 151 and

152 (B) the reporting court notifies the Driver License Division that the defendant is
153 participating in or has successfully completed the program of a driving under the influence
154 court as defined in Section [41-6a-501](#).

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

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

159 (8) (a) Notwithstanding the provisions in Subsection (7)(b)(iii), the division shall
160 shorten a person's two-year license suspension period that is currently in effect to a six-month
161 suspension period if:

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

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

164 (iii) the suspension under Subsection (7)(b)(iii) was based on the same occurrence
165 upon which the following written verifications are based:

166 (A) a court order shortening the driver license suspension for a violation of Section
167 [41-6a-502](#) pursuant to Subsection [41-6a-509](#)(8);

168 (B) a court order shortening the driver license suspension for a violation of Section
169 [41-6a-517](#) pursuant to Subsection [41-6a-517](#)(11);

170 (C) a court order shortening the driver license suspension for a violation of Section
171 [32B-4-409](#);

172 (D) a dismissal for a violation of Section [41-6a-502](#), Section [41-6a-517](#), or Section
173 [32B-4-409](#);

174 (E) a notice of declination to prosecute for a charge under Section [41-6a-502](#), Section
175 [41-6a-517](#), or Section [32B-4-409](#);

176 (F) a reduction of a charge under Section [41-6a-502](#), Section [41-6a-517](#), or Section
177 [32B-4-409](#); or

178 (G) other written documentation acceptable to the division.

179 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
180 division may makes rules establishing requirements for acceptable written documentation to
181 shorten a person's driver license suspension period under Subsection (8)(a)(iii)(G).

182 (c) If a person's license sanction is shortened under this Subsection (8), the person is

183 required to pay the license reinstatement fees under Subsections 53-3-105(23) and (24).

184 [~~(8)~~] (9) (a) The division shall assess against a person, in addition to any fee imposed
185 under Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to
186 cover administrative costs, which shall be paid before the person's driving privilege is
187 reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or
188 court decision that the suspension was not proper.

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

192 Section 2. Section 53-3-231 is amended to read:

193 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**
194 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**
195 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**
196 **Referral to local substance abuse authority or program.**

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

198 (i) "Local substance abuse authority" has the same meaning as provided in Section
199 62A-15-102.

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

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

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

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

211 (3) (a) When a peace officer has reasonable grounds to believe that a person may be
212 violating or has violated Subsection (2), the peace officer may, in connection with arresting the
213 person for a violation of Section 32B-4-409, request that the person submit to a chemical test

214 or tests to be administered in compliance with the standards under Section [41-6a-520](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

255 (iii) the test results, if any.

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

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

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

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

267 (a) deny the person's license until the person complies with Subsection [~~(11)~~] (12)(b)(i)
268 but for a period of not less than six months beginning on the 30th day after the date of arrest for
269 a first offense under Subsection (2)(a) committed on or after May 14, 2013;

270 (b) suspend the person's license until the person complies with Subsection [~~(11)~~]
271 (12)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is
272 longer, beginning on the 30th day after the date of arrest for a second or subsequent offense
273 under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior
274 denial or suspension;

275 (c) deny the person's application for a license or learner's permit until the person

276 complies with Subsection ~~[(11)]~~ (12)(b)(i) but for a period of not less than six months if:

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

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

280 (d) deny the person's application for a license or learner's permit until the person
281 complies with Subsection ~~[(11)]~~ (12)(b)(i) and until the person is 21 years of age or for a period
282 of two years, whichever is longer, if:

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

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

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

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

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

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

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

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

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

299 (iii) the suspension or denial under Subsection (8)(e)(iii) was based on the same

300 occurrence upon which the following written verifications are based:

301 (A) a court order shortening the driver license suspension for a violation of Section
302 41-6a-502 pursuant to Subsection 41-6a-509(8);

303 (B) a court order shortening the driver license suspension for a violation of Section
304 41-6a-517 pursuant to Subsection 41-6a-517(11);

305 (C) a court order shortening the driver license suspension for a violation of Section
306 32B-4-409;

307 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section
308 32B-4-409;

309 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section
310 41-6a-517, or Section 32B-4-409;

311 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section
312 32B-4-409; or

313 (G) other written documentation acceptable to the division.

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

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

319 ~~[(9)]~~ (10) (a) (i) Following denial or suspension the division shall assess against a
320 person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section
321 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover
322 administrative costs.

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

325 (b) A person whose operator license has been denied, suspended, or postponed by the
326 division under this section following an administrative hearing may file a petition within 30
327 days after the suspension for a hearing on the matter which, if held, is governed by Section
328 53-3-224.

329 ~~[(10)]~~ (11) After reinstatement of an operator license for a first offense under this
330 section, a report authorized under Section 53-3-104 may not contain evidence of the denial or
331 suspension of the person's operator license under this section if the person has not been
332 convicted of any other offense for which the denial or suspension may be extended.

333 ~~[(11)]~~ (12) (a) In addition to the penalties in Subsection (8), a person who violates
334 Subsection (2)(a) shall:

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

337 (ii) be referred by the division to the local substance abuse authority for an assessment

338 and recommendation for appropriate action.

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

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

346 (A) a targeted education and prevention program;

347 (B) an early intervention program; or

348 (C) a substance abuse treatment program.

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

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

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

356 (i) conducting the assessments;

357 (ii) making appropriate recommendations for action; and

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

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

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

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

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

368 (iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees

369 associated with the recommended program to which the person selected or is referred.

370 (B) The costs and fees under Subsection [~~(11)~~] (12)(e)(iii)(A) shall be based on a
371 sliding scale consistent with the local substance abuse authority's policies and practices
372 regarding fees for services or determined by the substance abuse program.

373 Section 3. **Effective date.**

374 If approved by two-thirds of all the members elected to each house, this bill takes effect
375 upon approval by the governor, or the day following the constitutional time limit of Utah
376 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
377 the date of veto override.

Legislative Review Note
as of 11-20-13 6:11 PM

Office of Legislative Research and General Counsel