

**Representative Justin L. Fawson** proposes the following substitute bill:

**DRIVING UNDER THE INFLUENCE PROGRAM AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Justin L. Fawson**

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

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to driving under the influence programs.

**Highlighted Provisions:**

This bill:

- ▶ provides definitions;
- ▶ authorizes a court to order a person convicted of certain driving under the influence violations to participate in a 24-7 sobriety program;
- ▶ authorizes a court to order a person convicted of a violation of driving with any measurable controlled substance in the body to participate in a 24-7 sobriety program;
- ▶ requires the Driver License Division to shorten certain driver license suspension periods if the division receives notice from a court that a person is participating in a 24-7 sobriety program;
- ▶ requires the Office of the Attorney General to establish and administer a 24-7 sobriety program as a pilot program;
- ▶ specifies procedures and requirements for a 24-7 sobriety program;
- ▶ grants the Office of the Attorney General rulemaking authority to make rules to administer the 24-7 sobriety program; and



26           ▶ makes technical and conforming changes.

27 **Money Appropriated in this Bill:**

28           None

29 **Other Special Clauses:**

30           None

31 **Utah Code Sections Affected:**

32 AMENDS:

33           **41-6a-505**, as last amended by Laws of Utah 2016, Chapter 148

34           **41-6a-509**, as last amended by Laws of Utah 2013, Chapter 333

35           **41-6a-517**, as last amended by Laws of Utah 2013, Chapter 333

36           **53-3-223**, as last amended by Laws of Utah 2014, Chapter 7

37 ENACTS:

38           **67-5-36**, Utah Code Annotated 1953

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

41           Section 1. Section **41-6a-505** is amended to read:

42           **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**  
43 **drugs, or a combination of both violations.**

44           (1) As part of any sentence for a first conviction of Section **41-6a-502**:

45           (a) the court shall:

46           (i) (A) impose a jail sentence of not less than 48 consecutive hours;

47           (B) require the person to work in a compensatory-service work program for not less  
48 than 48 hours; or

49           (C) require the person to participate in home confinement of not fewer than 48  
50 consecutive hours through the use of electronic monitoring in accordance with Section  
51 **41-6a-506**;

52           (ii) order the person to participate in a screening;

53           (iii) order the person to participate in an assessment, if it is found appropriate by a  
54 screening under Subsection (1)(a)(ii);

55           (iv) order the person to participate in an educational series if the court does not order  
56 substance abuse treatment as described under Subsection (1)(b);

- 57 (v) impose a fine of not less than \$700;
- 58 (vi) order probation for the person in accordance with Section 41-6a-507, if there is  
59 admissible evidence that the person had a blood alcohol level of .16 or higher;
- 60 (vii) (A) order the person to pay the administrative impound fee described in Section  
61 41-6a-1406; or
- 62 (B) if the administrative impound fee was paid by a party described in Subsection  
63 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the  
64 party; or
- 65 (viii) (A) order the person to pay the towing and storage fees described in Section  
66 72-9-603; or
- 67 (B) if the towing and storage fees were paid by a party described in Subsection  
68 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the  
69 party; and
- 70 (b) the court may:
- 71 (i) order the person to obtain substance abuse treatment if the substance abuse  
72 treatment program determines that substance abuse treatment is appropriate; ~~[or]~~
- 73 (ii) order probation for the person in accordance with Section 41-6a-507~~[-]~~;
- 74 (iii) order the person to participate in a 24-7 sobriety program as defined in Section  
75 67-5-36 if the person is 21 years of age or older; or
- 76 (iv) order a combination of Subsections (1)(b)(i) through (iii).
- 77 (2) If a person has a prior conviction as defined in Subsection 41-6a-501(2) that is  
78 within 10 years of the current conviction under Section 41-6a-502 or the commission of the  
79 offense upon which the current conviction is based:
- 80 (a) the court shall:
- 81 (i) (A) impose a jail sentence of not less than 240 consecutive hours;
- 82 (B) require the person to work in a compensatory-service work program for not less  
83 than 240 hours; or
- 84 (C) require the person to participate in home confinement of not fewer than 240  
85 consecutive hours through the use of electronic monitoring in accordance with Section  
86 41-6a-506;
- 87 (ii) order the person to participate in a screening;

- 88 (iii) order the person to participate in an assessment, if it is found appropriate by a  
89 screening under Subsection (2)(a)(ii);
- 90 (iv) order the person to participate in an educational series if the court does not order  
91 substance abuse treatment as described under Subsection (2)(b);
- 92 (v) impose a fine of not less than \$800;
- 93 (vi) order probation for the person in accordance with Section 41-6a-507;
- 94 (vii) (A) order the person to pay the administrative impound fee described in Section  
95 41-6a-1406; or
- 96 (B) if the administrative impound fee was paid by a party described in Subsection  
97 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the  
98 party; or
- 99 (viii) (A) order the person to pay the towing and storage fees described in Section  
100 72-9-603; or
- 101 (B) if the towing and storage fees were paid by a party described in Subsection  
102 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the  
103 party; and
- 104 (b) the court may:
- 105 (i) order the person to obtain substance abuse treatment if the substance abuse  
106 treatment program determines that substance abuse treatment is appropriate[-];
- 107 (ii) order the person to participate in a 24-7 sobriety program as defined in Section  
108 67-5-36 if the person is 21 years of age or older; or
- 109 (iii) order a combination of Subsections (2)(b)(i) and (ii).
- 110 (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison  
111 sentence and places the defendant on probation:
- 112 (a) the court shall impose:
- 113 (i) a fine of not less than \$1,500;
- 114 (ii) a jail sentence of not less than 1,500 hours; and
- 115 (iii) supervised probation; and
- 116 (b) in lieu of Subsection (3)(a)(ii), the court may require the person to participate in  
117 home confinement of not fewer than 1,500 hours through the use of electronic monitoring in  
118 accordance with Section 41-6a-506.

119 (4) For Subsection (3)(a) or Subsection 41-6a-503(2)(b), the court:  
120 (a) shall impose an order requiring the person to obtain a screening and assessment for  
121 alcohol and substance abuse, and treatment as appropriate[-]; and

122 (b) may impose an order requiring the person to participate in a 24-7 sobriety program  
123 as defined in Section 67-5-36 if the person is 21 years of age or older.

124 (5) (a) The requirements of Subsections (1)(a), (2)(a), (3)(a), and (4) may not be  
125 suspended.

126 (b) Probation or parole resulting from a conviction for a violation under this section  
127 may not be terminated.

128 (6) If a person is convicted of a violation of Section 41-6a-502 and there is admissible  
129 evidence that the person had a blood alcohol level of .16 or higher, the court shall order the  
130 following, or describe on record why the order or orders are not appropriate:

131 (a) treatment as described under Subsection (1)(b), (2)(b), or (4); and

132 (b) one or more of the following:

133 (i) the installation of an ignition interlock system as a condition of probation for the  
134 person in accordance with Section 41-6a-518;

135 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring  
136 device as a condition of probation for the person; or

137 (iii) the imposition of home confinement through the use of electronic monitoring in  
138 accordance with Section 41-6a-506.

139 Section 2. Section 41-6a-509 is amended to read:

140 **41-6a-509. Driver license suspension or revocation for a driving under the**  
141 **influence violation.**

142 (1) The Driver License Division shall, if the person is 21 years of age or older at the  
143 time of arrest:

144 (a) suspend for a period of 120 days the operator's license of a person convicted for the  
145 first time under Section 41-6a-502 of an offense committed on or after July 1, 2009; or

146 (b) revoke for a period of two years the license of a person if:

147 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

148 (ii) the current driving under the influence violation under Section 41-6a-502 is  
149 committed:

- 150 (A) within a period of 10 years from the date of the prior violation; and  
151 (B) on or after July 1, 2009.
- 152 (2) The Driver License Division shall, if the person is 19 years of age or older but  
153 under 21 years of age at the time of arrest:
- 154 (a) suspend the person's driver license until the person is 21 years of age or for a period  
155 of one year, whichever is longer, if the person is convicted for the first time of a driving under  
156 the influence violation under Section 41-6a-502 of an offense that was committed on or after  
157 July 1, 2011;
- 158 (b) deny the person's application for a license or learner's permit until the person is 21  
159 years of age or for a period of one year, whichever is longer, if the person:
- 160 (i) is convicted for the first time of a driving under the influence violation under  
161 Section 41-6a-502 of an offense committed on or after July 1, 2011; and
- 162 (ii) has not been issued an operator license;
- 163 (c) revoke the person's driver license until the person is 21 years of age or for a period  
164 of two years, whichever is longer, if:
- 165 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and  
166 (ii) the current driving under the influence violation under Section 41-6a-502 is  
167 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior  
168 violation; or
- 169 (d) deny the person's application for a license or learner's permit until the person is 21  
170 years of age or for a period of two years, whichever is longer, if:
- 171 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);  
172 (ii) the current driving under the influence violation under Section 41-6a-502 is  
173 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior  
174 violation; and
- 175 (iii) the person has not been issued an operator license.
- 176 (3) The Driver License Division shall, if the person is under 19 years of age at the time  
177 of arrest:
- 178 (a) suspend the person's driver license until the person is 21 years of age if the person  
179 is convicted for the first time of a driving under the influence violation under Section  
180 41-6a-502 of an offense that was committed on or after July 1, 2009;

181 (b) deny the person's application for a license or learner's permit until the person is 21  
182 years of age if the person:

183 (i) is convicted for the first time of a driving under the influence violation under  
184 Section 41-6a-502 of an offense committed on or after July 1, 2009; and

185 (ii) has not been issued an operator license;

186 (c) revoke the person's driver license until the person is 21 years of age if:

187 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

188 (ii) the current driving under the influence violation under Section 41-6a-502 is  
189 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior  
190 violation; or

191 (d) deny the person's application for a license or learner's permit until the person is 21  
192 years of age if:

193 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

194 (ii) the current driving under the influence violation under Section 41-6a-502 is  
195 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior  
196 violation; and

197 (iii) the person has not been issued an operator license.

198 (4) The Driver License Division shall suspend or revoke the license of a person as  
199 ordered by the court under Subsection (10).

200 (5) The Driver License Division shall:

201 (a) deny, suspend, or revoke the operator's license of a person convicted under Section  
202 41-6a-502 of an offense that was committed prior to July 1, 2009, for the denial, suspension, or  
203 revocation periods in effect prior to July 1, 2009; or

204 (b) deny, suspend, or revoke the operator's license of a person for the denial,  
205 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

206 (i) the person was 20 years of age or older but under 21 years of age at the time of  
207 arrest; and

208 (ii) the conviction under Section 41-6a-502 is for an offense that was committed on or  
209 after July 1, 2009, and prior to July 1, 2011.

210 (6) The Driver License Division shall subtract from any suspension or revocation  
211 period the number of days for which a license was previously suspended under Section

212 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
213 which the record of conviction is based.

214 (7) If a conviction recorded as impaired driving is amended to a driving under the  
215 influence conviction under Section 41-6a-502 in accordance with Subsection  
216 41-6a-502.5(3)(a)(ii), the Driver License Division:

217 (a) may not subtract from any suspension or revocation any time for which a license  
218 was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

219 (b) shall start the suspension or revocation time under Subsection (1) on the date of the  
220 amended conviction.

221 (8) A court that reported a conviction of a violation of Section 41-6a-502 for a  
222 violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the  
223 suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to  
224 completion of the suspension period if the person:

225 (a) completes at least six months of the license suspension;

226 (b) completes a screening;

227 (c) completes an assessment, if it is found appropriate by a screening under Subsection  
228 (8)(b);

229 (d) completes substance abuse treatment if it is found appropriate by the assessment  
230 under Subsection (8)(c);

231 (e) completes an educational series if substance abuse treatment is not required by an  
232 assessment under Subsection (8)(c) or the court does not order substance abuse treatment;

233 (f) has not been convicted of a violation of any motor vehicle law in which the person  
234 was involved as the operator of the vehicle during the suspension period imposed under  
235 Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

236 (g) has complied with all the terms of the person's probation or all orders of the court if  
237 not ordered to probation; and

238 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the  
239 person has not unlawfully consumed alcohol during the suspension period imposed under  
240 Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

241 (ii) is under 18 years of age and has the person's parent or legal guardian provide an  
242 affidavit or sworn statement to the court certifying that to the parent or legal guardian's



243 knowledge the person has not unlawfully consumed alcohol during the suspension period  
244 imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

245 (9) If the court shortens a person's license suspension period in accordance with the  
246 requirements of Subsection (8), the court shall forward the order shortening the person's  
247 suspension period prior to the completion of the suspension period imposed under Subsection  
248 (2)(a) or (b) or Subsection (3)(a) or (b) to the Driver License Division.

249 (10) (a) (i) In addition to any other penalties provided in this section, a court may order  
250 the operator's license of a person who is convicted of a violation of Section 41-6a-502 to be  
251 suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two  
252 years to remove from the highways those persons who have shown they are safety hazards.

253 (ii) The additional suspension or revocation period provided in this Subsection (10)  
254 shall begin the date on which the individual would be eligible to reinstate the individual's  
255 driving privilege for a violation of Section 41-6a-502.

256 (b) If the court suspends or revokes the person's license under this Subsection (10), the  
257 court shall prepare and send to the Driver License Division an order to suspend or revoke that  
258 person's driving privileges for a specified period of time.

259 (11) (a) The court shall notify the Driver License Division if a person fails to:

260 (i) complete all court ordered:

261 (A) screening;

262 (B) assessment;

263 (C) educational series;

264 (D) substance abuse treatment; and

265 (E) hours of work in a compensatory-service work program; or

266 (ii) pay all fines and fees, including fees for restitution and treatment costs.

267 (b) Upon receiving the notification described in Subsection (11)(a), the division shall  
268 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

269 (12) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the  
270 Driver License Division may shorten the suspension period imposed under Subsection (1)  
271 before completion of the suspension period if the person is participating in or has successfully  
272 completed a 24-7 sobriety program as defined in Section 67-5-36.

273 (b) If the court shortens a person's license suspension period in accordance with the

274 requirements of this Subsection (12), the court shall forward to the Driver License Division the  
275 order shortening the person's suspension period.

276 (c) The court shall notify the Driver License Division if a person fails to complete all  
277 requirements of a 24-7 sobriety program.

278 (d) Upon receiving the notification described in Subsection (12)(c), the division shall  
279 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

280 Section 3. Section 41-6a-517 is amended to read:

281 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**  
282 **body -- Penalties -- Arrest without warrant.**

283 (1) As used in this section:

284 (a) "Controlled substance" [~~has the same meaning as~~] means the same as that term is  
285 defined in Section 58-37-2.

286 (b) "Practitioner" [~~has the same meaning as~~] means the same as that term is defined in  
287 Section 58-37-2.

288 (c) "Prescribe" [~~has the same meaning as~~] means the same as that term is defined in  
289 Section 58-37-2.

290 (d) "Prescription" [~~has the same meaning as~~] means the same as that term is defined in  
291 Section 58-37-2.

292 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not  
293 operate or be in actual physical control of a motor vehicle within this state if the person has any  
294 measurable controlled substance or metabolite of a controlled substance in the person's body.

295 (3) It is an affirmative defense to prosecution under this section that the controlled  
296 substance was:

297 (a) involuntarily ingested by the accused;

298 (b) prescribed by a practitioner for use by the accused; or

299 (c) otherwise legally ingested.

300 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B  
301 misdemeanor.

302 (b) A person who violates this section is subject to conviction and sentencing under  
303 both this section and any applicable offense under Section 58-37-8.

304 (5) A peace officer may, without a warrant, arrest a person for a violation of this

305 section when the officer has probable cause to believe the violation has occurred, although not  
306 in the officer's presence, and if the officer has probable cause to believe that the violation was  
307 committed by the person.

308 (6) The Driver License Division shall, if the person is 21 years of age or older on the  
309 date of arrest:

310 (a) suspend, for a period of 120 days, the driver license of a person convicted under  
311 Subsection (2) of an offense committed on or after July 1, 2009; or

312 (b) revoke, for a period of two years, the driver license of a person if:

313 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

314 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
315 and within a period of 10 years after the date of the prior violation.

316 (7) The Driver License Division shall, if the person is 19 years of age or older but  
317 under 21 years of age on the date of arrest:

318 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is  
319 longer, the driver license of a person convicted under Subsection (2) of an offense committed  
320 on or after July 1, 2011; or

321 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is  
322 longer, the driver license of a person if:

323 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

324 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
325 and within a period of 10 years after the date of the prior violation.

326 (8) The Driver License Division shall, if the person is under 19 years of age on the date  
327 of arrest:

328 (a) suspend, until the person is 21 years of age, the driver license of a person convicted  
329 under Subsection (2) of an offense committed on or after July 1, 2009; or

330 (b) revoke, until the person is 21 years of age, the driver license of a person if:

331 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

332 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
333 and within a period of 10 years after the date of the prior violation.

334 (9) The Driver License Division shall subtract from any suspension or revocation  
335 period the number of days for which a license was previously suspended under Section

336 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
337 which the record of conviction is based.

338 (10) The Driver License Division shall:

339 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in  
340 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was  
341 committed prior to July 1, 2009; or

342 (b) deny, suspend, or revoke the operator's license of a person for the denial,  
343 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

344 (i) the person was 20 years of age or older but under 21 years of age at the time of  
345 arrest; and

346 (ii) the conviction under Subsection (2) is for an offense that was committed on or after  
347 July 1, 2009, and prior to July 1, 2011.

348 (11) A court that reported a conviction of a violation of this section for a violation that  
349 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension  
350 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period  
351 if the person:

352 (a) completes at least six months of the license suspension;

353 (b) completes a screening;

354 (c) completes an assessment, if it is found appropriate by a screening under Subsection  
355 (11)(b);

356 (d) completes substance abuse treatment if it is found appropriate by the assessment  
357 under Subsection (11)(c);

358 (e) completes an educational series if substance abuse treatment is not required by the  
359 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

360 (f) has not been convicted of a violation of any motor vehicle law in which the person  
361 was involved as the operator of the vehicle during the suspension period imposed under  
362 Subsection (7)(a) or (8)(a);

363 (g) has complied with all the terms of the person's probation or all orders of the court if  
364 not ordered to probation; and

365 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the  
366 person has not consumed a controlled substance not prescribed by a practitioner for use by the

367 person or unlawfully consumed alcohol during the suspension period imposed under  
368 Subsection (7)(a) or (8)(a); or

369 (ii) is under 18 years of age and has the person's parent or legal guardian provide an  
370 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's  
371 knowledge the person has not consumed a controlled substance not prescribed by a practitioner  
372 for use by the person or unlawfully consumed alcohol during the suspension period imposed  
373 under Subsection (7)(a) or (8)(a).

374 (12) If the court shortens a person's license suspension period in accordance with the  
375 requirements of Subsection (11), the court shall forward the order shortening the person's  
376 license suspension period prior to the completion of the suspension period imposed under  
377 Subsection (7)(a) or (8)(a) to the Driver License Division.

378 (13) (a) The court shall notify the Driver License Division if a person fails to:

379 (i) complete all court ordered screening and assessment, educational series, and  
380 substance abuse treatment; or

381 (ii) pay all fines and fees, including fees for restitution and treatment costs.

382 (b) Upon receiving the notification, the division shall suspend the person's driving  
383 privilege in accordance with Subsections [53-3-221](#)(2) and (3).

384 (14) The court:

385 (a) shall order supervised probation in accordance with Section [41-6a-507](#) for a person  
386 convicted under Subsection (2); and

387 (b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety  
388 program as defined in Section [67-5-36](#) if the person is 21 years of age or older.

389 (15) (a) A court that reported a conviction of a violation of this section to the Driver  
390 License Division may shorten the suspension period imposed under Subsection (6) before  
391 completion of the suspension period if the person is participating in or has successfully  
392 completed a 24-7 sobriety program as defined in Section [67-5-36](#).

393 (b) If the court shortens a person's license suspension period in accordance with the  
394 requirements of this Subsection (15), the court shall forward to the Driver License Division the  
395 order shortening the person's suspension period.

396 (c) The court shall notify the Driver License Division if a person fails to complete all  
397 requirements of a 24-7 sobriety program.

398           (d) Upon receiving the notification described in Subsection (15)(c), the division shall  
399 suspend the person's driving privilege in accordance with Subsections [53-3-221](#)(2) and (3).

400           Section 4. Section **53-3-223** is amended to read:

401           **53-3-223. Chemical test for driving under the influence -- Temporary license --**  
402 **Hearing and decision -- Suspension and fee -- Judicial review.**

403           (1) (a) If a peace officer has reasonable grounds to believe that a person may be  
404 violating or has violated Section [41-6a-502](#), prohibiting the operation of a vehicle with a  
405 certain blood or breath alcohol concentration and driving under the influence of any drug,  
406 alcohol, or combination of a drug and alcohol or while having any measurable controlled  
407 substance or metabolite of a controlled substance in the person's body in violation of Section  
408 [41-6a-517](#), the peace officer may, in connection with arresting the person, request that the  
409 person submit to a chemical test or tests to be administered in compliance with the standards  
410 under Section [41-6a-520](#).

411           (b) In this section, a reference to Section [41-6a-502](#) includes any similar local  
412 ordinance adopted in compliance with Subsection [41-6a-510](#)(1).

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

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

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

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

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

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

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

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

435 (a) the person's license certificate;

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

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

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

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

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

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

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

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

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

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

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

455 (iii) the test results, if any.

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

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

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

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

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

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

465 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable  
466 grounds to believe that the person was driving a motor vehicle in violation of Section  
467 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the  
468 notice, or if a hearing is not requested under this section, the division shall:

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

498 (c) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall  
499 reinstate a person's license prior to completion of the 120 day suspension period imposed under  
500 Subsection (7)(a)(i)(A):

501 (A) immediately upon receiving written verification of the person's dismissal of a  
502 charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received  
503 prior to completion of the suspension period; or

504 (B) no sooner than 60 days beginning on the 30th day after the date of arrest upon  
505 receiving written verification of the person's reduction of a charge for a violation of Section  
506 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the  
507 suspension period.

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

512 (A) the written verification is received prior to completion of the suspension period;  
513 and

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

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

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

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

522 shorten a person's two-year license suspension period that is currently in effect to a six-month  
523 suspension period if:

- 524 (i) the driver was under the age of 19 at the time of arrest;
  - 525 (ii) the offense was a first offense that was committed prior to May 14, 2013; and
  - 526 (iii) the suspension under Subsection (7)(b)(iii) was based on the same occurrence
- 527 upon which the following written verifications are based:

528 (A) a court order shortening the driver license suspension for a violation of Section  
529 41-6a-502 pursuant to Subsection 41-6a-509(8);

530 (B) a court order shortening the driver license suspension for a violation of Section  
531 41-6a-517 pursuant to Subsection 41-6a-517(11);

532 (C) a court order shortening the driver license suspension for a violation of Section  
533 32B-4-409;

534 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section  
535 32B-4-409;

536 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section  
537 41-6a-517, or Section 32B-4-409;

538 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section  
539 32B-4-409; or

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

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

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

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

551 (b) A person whose license has been suspended by the division under this section  
552 following an administrative hearing may file a petition within 30 days after the suspension for a

553 hearing on the matter which, if held, is governed by Section [53-3-224](#).

554 (10) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall  
555 reinstate a person's license before completion of the suspension period imposed under  
556 Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the  
557 defendant is participating in or has successfully completed a 24-7 sobriety program as defined  
558 in Section [67-5-36](#).

559 (b) If a person's license is reinstated under Subsection (10)(a), the person is required to  
560 pay the license reinstatement fees under Subsections [53-3-105](#)(23) and (24).

561 Section 5. Section **67-5-36** is enacted to read:

562 **67-5-36. Sobriety program for DUI.**

563 (1) As used in this section:

564 (a) "24-7 sobriety program" means a 24 hours a day, seven days a week sobriety and  
565 drug monitoring program that:

566 (i) requires an individual to abstain from alcohol or drugs for a period of time; and

567 (ii) requires the individual to be subject to testing to determine the presence of alcohol  
568 or drugs:

569 (A) twice a day at a central location where immediate sanctions may be applied;

570 (B) by continuous remote sensing or transdermal alcohol monitoring by means of an  
571 electronic monitoring device that allows timely sanctions to be applied; or

572 (C) by an alternate method that is approved by the National Highway Traffic Safety  
573 Administration.

574 (b) "Office" means the Office of the Attorney General.

575 (c) (i) "Testing" means a procedure for determining the presence and level of alcohol or  
576 a drug in an individual's breath or body fluid, including blood, urine, saliva, or perspiration.

577 (ii) "Testing" includes any combination of the use of:

578 (A) breath testing;

579 (B) drug patch testing;

580 (C) urinalysis testing;

581 (D) saliva testing;

582 (E) continuous remote sensing;

583 (F) transdermal alcohol monitoring; or

584 (G) alternate body fluids approved for testing by the office.

585 (2) (a) The office shall establish and administer a 24-7 sobriety program as a pilot  
586 program.

587 (b) The office shall establish one pilot program with a law enforcement agency that is  
588 able to meet the 24-7 sobriety program qualifications and requirements under this section.

589 (3) (a) The 24-7 sobriety program shall include use of a primary testing methodology  
590 for the presence of alcohol or drugs that:

591 (i) best facilitates the ability to apply immediate sanctions for noncompliance;

592 (ii) is available at an affordable cost; and

593 (iii) provides for positive, behavioral reinforcement for program compliance.

594 (b) Primary testing methods include twice a day, in person breath testing at a central  
595 location and other methodologies approved by the office.

596 (c) In cases of hardship, testing methodologies with timely sanctions for  
597 noncompliance may be used.

598 (d) Hardship testing methodologies under Subsection (3)(c) include:

599 (i) the use of transdermal alcohol monitoring devices;

600 (ii) remote breath test devices; and

601 (iii) other office approved methods for hardship exceptions.

602 (e) The office shall consider the following factors to determine whether a hardship  
603 exception applies under Subsection (3)(c):

604 (i) whether a device is available;

605 (ii) whether the participant is capable of paying the fees and costs associated with  
606 transdermal alcohol monitoring or remote breath testing; and

607 (iii) whether the participant qualifies for a hardship exception from twice-daily breath  
608 testing because of one or more of the following:

609 (A) the participant lives more than a 25-mile radius from a testing site, and submitting  
610 to twice-daily breath tests would be unduly burdensome;

611 (B) the participant's employment requires job performance at a location that is more  
612 than a 25-mile radius from a testing site and submitting to twice-daily breath tests would be  
613 unduly burdensome;

614 (C) the participant's schooling is at a location that is more than a 25-mile radius from a

615 testing site and submitting to twice-daily breath tests would be unduly burdensome; or

616 (D) the participant lives in a county where twice-daily breath testing is not available.

617 (4) (a) The 24-7 sobriety program shall be supported by evidence of effectiveness and  
618 satisfy at least two of the following categories:

619 (i) the program is included in the federal registry of evidence-based programs and  
620 practices;

621 (ii) the program has been reported in a peer-reviewed journal as having positive effects  
622 on the primary targeted outcome; or

623 (iii) the program has been documented as effective by informed experts and other  
624 sources.

625 (b) If a law enforcement agency participates in a 24-7 sobriety program, the office shall  
626 assist in the creation and administration of the program in the manner provided in this section.

627 (c) A 24-7 sobriety program shall have at least one testing location and two daily  
628 testing times approximately 12 hours apart.

629 (d) If a person has a prior conviction as defined in Subsection [41-6a-501\(2\)](#) that is  
630 within 10 years of the current conviction under Section [41-6a-502](#) or the commission of the  
631 offense upon which the current conviction is based, the person shall be required to participate  
632 in a 24-7 sobriety program for at least one year.

633 (5) (a) If a law enforcement agency participates in a 24-7 sobriety program, the law  
634 enforcement agency may designate an entity to provide the testing services or to take any other  
635 action required or authorized to be provided by the law enforcement agency pursuant to this  
636 section, except that the law enforcement agency's designee may not determine whether an  
637 individual is required to participate in the 24-7 sobriety program.

638 (b) Subject to the requirement in Subsection (4)(c), the law enforcement agency shall  
639 establish the testing locations and times for the county.

640 (6) (a) The office shall establish a data management technology plan for data collection  
641 on 24-7 sobriety program participants.

642 (b) All required data related to participants in the 24-7 sobriety program shall be  
643 received into the data management technology plan.

644 (c) The data collected under this Subsection (6):

645 (i) is owned by the state; and

646 (ii) shall be maintained by the office.

647 (d) Testing methodologies approved under this section shall be capable of  
648 electronically transferring data directly into the data management technology system through an  
649 office approved interface.

650 (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
651 the office shall make rules to implement this section.

652 (b) The rules under Subsection (7)(a) shall:

653 (i) provide for the nature and manner of testing and the procedures and apparatus to be  
654 used for testing;

655 (ii) establish reasonable participation and testing fees for the program, including the  
656 collection of fees to pay the cost of installation, monitoring, and deactivation of any testing  
657 device;

658 (iii) require and provide for the approval of a 24-7 sobriety program data management  
659 technology plan that shall be used by the office and participating law enforcement agencies to  
660 manage testing, data access, fees and fee payments, and any required reports;

661 (iv) establish a model sanctioning schedule for program noncompliance; and

662 (v) establish a process for piloting alternate components of the 24-7 sobriety program.