

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: D. Gregg Buxton

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 Department of Public Safety 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 Department of Public Safety 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 This bill appropriates in fiscal year 2017:

- 29 ▶ to the Attorney General -- Administration, as a one-time appropriation:
 - 30 • from the General Fund, (\$100,000); and
- 31 ▶ to the Department of Public Safety -- Department Commissioner's Office, as a
 - 32 one-time appropriation:
 - 33 • from the General Fund, \$100,000.

34 **Other Special Clauses:**

35 This bill provides a special effective date.

36 **Utah Code Sections Affected:**

37 AMENDS:

- 38 41-6a-505, as last amended by Laws of Utah 2016, Chapter 148
- 39 41-6a-509, as last amended by Laws of Utah 2013, Chapter 333
- 40 41-6a-517, as last amended by Laws of Utah 2013, Chapter 333
- 41 53-3-223, as last amended by Laws of Utah 2014, Chapter 7

42 ENACTS:

- 43 41-6a-515.5, Utah Code Annotated 1953



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

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

47 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
48 **drugs, or a combination of both violations.**

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

50 (a) the court shall:

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

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

54 (C) require the person to participate in home confinement of not fewer than 48
55 consecutive hours through the use of electronic monitoring in accordance with Section
56 41-6a-506;

- 57 (ii) order the person to participate in a screening;
- 58 (iii) order the person to participate in an assessment, if it is found appropriate by a
59 screening under Subsection (1)(a)(ii);
- 60 (iv) order the person to participate in an educational series if the court does not order
61 substance abuse treatment as described under Subsection (1)(b);
- 62 (v) impose a fine of not less than \$700;
- 63 (vi) order probation for the person in accordance with Section 41-6a-507, if there is
64 admissible evidence that the person had a blood alcohol level of .16 or higher;
- 65 (vii) (A) order the person to pay the administrative impound fee described in Section
66 41-6a-1406; or
- 67 (B) if the administrative impound fee was 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; or
- 70 (viii) (A) order the person to pay the towing and storage fees described in Section
71 72-9-603; or
- 72 (B) if the towing and storage fees were paid by a party described in Subsection
73 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the
74 party; and
- 75 (b) the court may:
 - 76 (i) order the person to obtain substance abuse treatment if the substance abuse
77 treatment program determines that substance abuse treatment is appropriate; ~~[or]~~
 - 78 (ii) order probation for the person in accordance with Section 41-6a-507[-];
 - 79 (iii) order the person to participate in a 24-7 sobriety program as defined in Section
80 41-6a-515.5 if the person is 21 years of age or older; or
 - 81 (iv) order a combination of Subsections (1)(b)(i) through (iii).
- 82 (2) If a person has a prior conviction as defined in Subsection 41-6a-501(2) that is
83 within 10 years of the current conviction under Section 41-6a-502 or the commission of the
84 offense upon which the current conviction is based:
 - 85 (a) the court shall:
 - 86 (i) (A) impose a jail sentence of not less than 240 consecutive hours;
 - 87 (B) require the person to work in a compensatory-service work program for not less

88 than 240 hours; or

89 (C) require the person to participate in home confinement of not fewer than 240
90 consecutive hours through the use of electronic monitoring in accordance with Section
91 [41-6a-506](#);

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

93 (iii) order the person to participate in an assessment, if it is found appropriate by a
94 screening under Subsection (2)(a)(ii);

95 (iv) order the person to participate in an educational series if the court does not order
96 substance abuse treatment as described under Subsection (2)(b);

97 (v) impose a fine of not less than \$800;

98 (vi) order probation for the person in accordance with Section [41-6a-507](#);

99 (vii) (A) order the person to pay the administrative impound fee described in Section
100 [41-6a-1406](#); or

101 (B) if the administrative impound fee was 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; or

104 (viii) (A) order the person to pay the towing and storage fees described in Section
105 [72-9-603](#); or

106 (B) if the towing and storage fees were paid by a party described in Subsection
107 [41-6a-1406\(5\)\(a\)](#), other than the person sentenced, order the person sentenced to reimburse the
108 party; and

109 (b) the court may:

110 (i) order the person to obtain substance abuse treatment if the substance abuse
111 treatment program determines that substance abuse treatment is appropriate[=];

112 (ii) order the person to participate in a 24-7 sobriety program as defined in Section
113 [41-6a-515.5](#) if the person is 21 years of age or older; or

114 (iii) order a combination of Subsections (2)(b)(i) and (ii).

115 (3) Under Subsection [41-6a-503\(2\)](#), if the court suspends the execution of a prison
116 sentence and places the defendant on probation:

117 (a) the court shall impose:

118 (i) a fine of not less than \$1,500;

- 119 (ii) a jail sentence of not less than 1,500 hours; and
120 (iii) supervised probation; and
121 (b) in lieu of Subsection (3)(a)(ii), the court may require the person to participate in
122 home confinement of not fewer than 1,500 hours through the use of electronic monitoring in
123 accordance with Section 41-6a-506.
- 124 (4) For Subsection (3)(a) or Subsection 41-6a-503(2)(b), the court:
125 (a) shall impose an order requiring the person to obtain a screening and assessment for
126 alcohol and substance abuse, and treatment as appropriate[-]; and
127 (b) may impose an order requiring the person to participate in a 24-7 sobriety program
128 as defined in Section 41-6a-515.5 if the person is 21 years of age or older.
- 129 (5) (a) The requirements of Subsections (1)(a), (2)(a), (3)(a), and (4) may not be
130 suspended.
131 (b) Probation or parole resulting from a conviction for a violation under this section
132 may not be terminated.
- 133 (6) If a person is convicted of a violation of Section 41-6a-502 and there is admissible
134 evidence that the person had a blood alcohol level of .16 or higher, the court shall order the
135 following, or describe on record why the order or orders are not appropriate:
136 (a) treatment as described under Subsection (1)(b), (2)(b), or (4); and
137 (b) one or more of the following:
138 (i) the installation of an ignition interlock system as a condition of probation for the
139 person in accordance with Section 41-6a-518;
140 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
141 device as a condition of probation for the person; or
142 (iii) the imposition of home confinement through the use of electronic monitoring in
143 accordance with Section 41-6a-506.
- 144 Section 2. Section 41-6a-509 is amended to read:
145 **41-6a-509. Driver license suspension or revocation for a driving under the**
146 **influence violation.**
147 (1) The Driver License Division shall, if the person is 21 years of age or older at the
148 time of arrest:
149 (a) suspend for a period of 120 days the operator's license of a person convicted for the

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

181 (3) The Driver License Division shall, if the person is under 19 years of age at the time
182 of arrest:

183 (a) suspend the person's driver license until the person is 21 years of age if the person
184 is convicted for the first time of a driving under the influence violation under Section
185 41-6a-502 of an offense that was committed on or after July 1, 2009;

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

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

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

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

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

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

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

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

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

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

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

205 (5) The Driver License Division shall:

206 (a) deny, suspend, or revoke the operator's license of a person convicted under Section
207 41-6a-502 of an offense that was committed prior to July 1, 2009, for the denial, suspension, or
208 revocation periods in effect prior to July 1, 2009; or

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

211 (i) the person was 20 years of age or older but under 21 years of age at the time of

212 arrest; and

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

215 (6) The Driver License Division shall subtract from any suspension or revocation
216 period the number of days for which a license was previously suspended under Section
217 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
218 which the record of conviction is based.

219 (7) If a conviction recorded as impaired driving is amended to a driving under the
220 influence conviction under Section 41-6a-502 in accordance with Subsection
221 41-6a-502.5(3)(a)(ii), the Driver License Division:

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

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

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

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

231 (b) completes a screening;

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

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

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

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

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

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

246 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
247 affidavit or sworn statement to the court certifying that to the parent or legal guardian's
248 knowledge the person has not unlawfully consumed alcohol during the suspension period
249 imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

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

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

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

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

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

265 (i) complete all court ordered:

266 (A) screening;

267 (B) assessment;

268 (C) educational series;

269 (D) substance abuse treatment; and

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

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

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

274 (12) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the
275 Driver License Division may shorten the suspension period imposed under Subsection (1)
276 before completion of the suspension period if the person is participating in or has successfully
277 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

278 (b) If the court shortens a person's license suspension period in accordance with the
279 requirements of this Subsection (12), the court shall forward to the Driver License Division the
280 order shortening the person's suspension period.

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

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

285 Section 3. Section 41-6a-515.5 is enacted to read:

286 **41-6a-515.5. Sobriety program for DUI.**

287 (1) As used in this section:

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

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

291 (ii) requires an individual to submit to random drug testing; and

292 (iii) requires the individual to be subject to testing to determine the presence of
293 alcohol:

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

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

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

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

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

302 (A) breath testing;

303 (B) drug patch testing;

304 (C) urinalysis testing;

305 (D) saliva testing;
306 (E) continuous remote sensing;
307 (F) transdermal alcohol monitoring; or
308 (G) alternate body fluids approved for testing by the commissioner of the department.
309 (2) (a) The department shall establish and administer a 24-7 sobriety program as a pilot
310 program.
311 (b) The department shall establish one pilot program with a law enforcement agency
312 that is able to meet the 24-7 sobriety program qualifications and requirements under this
313 section.
314 (3) (a) The 24-7 sobriety program shall include use of a primary testing methodology
315 for the presence of alcohol or drugs that:
316 (i) best facilitates the ability to apply immediate sanctions for noncompliance;
317 (ii) is available at an affordable cost; and
318 (iii) provides for positive, behavioral reinforcement for program compliance.
319 (b) Primary testing methods include twice a day, in person breath testing for alcohol at
320 a central location, random drug testing, and other methodologies approved by the
321 commissioner of the department.
322 (c) In cases of hardship, testing methodologies with timely sanctions for
323 noncompliance may be used.
324 (d) Hardship testing methodologies under Subsection (3)(c) include:
325 (i) the use of transdermal alcohol monitoring devices;
326 (ii) remote breath test devices; and
327 (iii) other commissioner approved methods for hardship exceptions.
328 (e) The commissioner shall consider the following factors to determine whether a
329 hardship exception applies under Subsection (3)(c):
330 (i) whether a device is available;
331 (ii) whether the participant is capable of paying the fees and costs associated with
332 transdermal alcohol monitoring or remote breath testing; and
333 (iii) whether the participant qualifies for a hardship exception from twice-daily breath
334 testing because of one or more of the following:
335 (A) the participant lives more than a 25-mile radius from a testing site, and submitting

336 to twice-daily breath tests would be unduly burdensome;

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

340 (C) the participant's schooling is at a location that is more than a 25-mile radius from a
341 testing site and submitting to twice-daily breath tests would be unduly burdensome; or

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

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

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

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

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

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

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

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

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

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

367 (6) (a) The commissioner of the department shall establish a data management
368 technology plan for data collection on 24-7 sobriety program participants.

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

371 (c) The data collected under this Subsection (6) is owned by the state.

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

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

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

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

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

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

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

385 Section 4. Section **41-6a-517** is amended to read:

386 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
387 **body -- Penalties -- Arrest without warrant.**

388 (1) As used in this section:

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

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

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

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

397 (2) In cases not amounting to a violation of Section **41-6a-502**, a person may not

398 operate or be in actual physical control of a motor vehicle within this state if the person has any
399 measurable controlled substance or metabolite of a controlled substance in the person's body.

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

- 402 (a) involuntarily ingested by the accused;
- 403 (b) prescribed by a practitioner for use by the accused; or
- 404 (c) otherwise legally ingested.

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

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

409 (5) A peace officer may, without a warrant, arrest a person for a violation of this
410 section when the officer has probable cause to believe the violation has occurred, although not
411 in the officer's presence, and if the officer has probable cause to believe that the violation was
412 committed by the person.

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

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

- 417 (b) revoke, for a period of two years, the driver license of a person if:
 - 418 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
 - 419 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
420 and within a period of 10 years after the date of the prior violation.

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

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

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

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

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

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

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

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

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

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

439 (9) The Driver License Division shall subtract from any suspension or revocation
440 period the number of days for which a license was previously suspended under Section
441 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
442 which the record of conviction is based.

443 (10) The Driver License Division shall:

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

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

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

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

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

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

458 (b) completes a screening;

459 (c) completes an assessment, if it is found appropriate by a screening under Subsection

460 (11)(b);

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

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

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

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

470 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
471 person has not consumed a controlled substance not prescribed by a practitioner for use by the
472 person or unlawfully consumed alcohol during the suspension period imposed under
473 Subsection (7)(a) or (8)(a); or

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

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

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

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

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

487 (b) Upon receiving the notification, the division shall suspend the person's driving
488 privilege in accordance with Subsections 53-3-221(2) and (3).

489 (14) The court;

490 (a) shall order supervised probation in accordance with Section 41-6a-507 for a person

491 convicted under Subsection (2); and

492 (b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety
493 program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

494 (15) (a) A court that reported a conviction of a violation of this section to the Driver
495 License Division may shorten the suspension period imposed under Subsection (6) before
496 completion of the suspension period if the person is participating in or has successfully
497 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

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

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

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

505 Section 5. Section 53-3-223 is amended to read:

506 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
507 **Hearing and decision -- Suspension and fee -- Judicial review.**

508 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
509 violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a
510 certain blood or breath alcohol concentration and driving under the influence of any drug,
511 alcohol, or combination of a drug and alcohol or while having any measurable controlled
512 substance or metabolite of a controlled substance in the person's body in violation of Section
513 41-6a-517, the peace officer may, in connection with arresting the person, request that the
514 person submit to a chemical test or tests to be administered in compliance with the standards
515 under Section 41-6a-520.

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

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

522 a motor vehicle.

523 (3) If the person submits to a chemical test and the test results indicate a blood or
524 breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer
525 makes a determination, based on reasonable grounds, that the person is otherwise in violation
526 of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of
527 arrest, give notice of the division's intention to suspend the person's license to drive a motor
528 vehicle.

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

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

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

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

- 540 (a) the person's license certificate;
- 541 (b) a copy of the citation issued for the offense;
- 542 (c) a signed report in a manner specified by the division indicating the chemical test
543 results, if any; and
- 544 (d) any other basis for the peace officer's determination that the person has violated
545 Section 41-6a-502 or 41-6a-517.

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

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

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

- 553 (B) a county that is adjacent to the county in which the arrest occurred.
- 554 (ii) The division may hold a hearing in some other county if the division and the person
555 both agree.
- 556 (c) The hearing shall be documented and shall cover the issues of:
- 557 (i) whether a peace officer had reasonable grounds to believe the person was driving a
558 motor vehicle in violation of Section 41-6a-502 or 41-6a-517;
- 559 (ii) whether the person refused to submit to the test; and
- 560 (iii) the test results, if any.
- 561 (d) (i) In connection with a hearing the division or its authorized agent:
- 562 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and
563 the production of relevant books and papers; or
- 564 (B) may issue subpoenas for the attendance of necessary peace officers.
- 565 (ii) The division shall pay witness fees and mileage from the Transportation Fund in
566 accordance with the rates established in Section 78B-1-119.
- 567 (e) The division may designate one or more employees to conduct the hearing.
- 568 (f) Any decision made after a hearing before any designated employee is as valid as if
569 made by the division.
- 570 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
571 grounds to believe that the person was driving a motor vehicle in violation of Section
572 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the
573 notice, or if a hearing is not requested under this section, the division shall:
- 574 (i) if the person is 21 years of age or older at the time of arrest and the arrest was made
575 on or after July 1, 2009, suspend the person's license or permit to operate a motor vehicle for a
576 period of:
- 577 (A) 120 days beginning on the 30th day after the date of arrest for a first suspension; or
- 578 (B) two years beginning on the 30th day after the date of arrest for a second or
579 subsequent suspension for an offense that occurred within the previous 10 years; or
- 580 (ii) if the person is under 21 years of age at the time of arrest and the arrest was made
581 on or after May 14, 2013:
- 582 (A) suspend the person's license or permit to operate a motor vehicle:
- 583 (I) for a period of six months, beginning on the 30th day after the date of arrest for a

584 first suspension; or

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

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

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

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

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

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

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

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

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

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

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

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

609 (B) no sooner than 60 days beginning on the 30th day after the date of arrest upon
610 receiving written verification of the person's reduction of a charge for a violation of Section
611 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the
612 suspension period.

613 (ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A) or (7)(b), the division
614 shall reinstate a person's license prior to completion of the 120-day suspension period imposed

615 under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's
616 conviction of impaired driving under Section 41-6a-502.5 if:

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

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

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

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

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

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

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

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

633 (A) a court order shortening the driver license suspension for a violation of Section
634 41-6a-502 pursuant to Subsection 41-6a-509(8);

635 (B) a court order shortening the driver license suspension for a violation of Section
636 41-6a-517 pursuant to Subsection 41-6a-517(11);

637 (C) a court order shortening the driver license suspension for a violation of Section
638 32B-4-409;

639 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section
640 32B-4-409;

641 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section
642 41-6a-517, or Section 32B-4-409;

643 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section
644 32B-4-409; or

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

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

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

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

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

659 (10) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall
660 reinstate a person's license before completion of the suspension period imposed under
661 Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the
662 defendant is participating in or has successfully completed a 24-7 sobriety program as defined
663 in Section 41-6a-515.5.

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

666 Section 6. **Appropriation.**

667 The following sums of money are appropriated for the fiscal year beginning July 1,
668 2016, and ending June 30, 2017. These are additions to amounts previously appropriated for
669 fiscal year 2017. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
670 Act, the Legislature appropriates the following sums of money from the funds or accounts
671 indicated for the use and support of the government of the state of Utah.

672 ITEM 1

673 To Attorney General

674 From General Fund, One-Time (\$100,000)

675 Schedule of Programs:

676 Administration (\$100,000)

677 ITEM 2

678 To Public Safety

679 From General Fund, One-time \$100,000

680 Schedule of Programs:

681 Department Commissioner's Office \$100,000

682 The Legislature intends that:

683 (1) the Department of Public Safety use appropriations under this section to work with

684 a local law enforcement agency to develop and administer a 24-7 sobriety program as a pilot

685 program; and

686 (2) under Section 63J-1-603, appropriations provided under this section not lapse at the

687 close of fiscal year 2017. The use of any nonlapsing funds is limited to developing and

688 administering a 24-7 sobriety program as a pilot program.

689 **Section 7. Effective date.**

690 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2017.

691 (2) Uncodified Section 6, Appropriation, takes effect on May 9, 2017.