

**DRIVER LICENSE AND IMPLIED CONSENT
MODIFICATIONS**

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: Norman K. Thurston

LONG TITLE

General Description:

This bill amends provisions related to a driver license, implied consent to a chemical test, and driving under the influence.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to procedures involving law enforcement when an individual suspected of driving under the influence refuses to submit to a chemical test;

- ▶ amends provisions related to a temporary driver license and the notice given regarding a temporary driver license and related hearings involving an individual who refuses to submit to a chemical test;

- ▶ extends the time from 30 days to 45 days in which a driver license sanction may be applied; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 29 **41-6a-520**, as last amended by Laws of Utah 2018, Chapter 35
- 30 **41-6a-521**, as last amended by Laws of Utah 2017, Chapter 181
- 31 **53-3-223**, as last amended by Laws of Utah 2018, Chapter 417
- 32 **53-3-231**, as last amended by Laws of Utah 2018, Chapter 417
- 33 **53-3-418**, as last amended by Laws of Utah 2018, Chapter 35



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

36 Section 1. Section **41-6a-520** is amended to read:

37 **41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of**
38 **tests -- Refusal -- Warning, report.**

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

43 (i) having a blood or breath alcohol content statutorily prohibited under Section
44 **41-6a-502, 41-6a-530, or 53-3-231**;

45 (ii) under the influence of alcohol, any drug, or combination of alcohol and any drug
46 under Section **41-6a-502**; or

47 (iii) having any measurable controlled substance or metabolite of a controlled
48 substance in the person's body in violation of Section **41-6a-517**.

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

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

55 (ii) If a peace officer requests more than one test, refusal by a person to take one or

56 more requested tests, even though the person does submit to any other requested test or tests, is
57 a refusal under this section.

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

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

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

70 (i) has been placed under arrest;

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

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

74 (b) (i) Following the warning under Subsection (2)(a), if the person does not
75 immediately request that the chemical test or tests as offered by a peace officer be
76 administered, a peace officer shall, on behalf of the Driver License Division and within 24
77 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's
78 privilege or license to operate a motor vehicle.

79 (ii) When a peace officer gives the notice on behalf of the Driver License Division, the
80 peace officer shall[: ~~(A) take the Utah license certificate or permit, if any, of the operator; (B)~~
81 ~~issue a temporary license certificate effective for only 29 days from the date of arrest; and (C)]
82 supply to the operator, in a manner specified by the Driver License Division, basic information~~

83 regarding how to obtain a hearing before the Driver License Division.

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

86 ~~[(c)]~~ (c) As a matter of procedure, the peace officer shall submit a signed report, within
87 10 calendar days after the day on which notice is provided under Subsection (2)(b), that:

88 (i) the peace officer had grounds to believe the arrested person was in violation of any
89 provision under Subsections (1)(a)(i) through (iii); and

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

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

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

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

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

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

104 (6) Notwithstanding the provisions in this section, a blood test taken under this section
105 is subject to Section [77-23-213](#).

106 Section 2. Section **41-6a-521** is amended to read:

107 **41-6a-521. Revocation hearing for refusal -- Appeal.**

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

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

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

115 (d) If the person does not make a request for a hearing before the Driver License
116 Division under this Subsection (1), the person's privilege to operate a motor vehicle in the state
117 is revoked beginning on the [~~30th~~] 45th day after the date of arrest:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

146 (a) whether a peace officer had reasonable grounds to believe that a person was
147 operating a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 41-6a-530, or
148 53-3-231; and

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

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

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

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

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

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

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

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

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

164 previous:

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

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

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

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

173 or

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

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

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

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

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

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

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

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

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

192 Section 3. Section 53-3-223 is amended to read:

193 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
194 **Hearing and decision -- Suspension and fee -- Judicial review.**

195 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
196 violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a
197 certain blood or breath alcohol concentration and driving under the influence of any drug,
198 alcohol, or combination of a drug and alcohol or while having any measurable controlled
199 substance or metabolite of a controlled substance in the person's body in violation of Section
200 41-6a-517, the peace officer may, in connection with arresting the person, request that the
201 person submit to a chemical test or tests to be administered in compliance with the standards
202 under Section 41-6a-520.

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

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

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

216 (4) [(a)] When a peace officer gives notice on behalf of the division, the peace officer
217 shall[: (i) take the Utah license certificate or permit, if any, of the driver; (ii) issue a temporary

218 license certificate effective for only 29 days from the date of arrest; and (iii)] supply to the
 219 driver, in a manner specified by the division, basic information regarding how to obtain a
 220 prompt hearing before the division.

221 ~~[(b) A citation issued by a peace officer may, if provided in a manner specified by the~~
 222 ~~division, also serve as the temporary license certificate.]~~

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

225 ~~[(a) the person's license certificate;]~~

226 ~~[(b)]~~ (a) a copy of the citation issued for the offense;

227 ~~[(c)]~~ (b) a signed report in a manner specified by the division indicating the chemical
 228 test results, if any; and

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

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

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

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

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

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

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

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

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

245 (iii) the test results, if any.

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

247 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and

248 the production of relevant books and papers; or

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

250 (ii) The division shall pay witness fees and mileage from the Transportation Fund in

251 accordance with the rates established in Section 78B-1-119.

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

253 (f) Any decision made after a hearing before any designated employee is as valid as if

254 made by the division.

255 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable

256 grounds to believe that the person was driving a motor vehicle in violation of Section

257 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the

258 notice, or if a hearing is not requested under this section, the division shall:

259 (i) if the person is 21 years of age or older at the time of arrest and the arrest was made

260 on or after July 1, 2009, suspend the person's license or permit to operate a motor vehicle for a

261 period of:

262 (A) 120 days beginning on the ~~30th~~ 45th day after the date of arrest for a first

263 suspension; or

264 (B) two years beginning on the ~~30th~~ 45th day after the date of arrest for a second or

265 subsequent suspension for an offense that occurred within the previous 10 years; or

266 (ii) if the person is under 21 years of age at the time of arrest and the arrest was made

267 on or after May 14, 2013:

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

269 (I) for a period of six months, beginning on the ~~30th~~ 45th day after the date of arrest

270 for a first suspension; or

271 (II) until the person is 21 years of age or for a period of two years, whichever is longer,

272 beginning on the [~~30th~~] 45th day after the date of arrest for a second or subsequent suspension
273 for an offense that occurred within the previous 10 years; or

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

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

277 (II) until the person is 21 years of age or for a period of two years, whichever is longer,
278 beginning on the [~~30th~~] 45th day after the date of arrest for a second or subsequent suspension
279 for an offense that occurred within the previous 10 years.

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

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

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

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

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

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

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

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

295 (B) no sooner than 60 days beginning on the [~~30th~~] 45th day after the date of arrest
296 upon receiving written verification of the person's reduction of a charge for a violation of
297 Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of
298 the suspension period.

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

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

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

308 (iii) If a person's license is reinstated under this Subsection (7)(c), the person is
309 required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

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

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

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

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

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

319 (A) a court order shortening the driver license suspension for a violation of Section
320 41-6a-502 pursuant to Subsection 41-6a-509(8);

321 (B) a court order shortening the driver license suspension for a violation of Section
322 41-6a-517 pursuant to Subsection 41-6a-517(11);

323 (C) a court order shortening the driver license suspension for a violation of Section
324 32B-4-409;

325 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section

326 32B-4-409;

327 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section
328 41-6a-517, or Section 32B-4-409;

329 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section
330 32B-4-409; or

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

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

335 (c) If a person's license sanction is shortened under this Subsection (8), the person is
336 required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

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

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

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

350 (b) If a person's license is reinstated under Subsection (10)(a), the person is required to
351 pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

352 Section 4. Section 53-3-231 is amended to read:

353 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**
354 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**
355 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**
356 **Referral to local substance abuse authority or program.**

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

358 (i) "Local substance abuse authority" has the same meaning as provided in Section
359 [62A-15-102](#).

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

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

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

368 (b) A person who violates Subsection (2)(a), in addition to any other applicable
369 penalties arising out of the incident, shall have the person's operator license denied or
370 suspended as provided in Subsection [~~(8)~~] [\(7\)](#).

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

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

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

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

384 (4) When a peace officer gives notice on behalf of the division, the peace officer shall[
 385 ~~(a) take the Utah license certificate or permit, if any, of the operator; (b) issue a temporary~~
 386 ~~license certificate effective for only 29 days from the date of arrest if the driver had a valid~~
 387 ~~operator's license; and (c)] supply to the operator, in a manner specified by the division, basic
 388 information regarding how to obtain a prompt hearing before the division.~~

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

391 ~~[(6)]~~ (5) As a matter of procedure, a peace officer shall send to the division within 10
 392 calendar days after the day on which notice is provided:

393 ~~[(a) the person's driver license certificate, if any;]~~

394 ~~[(b)]~~ (a) a copy of the citation issued for the offense;

395 ~~[(c)]~~ (b) a signed report in a manner specified by the Driver License Division
 396 indicating the chemical test results, if any; and

397 ~~[(d)]~~ (c) any other basis for a peace officer's determination that the person has violated
 398 Subsection (2).

399 ~~[(7)]~~ (6) (a) (i) Upon request in a manner specified by the division, the Driver License
 400 Division shall grant to the person an opportunity to be heard within 29 days after the date of
 401 arrest under Section [32B-4-409](#).

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

404 (b) (i) Except as provided in Subsection ~~[(7)]~~ (6)(b)(ii), a hearing, if held, shall be
 405 before the division in:

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

- 407 (B) a county that is adjacent to the county in which the arrest occurred.
- 408 (ii) The division may hold a hearing in some other county if the division and the person
409 both agree.
- 410 (c) The hearing shall be documented and shall cover the issues of:
- 411 (i) whether a peace officer had reasonable grounds to believe the person was operating
412 a motor vehicle or motorboat in violation of Subsection (2)(a);
- 413 (ii) whether the person refused to submit to the test; and
- 414 (iii) the test results, if any.
- 415 (d) In connection with a hearing, the division or its authorized agent may administer
416 oaths and may issue subpoenas for the attendance of witnesses and the production of relevant
417 books and papers and records as defined in Section [46-4-102](#).
- 418 (e) One or more members of the division may conduct the hearing.
- 419 (f) Any decision made after a hearing before any number of the members of the
420 division is as valid as if made after a hearing before the full membership of the division.
- 421 ~~[(8)]~~ (7) If, after a hearing, the division determines that a peace officer had reasonable
422 grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a),
423 if the person fails to appear before the division as required in the notice, or if the person does
424 not request a hearing under this section, the division shall for a person under 21 years of age on
425 the date of arrest:
- 426 (a) deny the person's license until the person complies with Subsection ~~[(12)]~~ (11)(b)(i)
427 but for a period of not less than six months beginning on the ~~[30th]~~ 45th day after the date of
428 arrest for a first offense under Subsection (2)(a) committed on or after May 14, 2013;
- 429 (b) suspend the person's license until the person complies with Subsection ~~[(12)]~~
430 (11)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is
431 longer, beginning on the ~~[30th]~~ 45th day after the date of arrest for a second or subsequent
432 offense under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a
433 prior denial or suspension;

434 (c) deny the person's application for a license or learner's permit until the person
435 complies with Subsection [~~(12)~~] (11)(b)(i) but for a period of not less than six months if:

- 436 (i) the person has not been issued an operator license; and
- 437 (ii) the suspension is for a first offense under Subsection (2)(a) committed on or after
438 July 1, 2009;

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

- 442 (i) the person has not been issued an operator license; and
- 443 (ii) the suspension is for a second or subsequent offense under Subsection (2)(a)
444 committed on or after July 1, 2009, and within 10 years of a prior denial or suspension; or

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

- 446 (i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed
447 prior to July 1, 2009;
- 448 (ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of
449 age or older but under 21 years of age at the time of arrest and the conviction under Subsection
450 (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or
- 451 (iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed
452 prior to May 14, 2013.

453 [~~(9)~~] (8) (a) Notwithstanding the provisions in Subsection [~~(8)~~] (7)(e)(iii), the division
454 shall shorten a person's one-year license suspension or denial period that is currently in effect
455 to a six-month suspension or denial period if:

- 456 (i) the driver was under the age of 19 at the time of arrest;
- 457 (ii) the offense was a first offense that was committed prior to May 14, 2013; and
- 458 (iii) the suspension or denial under Subsection [~~(8)~~] (7)(e)(iii) was based on the same
459 occurrence upon which the following written verifications are based:

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

461 41-6a-502 pursuant to Subsection 41-6a-509(8);
462 (B) a court order shortening the driver license suspension for a violation of Section
463 41-6a-517 pursuant to Subsection 41-6a-517(11);
464 (C) a court order shortening the driver license suspension for a violation of Section
465 32B-4-409;
466 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section
467 32B-4-409;
468 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section
469 41-6a-517, or Section 32B-4-409;
470 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section
471 32B-4-409; or
472 (G) other written documentation acceptable to the division.
473 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
474 division may make rules establishing requirements for acceptable documentation to shorten a
475 person's driver license suspension or denial period under this Subsection [~~(9)~~] (8).
476 (c) If a person's license sanction is shortened under this Subsection [~~(9)~~] (8), the person
477 is required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).
478 [~~(10)~~] (9) (a) (i) Following denial or suspension the division shall assess against a
479 person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section
480 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover
481 administrative costs.
482 (ii) This fee shall be canceled if the person obtains an unappealed division hearing or
483 court decision that the suspension was not proper.
484 (b) A person whose operator license has been denied, suspended, or postponed by the
485 division under this section following an administrative hearing may file a petition within 30
486 days after the suspension for a hearing on the matter which, if held, is governed by Section
487 53-3-224.

488 ~~[(11)]~~ (10) After reinstatement of an operator license for a first offense under this
489 section, a report authorized under Section 53-3-104 may not contain evidence of the denial or
490 suspension of the person's operator license under this section if the person has not been
491 convicted of any other offense for which the denial or suspension may be extended.

492 ~~[(12)]~~ (11) (a) In addition to the penalties in Subsection ~~[(8)]~~ (9), a person who violates
493 Subsection (2)(a) shall:

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

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

498 (b) (i) Reinstatement of the person's operator license or the right to obtain an operator
499 license within five years of the effective date of the license sanction under Subsection ~~[(8)]~~ (7)
500 is contingent upon successful completion of the action recommended by the local substance
501 abuse authority or the substance abuse program.

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

505 (A) a targeted education and prevention program;

506 (B) an early intervention program; or

507 (C) a substance abuse treatment program.

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

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

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

- 515 (i) conducting the assessments;
- 516 (ii) making appropriate recommendations for action; and
- 517 (iii) notifying the division about the person's status regarding completion of the
- 518 recommended action.

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

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

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

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

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

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

532 Section 5. Section **53-3-418** is amended to read:

533 **53-3-418. Prohibited alcohol level for drivers -- Procedures, including hearing.**

534 (1) A person who holds or is required to hold a CDL may not drive a commercial
535 motor vehicle in this state if the person:

536 (a) has sufficient alcohol in the person's body that a subsequent chemical test shows
537 that the person has a blood or breath alcohol concentration of .04 grams or greater at the time
538 of the test after the alleged driving of the commercial motor vehicle;

539 (b) is under the influence of alcohol, any drug, or the combined influence of alcohol
540 and any drug to degree that renders the person incapable of safely driving a commercial motor
541 vehicle; or

542 (c) has a blood or breath alcohol concentration of .04 grams or greater at the time of
543 driving the commercial motor vehicle.

544 (2) A person who holds or is required to hold a CDL and who drives a commercial
545 motor vehicle in this state is considered to have given the person's consent to a test or tests of
546 the person's blood, breath, or urine to determine the concentration of alcohol or the presence of
547 other drugs in the person's physical system.

548 (3) If a peace officer or port-of-entry agent has reasonable cause to believe that a
549 person may be violating this section, the peace officer or port-of-entry agent may request the
550 person to submit to a chemical test to be administered in compliance with Section 41-6a-515.

551 (4) When a peace officer or port-of-entry agent requests a person to submit to a test
552 under this section, the peace officer or port-of-entry agent shall advise the person that test
553 results indicating a violation of Subsection (1) or refusal to submit to any test requested will
554 result in the person's disqualification under Section 53-3-414 from driving a commercial motor
555 vehicle.

556 (5) If test results under this section indicate a violation of Subsection (1) or the person
557 refuses to submit to any test requested under this section, a peace officer or port-of-entry agent
558 shall, on behalf of the division and within 24 hours of the arrest, give the person notice of the
559 division's intention to disqualify the person's privilege to drive a commercial motor vehicle.

560 (6) When a peace officer or port-of-entry agent gives notice under Subsection (5), the
561 peace officer or port-of-entry agent shall:

562 [~~(a) take any Utah license certificate or permit held by the driver;~~]

563 [~~(b) issue to the driver a temporary license certificate effective for 29 days from the~~
564 ~~date of arrest;~~]

565 [~~(c)~~] (a) provide the driver, in a manner specified by the division, basic information
566 regarding how to obtain a prompt hearing before the division; and

567 [~~(d)~~] (b) issue a 24-hour out-of-service order.

568 [~~(7) A notice of disqualification issued under Subsection (6) may serve also as the~~

569 temporary license certificate under Subsection (6), if provided in a manner specified by the
570 division.]

571 [8] (7) As a matter of procedure, a peace officer or port-of-entry agent shall, within
572 10 calendar days after the day on which notice is provided, send to the division [the person's
573 license certificate,] a copy of the notice, and a report signed by the peace officer or
574 port-of-entry agent that indicates the results of any chemical test administered or that the
575 person refused a test.

576 [9] (8) (a) A person disqualified under this section has the right to a hearing regarding
577 the disqualification.

578 (b) The request for the hearing shall be submitted to the division in a manner specified
579 by the division and shall be made within 10 calendar days of the date the notice was issued. If
580 requested, the hearing shall be conducted within 29 days after the date of arrest.

581 [10] (9) (a) (i) Except as provided in Subsection [10] (9)(a)(ii), a hearing held under
582 this section shall be held before the division and in:

583 (A) the county where the notice was issued; or

584 (B) a county that is adjacent to the county where the notice was issued.

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

587 (b) The hearing shall be documented and shall determine:

588 (i) whether the peace officer or port-of-entry agent had reasonable grounds to believe
589 the person had been driving a motor vehicle in violation of this section;

590 (ii) whether the person refused to submit to any requested test; and

591 (iii) any test results obtained.

592 (c) In connection with a hearing the division or its authorized agent may administer
593 oaths and may issue subpoenas for the attendance of witnesses and the production of relevant
594 books and documents.

595 (d) One or more members of the division may conduct the hearing.

596 (e) A decision made after a hearing before any number of members of the division is as
597 valid as if the hearing were held before the full membership of the division.

598 (f) After a hearing under this section the division shall indicate by order if the person's
599 CDL is disqualified.

600 (g) If the person for whom the hearing is held fails to appear before the division as
601 required in the notice, the division shall indicate by order if the person's CDL is disqualified.

602 ~~[(11)]~~ (10) (a) If the division disqualifies a person under this section following an
603 administrative hearing, the person may petition for a hearing under Section 53-3-224.

604 (b) The petition shall be filed within 30 days after the division issues the
605 disqualification.

606 ~~[(12)]~~ (11) (a) A person who violates this section shall be punished in accordance with
607 Section 53-3-414.

608 (b) (i) In accordance with Section 53-3-414, the first disqualification under this section
609 shall be for one year, and a second disqualification shall be for life.

610 (ii) A disqualification under Section 53-3-414 begins on the ~~[30th]~~ 45th day after the
611 date of arrest.

612 ~~[(13)]~~ (12) (a) In addition to the fees imposed under Section 53-3-205 for reinstatement
613 of a CDL, a fee under Section 53-3-105 to cover administrative costs shall be paid before the
614 driving privilege is reinstated.

615 (b) The fees under Sections 53-3-105 and 53-3-205 shall be canceled if an unappealed
616 hearing at the division or court level determines the disqualification was not proper.

617 ~~[(14)]~~ (13) Notwithstanding the provisions of this section, a blood test taken under this
618 section is subject to Section 77-23-213.