

SB0226 compared with SB0226S01

19

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

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

22 **41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of tests -- Refusal**
23 **-- Warning, report.**

24 (1)

(a) ~~[A person-]~~ An individual operating a motor vehicle in this state ~~[is considered to have given the person's consent]~~ consents to a chemical test or tests of the ~~[person's-]~~ individual's breath, blood, urine, or oral fluids ~~[for the purpose of determining-]~~ to determine whether the ~~[person-]~~ individual was operating or in actual physical control of a motor vehicle ~~[while-]~~:

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

31 (ii) under the influence of alcohol, ~~[any]~~ a drug, or combination of alcohol and ~~[any]~~ a drug under
Section 41-6a-502; or

33 (iii) ~~{[having any]{}~~ the individual had a measurable controlled substance or metabolite of a
controlled substance in the ~~[person's-]~~ individual's body in violation of Section 41-6a-517.

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

40 (b) A peace officer having reasonable suspicion to believe that an individual was operating or was in actual physical control of a motor vehicle in violation of an offense described in Subsections (1)(a)(i) through (iii) shall direct that a test be administered as authorized in Subsection (1).

44 (c)

(i) ~~[The-]~~ A peace officer determines which of the tests are administered and how many ~~[of them]~~ tests are administered.

46 ~~[(ii) If a peace officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.]~~

49 (ii) If a peace officer requests more than one test, refusal by an individual to take one or more requested tests, even if the individual submits to another requested test or tests, is a refusal under this section.

52 (d)

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- (i) ~~[A person]~~ An individual who has been requested under this section to submit to a chemical test or tests of the ~~[person's-]~~ individual's breath, blood, or urine, or oral fluids may not select the test or tests to be administered.
- 55 (ii) The failure or inability of a peace officer to arrange for ~~[any]~~ a specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in ~~[any]~~ a criminal, civil, or administrative proceeding resulting from ~~[a person's-]~~ an individual's refusal to submit to the requested test or tests.
- 59 (2)
- (a) A peace officer requesting a test or tests shall warn ~~[a person-]~~ an individual that refusal to submit to the test or tests may result in criminal prosecution, revocation of the ~~[person's-]~~ individual's license to operate a motor vehicle, a ~~[five or 10 year]~~ five-year or 10-year prohibition of driving with ~~[any]~~ a measurable or detectable amount of alcohol in the ~~[person's-]~~ individual's body depending on the ~~[person's prior]~~ individual's driving history, and a three-year prohibition of driving without an ignition interlock device if the ~~[person]~~ individual:
- 66 (i) has been placed under arrest;
- 67 (ii) has then been requested by a peace officer to submit to ~~[any-]~~ one or more of the chemical tests under Subsection (1); and
- 69 (iii) refuses to submit to ~~[any]~~ a chemical test requested.
- 70 (b)
- (i) ~~[Following the warning under Subsection (2)(a), if the person does not immediately request that the chemical test or tests as offered by a peace officer be administered, a]~~ A peace officer shall, on behalf of the Driver License Division and within 24 hours of the arrest, give notice of the Driver License Division's intention to revoke the ~~[person's-]~~ individual's privilege or license to operate a motor vehicle if, following the warning described in Subsection (2)(a), the individual does not immediately request that a chemical test or tests be administered as offered by a peace officer.
- 78 (ii) When a peace officer gives the notice on behalf of the Driver License Division, the peace officer shall supply to the operator, in a manner specified by the Driver License Division, basic information regarding how to obtain a hearing before the Driver License Division.
- 82 (c) ~~{ \$→ {} [{} {}] As a matter of procedure, {f} the {+} A {f{}} {A} }~~ peace officer shall submit a signed report, within 10 calendar days after the day on which notice is provided under Subsection (2)(b), that:}

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- 84 (i) ~~{ ←Ŝ } _{ Ŝ→ {} {a}{} ←Ŝ }~~ the peace officer ~~{ shall submit a signed report, within 10 calendar days~~
~~after the day on which notice is provided under Subsection (2)(b), that:}~~ had grounds to believe the
arrested
- 85 (i) ~~[{the peace officer had grounds to believe the arrested-} person] individual {{{person-} was in~~
~~violation of {}} individual]~~[{was in violation of-} any] a {{{any-} provision under Subsections (1)~~
~~(a)(i) through (iii); and}{}} a }~~~~
- 86 (ii) ~~{-provision under Subsections (1)(a)(i) through (iii); and} the~~
87 (ii) ~~[{the-} person] individual {{{person-} had refused to submit to a chemical test or tests under~~
~~Subsection (1).}{}} individual }~~
- 88 (3) ~~[{had refused to submit to a chemical test or tests under Subsection (1).} Upon the request of the~~
~~person~~
- 89 (3) ~~] If an individual {{{Upon the request of the person-} who was tested]} ~~{If an individual-}~~
~~requests so{who was tested} , the results of the test or tests shall be made available to the { -requests~~
~~so}[{, the results of the test or tests shall be made available to the-} person] individual {{{person-}~~
~~.}{}} individual }~~~~
- 90 (4)
- 91 (a) ~~{-} The~~
- (a) ~~[{The-} person] individual {{{person-} to be tested may, at the {}} individual]~~[{-to be tested may,~~
~~at the-} person's] individual's {{{person's-} own expense, have a physician or a physician assistant~~
~~of the {}} individual's]~~[{own expense, have a physician or a physician assistant of the-} person's~~
~~] individual's {{{person's-} own choice administer a chemical test in addition to the test or tests~~
~~administered at the direction of a peace officer.}{}} individual's }~~~~~~
- 94 (b) ~~{own choice administer-} The failure or inability to obtain the additional test does not affect~~
~~admissibility of the results of the test or tests taken at the direction of a {chemical test in addition to~~
~~} peace officer, or preclude or delay the test or tests {administered-} to be taken at the direction of a~~
~~peace officer.~~
- 95 (b) (c) ~~The failure or inability to obtain the additional test {shall be subsequent to-} does not affect~~
~~admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or~~
~~delay~~ the test or tests ~~{administered-} to be taken at the direction of a peace officer.~~
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- {(e)} (5) [The additional test shall be subsequent to the] For the purpose of determining whether to submit to a chemical test or tests {administered at the direction of a peace officer.}, the person to be tested
- 100 {(5)}] An individual being asked to submit to a chemical test or tests {{{For} does not have the purpose of determining whether to submit to a chemical test} right to consult an attorney or tests} have an attorney, physician, {the person to be tested} or other {} An individual being asked to submit to a chemical test or tests] [does not have the right to consult an attorney or have an attorney, physician, or other- } person] individual {{{person} present {} individual}] [present } as a condition for the taking of any test] for the purpose of determining whether to submit to a chemical test or tests {{{as a condition for the taking of any test}. {} } for the purpose of determining whether to submit to a chemical test or tests }
- 104 (6) Notwithstanding the provisions in this section, a blood test taken under this section is subject to Section 77-23-213.
- 106 (7) If a peace officer investigating a motor vehicle accident resulting in the death of an individual believes there is insufficient probable cause to justify a search warrant authorizing a chemical test described in Subsection (1)(a), the peace officer shall consult with a senior officer regarding the lack of probable cause before declining to seek a search warrant authorizing a chemical test.
- 105 ~~{(6)} Notwithstanding the provisions in this section, a blood test taken under this section is subject to Section 77-23-213.}~~
- 107 ~~{(7)}~~
- ~~{(a) A peace officer investigating a motor vehicle accident resulting in the death of an individual shall seek a search warrant authorizing a chemical test described in Subsection (1)(a) of each driver involved in the accident.}~~
- 110 ~~{(b) The search warrant requirement described in Subsection (7)(a) applies to an accident involving one or more of the following:}~~
- 112 ~~{(i) a vehicle and a pedestrian;}~~
- 113 ~~{(ii) a vehicle and an object; or}~~
- 114 ~~{(iii) multiple vehicles.}~~
- 115 ~~{(c) A peace officer may administer a chemical test described in Subsection (7)(a) if:}~~
- 116 ~~{(i) a court issues a search warrant authorizing the chemical test; or}~~
- 117 ~~{(ii) the individual the peace officer wishes to test gives voluntary consent.}~~

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- 118 ~~{(d) A peace officer shall ensure a chemical test administered under this Subsection (7):}~~
119 ~~{(i) is a blood test; and}~~
120 ~~{(ii) if possible, is administered within 24 hours of an accident described in Subsection (7)(b).}~~
122 ~~{(e) {The implied consent described in Subsection (1) alone does not authorize a chemical test
described in Subsection (7)(a).}}~~

111 Section 2. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

2-23-26 2:03 PM