

SB0226S01 compared with SB0226S02

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **41-6a-520** , as last amended by Laws of Utah 2023, Chapter 415

23

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

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

26 **41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of tests -- Refusal**
27 **-- Warning, report.**

28 (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,
30 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
32 Section 41-6a-502; or

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

35 ~~[(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).]~~

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

40 (c)

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

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- 48 [(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.]
- 51 (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.
- (d)
- (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.
- 54 (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.
- 58 (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]~~ two-year prohibition of driving without an ignition interlock device if the ~~[person]~~ individual:
- 65 (i) has been placed under arrest;
- 66 (ii) has then been requested by a peace officer to submit to ~~[any-]~~ one or more of the chemical tests under Subsection (1); and
- 68 (iii) refuses to submit to ~~[any]~~ a chemical test requested.
- 69 (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.

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- 77 (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.
- 81 (c) ~~As a matter of procedure, 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:~~
- 87 (i) ~~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
- 84 (i) ~~the peace officer had grounds to believe the arrested~~ person individual ~~was in violation of~~ any a provision under Subsections (1)(a)(i) through (iii); and a
- 89 (ii) ~~provision under Subsections (1)(a)(i) through (iii); and~~ the
- 86 (ii) ~~the~~ person individual ~~had refused to submit to a chemical test or tests under Subsection (1).~~ individual
- 91 (3) ~~had refused to submit to a chemical test or tests under Subsection (1).~~ Upon the request of the person
- 88 (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
- 93 (4)
- (a) ~~The~~
- 90 (4)
- (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
- 97 (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~~

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} peace officer, or preclude or delay the test or tests { ~~administered~~ } to be taken at the direction of a peace officer.

94 {~~(b)~~} (c) The failure or inability to obtain the additional test { ~~shall be~~ } 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 to be taken at the direction of a peace officer.

97 {~~(e)~~} [~~{The additional test shall be}~~] subsequent to { ~~the test or tests administered at the direction of a peace officer.~~ }

99 {(5)}] after [~~{For the purpose of determining whether to submit to a chemical}~~] the test or tests { ~~,~~ } administered at the { ~~person to be tested~~ } direction of a peace officer. { } An individual being asked to submit to a chemical test or tests }

102 (5) [~~{does not have}~~] For the { ~~right~~ } purpose of determining whether to { ~~consult an attorney~~ } submit to a chemical test or { ~~have an attorney~~ } tests, { ~~physician, or other~~ } the person to be tested] An individual being asked to submit to a chemical test or tests [~~{person}~~] does not have the right to consult an attorney or have an attorney, physician, or other [] individual [~~{present}~~] person] individual [~~{as a condition for the taking of any test}~~] present [] for the purpose of determining whether to submit to a chemical test or tests [~~{:~~ }] as a condition for the taking of any test

104 {(6)}] for the purpose of determining whether to submit to a chemical test or tests { ~~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. }

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

109 (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 review the facts with a senior officer to confirm that no impairment is suspected and probable cause for a chemical test does not exist.

114 Section 2. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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