Part 5
Driving Under the Influence and Reckless Driving

41-6a-501 Definitions.

(1) As used in this part:

(a) "Actual physical control" is determined by a consideration of the totality of the circumstances, but does not include a circumstance in which:

(i) the person is asleep inside the vehicle;

(ii) the person is not in the driver's seat of the vehicle;

(iii) the engine of the vehicle is not running;

(iv) the vehicle is lawfully parked; and

(v) under the facts presented, it is evident that the person did not drive the vehicle to the location while under the influence of alcohol, a drug, or the combined influence of alcohol and any drug.

(b) "Assessment" means an in-depth clinical interview with a licensed mental health therapist:

(i) used to determine if a person is in need of:

(A) substance abuse treatment that is obtained at a substance abuse program;

(B) an educational series; or

(C) a combination of Subsections (1)(b)(i)(A) and (B); and

(ii) that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

(c) "Driving under the influence court" means a court that is approved as a driving under the influence court by the Judicial Council according to standards established by the Judicial Council.

(d) "Drug" or "drugs" means:

(i) a controlled substance as defined in Section 58-37-2;

(ii) a drug as defined in Section 58-17b-102; or

(iii) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of a person to safely operate a motor vehicle.

(e) "Educational series" means an educational series obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

(f) "Extreme DUI" means an offense of driving under the influence under Section 41-1a-502 where there is admissible evidence that the individual:

(i) had a blood or breath alcohol level of .16 or higher;

(ii) had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance; or

(iii) had a combination of two or more controlled substances in the individual's body that were not:

(A) recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(B) prescribed.

(g) "Negligence" means simple negligence, the failure to exercise that degree of care that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

(h) "Novice learner driver" means an individual who:

(i) has applied for a Utah driver license;

(ii) has not previously held a driver license in this state or another state; and

(iii) has not completed the requirements for issuance of a Utah driver license.

(i) "Screening" means a preliminary appraisal of a person:

(i) used to determine if the person is in need of:

(A) an assessment; or

(B) an educational series; and

(ii) that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

(j) "Serious bodily injury" means bodily injury that creates or causes:

(i) serious permanent disfigurement;

(ii) protracted loss or impairment of the function of any bodily member or organ; or

(iii) a substantial risk of death.

(k) "Substance abuse treatment" means treatment obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

(l) "Substance abuse treatment program" means a state licensed substance abuse program.

(m)

(i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in Section 41-6a-102; and

(ii) "Vehicle" or "motor vehicle" includes:

(A) an off-highway vehicle as defined under Section 41-22-2; and

(B) a motorboat as defined in Section 73-18-2.

(2) As used in Sections 41-6a-502 and 41-6a-520.1:

(a) "Conviction" means any conviction arising from a separate episode of driving for a violation of:

(i) driving under the influence under Section 41-6a-502;

(ii)

(A) for an offense committed before July 1, 2008, alcohol, any drug, or a combination of both-related reckless driving under Sections 41-6a-512 and 41-6a-528; or

(B) for an offense committed on or after July 1, 2008, impaired driving under Section 41-6a-502.5;

(iii) driving with any measurable controlled substance that is taken illegally in the body under Section 41-6a-517;

(iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in compliance with Section 41-6a-510;

(v) Section 76-5-207;

(vi) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;

(viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of conviction is reduced under Section 76-3-402;

(ix) refusal of a chemical test under Subsection 41-6a-520.1(1); or

(x) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of both-related reckless driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815.

(b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i) through (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1,

2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:
(i) enhancement of penalties under this part; and
(ii) expungement under Title 77, Chapter 40a, Expungement of Criminal Records.
(c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent of a conviction even if the charge has been subsequently dismissed in accordance with the Utah Rules of Juvenile Procedure for the purposes of enhancement of penalties under:
(i) this part;
(ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and
(iii) automobile homicide under Section 76-5-207.
(3) As used in Section 41-6a-505, "controlled substance" does not include an inactive metabolite of a controlled substance.

Amended by Chapter 197, 2024 General Session

41-6a-502 Driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration -- Penalities -- Reporting of convictions.
(1) An actor commits driving under the influence if the actor operates or is in actual physical control of a vehicle within this state if the actor:
(a) has sufficient alcohol in the actor's body that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;
(b) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the actor incapable of safely operating a vehicle; or
(c) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation or actual physical control.
(2)
(a) A violation of Subsection (1) is a class B misdemeanor.
(b) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a class A misdemeanor if the actor:
(i) has a passenger younger than 16 years old in the vehicle at the time of the offense;
(ii) is 21 years old or older and has a passenger younger than 18 years old in the vehicle at the time of the offense;
(iii) at the time of the offense, also violated:
(A) Section 41-6a-712 or 41-6a-714; or
(B) Section 41-6a-709, if the violation occurs on a one-way highway, other than a roundabout, that has more than one lane of traffic; or
(iv) has one prior conviction within 10 years of:
(A) the current conviction under Subsection (1); or
(B) the commission of the offense upon which the current conviction is based.
(c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree felony if:
(i) the actor has two or more prior convictions each of which is within 10 years of:
(A) the current conviction; or
(B) the commission of the offense upon which the current conviction is based; or
(ii) the current conviction is at any time after:
(A) a felony conviction; or
(B) any conviction described in Subsection (2)(c)(ii)(A) for which judgment of conviction is reduced under Section 76-3-402.

(3) Alcohol concentration in the blood shall be based upon grams of alcohol per 100 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of alcohol per 210 liters of breath.
(4) A violation of this section includes a violation under a local ordinance similar to this section adopted in compliance with Section 41-6a-510.
(5) A court shall, monthly, send to the Division of Professional Licensing, created in Section 58-1-103, a report containing the name, case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving under the influence, in whole or in part, of a prescribed controlled substance.
(6) An offense described in this section is a strict liability offense.
(7) A guilty or no contest plea to an offense described in this section may not be held in abeyance.
(8) An actor is guilty of a separate offense under Subsection (1) for each passenger in the vehicle that is younger than 16 years old at the time of the offense.

Amended by Chapter 197, 2024 General Session

41-6a-502.5 Impaired driving -- Penalty -- Reporting of convictions -- Sentencing requirements.

(1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of impaired driving under this section if:
  (a) the defendant completes court ordered probation requirements; or
  (b)
    (i) the prosecutor agrees as part of a negotiated plea; and
    (ii) the court finds the plea to be in the interest of justice.
(2) A conviction entered under this section is a class B misdemeanor.
(3)
  (a)
    (i) If the entry of an impaired driving plea is based on successful completion of probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.
    (ii) If the defendant fails to appear before the court and establish successful completion of the court ordered probation requirements under Subsection (1)(a), the court shall enter an amended conviction of Section 41-6a-502.
    (iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of conviction.
  (b) The court may enter a conviction of impaired driving immediately under Subsection (1)(b).
(4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor violation of Section 41-6a-502 as impaired driving under this section is a reduction of one degree.
(5)
  (a) The court shall notify the Driver License Division of each conviction entered under this section.
  (b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of Professional Licensing, created in Section 58-1-103, a report containing the name, case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving while impaired, in whole or in part, by a prescribed controlled substance.
(6)

(a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a sentencing court to order a convicted person to participate in a screening, an assessment, or an educational series, or obtain substance abuse treatment or do a combination of those things, apply to a conviction entered under this section.
(b) The court shall render the same order regarding screening, assessment, an educational series, or substance abuse treatment in connection with a first, second, or subsequent conviction under this section as the court would render in connection with applying respectively, the first, second, or subsequent conviction requirements of Subsections 41-6a-505(1), (3), (5), and (7).

(7)
(a) Except as provided in Subsection (7)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court.
(b) The provisions of Subsection (7)(a) do not apply to a report concerning:
(i) a CDL license holder; or
(ii) a violation that occurred in a commercial motor vehicle.

(8) The provisions of this section are not available:
(a) to a person who has a prior conviction as that term is defined in Subsection 41-6a-501(2); or
(b) to a person charged with extreme DUI.

Amended by Chapter 197, 2024 General Session

41-6a-504 Defense not available for driving under the influence violation.

The fact that a person charged with violating Section 41-6a-502 is or has been legally entitled to use alcohol or a drug is not a defense against any charge of violating Section 41-6a-502.

Enacted by Chapter 2, 2005 General Session

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

(1) As part of any sentence for a first conviction of extreme DUI:
(a) the court shall:
(i)
(A) impose a jail sentence of not less than five days; or
(B) impose a jail sentence of not less than two days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;
(ii) order the individual to participate in a screening;
(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);
(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);
(v) impose a fine of not less than $700;
(vi) order probation for the individual in accordance with Section 41-6a-507;
(vii)
(A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party;

(viii)

(A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, order the installation of an ignition interlock system as described in Section 41-6a-518; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (1)(b)(i) and (ii).

(2)

(a) If an individual described in Subsection (1) is participating in a 24-7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (1)(a).

(b) If an individual described in Subsection (1) fails to successfully complete all of the requirements of the 24-7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (2)(a).

(3) As part of any sentence for any first conviction of Section 41-6a-502 not described in Subsection (1):

(a) the court shall:

(i)

(A) impose a jail sentence of not less than two days; or

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

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (3)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (3)(b);

(v) impose a fine of not less than $700;

(vi)

(A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(vii)

(A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:
(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;
(ii) order probation for the individual in accordance with Section 41-6a-507;
(iii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or
(iv) order a combination of Subsections (3)(b)(i) through (iii).

(4)
(a) If an individual described in Subsection (3) is participating in a 24-7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (3)(a).
(b) If an individual described in Subsection (4)(a) fails to successfully complete all of the requirements of the 24-7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (4)(a).

(5) If an individual has a prior conviction as defined in Section 41-6a-501 that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction amounts to extreme DUI:
(a) the court shall:
(i)
(A) impose a jail sentence of not less than 20 days;
(B) impose a jail sentence of not less than 10 days in addition to home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; or
(C) impose a jail sentence of not less than 10 days in addition to ordering the individual to obtain substance abuse treatment, if the court finds that substance abuse treatment is more likely to reduce recidivism and is in the interests of public safety;
(ii) order the individual to participate in a screening;
(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (5)(a)(ii);
(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (5)(b);
(v) impose a fine of not less than $800;
(vi) order probation for the individual in accordance with Section 41-6a-507;
(vii) order the installation of an ignition interlock system as described in Section 41-6a-518;
(viii)
(A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or
(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or
(ix)
(A) order the individual to pay the towing and storage fees described in Section 72-9-603; or
(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and
(b) the court may:
(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (5)(b)(i) and (ii).

(6)

(a) If an individual described in Subsection (5) is participating in a 24-7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (5)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (6)(a) fails to successfully complete all of the requirements of the 24-7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (6)(a).

(7) If an individual has a prior conviction as defined in Section 41-6a-501 that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and that does not qualify under Subsection (5):

(a) the court shall:

(i)

(A) impose a jail sentence of not less than 10 days; or

(B) impose a jail sentence of not less than 5 days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (7)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (7)(b);

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

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii)

(A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii)

(A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (7)(b)(i) and (ii).

(8)

(a) If an individual described in Subsection (7) is participating in a 24-7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (7)(a) after the individual has served a minimum of:
(i) five days of the jail sentence for a second offense; or
(ii) 10 days of the jail sentence for a third or subsequent offense.
(b) If an individual described in Subsection (8)(a) fails to successfully complete all of the requirements of the 24-7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (8)(a).

(9) Under Subsection 41-6a-502(2)(c), if the court suspends the execution of a prison sentence and places the defendant on probation for a conviction of extreme DUI, the court shall impose:
(a) a fine of not less than $1,500;
(b) a jail sentence of not less than 120 days;
(c) home confinement of not fewer than 120 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and
(d) supervised probation.

(10)
(a) For Subsection (9) or Subsection 41-6a-502(2)(c)(i), the court:
(i) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and
(ii) may impose an order requiring the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.
(b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all of the requirements of the 24-7 sobriety program, the court shall impose the suspended prison sentence described in Subsection (9).

(11) Under Subsection 41-6a-502(2)(c), if the court suspends the execution of a prison sentence and places the defendant on probation with a sentence not described in Subsection (9), the court shall impose:
(a) a fine of not less than $1,500;
(b) a jail sentence of not less than 60 days;
(c) home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and
(d) supervised probation.

(12)
(a)
(i) Except as described in Subsection (12)(a)(ii), a court may not suspend the requirements of this section.
(ii) A court may suspend requirements as described in Subsection (2), (4), (6), or (8).
(b) A court, with stipulation of both parties and approval from the judge, may convert a jail sentence required in this section to electronic home confinement.
(c) A court may order a jail sentence imposed as a condition of misdemeanor probation under this section to be served in multiple two-day increments at weekly intervals if the court determines that separate jail increments are necessary to ensure the defendant can serve the statutorily required jail term and maintain employment.

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

(a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and
(b) one or more of the following:
(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;
(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device or remote alcohol monitor as a condition of probation for the individual; or
(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Amended by Chapter 134, 2024 General Session
Amended by Chapter 197, 2024 General Session

41-6a-506 Electronic monitoring requirements for certain driving under the influence violations.

(1) If the court orders a person to participate in home confinement through the use of electronic monitoring, the electronic monitoring shall alert the appropriate corrections, probation monitoring agency, law enforcement units, or contract provider of the defendant's whereabouts.
(2) The electronic monitoring device shall be used under conditions which require:
(a) the person to wear an electronic monitoring device at all times;
(b) that a device be placed in the home or other specified location of the person, so that the person's compliance with the court's order may be monitored; and
(c) the person to pay the costs of the electronic monitoring.
(3) The court shall order the appropriate entity described in Subsection (5) to place an electronic monitoring device on the person and install electronic monitoring equipment in the residence of the person or other specified location.
(4) The court may:
(a) require the person's electronic home monitoring device to include a substance abuse testing instrument;
(b) restrict the amount of alcohol the person may consume during the time the person is subject to home confinement;
(c) set specific time and location conditions that allow the person to attend school educational classes, or employment and to travel directly between those activities and the person's home; and
(d) waive all or part of the costs associated with home confinement if the person is determined to be indigent by the court.
(5) The electronic monitoring described in this section may either be administered directly by the appropriate corrections agency, probation monitoring agency, or by contract with a private provider.
(6) The electronic monitoring provider shall cover the costs of waivers by the court under Subsection (4)(d).

Enacted by Chapter 2, 2005 General Session

41-6a-507 Supervised probation for certain driving under the influence violations.

(1) If supervised probation is ordered under Section 41-6a-505 or 41-6a-517:
(a) the court shall specify the period of the probation;
(b) the person shall pay all of the costs of the probation; and
(c) the court may order any other conditions of the probation.

(2)
(a) Subject to Subsection (2)(b), the court shall provide the probation described in this section by contract with a probation monitoring agency or a private probation provider.
(b) If a court determines that a person is subject to supervised probation provided by Adult Probation and Parole for an offense other than the offense for which probation is ordered under Section 41-6a-505 or 41-6a-517, the court may order supervised probation to be provided by Adult Probation and Parole.
(3) The probation provider described in Subsection (2) shall monitor the person's compliance with all conditions of the person's sentence, conditions of probation, and court orders received under this part and shall notify the court of any failure to comply with or complete that sentence or those conditions or orders.
(4)
(a) The court may waive all or part of the costs associated with probation if the person is determined to be indigent by the court.
(b) The probation provider described in Subsection (2) shall cover the costs of waivers by the court under Subsection (4)(a).

Amended by Chapter 342, 2021 General Session

41-6a-508 Arrest without a warrant for a driving under the influence violation.

A peace officer may, without a warrant, arrest a person for a violation of Section 41-6a-502 when the peace officer has probable cause to believe the violation has occurred, although not in the peace officer's presence, and if the peace officer has probable cause to believe that the violation was committed by the person.

Enacted by Chapter 2, 2005 General Session

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

(1)
(a) The Driver License Division shall, if the person is 21 years old or older at the time of arrest:
(i) suspend for a period of 120 days the operator's license of a person convicted for the first time under Section 41-6a-502 or 76-5-102.1; or
(ii) revoke for a period of two years the license of a person if:
(A) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
(B) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation.
(b)
(i) If a person elects to become an interlock restricted driver under Subsection 53-3-223(10)(a), the Driver License Division may not suspend the operator's license for a violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to complete 120 days of the interlock restriction.
(ii) If a person elects to become an interlock restricted driver under Subsection 53-3-223(10)(a), and the person fails to complete the full 120 days of interlock restriction, the Driver License Division:
(A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a period of 120 days from the date the ignition interlock system was removed from the vehicle; and

(B) may not reduce the 120-day suspension for any days the person was compliant with the interlock restriction under Subsection 53-3-223(10)(a).

(c)

(i) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7), the Driver License Division may not suspend the operator's license for a violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to complete three years of the interlock restriction under Subsection 41-6a-521(7).

(ii) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7), and the person fails to complete the full three years of interlock restriction, the Driver License Division:

(A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a period of 120 days from the date the ignition interlock system was removed from the vehicle; and

(B) may not reduce the 120-day suspension for any days the person was compliant with the interlock restriction under Subsection 41-6a-521(7).

(2) The Driver License Division shall, if the person is 19 years old or older but under 21 years old at the time of arrest:

(a) suspend the person's driver license until the person is 21 years old or for a period of one year, whichever is longer, if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense that was committed on or after July 1, 2011;

(b) deny the person's application for a license or learner's permit until the person is 21 years old or for a period of one year, whichever is longer, if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense committed on or after July 1, 2011; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years old or for a period of two years, whichever is longer, if:

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

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years old or for a period of two years, whichever is longer, if:

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

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; and

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

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

(a) suspend the person's driver license until the person is 21 years old if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207;

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

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207; and

(ii) has not been issued an operator license;

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

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

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years old if:
(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);
(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; and
(iii) the person has not been issued an operator license.

(4) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (9).

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

(6) If a conviction recorded as impaired driving is amended to a driving under the influence conviction under Section 41-6a-502, 76-5-102.1, or 76-5-207 in accordance with Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:
(a) may not subtract from any suspension or revocation any time for which a license was previously suspended or revoked under Section 53-3-223 or 53-3-231; and
(b) shall start the suspension or revocation time under Subsection (1) on the date of the amended conviction.

(7) A court that reported a conviction of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to completion of the suspension period if the person:
(a) completes at least six months of the license suspension;
(b) completes a screening;
(c) completes an assessment, if it is found appropriate by a screening under Subsection (7)(b);
(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (7)(c);
(e) completes an educational series if substance abuse treatment is not required by an assessment under Subsection (7)(c) or the court does not order substance abuse treatment;
(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b);
(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and
(h)
(i) is 18 years old or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or
(ii) is under 18 years old and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(8) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (7), the court shall forward the order shortening the person's suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(9)

(a)
(i) In addition to any other penalties provided in this section, a court may order the operator's license of a person who is convicted of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 to be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.
(ii) The additional suspension or revocation period provided in this Subsection (9) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207.
(b) If the court suspends or revokes the person's license under this Subsection (9), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.
(10)
(a) The court shall notify the Driver License Division if a person fails to complete all court ordered:
(i) screenings;
(ii) assessments;
(iii) educational series;
(iv) substance abuse treatment; and
(v) hours of work in a compensatory-service work program.
(b) Subject to Subsection 53-3-218(3), upon receiving the notification described in Subsection (10)(a), the division shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).
(11)
(a) A court that reported a conviction of a violation of Section 41-6a-502 to the Driver License Division may shorten the suspension or revocation period imposed under Subsection (1) before completion of the suspension or revocation period if the person:
(i) is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5;
(ii)
(A) is participating in or has successfully completed a problem solving court program approved by the Judicial Council, including a driving under the influence court program or a drug court program; and
(B) has elected to become an interlock restricted driver as a condition of probation during the remainder of the person's suspension or revocation period in accordance with Section 41-6a-518; or
(iii) has had their operator license suspended under Subsection (1)(a)(i), and the court does not have a problem solving court program approved by the Judicial Council or access to a 24-7 sobriety program as defined in Section 41-6a-515.5, if the person:
(A) has installed an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007; and
(B) did not inflict bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner.
(b) If a court shortens a person's license suspension or revocation period in accordance with the requirements of this Subsection (11), the court shall forward the order shortening the person's suspension or revocation period to the Driver License Division in a manner specified by the division.

(c) The court shall notify the Driver License Division, in a manner specified by the Driver License Division, if a person fails to complete or comply with a condition that allowed the court to shorten the person's license suspension or revocation period under Subsection (11)(a).

(d)

(i)

(A) Upon receiving the notification described in Subsection (11)(c), for a first offense, the division shall suspend the person's driving privilege for a period of 120 days from the date of notice.

(B) For a suspension described under Subsection (11)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was previously suspended under this section or Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under Section 41-6a-502 is based.

(ii)

(A) Upon receiving the notification described in Subsection (11)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.

(B) For a license revocation described in Subsection (11)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under Section 41-6a-502 is based.

Amended by Chapter 106, 2024 General Session

41-6a-510 Local DUI and related ordinances and reckless driving and impaired driving ordinances -- Consistent with code.

(1) An ordinance adopted by a local authority that governs the following matters shall be consistent with the provisions in this code which govern the following matters:

(a) a person's operating or being in actual physical control of a motor vehicle while having alcohol in the blood or while under the influence of alcohol or any drug or the combined influence of alcohol and any drug; or

(b) in relation to any of the matters described in Subsection (1)(a), the use of:

(i) a chemical test or chemical tests;

(ii) evidentiary presumptions;

(iii) penalties; or

(iv) any combination of the matters described in Subsection (1).

(2) An ordinance adopted by a local authority that governs reckless driving, impaired driving, or operating a vehicle in willful or wanton disregard for the safety of persons or property shall be consistent with the provisions of this code which govern those matters.

Amended by Chapter 226, 2008 General Session

41-6a-511 Courts to collect and maintain data.

(1) The state courts shall collect and maintain data necessary to allow sentencing and enhancement decisions to be made in accordance with this part.

(2)

(a) Each justice court shall transmit dispositions electronically to the Department of Public Safety in accordance with the requirement for recertification established by the Judicial Council.

(b) Immediately upon filling the requirements under Subsection (2)(a), a justice court shall collect and report the same DUI related data elements collected and maintained by the state courts under Subsection (1).

(3) The department shall maintain an electronic data base for DUI related records and data including the data elements received or collected from the courts under this section.

(4)

(a) The Commission on Criminal and Juvenile Justice shall prepare an annual report of DUI related data including the following:

(i) the data collected by the courts under Subsections (1) and (2); and

(ii) any measures for which data are available to evaluate the profile and impacts of DUI recidivism and to evaluate the DUI related processes of:

(A) law enforcement;

(B) adjudication;

(C) sanctions;

(D) driver license control; and

(E) alcohol education, assessment, and treatment.

(b) The report shall be provided in writing to the Judiciary and Transportation Interim Committees no later than the last day of October following the end of the fiscal year for which the report is prepared.

Amended by Chapter 51, 2011 General Session

41-6a-512 Factual basis for alcohol or drug-related reckless driving plea.

(1)

(a) The prosecution shall state for the record a factual basis for a plea, including whether or not there had been consumption of alcohol, drugs, or a combination of both, by the defendant in connection with the violation when the prosecution agrees to a plea of guilty or no contest to a charge of a violation of the following in satisfaction of, or as a substitute for, an original charge of a violation of Section 41-6a-502 for an offense committed before July 1, 2008:

(i) reckless driving under Section 41-6a-528; or

(ii) an ordinance enacted under Section 41-6a-510.

(b) The statement under Subsection (1)(a) is an offer of proof of the facts that shows whether there was consumption of alcohol, drugs, or a combination of both, by the defendant, in connection with the violation.

(2) The court shall advise the defendant before accepting the plea offered under this section of the consequences of a violation of Section 41-6a-528.

(3) The court shall notify the Driver License Division of each conviction of Section 41-6a-528 entered under this section.

(4)

(a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a sentencing court to order a convicted person to participate in a screening, an assessment, or an educational series or obtain substance abuse treatment or do a combination of those things, apply to a conviction for a violation of Section 41-6a-528 under Subsection (1).

(b) The court shall render the same order regarding screening, assessment, an educational series, or substance abuse treatment in connection with a first, second, or subsequent conviction under Section 41-6a-528 under Subsection (1), as the court would render in connection with applying respectively, the first, second, or subsequent conviction requirements of Subsections 41-6a-505(1), (3), (5), and (7).

Amended by Chapter 79, 2021 General Session

41-6a-513 Acceptance of plea of guilty to DUI -- Restrictions -- Verification of prior violations -- Prosecutor to examine defendant's record.

(1) An entry of a plea of guilty or no contest to a criminal charge under Section 41-6a-502 is invalid unless the prosecutor agrees to the plea:
  (a) in open court;
  (b) in writing; or
  (c) by another means of communication which the court finds adequate to record the prosecutor's agreement.

(2)
  (a) Prior to agreeing to a plea of guilty or no contest under Subsection (1), the prosecutor shall examine the criminal history or driver license record of the defendant to determine if the defendant's record contains a conviction, arrest, or charge for:
    (i) more than one prior violation within the previous 10 years of any offense that, if the defendant were convicted, would qualify as a conviction as defined in Subsection 41-6a-501(2);
    (ii) a felony violation of:
      (A) Section 41-6a-502; or
      (B) Section 76-5-102.1; or
    (iii) a violation of Section 76-5-207.
  (b) If the defendant's record contains a conviction or unresolved arrest or charge for an offense listed in Subsection (2)(a), a plea may only be accepted if:
    (i) approved by:
      (A) a district attorney;
      (B) a deputy district attorney;
      (C) a county attorney;
      (D) a deputy county attorney;
      (E) the attorney general; or
      (F) an assistant attorney general; and
    (ii) the attorney giving approval under Subsection (2)(b)(i) has felony jurisdiction over the case.

Amended by Chapter 116, 2022 General Session

41-6a-514 Procedures -- Adjudicative proceedings.

The department shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

41-6a-515 Standards for chemical breath or oral fluids analysis -- Evidence.

(1) The commissioner of the department shall establish standards for the administration and interpretation of chemical analysis of a person's breath or oral fluids, including standards of training.
(2) In any action or proceeding in which it is material to prove that a person was operating or in actual physical control of a vehicle while under the influence of alcohol or any drug or operating with a blood or breath alcohol content statutorily prohibited, documents offered as memoranda

or records of acts, conditions, or events to prove that the analysis was made and the instrument used was accurate, according to standards established in Subsection (1), are admissible if:

(a) the judge finds that they were made in the regular course of the investigation at or about the time of the act, condition, or event; and

(b) the source of information from which made and the method and circumstances of their preparation indicate their trustworthiness.

(3) If the judge finds that the standards established under Subsection (1) and the conditions of Subsection (2) have been met, there is a presumption that the test results are valid and further foundation for introduction of the evidence is unnecessary.

Renumbered and Amended by Chapter 2, 2005 General Session

41-6a-515.5 Sobriety program for DUI.

(1) As used in this section:

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

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

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

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

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

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

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

(b)

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

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

(A) remote and in-person breath testing;

(B) drug patch testing;

(C) urinalysis testing;

(D) saliva testing;

(E) continuous remote sensing;

(F) transdermal alcohol monitoring; or

(G) alternate body fluids approved for testing by the commissioner of the department.

(2) The department may establish a 24-7 sobriety program with a law enforcement agency that is able to meet the 24-7 sobriety program qualifications and requirements under this section.

(3)

(a) The 24-7 sobriety program shall include use of multiple testing methodologies for the presence of alcohol or drugs that:

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

(ii) is available at an affordable cost; and

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

(b) The commissioner shall consider the following factors to determine which testing methodologies are best suited for each participant:

(i) whether a device is available;

(ii) whether the participant is capable of paying the fees and costs associated with each testing methodology;

(iii) travel requirements based on each testing methodology and the participant's circumstances;
(iv) the substance or substances for which testing will be required; and
(v) other factors the commissioner considers relevant.

(4)
(a) The 24-7 sobriety program shall be supported by evidence of effectiveness and satisfy at least two of the following categories:
(i) the program is included in the federal registry of evidence-based programs and practices;
(ii) the program has been reported in a peer-reviewed journal as having positive effects on the primary targeted outcome; or
(iii) the program has been documented as effective by informed experts and other sources.
(b) If a law enforcement agency participates in a 24-7 sobriety program, the department shall assist in the creation and administration of the program in the manner provided in this section.
(c) A 24-7 sobriety program shall have at least one testing location and two daily testing times approximately 12 hours apart.
(d) An individual who is ordered by a judge to participate in the 24-7 sobriety program for a first conviction as defined in Subsection 41-6a-501(2) shall be required to participate in a 24-7 sobriety program for at least 30 days.
(e) If an individual who is ordered by a judge to participate in the 24-7 sobriety program has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based, the individual shall be required to participate in a 24-7 sobriety program for at least one year.

(5)
(a) If a law enforcement agency participates in a 24-7 sobriety program, the law enforcement agency may designate an entity to provide the testing services or to take any other action required or authorized to be provided by the law enforcement agency pursuant to this section, except that the law enforcement agency's designee may not determine whether an individual is required to participate in the 24-7 sobriety program.
(b) Subject to the requirement in Subsection (4)(c), the law enforcement agency shall establish the testing locations and times for the county.

(6)
(a) The commissioner of the department shall establish a data management technology plan for data collection on 24-7 sobriety program participants.
(b) All required data related to participants in the 24-7 sobriety program shall be received into the data management technology plan.
(c) The data collected under this Subsection (6) is owned by the state.

(7)
(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to implement this section.
(b) The rules under Subsection (7)(a) shall:
(i) provide for the nature and manner of testing and the procedures and apparatus to be used for testing;
(ii) establish reasonable participation and testing fees for the program, including the collection of fees to pay the cost of installation, monitoring, and deactivation of any testing device;
(iii) establish a process for determining indigency and waiving of a portion of the participation and testing fees for indigent individuals in accordance with Subsection (8);

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

(v) establish a model sanctioning schedule for program noncompliance.

(8)

(a) The department may waive the department's portion of the participation and testing fees, entirely or in part, for individuals who meet the requirements for indigency provided in Section 78B-22-202.

(b) The department may not waive the portion of the participation and testing fees that are retained by a participating law enforcement agency or testing program site.

(c) The department may periodically adjust participation and testing fees to offset lost program revenue resulting from any fee waivers.

(d) If an individual for whom the department waived fees under this Subsection (8) fails to successfully complete all of the requirements of the 24-7 sobriety program, a court may order the individual to pay the department for any waived fees.

Amended by Chapter 197, 2024 General Session

41-6a-515.6 Field sobriety test training.

Each law enforcement agency shall ensure that each peace officer receives training on the current standard field sobriety testing guidelines established by the National Highway Traffic Safety Administration and in accordance with Section 53-25-102.

Amended by Chapter 106, 2024 General Session

41-6a-516 Admissibility of chemical test results in actions for driving under the influence -- Weight of evidence.

(1)

(a) In any civil or criminal action or proceeding in which it is material to prove that a person was operating or in actual physical control of a vehicle while under the influence of alcohol or drugs or with a blood or breath alcohol content statutorily prohibited, the results of a chemical test or tests as authorized in Section 41-6a-520 are admissible as evidence.

(b)

(i) In a criminal proceeding, noncompliance with Section 41-6a-520 does not render the results of a chemical test inadmissible.

(ii) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by Rules of Evidence or the constitution.

(2) This section does not prevent a court from receiving otherwise admissible evidence as to a defendant's blood or breath alcohol level or drug level at the time relevant to the alleged offense.

Renumbered and Amended by Chapter 2, 2005 General Session

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

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Practitioner" means the same as that term is defined in Section 58-37-2.
(c) "Prescribe" means the same as that term is defined in Section 58-37-2.
(d) "Prescription" means the same as that term is defined in Section 58-37-2.
(2)
(a) Except as provided in Subsection (2)(b), in cases not amounting to a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.
(b) Subsection (2)(a) does not apply to a person that has 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's body.
(3) It is an affirmative defense to prosecution under this section that the controlled substance was:
(a) involuntarily ingested by the accused;
(b) prescribed by a practitioner for use by the accused;
(c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or
(d) otherwise legally ingested.
(4)
(a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.
(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.
(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.
(6) The Driver License Division shall, if the person is 21 years old or older on the date of arrest:
(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or
(b) revoke, for a period of two years, the driver license of a person if:
(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.
(7) The Driver License Division shall, if the person is 19 years old or older but under 21 years old on the date of arrest:
(a) suspend, until the person is 21 years old or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or
(b) revoke, until the person is 21 years old or for a period of two years, whichever is longer, the driver license of a person if:
(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.
(8) The Driver License Division shall, if the person is under 19 years old on the date of arrest:
(a) suspend, until the person is 21 years old, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or
(b) revoke, until the person is 21 years old, the driver license of a person if:
(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

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

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

(10) The Driver License Division shall:

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

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

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

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

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

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

(b) completes a screening;

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

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

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

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

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

(h)

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

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

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

(13)

(a) The court shall notify the Driver License Division if a person fails to complete all court ordered screening and assessment, educational series, and substance abuse treatment.

(b) Subject to Subsection 53-3-218(3), upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).

(14) The court:

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

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

(15)

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

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

(c) The court shall notify the Driver License Division, in a manner specified by the division, if a person fails to complete all requirements of a 24-7 sobriety program.

(d)

(i)

(A) Upon receiving the notification described in Subsection (15)(c), for a first offense, the division shall suspend the person's driving privilege for a period of 120 days from the date of notice.

(B) For a suspension described in Subsection (15)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was suspended under this section or under Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under this section is based.

(ii)

(A) Upon receiving the notification described in Subsection (15)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.

(B) For a revocation described in Subsection (15)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or under Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under this section is based.

Amended by Chapter 328, 2023 General Session

41-6a-518 Ignition interlock devices -- Use and monitoring -- Probationer to pay cost -- Indigency -- Fee.

(1) As used in this section:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "Employer verification" means written verification from the employer that:

(i) the employer is aware that the employee is an interlock restricted driver;

(ii) the vehicle the employee is operating for employment purposes is not made available to the employee for personal use;

(iii) the business entity that employs the employee is not entirely or partly owned or controlled by the employee;

(iv) the employer's auto insurance company is aware that the employee is an interlock restricted driver; and

(v) the employee has been added to the employer's auto insurance policy as an operator of the vehicle.

(c) "Ignition interlock system" or "system" means a constant monitoring device or any similar device certified by the commissioner that prevents a motor vehicle from being started or continuously operated without first determining the driver's breath alcohol concentration.

(d) "Probation provider" means the supervisor and monitor of the ignition interlock system required as a condition of probation who contracts with the court in accordance with Subsections 41-6a-507(2) and (3).

(2)

(a) In addition to any other penalties imposed under Sections 41-6a-502 and 41-6a-505, and in addition to any requirements imposed as a condition of probation, unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, the court shall require that any person who is convicted of violating Section 41-6a-502 and who is granted probation may not operate a motor vehicle during the period of probation unless that motor vehicle is equipped with a functioning, certified ignition interlock system installed and calibrated so that the motor vehicle will not start or continuously operate if the operator's blood alcohol concentration exceeds .02 grams or greater.

(b) If a person convicted of violating Section 41-6a-502 was younger than 21 years old when the violation occurred, the court shall order the installation of the ignition interlock system as a condition of probation.

(c)

(i) If a person is convicted of a violation of Section 41-6a-502 within 10 years of a prior conviction as defined in Section 41-6a-501, the court shall order the installation of the interlock ignition system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person.

(ii) A person who operates a motor vehicle without an ignition interlock device as required under this Subsection (2)(c) is in violation of Section 41-6a-518.2.

(d) The division shall post the ignition interlock restriction on the electronic record available to law enforcement.

(e) This section does not apply to a person convicted of a violation of Section 41-6a-502 whose violation does not involve alcohol.

(3)

(a) If the court imposes the use of an ignition interlock system as a condition of probation, the court shall:

(i) stipulate on the record the requirement for and the period of the use of an ignition interlock system;

(ii) order that an ignition interlock system be installed on each motor vehicle owned or operated by the probationer, at the probationer's expense;

(iii) immediately notify the Driver License Division and the person's probation provider of the order;

(iv) require the probationer to provide proof of compliance with the court's order to the probation provider within 30 days of the order; and

(v) order the probationer to have the ignition interlock system installed and regularly monitored by an ignition interlock system provider licensed under Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.

(b) A court may not order a probationer to use a specific ignition interlock system provider.

(4)

(a) The probationer shall provide timely proof of installation within 30 days of an order imposing the use of a system or show cause why the order was not complied with to the court or to the probationer's probation provider.

(b) The probation provider shall notify the court of failure to comply under Subsection (4)(a).

(c) For failure to comply under Subsection (4)(a) or upon receiving the notification under Subsection (4)(b), the court shall order the Driver License Division to suspend the probationer's driving privileges for the remaining period during which the compliance was imposed.

(d) Cause for failure to comply means any reason the court finds sufficiently justifiable to excuse the probationer's failure to comply with the court's order.

(5)

(a) Any probationer required to install an ignition interlock system shall, every 60 days or more frequently as the court may order, have the system monitored by the manufacturer or dealer of the system or the manufacturer's or dealer's authorized agent:

(i) to determine the ignition interlock system's proper use and accuracy; and

(ii) to collect information on all attempts to start the motor vehicle with a measurable breath alcohol concentration that were prevented by the ignition interlock system, including the date and time of each attempt.

(b)

(i) A report of the monitoring described in Subsection (5)(a) shall be issued by the manufacturer or dealer or the manufacturer's or dealer's authorized agent to the court or the person's probation provider.

(ii) The report shall be issued within 14 days following each monitoring.

(6)

(a) If an ignition interlock system is ordered installed, the probationer shall pay the reasonable costs of leasing or buying and installing, maintaining, and monitoring the system.

(b) A probationer may not be excluded from this section for inability to pay the costs, unless:

(i) the probationer files an affidavit of indigency in accordance with Section 78A-2-302; and

(ii) the court enters a finding that the probationer is indigent.

(c) In lieu of waiver of the entire amount of the cost, the court may direct the probationer to make partial or installment payments of costs when appropriate.

(d) The ignition interlock provider shall cover the costs of waivers by the court under this Subsection (6).

(7)

(a) If a probationer is required in the course and scope of employment to operate a motor vehicle owned by the probationer's employer, the probationer may operate that motor vehicle without installation of an ignition interlock system only if:

(i) the motor vehicle is used in the course and scope of employment;

(ii) the employer has been notified that the employee is restricted; and

(iii) the employee has employer verification in the employee's possession while operating the employer's motor vehicle.

(b)

(i) To the extent that an employer-owned motor vehicle is made available to a probationer subject to this section for personal use, no exemption under this section shall apply.

(ii) A probationer intending to operate an employer-owned motor vehicle for personal use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock

system shall notify the employer and obtain consent in writing from the employer to install a system in the employer-owned motor vehicle.

(c) A motor vehicle owned by a business entity that is all or partly owned or controlled by a probationer subject to this section is not a motor vehicle owned by the employer and does not qualify for an exemption under this Subsection (7).

(8)

(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules setting standards for the certification of ignition interlock systems.

(b) The standards under Subsection (8)(a) shall require that the system:

(i) not impede the safe operation of the motor vehicle;

(ii) have features that make circumventing difficult and that do not interfere with the normal use of the motor vehicle;

(iii) require a deep lung breath sample as a measure of breath alcohol concentration;

(iv) prevent the motor vehicle from being started if the driver's breath alcohol concentration exceeds .02 grams or greater;

(v) work accurately and reliably in an unsupervised environment;

(vi) resist tampering and give evidence if tampering is attempted;

(vii) operate reliably over the range of motor vehicle environments;

(viii) collect information on all attempts to start a motor vehicle that were prevented by an ignition interlock system, including the date and time of each attempt; and

(ix) be manufactured by a party who will provide liability insurance.

(c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or independent laboratory tests relied upon in certification of ignition interlock systems by other states.

(d) A list of certified systems shall be published by the commissioner and the cost of certification shall be borne by the manufacturers or dealers of ignition interlock systems seeking to sell, offer for sale, or lease the systems.

(e)

(i) In accordance with Section 63J-1-504, the commissioner may establish an annual dollar assessment against the manufacturers of ignition interlock systems distributed in the state for the costs incurred in certifying.

(ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the manufacturers on a fair and reasonable basis.

(f) The commissioner shall require a provider of an ignition interlock system certified in accordance with this section to comply with the requirements of Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.

(9) A violation of this section is a class C misdemeanor.

(10) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state or its employees in connection with the installation, use, operation, maintenance, or supervision of an interlock ignition system as required under this section.

Amended by Chapter 384, 2023 General Session
Amended by Chapter 415, 2023 General Session

41-6a-518.1 Tampering with an ignition interlock system.

(1) As used in this section:

(a) "ignition interlock system" has the same meaning as defined in Section 41-6a-518; and

(b) "interlock restricted driver" has the same meaning as defined in Section 41-6a-518.2.
(2)
(a) A person may not:
(i) circumvent or tamper with the operation of an ignition interlock system;
(ii) knowingly furnish an interlock restricted driver a motor vehicle without an ignition interlock system unless authorized under Subsection 41-6a-518(7);
(iii) blow into an ignition interlock system or start a motor vehicle equipped with an ignition interlock system for the purpose of allowing an interlock restricted driver to operate a motor vehicle; or
(iv) advertise for sale, offer for sale, sell, or lease an ignition interlock system unless the system has been certified by the commissioner as required under Subsection 41-6a-518(8).
(b) An interlock restricted driver may not:
(i) rent, lease, or borrow a motor vehicle without an ignition interlock system; or
(ii) request another person to blow into an ignition interlock system in order to allow the interlock restricted driver to operate the motor vehicle.
(c) A violation of any provision under this Subsection (2) is a class B misdemeanor.
(3) It is an affirmative defense to a charge of a violation of this section if:
(a) the starting of a motor vehicle, or the request to start a motor vehicle, that is equipped with an ignition interlock system is done for the purpose of safety or mechanical repair of the system or the motor vehicle; and
(b) the interlock restricted driver does not operate the motor vehicle.

Enacted by Chapter 341, 2006 General Session

41-6a-518.2 Interlock restricted driver -- Penalties for operation without ignition interlock system -- Exemptions.

(1) As used in this section:
(a) "Ignition interlock system" means a constant monitoring device or any similar device that:
(i) is in working order at the time of operation or actual physical control; and
(ii) is certified by the Commissioner of Public Safety in accordance with Subsection 41-6a-518(8).
(b)
(i) "Interlock restricted driver" means a person who has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system.
(ii) "Interlock restricted driver" includes, for the time periods described in Subsection (2), a person who:
(A) has been convicted of a violation under Section 41-6a-502, Subsection 41-6a-520.1(1), or Section 76-5-102.1;
(B) has been convicted of an offense which would be a conviction as defined under Section 41-6a-501, and that offense is committed within 10 years from the date that one or more prior offenses was committed if the prior offense resulted in a conviction as defined in Section 41-6a-501;
(C) has been convicted of a violation of this section;
(D) has been convicted of a violation of Section 41-6a-502, Subsection 41-6a-520.1(1), or Section 76-5-102.1 and was under 21 years old at the time the offense was committed;
(E) has been convicted of a felony violation of Section 41-6a-502, Subsection 41-6a-520.1(1), or Section 76-5-102.1;

(F) has been convicted of a violation of Section 76-5-207; or
(G) has had the person's driving privilege revoked through an administrative action for refusal to submit to a chemical test under Section 41-6a-520.
(iii) "Interlock restricted driver" does not include a person:
(A) whose current conviction described in Subsection (1)(b)(ii)(B) is a conviction under Section 41-6a-502 that does not involve alcohol or a conviction under Section 41-6a-517 and whose prior convictions described in Subsection (1)(b)(ii)(B) are all convictions under Section 41-6a-502 that did not involve alcohol or convictions under Section 41-6a-517;
(B) whose conviction described in Subsection (1)(b)(ii)(A) or (E) is a conviction under Section 41-6a-502 that does not involve alcohol and the convicting court notifies the Driver License Division at the time of sentencing that the conviction does not involve alcohol; or
(C) whose conviction described in Subsection (1)(b)(ii)(A), (B), or (D) is a conviction under Section 41-6a-502 that does not involve alcohol and the ignition interlock restriction is removed as described in Subsection (8).

(2)
(a) The ignition interlock restriction period for an ignition interlock restricted driver under Subsection (1)(b)(ii) begins on:
(i) for a violation described in Subsections (1)(b)(ii)(A) through (F), the date of conviction; or
(ii) for a person described in Subsection (1)(b)(ii)(G), the effective date of the revocation.
(b) The ignition interlock restriction period for an ignition interlock restricted driver under Subsection (1)(b)(ii) ends:
(i) for a violation described in Subsection (1)(b)(ii)(A), 18 months from the day the ignition interlock restricted driver:
(A) provides proof of installation of the ignition interlock system; and
(B) reinstates their driving privilege;
(ii) for a violation described in Subsections (1)(b)(ii)(B) through (D) and Subsection (1)(b)(ii)(G), two years from the date the ignition interlock restricted driver:
(A) provides proof of installation of the ignition interlock system; and
(B) reinstates their driving privilege;
(iii) for a violation described in Subsection (1)(b)(ii)(E), three years from the date the ignition interlock restricted driver:
(A) provides proof of installation of the ignition interlock system; and
(B) reinstates their driving privilege; and
(iv) for a violation described in Subsection (1)(b)(ii)(F), four years from the date the ignition interlock restricted driver:
(A) provides proof of installation of the ignition interlock system; and
(B) reinstates their driving privilege.
(c) If an ignition interlock system is removed from the vehicle before the restriction period under Subsection (2)(b) has ended, the ignition interlock restriction period is extended by the number of days the ignition interlock system was removed from the person's vehicle.
(d) An ignition interlock restricted driver may petition the Driver License Division for removal of the ignition interlock restriction related to a first offense under Section 41-6a-502, and the Driver License Division may grant the petition, if:
(i) the ignition interlock restricted driver was 21 years old or older at the time of the offense;
(ii) the individual does not have a prior conviction, as defined in Section 41-6a-501, that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based;

(iii) at least two years have elapsed since the date of the conviction under Section 41-6a-502; and

(iv) during the time frame from the date of conviction under Section 41-6a-502 to the date the person petitions the Driver License Division for removal of the ignition interlock restriction:

(A) the ignition interlock restricted driver certifies to the division that the ignition interlock restricted driver has not operated a motor vehicle;

(B) there is no evidence of a traffic or driving related violation on the ignition interlock restricted driver's driving record; and

(C) there is no evidence of a motor vehicle crash involving the interlock restricted driver where the interlock restricted driver was operating a motor vehicle.

(3) The division shall post the ignition interlock restriction on a person's electronic record that is available to law enforcement.

(4) For purposes of this section, a plea of guilty or no contest to a violation of Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(5) An interlock restricted driver who operates or is in actual physical control of a vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

(6) It is an affirmative defense to a charge of a violation of Subsection (5) if:

(a) the interlock restricted driver operated or was in actual physical control of a vehicle owned by the interlock restricted driver's employer;

(b) the interlock restricted driver had given written notice to the employer of the interlock restricted driver's interlock restricted status prior to the operation or actual physical control under Subsection (6)(a);

(c) the interlock restricted driver had on the interlock restricted driver's person, or in the vehicle, at the time of operation or physical control employer verification, as defined in Subsection 41-6a-518(1); and

(d) the operation or actual physical control described in Subsection (6)(a) was in the scope of the interlock restricted driver's employment.

(7) The affirmative defense described in Subsection (6) does not apply to:

(a) an employer-owned motor vehicle that is made available to an interlock restricted driver for personal use; or

(b) a motor vehicle owned by a business entity that is entirely or partly owned or controlled by the interlock restricted driver.

(8)

(a) An individual with an ignition interlock restriction may petition the division for removal of the restriction if the individual's offense did not involve alcohol.

(b) If the division is able to establish that an individual's offense did not involve alcohol, the division may remove the ignition interlock restriction.

(9)

(a)

(i) An individual with an ignition interlock restriction may petition the division for removal of the restriction if the individual has a medical condition that prohibits the individual from providing a deep lung breath sample.

(ii) In support of a petition under Subsection (9)(a)(i), the individual shall provide documentation from a physician that describes the individual's medical condition and whether the individual's medical condition would prohibit the individual from being able to provide a deep breath lung sample.

(b) If the division is able to establish that an individual is unable to provide a deep breath lung sample as a result of a medical condition, the division may remove the ignition interlock restriction.

Amended by Chapter 197, 2024 General Session

41-6a-519 Municipal attorneys for specified offenses may prosecute for certain DUI offenses and driving while license is suspended or revoked.

The following class A misdemeanors may be prosecuted by attorneys of cities and towns and other prosecutors authorized elsewhere in this code to prosecute these alleged violations:

(1) alleged class A misdemeanor violations of Section 41-6a-502; and

(2) alleged violations of Section 53-3-227, which consist of the person operating a vehicle while the person's driving privilege is suspended or revoked for:

(a) a violation of Section 41-6a-502;

(b) a local ordinance which complies with the requirements of Section 41-6a-510, 41-6a-520, or 76-5-207; or

(c) a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances identified in Subsection (2)(a) or (b).

Renumbered and Amended by Chapter 2, 2005 General Session

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

(1)

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

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

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

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

(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).

(c)

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

(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.

(d)

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

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

(2)

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

(i) has been placed under arrest;

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

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

(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 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 privilege or license to operate a motor vehicle.

(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.

(c) As a matter of procedure, 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:

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

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

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

(4)

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

(b) 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 peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

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

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

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

Amended by Chapter 415, 2023 General Session

41-6a-520.1 Refusing a chemical test.

(1) An actor commits refusing a chemical test if:
  (a) a peace officer issues the warning required in Subsection 41-6a-520(2)(a);
  (b) a court issues a warrant to draw and test the blood; and
  (c) after Subsections (1)(a) and (b), the actor refuses to submit to a test of the actor's blood.

(2)
  (a) A violation of Subsection (1) is a class B misdemeanor.
  (b) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a class A misdemeanor if the actor:
    (i) has a passenger younger than 16 years old in the vehicle at the time the officer had grounds to believe the actor was driving under the influence;
    (ii) is 21 years old or older and has a passenger younger than 18 years old in the vehicle at the time the officer had grounds to believe the actor was driving under the influence;
    (iii) also violated Section 41-6a-712 or 41-6a-714 at the time of the offense; or
    (iv) has one prior conviction within 10 years of:
      (A) the current conviction under Subsection (1); or
      (B) the commission of the offense upon which the current conviction is based.
  (c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree felony if:
    (i) the actor has two or more prior convictions, each of which is within 10 years of:
      (A) the current conviction; or
      (B) the commission of the offense upon which the current conviction is based; or
    (ii) the current conviction is at any time after:
      (A) a felony conviction; or
      (B) any conviction described in Subsection (2)(c)(ii)(A) for which judgment of conviction is reduced under Section 76-3-402.

(3) As part of any sentence for a conviction of violating this section, the court shall impose the same sentencing as outlined for driving under the influence violations in Section 41-6a-505, based on whether this is a first, second, or subsequent conviction, with the following modifications:
  (a) any jail sentence shall be 24 consecutive hours more than is required under Section 41-6a-505;
  (b) any fine imposed shall be $100 more than is required under Section 41-6a-505; and
  (c) the court shall order one or more of the following:
    (i) the installation of an ignition interlock system as a condition of probation for the individual, in accordance with Section 41-6a-518;
    (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or
    (iii) the imposition of home confinement through the use of electronic monitoring, in accordance with Section 41-6a-506.

(4)
  (a) The offense of refusing a chemical test under this section does not merge with any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.
  (b) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense of refusal to submit to a chemical test under this section may not be held in abeyance.

(5) An actor is guilty of a separate offense under Subsection (1) for each passenger in the vehicle that is younger than 16 years old at the time the officer had grounds to believe the actor was driving under the influence.

Amended by Chapter 197, 2024 General Session

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

(1)
(a) A person who has been notified of the Driver License Division's intention to revoke the person's license under Section 41-6a-520 is entitled to a hearing.
(b) A request for the hearing shall be made in writing within 10 calendar days after the day on which notice is provided.
(c) Upon request in a manner specified by the Driver License Division, the Driver License Division shall grant to the person an opportunity to be heard within 29 days after the date of arrest.
(d) If the person does not make a request for a hearing before the Driver License Division under this Subsection (1), the person's privilege to operate a motor vehicle in the state is revoked beginning on the 45th day after the date of arrest:
(i) for a person 21 years old or older on the date of arrest, for a period of:
(A) except as provided in Subsection (1)(d)(i)(B) or (9), 18 months; or
(B) 36 months if the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:
(I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231;
(II) conviction under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;
(III) conviction for an offense under Section 76-5-102.1; or
(IV) conviction for an offense under Section 76-5-207; or
(ii) for a person under 21 years old on the date of arrest:
(A) except as provided in Subsection (1)(d)(ii)(B), until the person is 21 years old or for a period of two years, whichever is longer; or
(B) until the person is 21 years old or for a period of 36 months, whichever is longer, if the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:
(I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or
(II) conviction for an offense under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;
(III) conviction for an offense under Section 76-5-102.1; or
(IV) conviction for an offense under Section 76-5-207.

(2)
(a) Except as provided in Subsection (2)(b), if a hearing is requested by the person, the hearing shall be conducted by the Driver License Division in:
(i) the county in which the offense occurred; or
(ii) a county which is adjacent to the county in which the offense occurred.
(b) The Driver License Division may hold a hearing in some other county if the Driver License Division and the person both agree.

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

(a) whether a peace officer had reasonable grounds to believe that a person was operating a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 41-6a-530, or 53-3-231; and
(b) whether the person refused to submit to the test or tests under Section 41-6a-520.
(4)
(a) In connection with the hearing, the division or its authorized agent:
(i) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; and
(ii) shall issue subpoenas for the attendance of necessary peace officers.
(b) The Driver License Division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.
(5)
(a) If after a hearing, the Driver License Division determines that the person was requested to submit to a chemical test or tests and refused to submit to the test or tests, or if the person fails to appear before the Driver License Division as required in the notice, the Driver License Division shall revoke the person's license or permit to operate a motor vehicle in Utah beginning on the date the hearing is held:
(i) for a person 21 years old or older on the date of arrest, for a period of:
(A) except as provided in Subsection (5)(a)(i)(B) or (9), 18 months; or
(B) 36 months if the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:
(I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231;
(II) conviction under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;
(III) conviction for an offense under Section 76-5-102.1; or
(IV) conviction for an offense under Section 76-5-207; or
(ii) for a person under 21 years of age on the date of arrest:
(A) except as provided in Subsection (5)(a)(ii)(B), until the person is 21 years old or for a period of two years, whichever is longer; or
(B) until the person is 21 years old or for a period of 36 months, whichever is longer, if the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:
(I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231;
(II) conviction under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;
(III) conviction for an offense under Section 76-5-102.1; or
(IV) conviction for an offense under Section 76-5-207.
(b) The Driver License Division shall also assess against the person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs.
(c) The fee shall be cancelled if the person obtains an unappealed court decision following a proceeding allowed under Subsection (2) that the revocation was improper.
(6)
(a) Any person whose license has been revoked by the Driver License Division under this section following an administrative hearing may seek judicial review.
(b) Judicial review of an informal adjudicative proceeding is a trial.
(c) Venue is in the district court in the county in which the offense occurred.
(7) If the Driver License Division revokes a person's driving privilege under Subsection (1)(d)(i)(A), (1)(d)(ii)(A), (5)(a)(i)(A), or (5)(a)(ii)(A), the person may petition the division and elect to become

an ignition interlock restricted driver after the driver serves at least 90 days of the revocation if the person:

(a) has a valid driving privilege, with the exception of the revocation under Subsection (1)(d)(i)(A), (1)(d)(ii)(A), (5)(a)(i)(A), or (5)(a)(ii)(A);

(b) installs an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007;

(c) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27);

(d) pays the appropriate original license fees under Section 53-3-105; and

(e) completes the license application process including successful completion of required testing.

(8)

(a) A person who elects to become an ignition interlock restricted driver under Subsection (7) shall remain an ignition interlock restricted driver for a period of three years.

(b) If the person described under Subsection (8)(a) removes an ignition interlock device from a vehicle owned or driven by the person prior to the expiration of the three-year ignition interlock restriction period and does not install a new ignition interlock device from the same or a different ignition interlock provider within 24 hours:

(i) the person's driving privilege shall be revoked under Subsection (1)(d)(i)(A), (1)(d)(ii)(A), (5)(a)(i)(A), or (5)(a)(ii)(A) for a period of 18 months from the date the ignition interlock device was removed from the vehicle;

(ii) no days may be subtracted from the 18-month revocation period under Subsection (8)(b)(i) for any days the person was in compliance with the interlock restriction under Subsection (7);

(iii) the person is required to pay the license reinstatement application fee under Subsection 53-3-105(26); and

(iv) the person may not elect to become an ignition interlock restricted driver under this section.

(9)

(a) Notwithstanding the provisions in Subsection (1)(d)(i)(A) or (5)(a)(i)(A), the division shall reinstate a person's driving privilege before completion of the revocation period imposed under Subsection (1)(d)(i)(A) or (5)(a)(i)(A) if:

(i) the reporting court notifies the Driver License Division that the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5;

(ii) the person has served at least 90 days of the revocation under Subsection (1)(d)(i)(A) or (5)(a)(i)(A); and

(iii) the person has a valid driving privilege, with the exception of the revocation under Subsection (1)(d)(i)(A) or (5)(a)(i)(A).

(b) If a person's driving privilege is reinstated under Subsection (9)(a), the person is required to:

(i) install an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007;

(ii) pay the license reinstatement application fees described in Subsections 53-3-105(26) and (27);

(iii) pay the appropriate original license fees under Section 53-3-105; and

(iv) complete the license application process including successful completion of required testing.

(c) If the reporting court notifies the Driver License Division that a person has failed to complete all requirements of the 24-7 sobriety program, the division:

(i) shall revoke the person's driving privilege under Subsection (1)(d)(i)(A) or (5)(a)(i)(A) for a period of 18 months from the date of the notice; and

(ii) may not subtract any days from the 18-month revocation period for:
(A) days during which the person's driving privilege previously was revoked; or
(B) days during which the person was compliant with the 24-7 sobriety program.

Amended by Chapter 153, 2024 General Session

41-6a-521.1 Driver license denial or revocation for a criminal conviction for a refusal to submit to a chemical test violation.

(1) Except as provided in Subsection (7) or (8), the Driver License Division shall, if the person is 21 years old or older at the time of arrest:
(a) revoke for a period of 18 months the operator's license of a person convicted for the first time under Subsection 41-6a-520.1(1); or
(b) revoke for a period of 36 months the license of a person if:
(i) the person has a prior conviction as defined under Section 41-6a-501; and
(ii) the current refusal to submit to a chemical test violation under Subsection 41-6a-520.1(1) is committed within a period of 10 years from the date of the prior violation.
(2) The Driver License Division shall, if the person is under 21 years old at the time of arrest:
(a) revoke the person's driver license until the person is 21 years old or for a period of two years, whichever is longer;
(b) revoke the person's driver license until the person is 21 years old or for a period of 36 months, whichever is longer, if:
(i) the person has a prior conviction as defined under Section 41-6a-501; and
(ii) the current refusal to submit to a chemical test violation under Subsection 41-6a-520.1(1) is committed within a period of 10 years from the date of the prior violation; or
(c) if the person has not been issued an operator license:
(i) deny the person's application for a license or learner's permit until the person is 21 years old or for a period of two years, whichever is longer; or
(ii) deny the person's application for a license or learner's permit until the person is 21 years old or for a period of 36 months, whichever is longer, if:
(A) the person has a prior conviction as defined under Section 41-6a-501; and
(B) the current refusal to submit to a chemical test violation under Subsection 41-6a-520.1(1) is committed within a period of 10 years from the date of the prior violation.
(3) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (5).
(4) The Driver License Division shall subtract from any revocation period the number of days for which a license was previously revoked under Section 41-6a-521 if the previous revocation was based on the same occurrence upon which the record of conviction under Subsection 41-6a-520.1(1) is based.
(5)
(a)
(i) In addition to any other penalties provided in this section, a court may order the driver license of a person who is convicted of a violation of Subsection 41-6a-520.1(1) to be revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.
(ii) The additional revocation period provided in this Subsection (5) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Subsection 41-6a-520.1(1).

(b) If the court suspends or revokes the person's license under this Subsection (5), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

(6)

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

(i) complete all court ordered:

(A) screening;

(B) assessment;

(C) educational series;

(D) substance abuse treatment; and

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

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

(b) Upon receiving the notification described in Subsection (6)(a), the Driver License Division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(7)

(a) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7), the Driver License Division may not revoke the operator's license as described in Subsection (1)(a) unless the person fails to complete three years of the interlock restriction under Subsection 41-6a-521(7).

(b) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7) and the person fails to complete the full three years of interlock restriction, the Driver License Division:

(i) shall revoke the operator's license as described in Subsection (1)(a), effective on the date the ignition interlock was removed from the vehicle; and

(ii) may not subtract any days from the revocation period under Subsection (7)(b)(i) for days during which the person was compliant with the interlock restriction under Subsection 41-6a-521(7).

(8)

(a) The Driver License Division may shorten a person's revocation period imposed under Subsection (1) before the completion of the person's revocation period if:

(i) the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5; and

(ii) the reporting court:

(A) shortens the person's operator's license revocation period due to the person's participation in or successful completion of a 24-7 sobriety program; and

(B) forwards the order shortening the person's operator's license revocation period to the Driver License Division in the manner specified by the Driver License Division.

(b) A reporting court shall notify the Driver License Division, in the manner specified by the Driver License Division, if a person fails to complete all requirements of a 24-7 sobriety program.

(c) Upon receiving a notification described in Subsection (8)(b), for a first offense, the Driver License Division:

(i) shall revoke the person's operator's license for a period of 18 months from the date of the notice; and

(ii) may not subtract any days from the revocation period under Subsection (8)(c)(i) for which the operator's license was previously revoked under this section or Section 41-6a-521, or suspended under Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under this section is based.

(d) Upon receiving a notification described in Subsection (8)(b), for a second or subsequent offense, the Driver License Division:
(i) shall revoke the person's operator's license for a period of three years from the date of the notice; and
(ii) may not subtract any days from the revocation period under Subsection (8)(d)(i) for which the operator's license was previously revoked under this section or Section 41-6a-521, or suspended under Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under this section is based.

Amended by Chapter 384, 2023 General Session
Amended by Chapter 415, 2023 General Session

41-6a-522 Person incapable of refusal.

Subject to Section 77-23-213 for blood tests, a person who is dead, unconscious, or in any other condition rendering the person incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn the consent provided for in Subsection 41-6a-520(1), and the test or tests may be administered whether the person has been arrested or not.

Amended by Chapter 35, 2018 General Session

41-6a-523 Persons authorized to draw blood -- Immunity from liability.

(1)
(a) Only the following, acting at the request of a peace officer, may draw blood to determine its alcohol or drug content:
(i) a physician;
(ii) a physician assistant;
(iii) a registered nurse;
(iv) a licensed practical nurse;
(v) a paramedic;
(vi) as provided in Subsection (1)(b), emergency medical service personnel other than paramedics; or
(vii) a person with a valid permit issued by the Department of Health and Human Services under Section 26B-1-202.
(b) The Bureau of Emergency Medical Services may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 53-2d-101, are authorized to draw blood under Subsection (1)(a)(vi), based on the type of license under Section 53-2d-402.
(c) Subsection (1)(a) does not apply to taking a urine, breath, or oral fluid specimen.
(2) The following are immune from civil or criminal liability arising from drawing a blood sample from a person whom a peace officer has reason to believe is driving in violation of this chapter, if the sample is drawn in accordance with standard medical practice, and pursuant to a warrant or with the consent of the individual:
(a) a person authorized to draw blood under Subsection (1)(a);
(b) if the blood is drawn at a hospital or other medical facility, the medical facility; or
(c) if the blood is drawn at a law enforcement facility in a secure area not accessible by the public, the law enforcement agency.

Amended by Chapter 310, 2023 General Session

Amended by Chapter 328, 2023 General Session
Amended by Chapter 399, 2023 General Session

41-6a-524 Refusal as evidence.

If a person under arrest refuses to submit to a chemical test or tests or any additional test under Section 41-6a-520, evidence of any refusal is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating or in actual physical control of a motor vehicle while:

(1) under the influence of:
  (a) alcohol;
  (b) any drug; or
  (c) a combination of alcohol and any drug;
(2) having any measurable controlled substance or metabolite of a controlled substance in the person's body; or
(3) having any measurable or detectable amount of alcohol in the person's body if the person is an alcohol restricted driver as defined under Section 41-6a-529.

Amended by Chapter 181, 2017 General Session

41-6a-525 Reporting test results -- Immunity from liability.

(1) As used in this section, "health care provider" means a person licensed under:
  (a) Title 58, Chapter 31b, Nurse Practice Act;
  (b) Title 58, Chapter 67, Utah Medical Practice Act; or
  (c) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
(2) A health care provider who is providing medical care to any person involved in a motor vehicle crash may notify, as soon as reasonably possible, the nearest peace officer or law enforcement agency if the health care provider has reason to believe, as a result of any test performed in the course of medical treatment, that the:
  (a) person's blood alcohol concentration meets or exceeds the limits under Subsection 41-6a-502(1)(a);
  (b) person is younger than 21 years of age and has any measurable blood, breath, or urine alcohol concentration in the person's body; or
  (c) person has any measurable controlled substance or metabolite of a controlled substance in the person's body which could be a violation of Subsection 41-6a-502(1)(b) or Section 41-6a-517.
(3) The report under Subsection (2) shall consist of the:
  (a) name of the person being treated;
  (b) date and time of the administration of the test; and
  (c) results disclosed by the test.
(4) A health care provider participating in good faith in making a report or assisting an investigator from a law enforcement agency pursuant to this section is immune from any liability, civil or criminal, that otherwise might result by reason of those actions.
(5) A report under Subsection (2) may not be used to support a finding of probable cause that a person who is not a driver of a vehicle has committed an offense.

Renumbered and Amended by Chapter 2, 2005 General Session

41-6a-526 Drinking alcoholic beverage and open containers in motor vehicle prohibited -- Definitions -- Exceptions.

(1) As used in this section:
(a) "Alcoholic beverage" has the same meaning as defined in Section 32B-1-102.
(b) "Chartered bus" has the same meaning as defined in Section 32B-1-102.
(c) "Limousine" has the same meaning as defined in Section 32B-1-102.
(d)
(i) "Passenger compartment" means the area of the vehicle normally occupied by the operator and passengers.
(ii) "Passenger compartment" includes areas accessible to the operator and passengers while traveling, including a utility or glove compartment.
(iii) "Passenger compartment" does not include a separate front or rear trunk compartment or other area of the vehicle not accessible to the operator or passengers while inside the vehicle.
(e) "Waters of the state" has the same meaning as defined in Section 73-18-2.
(2) A person may not drink an alcoholic beverage while operating a golf cart, a motor vehicle, a motor assisted scooter, or a class 2 electric assisted bicycle, or while a passenger in a motor vehicle, whether the vehicle is moving, stopped, or parked on any highway or waters of the state.
(3) A person may not keep, carry, possess, transport, or allow another to keep, carry, possess, or transport in the passenger compartment of a motor vehicle, on a golf cart, on a motor assisted scooter, or on a class 2 electric assisted bicycle, when the vehicle is on any highway or waters of the state, any container that contains an alcoholic beverage if the container has been opened, its seal broken, or the contents of the container partially consumed.
(4) Subsections (2) and (3) do not apply to a passenger:
(a) in the living quarters of a motor home or camper;
(b) who has carried an alcoholic beverage onto a limousine or chartered bus that is in compliance with Subsections 32B-4-415(4)(b) and (c); or
(c) in a motorboat on the waters of the state.
(5) Subsection (3) does not apply to passengers traveling in any licensed taxicab or bus.
(6) A violation of Subsection (2) or (3) is a class C misdemeanor.

Amended by Chapter 84, 2020 General Session

41-6a-527 Seizure and impoundment of vehicles by peace officers -- Impound requirements -- Removal of vehicle by owner.

(1) If a peace officer arrests, cites, or refers for administrative action the operator of a vehicle for violating Section 41-6a-502, 41-6a-517, 41-6a-518.2, 41-6a-520, 41-6a-520.1, 41-6a-530, 41-6a-606, 53-3-231, Subsections 53-3-227(3)(a)(i) through (vii), Subsection 53-3-227(3)(a)(x), or a local ordinance similar to Section 41-6a-502 which complies with Subsection 41-6a-510(1), the peace officer shall seize and impound the vehicle in accordance with Section 41-6a-1406, except as provided under Subsection (2).
(2) If a registered owner of the vehicle, other than the operator, is present at the time of arrest, the peace officer may release the vehicle to that registered owner, but only if:
(a) the registered owner:
(i) requests to remove the vehicle from the scene; and
(ii) presents to the peace officer sufficient identification to prove ownership of the vehicle or motorboat;

(b) the registered owner identifies a driver with a valid operator's license who:
(i) complies with all restrictions of his operator's license; and
(ii) would not, in the judgment of the officer, be in violation of Section 41-6a-502, 41-6a-517, 41-6a-518.2, 41-6a-520, 41-6a-520.1, 41-6a-530, 53-3-231, or a local ordinance similar to Section 41-6a-502 which complies with Subsection 41-6a-510(1) if permitted to operate the vehicle; and
(c) the vehicle itself is legally operable.
(3) If necessary for transportation of a motorboat for impoundment under this section, the motorboat's trailer may be used to transport the motorboat.

Amended by Chapter 415, 2023 General Session

41-6a-528 Reckless driving -- Penalty.
(1) A person is guilty of reckless driving who operates a vehicle in willful or wanton disregard for the safety of persons or property.
(2) For purposes of this section, "willful or wanton disregard for the safety of persons or property" includes:
(a) traveling on a highway at a speed of 105 miles per hour or greater; or
(b) committing three or more traffic violations under Title 41, Chapter 6a, Traffic Code, in a series of acts occurring within a single continuous period of driving covering three miles or less in total distance.
(3) A person who violates Subsection (1) is guilty of a class B misdemeanor.

Amended by Chapter 176, 2022 General Session

41-6a-529 Definitions -- Alcohol restricted drivers.
(1) As used in this section and Section 41-6a-530, "alcohol restricted driver" means a person who:
(a) within the last two years:
(i) has been convicted of:
(A) a misdemeanor violation of Section 41-6a-502 or 76-5-102.1;
(B) alcohol, any drug, or a combination of both-related reckless driving under Section 41-6a-512;
(C) impaired driving under Section 41-6a-502.5;
(D) local ordinances similar to Section 41-6a-502 or 76-5-102.1, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving adopted in compliance with Section 41-6a-510;
(E) a violation described in Subsections (1)(a)(i)(A) through (D), which judgment of conviction is reduced under Section 76-3-402; or
(F) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502 or 76-5-102.1, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815; or
(ii) has had the person's driving privilege suspended under Section 53-3-223 for an alcohol-related offense based on an arrest which occurred on or after July 1, 2005;
(b) within the last three years has been convicted of a violation of this section or Section 41-6a-518.2;
(c) within the last five years:

(i) has had the person's driving privilege revoked through an administrative action for refusal to submit to a chemical test under Section 41-6a-520, which refusal occurred on or after July 1, 2005;
(ii) has been convicted of a misdemeanor conviction for refusal to submit to a chemical test under Subsection 41-6a-520.1(1); or
(iii) has been convicted of a class A misdemeanor violation of Section 41-6a-502 or 76-5-102.1 committed on or after July 1, 2008;
(d) within the last 10 years:
(i) has been convicted of an offense described in Subsection (1)(a)(i) which offense was committed within 10 years of the commission of a prior offense described in Subsection (1)(a)(i) for which the person was convicted;
(ii) has been convicted of a felony violation of refusal to submit to a chemical test under Subsection 41-6a-520.1(1); or
(iii) has had the person's driving privilege revoked for refusal to submit to a chemical test and the refusal is within 10 years after:
(A) a prior refusal to submit to a chemical test under Section 41-6a-520; or
(B) a prior conviction for an offense described in Subsection (1)(a)(i) which is not based on the same arrest as the refusal;
(e) at any time has been convicted of:
(i) a violation of Section 76-5-207 for an offense that occurred on or after July 1, 2005; or
(ii) a felony violation of Section 41-6a-502 or 76-5-102.1 for an offense that occurred on or after July 1, 2005;
(f) at the time of operation of a vehicle is under 21 years old; or
(g) is a novice learner driver.
(2) For purposes of this section and Section 41-6a-530, a plea of guilty or no contest to a violation described in Subsection (1)(a)(i) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

Amended by Chapter 415, 2023 General Session

41-6a-530 Alcohol restricted drivers -- Prohibited from operating a vehicle while having any measurable or detectable amount of alcohol in the person's body -- Penalties.

(1) An alcohol restricted driver who operates or is in actual physical control of a vehicle in this state with any measurable or detectable amount of alcohol in the person's body is guilty of a class B misdemeanor.
(2) A "measurable or detectable amount" of alcohol in the person's body may be established by:
(a) a chemical test;
(b) evidence other than a chemical test; or
(c) a combination of Subsections (2)(a) and (b).
(3) For any person convicted of a violation of this section, the court shall order the installation of an ignition interlock system as a condition of probation in accordance with Section 41-6a-518 or describe on the record or in a minute entry why the order would not be appropriate.

Amended by Chapter 261, 2007 General Session

41-6a-531 Access to DUI investigative reports.

(1) As used in this section:
(a) "Agent" means a person's attorney that has been formally engaged.
(b) "DUI investigative report" means all materials that a peace officer gathers as part of investigating an offense described in Subsection 41-6a-501 including:
(i) the identity of witnesses and, if known, contact information;
(ii) witness statements;
(iii) photographs and videotapes;
(iv) diagrams;
(v) field notes;
(vi) test results; and
(vii) any Targeted Responsibility for Alcohol Connected Emergencies investigation report.
(2)
(a) Upon request, a law enforcement agency shall disclose an unredacted DUI investigative report to:
(i) a person who suffers loss or injury related to the person's actions that gave rise to the investigation; or
(ii) an agent, parent, or legal guardian of the person described in Subsection (2)(a)(i).
(b) A law enforcement agency responding to a request under Subsection (2)(a) may:
(i) withhold a portion of the DUI investigative report if disclosure would materially prejudice an ongoing criminal investigation or criminal prosecution;
(ii) redact or withhold any privileged information;
(iii) redact an individual's phone number or address, if disclosure of the individual's phone number or address may endanger an individual's physical safety; or
(iv) provide the DUI investigative report subject to an agreement that limits the recipient's use of the DUI investigative report to use solely for the purpose of pursuing a civil claim related to the incident.
(3) A law enforcement agency may charge a reasonable fee to cover the cost incurred by disclosing a DUI investigative report in accordance with this section.

Enacted by Chapter 94, 2024 General Session