

Effective 5/9/2017

Superseded 5/14/2019

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 30th day after the date of arrest:
 - (i) for a person 21 years of age or older on the date of arrest, for a period of:
 - (A) 18 months, unless Subsection (1)(d)(i)(B) applies; or
 - (B) 36 months, if the arrest was made on or after July 1, 2009, and the person has had a previous:
 - (I) license sanction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or
 - (II) conviction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;
 - (ii) for a person under 21 years of age on the date of arrest:
 - (A) until the person is 21 years of age or for a period of two years, whichever is longer, if the arrest was made on or after July 1, 2011, unless Subsection (1)(d)(ii)(B) applies; or
 - (B) until the person is 21 years of age or for a period of 36 months, whichever is longer, if the arrest was made on or after July 1, 2009, and the person has had a previous:
 - (I) license sanction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or
 - (II) conviction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502; or
 - (iii) for a person that was arrested prior to July 1, 2009, for the suspension periods in effect prior to July 1, 2009.
- (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 of age or older on the date of arrest, for a period of:
 - (A) 18 months unless Subsection (5)(a)(i)(B) applies; or
 - (B) 36 months, if the arrest was made on or after July 1, 2009, and the person has had a previous:
 - (I) license sanction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or
 - (II) conviction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;
 - (ii) for a person under 21 years of age on the date of arrest:
 - (A) until the person is 21 years of age or for a period of two years, whichever is longer, for an arrest that was made on or after July 1, 2011, and unless Subsection (5)(a)(ii)(B) applies; or
 - (B) until the person is 21 years of age or for a period of 36 months, whichever is longer, if the arrest was made on or after July 1, 2009, and the person has had a previous:
 - (I) license sanction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or
 - (II) conviction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502; or
 - (iii) for a person that was arrested prior to July 1, 2009, for the revocation periods in effect prior to July 1, 2009.
 - (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.