

Effective 5/7/2025

Superseded 7/1/2026

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

- (1)
 - (a) If a peace officer has reasonable grounds to believe that an individual may be violating or has violated Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, the peace officer may, in connection with arresting the individual, request that the individual submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.
 - (b) In this section, a reference to Section 41-6a-502 includes any similar local ordinance adopted in compliance with Subsection 41-6a-510(1).
- (2) The peace officer shall advise an individual prior to the individual's submission to a chemical test that a test result indicating a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207 shall, and the existence of a blood alcohol content sufficient to render the individual incapable of safely driving a motor vehicle may, result in suspension or revocation of the individual's license to drive a motor vehicle.
- (3) If the individual submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, or if a peace officer makes a determination, based on reasonable grounds, that the individual is otherwise in violation of Section 41-6a-502, 76-5-102.1, or 76-5-207, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the individual's license to drive a motor vehicle.
- (4) When a peace officer gives notice on behalf of the division, the peace officer shall supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.
- (5) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:
 - (a) a copy of the citation issued for the offense;
 - (b) a signed report in a manner specified by the division indicating the chemical test results, if any; and
 - (c) any other basis for the peace officer's determination that the individual has violated Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207.
- (6)
 - (a) Upon request in a manner specified by the division, the division shall grant to the individual an opportunity to be heard within 29 days after the date of arrest. The request to be heard shall be made within 10 calendar days of the day on which notice is provided under Subsection (5).
 - (b)
 - (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the division in:
 - (A) the county in which the arrest occurred; or
 - (B) a county that is adjacent to the county in which the arrest occurred.
 - (ii) The division may hold a hearing in some other county if the division and the individual both agree.
 - (c) The hearing shall be documented and shall cover the issues of:
 - (i) whether a peace officer had reasonable grounds to believe the individual was driving a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207;
 - (ii) whether the individual refused to submit to the test; and
 - (iii) the test results, if any.
 - (d)

- (i) In connection with a hearing the division or its authorized agent:
 - (A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; or
 - (B) may issue subpoenas for the attendance of necessary peace officers.
 - (ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.
 - (e) The division may designate one or more employees to conduct the hearing.
 - (f) Any decision made after a hearing before any designated employee is as valid as if made by the division.
- (7)
- (a) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the individual was driving a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the individual failed to appear before the division as required in the notice, or if a hearing is not requested under this section, the division shall:
 - (i) if the individual is 21 years old or older at the time of arrest, suspend the individual's license or permit to operate a motor vehicle for a period of:
 - (A) 120 days beginning on the 45th day after the date of arrest for a first suspension; or
 - (B) two years beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or
 - (ii) if the individual is under 21 years old at the time of arrest:
 - (A) suspend the individual's license or permit to operate a motor vehicle:
 - (I) for a period of six months, beginning on the 45th day after the date of arrest for a first suspension; or
 - (II) until the individual is 21 years old or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or
 - (B) deny the individual's application for a license or learner's permit:
 - (I) for a period of six months beginning on the 45th day after the date of the arrest for a first suspension, if the individual has not been issued an operator license; or
 - (II) until the individual is 21 years old or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.
 - (b)
 - (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate an individual's license prior to completion of the 120 day suspension period imposed under Subsection (7)(a)(i)(A):
 - (A) immediately upon receiving written verification of the individual's dismissal of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period; or
 - (B) no sooner than 60 days beginning on the 45th day after the date of arrest upon receiving written verification of the individual's reduction of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period.
 - (ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate an individual's license prior to completion of the 120-day suspension period imposed under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the individual's conviction of impaired driving under Section 41-6a-502.5 if:
 - (A) the written verification is received prior to completion of the suspension period; and

- (B) 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 as defined in Section 41-6a-501.
 - (iii) If an individual's license is reinstated under this Subsection (7)(b), the individual is required to pay the license reinstatement application fees under Subsections 53-3-105(26) and (27).
 - (iv) The driver license reinstatements authorized under this Subsection (7)(b) only apply to a 120-day suspension period imposed under Subsection (7)(a)(i)(A).
 - (v) A driver license reinstatement authorized under this Subsection (7)(b) does not apply to a CDL disqualification imposed under Section 53-3-414.
- (8)
- (a) The division shall assess against an individual, in addition to any fee imposed under Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the individual's driving privilege is reinstated. This fee shall be cancelled if the individual obtains an unappealed division hearing or court decision that the suspension was not proper.
 - (b) An individual whose license has been suspended by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.
- (9)
- (a) Notwithstanding the provisions in Subsection (7)(a)(i), the division shall reinstate an individual's license before completion of the suspension period imposed under Subsection (7)(a)(i) if:
 - (i)
 - (A) the reporting court notifies the Driver License Division that the individual is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5; or
 - (B) the reporting court notifies the Driver License Division that the individual 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 has elected to become an interlock restricted driver as a condition of probation during the remainder of the individual's suspension period in accordance with Section 41-6a-518; and
 - (ii) the individual has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i).
 - (b) If an individual's license is reinstated under Subsection (9)(a), the individual is required to pay the license reinstatement application fees under Subsections 53-3-105(26) and (27).
- (10)
- (a) If the division suspends an individual's license for an alcohol related offense under Subsection (7)(a)(i)(A), the individual may petition the division and elect to become an ignition interlock restricted driver if the individual:
 - (i) has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i)(A);
 - (ii) installs an ignition interlock device in any vehicle owned or driven by the individual in accordance with Section 53-3-1007; and
 - (iii) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27).
 - (b)

- (i) The individual shall remain an ignition interlock restricted driver for a period of 120 days from the original effective date of the suspension under Subsection (7)(a)(i)(A).
 - (ii) If the individual removes an ignition interlock device from a vehicle owned or driven by the individual prior to the expiration of the 120-day ignition interlock restriction period and does not install a new ignition interlock device from the same or a different provider within 24 hours:
 - (A) the individual's driver license shall be suspended under Subsection (7)(a)(i)(A) for the remainder of the 120-day ignition interlock restriction period;
 - (B) the individual is required to pay the license reinstatement application fee under Subsection 53-3-105(26); and
 - (C) the individual may not elect to become an ignition interlock restricted driver under this section.
 - (c) If an individual elects to become an ignition interlock restricted driver under Subsection (10)(a), the provisions under Subsection (7)(b) do not apply.
- (11)
 - (a) If the division suspends an individual's license for an alcohol related offense under Subsection (7)(a)(i)(B), the individual may petition the division and elect to become an ignition interlock restricted driver after the driver serves at least 90 days of the suspension if the individual:
 - (i) was charged with a violation of Section 41-6a-502 that is a misdemeanor;
 - (ii) has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i)(B);
 - (iii) installs an ignition interlock device in any vehicle owned or driven by the individual in accordance with Section 53-3-1007; and
 - (iv) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27);
 - (b)
 - (i) The individual shall remain an ignition interlock restricted driver for a period of two years from the original effective date of the suspension under Subsection (7)(a)(i)(B).
 - (ii) If the individual removes an ignition interlock device from a vehicle owned or driven by the individual prior to the expiration of the two-year ignition interlock restriction period and does not install a new ignition interlock device from the same or a different provider within 24 hours:
 - (A) the individual's driver license shall be suspended under Subsection (7)(a)(i)(B) for the remainder of the two-year ignition interlock restriction period;
 - (B) the individual is required to pay the license reinstatement application fee under Subsection 53-3-105(26); and
 - (C) the individual may not elect to become an ignition interlock restricted driver under this section.
 - (c) Notwithstanding Subsections (11)(a) and (b), if the individual is subsequently convicted of the violation of Section 41-6a-502 that gave rise to the suspension under Subsection (7)(a)(i)(B), the division shall revoke the individual's license under Subsection 41-6a-509(1)(a)(ii), and the individual is no longer an ignition interlock restricted driver under this Subsection (11).
- (12)
 - (a) Notwithstanding the provisions in Subsection (7)(a)(i)(B), the division shall reinstate an individual's license prior to completion of the two-year suspension period imposed under Subsection (7)(a)(i)(B) immediately upon receiving written verification of the individual's dismissal of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period.

- (b) If the individual elected to become an ignition interlock restricted driver under Subsection (11), and the division receives written verification of the individual's dismissal of a charge for violation of Section 41-6a-502, the driver is no longer an ignition interlock restricted driver under Subsection (11)(b)(i), and the division shall reinstate the individual's license prior to the completion of the two-year ignition interlock restriction period under Subsection (11)(b)(i).