

- 28 **53-3-205**, as last amended by Chapters 36 and 216, Laws of Utah 1999
- 29 **53-3-217**, as last amended by Chapter 51, Laws of Utah 1997
- 30 **53-3-218**, as last amended by Chapter 323, Laws of Utah 2000
- 31 **53-3-220**, as last amended by Chapter 213, Laws of Utah 1998
- 32 **53-3-221**, as last amended by Chapter 216, Laws of Utah 1999
- 33 **53-3-222**, as last amended by Chapter 155, Laws of Utah 1995
- 34 **53-3-223**, as last amended by Chapter 334, Laws of Utah 2000
- 35 **53-3-225**, as last amended by Chapter 5, Laws of Utah 1993, Second Special Session
- 36 **53-3-227**, as last amended by Chapter 47, Laws of Utah 1996
- 37 **53-3-231**, as last amended by Chapter 334, Laws of Utah 2000
- 38 **53-3-232**, as enacted by Chapter 213, Laws of Utah 1998
- 39 **73-18-10**, as last amended by Chapter 197, Laws of Utah 1986
- 40 **73-18-12.7**, as last amended by Chapter 1, Laws of Utah 1992
- 41 **73-18-15.2**, as last amended by Chapter 205, Laws of Utah 1998
- 42 **78-3a-104**, as last amended by Chapter 149, Laws of Utah 2000
- 43 **78-18-1**, as last amended by Chapter 6, Laws of Utah 1991

44 ENACTS:

- 45 **73-18-4.5**, Utah Code Annotated 1953
- 46 **73-18-15.4**, Utah Code Annotated 1953
- 47 **73-18-15.5**, Utah Code Annotated 1953

48 REPEALS AND REENACTS:

- 49 **73-18-15.1**, as enacted by Chapter 99, Laws of Utah 1987

50 REPEALS:

- 51 **73-18-12.1**, as enacted by Chapter 118, Laws of Utah 1987
- 52 **73-18-12.2**, as last amended by Chapter 94, Laws of Utah 1998
- 53 **73-18-12.3**, as enacted by Chapter 118, Laws of Utah 1987
- 54 **73-18-12.4**, as enacted by Chapter 118, Laws of Utah 1987
- 55 **73-18-12.5**, as enacted by Chapter 118, Laws of Utah 1987
- 56 **73-18-12.6**, as last amended by Chapter 79, Laws of Utah 1996

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

58 Section 1. Section **41-6-43** is amended to read:

59 **41-6-43. Local DUI and related ordinances and reckless driving ordinances --**
60 **Consistent with code.**

61 (1) An ordinance adopted by a local authority that governs a person's operating or being
62 in actual physical control of a [~~motor~~] vehicle or motorboat while having alcohol in the blood or
63 while under the influence of alcohol or any drug or the combined influence of alcohol and any
64 drug, or that governs, in relation to any of those matters, the use of a chemical test or chemical
65 tests, or evidentiary presumptions, or penalties, or that governs any combination of those matters,
66 shall be consistent with the provisions in this code which govern those matters.

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

70 Section 2. Section **41-6-43.5** is amended to read:

71 **41-6-43.5. Definitions.**

72 As used in this article[~~7~~]:

73 (1) "Motorboat" has the same meaning provided in Section 53-3-102.

74 (2) "Vehicle" or "motor vehicle," in addition to the definitions provided under Section
75 41-6-1, includes off-highway vehicles as defined under Section 41-22-2.

76 Section 3. Section **41-6-44** is amended to read:

77 **41-6-44. Driving under the influence of alcohol, drugs, or with specified or unsafe**
78 **blood alcohol concentration -- Measurement of blood or breath alcohol -- Criminal**
79 **punishment -- Arrest without warrant -- Penalties -- Suspension or revocation of license.**

80 (1) As used in this section:

81 (a) "educational series" means an educational series obtained at a substance abuse program
82 that is approved by the Board of Substance Abuse in accordance with Section 62A-8-107;

83 (b) "prior conviction" means any conviction for a violation of:

84 (i) this section;

85 (ii) alcohol-related reckless driving under Subsections (9) and (10);

86 (iii) local ordinances similar to this section or alcohol-related reckless driving adopted in
87 compliance with Section 41-6-43;

88 (iv) automobile homicide under Section 76-5-207; or

89 (v) statutes or ordinances in effect in any other state, the United States, or any district,

90 possession, or territory of the United States which would constitute a violation of this section or
91 alcohol-related reckless driving if committed in this state, including punishments administered
92 under 10 U.S.C. Sec. 815;

93 (c) "screening and assessment" means a substance abuse addiction and dependency
94 screening and assessment obtained at a substance abuse program that is approved by the Board of
95 Substance Abuse in accordance with Section 62A-8-107;

96 (d) "serious bodily injury" means bodily injury that creates or causes serious permanent
97 disfigurement, protracted loss or impairment of the function of any bodily member or organ, or
98 creates a substantial risk of death;

99 (e) "substance abuse treatment" means treatment obtained at a substance abuse program
100 that is approved by the Board of Substance Abuse in accordance with Section 62A-8-107;

101 (f) "substance abuse treatment program" means a state licensed substance abuse program;

102 (g) a violation of this section includes a violation under a local ordinance similar to this
103 section adopted in compliance with Section 41-6-43; and

104 (h) the standard of negligence is that of simple negligence, the failure to exercise that
105 degree of care that an ordinarily reasonable and prudent person exercises under like or similar
106 circumstances.

107 (2) (a) A person may not operate or be in actual physical control of a vehicle or motorboat
108 within this state if the person:

109 (i) has sufficient alcohol in his body that a chemical test given within two hours of the
110 alleged operation or physical control shows that the person has a blood or breath alcohol
111 concentration of .08 grams or greater; or

112 (ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and
113 any drug to a degree that renders the person incapable of safely operating a vehicle or motorboat.

114 (b) The fact that a person charged with violating this section is or has been legally entitled
115 to use alcohol or a drug is not a defense against any charge of violating this section.

116 (c) Alcohol concentration in the blood shall be based upon grams of alcohol per 100
117 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of alcohol
118 per 210 liters of breath.

119 (3) (a) A person convicted the first or second time of a violation of Subsection (2) is guilty
120 of a:

- 121 (i) class B misdemeanor; or
- 122 (ii) class A misdemeanor if the person:
- 123 (A) has also inflicted bodily injury upon another as a proximate result of having operated
- 124 the vehicle or motorboat in a negligent manner; or
- 125 (B) had a passenger under 16 years of age in the vehicle or motorboat at the time of the
- 126 offense.
- 127 (b) A person convicted of a violation of Subsection (2) is guilty of a third degree felony
- 128 if the person has also inflicted serious bodily injury upon another as a proximate result of having
- 129 operated the vehicle or motorboat in a negligent manner.
- 130 (4) (a) As part of any sentence imposed the court shall, upon a first conviction, impose a
- 131 mandatory jail sentence of not less than 48 consecutive hours.
- 132 (b) The court may, as an alternative to all or part of a jail sentence, require the person to:
- 133 (i) work in a compensatory-service work program for not less than 24 hours; or
- 134 (ii) participate in home confinement through the use of electronic monitoring in
- 135 accordance with Subsection (13).
- 136 (c) In addition to the jail sentence, compensatory-service work program, or home
- 137 confinement, the court shall:
- 138 (i) order the person to participate in a screening and assessment;
- 139 (ii) order the person to participate in an educational series if the court does not order
- 140 substance abuse treatment as described under Subsection (4)(d); and
- 141 (iii) impose a fine of not less than \$700.
- 142 (d) The court may order the person to obtain substance abuse treatment if the substance
- 143 abuse treatment program determines that substance abuse treatment is appropriate.
- 144 (e) The court may order probation for the person in accordance with Subsection (14).
- 145 (5) (a) If a person is convicted under Subsection (2) within six years of a prior conviction
- 146 under this section, the court shall as part of any sentence impose a mandatory jail sentence of not
- 147 less than 240 consecutive hours.
- 148 (b) The court may, as an alternative to all or part of a jail sentence, require the person to:
- 149 (i) work in a compensatory-service work program for not less than 240 hours; or
- 150 (ii) participate in home confinement through the use of electronic monitoring in
- 151 accordance with Subsection (13).

152 (c) In addition to the jail sentence, compensatory-service work program, or home
153 confinement, the court shall:

154 (i) order the person to participate in a screening and assessment;

155 (ii) order the person to participate in an educational series if the court does not order
156 substance abuse treatment as described under Subsection (5)(d); and

157 (iii) impose a fine of not less than \$800.

158 (d) The court may order the person to obtain substance abuse treatment if the substance
159 abuse treatment program determines that substance abuse treatment is appropriate.

160 (e) The court may order probation for the person in accordance with Subsection (14).

161 (6) (a) A third or subsequent conviction for a violation committed within six years of two
162 or more prior convictions under this section is a third degree felony.

163 (b) Under Subsection (3)(b) or (6)(a), if the court suspends the execution of a prison
164 sentence and places the defendant on probation the court shall impose:

165 (i) a fine of not less than \$1,500; and

166 (ii) a mandatory jail sentence of not less than 1,500 hours.

167 (c) For Subsection (6)(a) or (b), the court shall impose an order requiring the person to
168 obtain a screening and assessment and substance abuse treatment at a substance abuse treatment
169 program providing intensive care or inpatient treatment and long-term closely supervised
170 follow-through after treatment for not less than 240 hours.

171 (d) In addition to the penalties required under Subsection (6)(b), the court may require the
172 person to participate in home confinement through the use of electronic monitoring in accordance
173 with Subsection (13).

174 (7) The mandatory portion of any sentence required under this section may not be
175 suspended and the convicted person is not eligible for parole or probation until any sentence
176 imposed under this section has been served. Probation or parole resulting from a conviction for
177 a violation under this section may not be terminated.

178 (8) (a) (i) The provisions in Subsections (4), (5), and (6) that require a sentencing court to
179 order a convicted person to: participate in a screening and assessment; and an educational series;
180 obtain, in the discretion of the court, substance abuse treatment; obtain, mandatorily, substance
181 abuse treatment; or do a combination of those things, apply to a conviction for a violation of
182 Section 41-6-44.6 or 41-6-45 under Subsection (9).

183 (ii) The court shall render the same order regarding screening and assessment, an
184 educational series, or substance abuse treatment in connection with a first, second, or subsequent
185 conviction under Section 41-6-44.6 or 41-6-45 under Subsection (9), as the court would render in
186 connection with applying respectively, the first, second, or subsequent conviction requirements of
187 Subsections (4), (5), and (6).

188 (b) If a person fails to complete all court ordered screening and assessment, educational
189 series, and substance abuse treatment, or fails to pay all fines and fees, including fees for restitution
190 and treatment costs, the court shall notify the Driver License Division of a failure to comply. Upon
191 receiving the notification, the division shall suspend the person's driving privilege in accordance
192 with Subsections 53-3-221(2) and (3).

193 (9) (a) (i) When the prosecution agrees to a plea of guilty or no contest to a charge of a
194 violation of Section 41-6-45, Section 73-18-12, of an ordinance enacted under Section 41-6-43,
195 or of Section 41-6-44.6 in satisfaction of, or as a substitute for, an original charge of a violation
196 of this section, the prosecution shall state for the record a factual basis for the plea, including
197 whether or not there had been consumption of alcohol, drugs, or a combination of both, by the
198 defendant in connection with the violation.

199 (ii) The statement is an offer of proof of the facts that shows whether there was
200 consumption of alcohol, drugs, or a combination of both, by the defendant, in connection with the
201 violation.

202 (b) The court shall advise the defendant before accepting the plea offered under this
203 Subsection (9)(b) of the consequences of a violation of Section 41-6-44.6 or of Section 41-6-45.

204 (c) The court shall notify the Driver License Division of each conviction of Section
205 41-6-44.6 or 41-6-45 entered under this Subsection (9).

206 (10) A peace officer may, without a warrant, arrest a person for a violation of this section
207 when the officer has probable cause to believe the violation has occurred, although not in his
208 presence, and if the officer has probable cause to believe that the violation was committed by the
209 person.

210 (11) (a) The Driver License Division shall:

211 (i) suspend for 90 days the operator's license of a person convicted for the first time under
212 Subsection (2);

213 (ii) revoke for one year the license of a person convicted of any subsequent offense under

214 Subsection (2) if the violation is committed within a period of six years from the date of the prior
215 violation; and

216 (iii) suspend or revoke the license of a person as ordered by the court under Subsection
217 (12).

218 (b) The Driver License Division shall subtract from any suspension or revocation period
219 the number of days for which a license was previously suspended under Section 53-3-223 or
220 53-3-231, if the previous suspension was based on the same occurrence upon which the record of
221 conviction is based.

222 (12) (a) In addition to any other penalties provided in this section, a court may order the
223 operator's license of a person who is convicted of a violation of Subsection (2) to be suspended or
224 revoked for an additional period of 90 days, 180 days, or one year to remove from the highways
225 and waters those persons who have shown they are safety hazards.

226 (b) If the court suspends or revokes the person's license under this Subsection (12)(b), the
227 court shall prepare and send to the Driver License Division an order to suspend or revoke that
228 person's driving privileges for a specified period of time.

229 (13) (a) If the court orders a person to participate in home confinement through the use of
230 electronic monitoring, the electronic monitoring shall alert the appropriate corrections, probation
231 monitoring agency, law enforcement units, or contract provider of the defendant's whereabouts.

232 (b) The electronic monitoring device shall be used under conditions which require:

233 (i) the person to wear an electronic monitoring device at all times;

234 (ii) that a device be placed in the home or other specified location of the person, so that
235 the person's compliance with the court's order may be monitored; and

236 (iii) the person to pay the costs of the electronic monitoring.

237 (c) The court shall order the appropriate entity described in Subsection (13)(e) to place an
238 electronic monitoring device on the person and install electronic monitoring equipment in the
239 residence of the person or other specified location.

240 (d) The court may:

241 (i) require the person's electronic home monitoring device to include a substance abuse
242 testing instrument;

243 (ii) restrict the amount of alcohol the person may consume during the time the person is
244 subject to home confinement;

245 (iii) set specific time and location conditions that allow the person to attend school
246 educational classes, or employment and to travel directly between those activities and the person's
247 home; and

248 (iv) waive all or part of the costs associated with home confinement if the person is
249 determined to be indigent by the court.

250 (e) The electronic monitoring described in this section may either be administered directly
251 by the appropriate corrections agency, probation monitoring agency, or by contract with a private
252 provider.

253 (f) The electronic monitoring provider shall cover the costs of waivers by the court under
254 Subsection (13)(c)(iv).

255 (14) (a) If supervised probation is ordered under Subsection (4)(e) or (5)(e):

256 (i) the court shall specify the period of the probation;

257 (ii) the person shall pay all of the costs of the probation; and

258 (iii) the court may order any other conditions of the probation.

259 (b) The court shall provide the probation described in this section by contract with a
260 probation monitoring agency or a private probation provider.

261 (c) The probation provider described in Subsection (14)(b) shall monitor the person's
262 compliance with all conditions of the person's sentence, conditions of probation, and court orders
263 received under this article and shall notify the court of any failure to comply with or complete that
264 sentence or those conditions or orders.

265 (d) (i) The court may waive all or part of the costs associated with probation if the person
266 is determined to be indigent by the court.

267 (ii) The probation provider described in Subsection (14)(b) shall cover the costs of waivers
268 by the court under Subsection (14)(d)(i).

269 (15) If a person is convicted of a violation of Subsection (2) and there is admissible
270 evidence that the person had a blood alcohol level of .16 or higher, then if the court does not order:

271 (a) treatment as described under Subsection (4)(d), (5)(d), or (6)(b)(iii), then the court shall
272 enter the reasons on the record; and

273 (b) the following penalties, the court shall enter the reasons on the record:

274 (i) the installation of an ignition interlock system as a condition of probation for the person
275 in accordance with Section 41-6-44.7; or

276 (ii) the imposition of home confinement through the use of electronic monitoring in
277 accordance with Subsection (13).

278 Section 4. Section **41-6-44.3** is amended to read:

279 **41-6-44.3. Standards for chemical breath analysis -- Evidence.**

280 (1) The commissioner of the Department of Public Safety shall establish standards for the
281 administration and interpretation of chemical analysis of a person's breath, including standards of
282 training.

283 (2) In any action or proceeding in which it is material to prove that a person was operating
284 or in actual physical control of a vehicle or motorboat while under the influence of alcohol or any
285 drug or operating with a blood or breath alcohol content statutorily prohibited, documents offered
286 as memoranda or records of acts, conditions, or events to prove that the analysis was made and the
287 instrument used was accurate, according to standards established in Subsection (1), are admissible
288 if:

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

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

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

296 Section 5. Section **41-6-44.5** is amended to read:

297 **41-6-44.5. Admissibility of chemical test results in actions for driving under the**
298 **influence -- Weight of evidence.**

299 (1) (a) In any civil or criminal action or proceeding in which it is material to prove that a
300 person was operating or in actual physical control of a vehicle or motorboat while under the
301 influence of alcohol or drugs or with a blood or breath alcohol content statutorily prohibited, the
302 results of a chemical test or tests as authorized in Section 41-6-44.10 are admissible as evidence.

303 (b) In a criminal proceeding, noncompliance with Section 41-6-44.10 does not render the
304 results of a chemical test inadmissible. Evidence of a defendant's blood or breath alcohol content
305 or drug content is admissible except when prohibited by Rules of Evidence or the constitution.

306 (2) If the chemical test was taken more than two hours after the alleged driving or actual

307 physical control, the test result is admissible as evidence of the person's blood or breath alcohol
308 level at the time of the alleged operating or actual physical control, but the trier of fact shall
309 determine what weight is given to the result of the test.

310 (3) This section does not prevent a court from receiving otherwise admissible evidence as
311 to a defendant's blood or breath alcohol level or drug level at the time of the alleged operating or
312 actual physical control.

313 Section 6. Section **41-6-44.6** is amended to read:

314 **41-6-44.6. Definitions -- Driving with any measurable controlled substance in the**
315 **body -- Penalties -- Arrest without warrant.**

316 (1) As used in this section:

317 (a) "Controlled substance" means any substance scheduled under Section 58-37-4.

318 (b) "Practitioner" has the same meaning as provided in Section 58-37-2.

319 (c) "Prescribe" has the same meaning as provided in Section 58-37-2.

320 (d) "Prescription" has the same meaning as provided in Section 58-37-2.

321 (2) In cases not amounting to a violation of Section 41-6-44, a person may not operate or
322 be in actual physical control of a motor vehicle or motorboat within this state if the person has any
323 measurable controlled substance or metabolite of a controlled substance in the person's body.

324 (3) It is an affirmative defense to prosecution under this section that the controlled
325 substance was involuntarily ingested by the accused or prescribed by a practitioner for use by the
326 accused.

327 (4) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

328 (5) A peace officer may, without a warrant, arrest a person for a violation of this section
329 when the officer has probable cause to believe the violation has occurred, although not in the
330 officer's presence, and if the officer has probable cause to believe that the violation was committed
331 by the person.

332 (6) The Driver License Division shall:

333 (a) suspend, for 90 days, the driver license of a person convicted under Subsection (2);

334 (b) revoke, for one year, the driver license of a person convicted of a second or subsequent
335 offense under Subsection (2) if the violation is committed within a period of six years after the date
336 of the prior violation; and

337 (c) subtract from any suspension or revocation period the number of days for which a

338 license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension
339 was based on the same occurrence upon which the record of conviction is based.

340 (7) If a person fails to complete all court ordered screening and assessment, educational
341 series, and substance abuse treatment, or fails to pay all fines and fees, including fees for restitution
342 and treatment costs, the court shall notify the Driver License Division of a failure to comply. Upon
343 receiving the notification, the division shall suspend the person's driving privilege in accordance
344 with Subsections 53-3-221(2) and (3).

345 Section 7. Section **41-6-44.7** is amended to read:

346 **41-6-44.7. Ignition interlock devices -- Use -- Probationer to pay cost --**
347 **Impecuniosity -- Fee.**

348 (1) As used in this section:

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

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

353 (c) "Probation provider" means the supervisor and monitor of the ignition interlock system
354 required as a condition of probation or as otherwise ordered by the court who contracts with the
355 court in accordance with Subsections 41-6-44(14)(b) and (c).

356 (2) (a) In addition to any other penalties imposed under Section 41-6-44, and in addition
357 to any requirements imposed as a condition of probation, the court may require that any person
358 who is convicted of violating Section 41-6-44 and who is granted probation may not operate a
359 motor vehicle during the period of probation unless that motor vehicle is equipped with a
360 functioning, certified ignition interlock system installed and calibrated so that the motor vehicle
361 will not start if the operator's blood alcohol concentration exceeds a level ordered by the court.

362 (b) If a person convicted of violating Section 41-6-44 was under the age of 21 when the
363 violation occurred, the court shall order the installation of the ignition interlock system as a
364 condition of probation.

365 (c) (i) If a person is convicted of a violation of Section 41-6-44 within six years of a prior
366 conviction of that section, the court shall order the installation of the ignition interlock system, at
367 the person's expense, for all motor vehicles registered to that person and all motor vehicles
368 operated by that person for three years from the date of conviction.

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

371 (d) This section does not apply to a person convicted of a violation of Section 41-6-44
372 whose violation involves the operation of a motorboat and not a vehicle.

373 (3) Except as provided in Subsection (2)(c), if the court imposes the use of an ignition
374 interlock system as a condition of probation, the court shall:

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

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

379 (c) order the probationer to submit his driver license to the Driver License Division in
380 accordance with Subsection (5);

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

383 (e) require the probationer to provide proof of compliance with the court's order to the
384 probation provider within 30 days of the order.

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

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

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

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

395 (5) (a) If use of an ignition interlock system is required under this section, the division may
396 not issue, reinstate, or renew the driver license of that person unless that requirement is coded on
397 the person's driver license.

398 (b) (i) If the division receives a notice that a person with a valid driver license that does
399 not require a driver license withdrawal is required to use an ignition interlock system, the division

400 shall notify the person that he has ten calendar days to apply to the division for an ignition
401 interlock system requirement coded on the license.

402 (ii) The division shall suspend the driver license of the person after the ten-day period until
403 the person applies to the division for an ignition interlock system requirement coded on the license.

404 (6) (a) Any probationer required to install an ignition interlock system shall have the
405 system monitored by the manufacturer or dealer of the system for proper use and accuracy at least
406 semiannually and more frequently as the court may order.

407 (b) (i) A report of the monitoring shall be issued by the manufacturer or dealer to the court
408 or the person's probation provider.

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

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

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

414 (i) the probationer files an affidavit of impecuniosity; and

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

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

418 (d) Subject to appropriation, the department shall lease or purchase the ignition interlock
419 system and reimburse each installer maintaining the system provided to probationers for whom
420 payment of costs has been waived or deferred on the grounds of indigency.

421 (8) (a) An additional fee of \$100 shall be paid to the court by each probationer ordered to
422 purchase, install, use, and maintain an ignition interlock system under this section.

423 (b) The fee shall be deposited with the department as a dedicated credit for the support
424 costs incurred for indigent individuals under Subsection (7)(d).

425 (c) Failure to pay the fees required under this section shall, unless excused, constitute
426 sufficient basis for a finding by the court at a hearing that the probationer has failed to comply with
427 the terms of probation.

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

431 only if the employer has been notified that the employee is restricted and the employee has proof
432 of the notification in his possession while operating the employer's motor vehicle.

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

435 (ii) A probationer intending to operate an employer-owned motor vehicle for personal use
436 and who is restricted to the operation of a motor vehicle equipped with an ignition interlock system
437 shall notify the employer and obtain consent in writing from the employer to install a system in the
438 employer-owned motor vehicle.

439 (c) A motor vehicle owned by a business entity that is all or partly owned or controlled by
440 a probationer subject to this section is not a motor vehicle owned by the employer and does not
441 qualify for an exemption under this Subsection (9).

442 (10) Upon conviction for violation of this section, the court shall notify the Driver License
443 Division to immediately suspend the probationer's license to operate a motor vehicle for the
444 remainder of the period of probation.

445 (11) (a) It is a class B misdemeanor for a person to:

446 (i) circumvent or tamper with the operation of an ignition interlock system;

447 (ii) knowingly furnish a motor vehicle without an ignition interlock system to someone
448 who is not authorized to drive a motor vehicle unless the motor vehicle is equipped with an
449 ignition interlock system that is in working order;

450 (iii) rent, lease, or borrow a motor vehicle without an ignition interlock system if a driving
451 restriction is imposed under this section;

452 (iv) request another person to blow into an ignition interlock system, if the person is
453 required to have a system and the person requests or solicits another to blow into the system to
454 start the motor vehicle in order to circumvent the system;

455 (v) blow into an ignition interlock system or start a motor vehicle equipped with an
456 ignition interlock system for the purpose of providing an operable motor vehicle to another person
457 required to have a system; and

458 (vi) advertise for sale, offer for sale, sell, or lease an ignition interlock system unless the
459 system has been certified by the commissioner and the manufacturer of the system has affixed a
460 warning label, as approved by the commissioner on the system, stating that the tampering,
461 circumventing, or other misuse of the system is a class B misdemeanor.

462 (b) This Subsection (11) does not apply if the starting of a motor vehicle, or the request
463 to start a motor vehicle, equipped with an ignition interlock system is done for the purpose of
464 safety or mechanical repair of the system or the motor vehicle and the person subject to the court
465 order does not drive the motor vehicle.

466 (12) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
467 the commissioner shall make rules setting standards for the certification of ignition interlock
468 systems.

469 (b) The standards shall require that the system:

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

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

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

474 (iv) prevent the motor vehicle from being started if the driver's breath alcohol
475 concentration exceeds an ordered level;

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

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

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

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

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

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

486 (e) In accordance with Section 63-38-3.2, the commissioner may establish an annual dollar
487 assessment against the manufacturers of ignition interlock systems distributed in the state for the
488 costs incurred in certifying. The assessment shall be apportioned among the manufacturers on a
489 fair and reasonable basis.

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

493 Section 8. Section **41-6-44.8** is amended to read:

494 **41-6-44.8. Municipal attorneys for specified offenses may prosecute for certain DUI**
495 **offenses and driving while license is suspended or revoked.**

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

498 (1) alleged class A misdemeanor violations of Section 41-6-44; and

499 (2) alleged violations of Section 53-3-227, which consist of the person operating a vehicle
500 or motorboat while the person's driving privilege is suspended or revoked for a violation of Section
501 41-6-44, a local ordinance which complies with the requirements of Section 41-6-43, Section
502 41-6-44.10, Section 76-5-207, or a criminal prohibition that the person was charged with violating
503 as a result of a plea bargain after having been originally charged with violating one or more of
504 those sections or ordinances.

505 Section 9. Section **41-6-44.10** is amended to read:

506 **41-6-44.10. Implied consent to chemical tests for alcohol or drug -- Number of tests**
507 **-- Refusal -- Warning, report -- Hearing, revocation of license -- Appeal -- Person incapable**
508 **of refusal -- Results of test available -- Who may give test -- Evidence.**

509 (1) (a) A person operating a motor vehicle or motorboat in this state is considered to have
510 given his consent to a chemical test or tests of his breath, blood, or urine for the purpose of
511 determining whether he was operating or in actual physical control of a motor vehicle or motorboat
512 while having a blood or breath alcohol content statutorily prohibited under Section 41-6-44,
513 53-3-231, or 53-3-232, while under the influence of alcohol, any drug, or combination of alcohol
514 and any drug under Section 41-6-44, or while having any measurable controlled substance or
515 metabolite of a controlled substance in the person's body in violation of Section 41-6-44.6, if the
516 test is or tests are administered at the direction of a peace officer having grounds to believe that
517 person to have been operating or in actual physical control of a motor vehicle or motorboat while
518 having a blood or breath alcohol content statutorily prohibited under Section 41-6-44, 53-3-231,
519 or 53-3-232, or while under the influence of alcohol, any drug, or combination of alcohol and any
520 drug under Section 41-6-44, or while having any measurable controlled substance or metabolite
521 of a controlled substance in the person's body in violation of Section 41-6-44.6.

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

524 (ii) If an officer requests more than one test, refusal by a person to take one or more
525 requested tests, even though he does submit to any other requested test or tests, is a refusal under
526 this section.

527 (c) (i) A person who has been requested under this section to submit to a chemical test or
528 tests of his breath, blood, or urine, may not select the test or tests to be administered.

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

533 (2) (a) If the person has been placed under arrest, has then been requested by a peace
534 officer to submit to any one or more of the chemical tests under Subsection (1), and refuses to
535 submit to any chemical test requested, the person shall be warned by the peace officer requesting
536 the test or tests that a refusal to submit to the test or tests can result in revocation of the person's
537 license to operate a motor vehicle.

538 (b) Following the warning under Subsection (2)(a), if the person does not immediately
539 request that the chemical test or tests as offered by a peace officer be administered a peace officer
540 shall serve on the person, on behalf of the Driver License Division, immediate notice of the Driver
541 License Division's intention to revoke the person's privilege or license to operate a motor vehicle.
542 When the officer serves the immediate notice on behalf of the Driver License Division, he shall:

543 (i) take the Utah license certificate or permit, if any, of the operator;

544 (ii) issue a temporary license effective for only 29 days; and

545 (iii) supply to the operator, on a form approved by the Driver License Division, basic
546 information regarding how to obtain a hearing before the Driver License Division.

547 (c) A citation issued by a peace officer may, if approved as to form by the Driver License
548 Division, serve also as the temporary license.

549 (d) As a matter of procedure, the peace officer shall submit a signed report, within ten
550 calendar days after the date of the arrest, that he had grounds to believe the arrested person had
551 been operating or was in actual physical control of a motor vehicle or motorboat while having a
552 blood or breath alcohol content statutorily prohibited under Section 41-6-44, 53-3-231, or
553 53-3-232, or while under the influence of alcohol, any drug, or combination of alcohol and any
554 drug under Section 41-6-44, or while having any measurable controlled substance or metabolite

555 of a controlled substance in the person's body in violation of Section 41-6-44.6, and that the person
556 had refused to submit to a chemical test or tests under Subsection (1).

557 (e) (i) A person who has been notified of the Driver License Division's intention to revoke
558 his license under this section is entitled to a hearing.

559 (ii) A request for the hearing shall be made in writing within ten calendar days after the
560 date of the arrest.

561 (iii) Upon written request, the division shall grant to the person an opportunity to be heard
562 within 29 days after the date of arrest.

563 (iv) If the person does not make a timely written request for a hearing before the division,
564 his privilege to operate a motor vehicle in the state is revoked beginning on the 30th day after the
565 date of arrest for a period of:

566 (A) 18 months unless Subsection (2)(e)(iv)(B) applies; or

567 (B) 24 months if the person has had a previous license sanction after July 1, 1993, under
568 this section, Section 41-6-44.6, 53-3-223, 53-3-231, 53-3-232, or a conviction after July 1, 1993,
569 under Section 41-6-44.

570 (f) If a hearing is requested by the person, the hearing shall be conducted by the Driver
571 License Division in the county in which the offense occurred, unless the division and the person
572 both agree that the hearing may be held in some other county.

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

574 (i) whether a peace officer had reasonable grounds to believe that a person was operating
575 a motor vehicle or motorboat in violation of Section 41-6-44, 41-6-44.6, or 53-3-231; and

576 (ii) whether the person refused to submit to the test.

577 (h) (i) In connection with the hearing, the division or its authorized agent:

578 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and the
579 production of relevant books and papers; and

580 (B) shall issue subpoenas for the attendance of necessary peace officers.

581 (ii) The division shall pay witness fees and mileage from the Transportation Fund in
582 accordance with the rates established in Section 21-5-4.

583 (i) If after a hearing, the Driver License Division determines that the person was requested
584 to submit to a chemical test or tests and refused to submit to the test or tests, or if the person fails
585 to appear before the Driver License Division as required in the notice, the Driver License Division

586 shall revoke his license or permit to operate a motor vehicle in Utah beginning on the date the
587 hearing is held for a period of:

588 (i) (A) 18 months unless Subsection (2)(i)(i)(B) applies; or

589 (B) 24 months if the person has had a previous license sanction after July 1, 1993, under
590 this section, Section 41-6-44.6, 53-3-223, 53-3-231, 53-3-232, or a conviction after July 1, 1993,
591 under Section 41-6-44.

592 (ii) The Driver License Division shall also assess against the person, in addition to any fee
593 imposed under Subsection 53-3-205(14), a fee under Section 53-3-105, which shall be paid before
594 the person's driving privilege is reinstated, to cover administrative costs.

595 (iii) The fee shall be cancelled if the person obtains an unappealed court decision
596 following a proceeding allowed under this Subsection (2) that the revocation was improper.

597 (j) (i) Any person whose license has been revoked by the Driver License Division under
598 this section may seek judicial review.

599 (ii) Judicial review of an informal adjudicative proceeding is a trial. Venue is in the
600 district court in the county in which the offense occurred.

601 (3) Any person who is dead, unconscious, or in any other condition rendering him
602 incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn the
603 consent provided for in Subsection (1), and the test or tests may be administered whether the
604 person has been arrested or not.

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

607 (5) (a) Only a physician, registered nurse, practical nurse, or person authorized under
608 Section 26-1-30, acting at the request of a peace officer, may withdraw blood to determine the
609 alcoholic or drug content. This limitation does not apply to taking a urine or breath specimen.

610 (b) Any physician, registered nurse, practical nurse, or person authorized under Section
611 26-1-30 who, at the direction of a peace officer, draws a sample of blood from any person whom
612 a peace officer has reason to believe is driving in violation of this chapter, or hospital or medical
613 facility at which the sample is drawn, is immune from any civil or criminal liability arising from
614 drawing the sample, if the test is administered according to standard medical practice.

615 (6) (a) The person to be tested may, at his own expense, have a physician of his own
616 choice administer a chemical test in addition to the test or tests administered at the direction of a

617 peace officer.

618 (b) The failure or inability to obtain the additional test does not affect admissibility of the
619 results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or
620 tests to be taken at the direction of a peace officer.

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

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

626 (8) If a person under arrest refuses to submit to a chemical test or tests or any additional
627 test under this section, evidence of any refusal is admissible in any civil or criminal action or
628 proceeding arising out of acts alleged to have been committed while the person was operating or
629 in actual physical control of a motor vehicle or motorboat while under the influence of alcohol, any
630 drug, combination of alcohol and any drug, or while having any measurable controlled substance
631 or metabolite of a controlled substance in the person's body.

632 Section 10. Section **41-6-44.12** is amended to read:

633 **41-6-44.12. Reporting test results -- Immunity from liability.**

634 (1) As used in this section, "health care provider" means a person licensed under Title 58,
635 Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,
636 Chapter 68, Utah Osteopathic Medical Practice Act.

637 (2) A health care provider who is providing medical care to any person involved in a motor
638 vehicle or motorboat crash may notify, as soon as reasonably possible, the nearest peace officer
639 or law enforcement agency if the health care provider has reason to believe, as a result of any test
640 performed in the course of medical treatment, that the:

641 (a) person's blood alcohol concentration meets or exceeds the limit under Subsection
642 41-6-44(2)(a)(i);

643 (b) person is younger than 21 years of age and has any measurable blood, breath, or urine
644 alcohol concentration in the person's body; or

645 (c) person has any measurable controlled substance or metabolite of a controlled substance
646 in the person's body which could be a violation of Subsection 41-6-44(2)(a)(ii) or Section
647 41-6-44.6.

648 (3) The report under Subsection (2) shall consist of the:

649 (a) name of the person being treated;

650 (b) date and time of the administration of the test; and

651 (c) results disclosed by the test.

652 (4) A health care provider participating in good faith in making a report or assisting an
653 investigator from a law enforcement agency pursuant to this section is immune from any liability,
654 civil or criminal, that otherwise might result by reason of those actions.

655 (5) A report under Subsection (2) may not be used to support a finding of probable cause
656 that a person who is not a driver of a vehicle or motorboat has committed an offense.

657 Section 11. Section **53-3-102** is amended to read:

658 **53-3-102. Definitions.**

659 As used in this chapter:

660 (1) "Cancellation" means the termination by the division of a license issued through error
661 or fraud or for which consent under Section 53-3-211 has been withdrawn.

662 (2) "Class D license" means the class of license issued to drive motor vehicles not defined
663 as commercial motor vehicles or motorcycles under this chapter.

664 (3) "Class M license" means the class of license issued to drive a motorcycle as defined
665 under this chapter.

666 (4) "Commercial driver license" or "CDL" means a license issued substantially in
667 accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle
668 Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act,
669 which authorizes the holder to drive a class of commercial motor vehicle.

670 (5) (a) "Commercial motor vehicle" means a motor vehicle designed or used to transport
671 passengers or property if the vehicle:

672 (i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as
673 determined by federal regulation;

674 (ii) is designed to transport more than 15 passengers, including the driver; or

675 (iii) is transporting hazardous materials and is required to be placarded in accordance with
676 49 C.F.R. Part 172, Subpart F.

677 (b) The following vehicles are not considered a commercial motor vehicle for purposes
678 of Part 4:

679 (i) equipment owned and operated by the United States Department of Defense when
680 driven by any active duty military personnel and members of the reserves and national guard on
681 active duty including personnel on full-time national guard duty, personnel on part-time training,
682 and national guard military technicians and civilians who are required to wear military uniforms
683 and are subject to the code of military justice;

684 (ii) vehicles controlled and driven by a farmer to transport agricultural products, farm
685 machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation
686 as a motor carrier for hire;

687 (iii) firefighting and emergency vehicles; and

688 (iv) recreational vehicles that are not used in commerce and are driven solely as family or
689 personal conveyances for recreational purposes.

690 (6) "Conviction" means any of the following:

691 (a) an unvacated adjudication of guilt or a determination that a person has violated or
692 failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

693 (b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance
694 in court;

695 (c) a plea of guilty or nolo contendere accepted by the court;

696 (d) the payment of a fine or court costs;

697 (e) violation of a condition of release without bail, regardless of whether the penalty is
698 rebated, suspended, or probated.

699 (7) "Denial" or "denied" means the withdrawal of a driving privilege by the division to
700 which the provisions of Title 41, Chapter 12a, Part IV, Proof of Owner's or Operator's Security,
701 do not apply.

702 (8) "Director" means the division director appointed under Section 53-3-103.

703 (9) "Disqualification" means either:

704 (a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of
705 a person's privileges to drive a commercial motor vehicle;

706 (b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that
707 a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

708 (c) the loss of qualification that automatically follows conviction of an offense listed in
709 49 C.F.R. Part 383.51.

710 (10) "Division" means the Driver License Division of the department created in Section
711 53-3-103.

712 (11) "Drive" means:

713 (a) to operate or be in physical control of a:

714 (i) motor vehicle upon a highway; or

715 (ii) motorboat on the water; and

716 (b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections
717 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within
718 the state.

719 (12) (a) "Driver" means any person who drives, or is in actual physical control of a motor
720 vehicle or motorboat in any location open to the general public for purposes of vehicular or
721 motorboat traffic.

722 (b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who
723 is required to hold a CDL under Part 4 or federal law.

724 (13) "Extension" means a renewal completed exclusively by mail.

725 (14) "Farm tractor" means every motor vehicle designed and used primarily as a farm
726 implement for drawing plows, mowing machines, and other implements of husbandry.

727 (15) "Highway" means the entire width between property lines of every way or place of
728 any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

729 (16) "License" means the privilege to drive a motor vehicle or motorboat.

730 (17) "License certificate" means the evidence of the privilege issued under this chapter to
731 drive a motor vehicle or motorboat.

732 (18) "Motorboat" means any vessel propelled by machinery, whether or not the machinery
733 is the principal source of propulsion. Motorboat does not include a vessel with a maximum engine
734 or motor output of ten horsepower or less as listed by the manufacturer's specifications.

735 ~~[(18)]~~ (19) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or
736 saddle for the use of the rider and designed to travel with not more than three wheels in contact
737 with the ground.

738 ~~[(19)]~~ (20) "Nonresident" means a person who:

739 (a) is not a resident of this state; and

740 (b) (i) has not engaged in any gainful occupation in this state for an aggregate period of

741 60 days in the preceding 12 months; or

742 (ii) is temporarily assigned by his employer to work in Utah.

743 [~~(20)~~] (21) (a) "Owner" means a person other than a lienholder having an interest in the
744 property or title to a vehicle.

745 (b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a
746 security interest in another person but excludes a lessee under a lease not intended as security.

747 [~~(21)~~] (22) "Renewal" means to validate a license certificate so that it expires at a later
748 date.

749 [~~(22)~~] (23) "Reportable violation" means an offense required to be reported to the division
750 as determined by the division and includes those offenses against which points are assessed under
751 Section 53-3-221.

752 [~~(23)~~] (24) "Revocation" means the termination by action of the division of a licensee's
753 privilege to drive a motor vehicle or motorboat.

754 [~~(24)~~] (25) "School bus" means every publicly or privately owned motor vehicle designed
755 for transporting ten or more passengers and operated for the transportation of children to or from
756 school or school activities.

757 [~~(25)~~] (26) "Suspension" means the temporary withdrawal by action of the division of a
758 licensee's privilege to drive a motor vehicle or motorboat.

759 [~~(26)~~] (27) "Taxicab" means any class D motor vehicle transporting any number of
760 passengers for hire and that is subject to state or federal regulation as a taxi.

761 (28) "Vessel" has the same meaning as provided under Section 78-18-2.

762 (29) "Water" has the same meaning as provided under Section 78-18-2.

763 Section 12. Section **53-3-105** is amended to read:

764 **53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and**
765 **identification cards.**

766 The following fees apply under this chapter:

767 (1) An original class D license application under Section 53-3-205 is \$20.

768 (2) An original class M license application under Section 53-3-205 is \$22.50.

769 (3) An original provisional license application for a class D license under Section 53-3-205
770 is \$25.

771 (4) An original provisional license application for a class M license under Section

772 53-3-205 is \$27.50.

773 (5) An original application for a motorboat endorsement under Section 53-3-205 is \$5.

774 [~~(5)~~] (6) An original application for a motorcycle endorsement under Section 53-3-205 is
775 \$7.50.

776 [~~(6)~~] (7) An original application for a taxicab endorsement under Section 53-3-205 is \$5.

777 [~~(7)~~] (8) A renewal of a class D license under Section 53-3-214 is \$20 unless Subsection
778 [~~(13)~~] (15) applies.

779 [~~(8)~~] (9) A renewal of a class M license under Section 53-3-214 is \$22.50.

780 [~~(9)~~] (10) A renewal of a provisional license application for a class D license under Section
781 53-3-214 is \$20.

782 [~~(10)~~] (11) A renewal of a provisional license application for a class M license under
783 Section 53-3-214 is \$22.50.

784 (12) A renewal of a motorboat endorsement under Section 53-3-214 is \$5.

785 [~~(11)~~] (13) A renewal of a motorcycle endorsement under Section 53-3-214 is \$7.50.

786 [~~(12)~~] (14) A renewal of a taxicab endorsement under Section 53-3-214 is \$5.

787 [~~(13)~~] (15) A renewal of a class D license for a person 65 and older under Section
788 53-3-214 is \$8.

789 [~~(14)~~] (16) An extension of a class D license under Section 53-3-214 is \$15 unless
790 Subsection [~~(20)~~] (23) applies.

791 [~~(15)~~] (17) An extension of a class M license under Section 53-3-214 is \$17.50.

792 [~~(16)~~] (18) An extension of a provisional license application for a class D license under
793 Section 53-3-214 is \$15.

794 [~~(17)~~] (19) An extension of a provisional license application for a class M license under
795 Section 53-3-214 is \$17.50.

796 (20) An extension of a motorboat endorsement under Section 53-3-214 is \$5.

797 [~~(18)~~] (21) An extension of a motorcycle endorsement under Section 53-3-214 is \$7.50.

798 [~~(19)~~] (22) An extension of a taxicab endorsement under Section 53-3-214 is \$5.

799 [~~(20)~~] (23) An extension of a class D license for a person 65 and older under Section
800 53-3-214 is \$6.

801 [~~(21)~~] (24) An original or renewal application for a commercial class A, B, or C license
802 or an original or renewal of a provisional commercial class A or B license under Part 4 of this

803 chapter is:

804 (a) \$35 for the written test; and

805 (b) \$55 for the skills test.

806 ~~[(22)]~~ (25) Each original CDL endorsement for passengers, hazardous material, double or
807 triple trailers, or tankers is \$5.

808 ~~[(23)]~~ (26) An original CDL endorsement for a school bus under Part 4 of this chapter is
809 \$5.

810 ~~[(24)]~~ (27) A renewal of a CDL endorsement under Part 4 of this chapter is \$5.

811 ~~[(25)]~~ (28) A retake of a CDL written or a CDL skills test provided for in Section 53-3-205
812 is \$15.

813 ~~[(26)]~~ (29) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$5.

814 ~~[(27)]~~ (30) A duplicate class A, B, C, D, or M license certificate under Section 53-3-215
815 is \$13.

816 ~~[(28)]~~ (31) (a) A license reinstatement application under Section 53-3-205 is \$25.

817 (b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or
818 combination of alcohol and any drug-related offense is \$25 in addition to the fee under Subsection
819 ~~[(28)]~~ (31)(a).

820 ~~[(29)]~~ (32) An administrative fee for license reinstatement after an alcohol, drug, or
821 combination of alcohol and any drug-related offense under Section 41-6-44.10, 53-3-223, or
822 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part
823 4 of this chapter is \$150. This administrative fee is in addition to the fees under Subsection ~~[(28)]~~
824 (31).

825 ~~[(30)]~~ (33) (a) An administrative fee for providing the driving record of a driver under
826 Section 53-3-104 or 53-3-420 is \$4.

827 (b) The division may not charge for a report furnished under Section 53-3-104 to a
828 municipal, county, state, or federal agency.

829 ~~[(31)]~~ (34) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

830 ~~[(32)]~~ (35) An identification card application under Section 53-3-808 is \$8.

831 Section 13. Section **53-3-106** is amended to read:

832 **53-3-106. Disposition of revenues under this chapter -- Restricted account created**

833 **-- Uses as provided by appropriation -- Nonlapsing.**

834 (1) There is created within the Transportation Fund a restricted account known as the
835 "Department of Public Safety Restricted Account."

836 (2) The account consists of monies generated from the following revenue sources:

837 (a) all monies received under this chapter;

838 (b) administrative fees received according to the fee schedule authorized under this chapter
839 and Section 63-38-3.2; and

840 (c) any appropriations made to the account by the Legislature.

841 (3) (a) The account shall earn interest.

842 (b) All interest earned on account monies shall be deposited in the account.

843 (4) The expenses of the department in carrying out this chapter shall be provided for by
844 legislative appropriation from this account.

845 (5) The amount in excess of \$35 of the fees collected under Subsection [~~53-3-105(29)~~]
846 53-3-105(32) shall be appropriated by the Legislature from this account to the department to
847 implement the provisions of Section 53-1-117, except that of the amount in excess of \$35, \$30
848 shall be deposited in the State Laboratory Drug Testing restricted account created in Section
849 26-1-34.

850 (6) All monies received under Section 41-6-44.30 shall be appropriated by the Legislature
851 from this account to the department to implement the provisions of Section 53-1-117.

852 (7) Appropriations to the department from the account are nonlapsing.

853 Section 14. Section **53-3-203** is amended to read:

854 **53-3-203. Authorizing or permitting driving in violation of chapter -- Renting of**
855 **motor vehicles or motorboats -- License requirements -- Employees must be licensed --**
856 **Violations.**

857 (1) A person may not authorize or knowingly permit a motor vehicle or motorboat owned
858 by him or under his control to be driven by a person in violation of this chapter.

859 (2) (a) A person may not rent a motor vehicle or motorboat to another person unless the
860 person who will be the driver is licensed in this state, or in the case of a nonresident, licensed
861 under the laws of the state or country of his residence.

862 (b) A person may not rent a motor vehicle or motorboat to another person until he has
863 inspected the license certificate of the person who will be the driver and verified the signature on
864 the license certificate by comparison with the signature of the person who will be the driver written

865 in his presence.

866 (c) A person renting a motor vehicle or motorboat to another shall keep a record of the:

867 (i) registration number of the rented motor vehicle or motorboat;

868 (ii) name and address of the person to whom the motor vehicle or motorboat is rented;

869 (iii) number of the license certificate of the renter; and

870 (iv) date and place the license certificate was issued.

871 (d) The record is open to inspection by any peace officer or officer or employee of the
872 division.

873 (3) A person may not employ a person to drive a motor vehicle or motorboat who is not
874 licensed as required under this chapter.

875 (4) A person who violates Subsection (1), (2)(a), or (3) is guilty of a class C misdemeanor.
876 Section 15. Section **53-3-205** is amended to read:

877 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**

878 **Expiration dates of licenses and endorsements -- Information required -- Previous licenses**

879 **surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required**

880 **-- License agreement.**

881 (1) An application for any original license, provisional license, or endorsement shall be:

882 (a) made upon a form furnished by the division; and

883 (b) accompanied by a nonrefundable fee set under Section 53-3-105.

884 (2) An application and fee for an original class D license entitle the applicant to:

885 (a) not more than three attempts to pass both the written and skills tests for a class D
886 license within six months of the date of the application;

887 (b) a learner permit if needed after the written test is passed; and

888 (c) an original class D license and license certificate after all tests are passed.

889 (3) An application and fee for an original class M license entitle the applicant to:

890 (a) not more than three attempts to pass both the written and skills tests for a class M
891 license within six months of the date of the application;

892 (b) a learner permit if needed after the written test is passed; and

893 (c) an original class M license and license certificate after all tests are passed.

894 (4) An application and fee for a motorboat, motorcycle, or taxicab endorsement entitle the
895 applicant to:

896 (a) not more than three attempts to pass both the written and skills tests within six months
897 of the date of the application;

898 (b) a motorcycle learner permit if needed after the motorcycle written test is passed; and

899 (c) a motorboat, motorcycle, or taxicab endorsement when ~~all~~ the applicable tests are
900 passed.

901 (5) An application and fees for a commercial class A, B, or C license entitle the applicant
902 to:

903 (a) not more than two attempts to pass a written test and not more than two attempts to
904 pass a skills test within six months of the date of the application;

905 (b) a commercial driver instruction permit if needed after the written test is passed; and

906 (c) an original commercial class A, B, or C license and license certificate when all
907 applicable tests are passed.

908 (6) An application and fee for a CDL endorsement entitle the applicant to:

909 (a) not more than two attempts to pass a written test and not more than two attempts to
910 pass a skills test within six months of the date of the application; and

911 (b) a CDL endorsement when all tests are passed.

912 (7) If a CDL applicant does not pass a written test, skills test, or an endorsement test within
913 the number of attempts provided in Subsection (5) or (6), each test may be taken two additional
914 times within the six months for the fee provided in Section 53-3-105.

915 (8) (a) An original license expires on the birth date of the applicant in the fifth year
916 following the year the license certificate was issued.

917 (b) A renewal or an extension to a license expires on the birth date of the licensee in the
918 fifth year following the expiration date of the license certificate renewed or extended.

919 (c) A duplicate license expires on the same date as the last license certificate issued.

920 (d) An endorsement to a license expires on the same date as the license certificate
921 regardless of the date the endorsement was granted.

922 (e) A license and any endorsement to the license held by a person ordered to active duty
923 and stationed outside Utah in any of the armed forces of the United States, which expires during
924 the time period the person is stationed outside of the state, is valid until 90 days after the person
925 has been discharged or has left the service, unless the license is suspended, disqualified, denied,
926 or has been cancelled or revoked by the division, or the licensee updates the information or

927 photograph on the license certificate.

928 (9) (a) In addition to the information required by Title 63, Chapter 46b, Administrative
929 Procedures Act, for requests for agency action, each application shall:

930 (i) state the full legal name, birth date, sex, Social Security number or temporary
931 identification number (ITIN) issued by the Internal Revenue Service for a person who does not
932 qualify for a Social Security number, and residence address of the applicant;

933 (ii) briefly describe the applicant;

934 (iii) state whether the applicant has previously been licensed to drive a motor vehicle and,
935 if so, when and by what state or country;

936 (iv) state whether the applicant has ever had any license suspended, cancelled, revoked,
937 disqualified, or denied in the last six years, or whether the applicant has ever had any license
938 application refused, and if so, the date of and reason for the suspension, cancellation, revocation,
939 disqualification, denial, or refusal;

940 (v) provide all other information the division requires; and

941 (vi) be signed.

942 (b) An applicant's Social Security number or temporary identification number (ITIN) shall
943 be maintained on the computerized records of the division.

944 (10) The division shall require proof of every applicant's name, birthdate, and birthplace
945 by at least one of the following means:

946 (a) current license certificate;

947 (b) birth certificate;

948 (c) Selective Service registration; or

949 (d) other proof, including church records, family Bible notations, school records, or other
950 evidence considered acceptable by the division.

951 (11) When an applicant receives a license in another class, all previous license certificates
952 shall be surrendered and canceled. However, a disqualified commercial license may not be
953 canceled unless it expires before the new license certificate is issued.

954 (12) (a) When an application is received from a person previously licensed in another state
955 to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

956 (b) When received, the driver's record becomes part of the driver's record in this state with
957 the same effect as though entered originally on the driver's record in this state.

958 (13) An application for reinstatement of a license after the suspension, cancellation,
959 disqualification, denial, or revocation of a previous license shall be accompanied by the additional
960 fee or fees specified in Section 53-3-105.

961 (14) A person who has an appointment with the division for testing and fails to keep the
962 appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under
963 Section 53-3-105.

964 (15) A person who applies for an original license or renewal of a license agrees that the
965 person's license is subject to any suspension or revocation authorized under this title or Title 41,
966 Motor Vehicles.

967 Section 16. Section **53-3-217** is amended to read:

968 **53-3-217. License to be carried when driving -- Production in court -- Violation.**

969 (1) (a) The licensee shall have his license certificate in his immediate possession at all
970 times when driving a motor vehicle or motorboat.

971 (b) A licensee shall display his license certificate upon demand of a justice of peace, a
972 peace officer, or a field deputy or inspector of the division.

973 (2) It is a defense to a charge under this section that the person charged produces in court
974 a license certificate issued to him and valid at the time of his citation or arrest.

975 (3) A person who violates Subsection (1)(a) is guilty of a class C misdemeanor.

976 Section 17. Section **53-3-218** is amended to read:

977 **53-3-218. Court to report convictions and may recommend suspension of license --**
978 **Severity of speeding violation defined.**

979 (1) As used in this section:

980 (a) "conviction" means conviction by the court of first impression or final administrative
981 determination in an administrative traffic proceeding; and

982 (b) "court" includes an administrative traffic proceeding in accordance with Section
983 10-3-703.5.

984 (2) A court having jurisdiction over offenses committed under this chapter or any other
985 law of this state, or under any municipal ordinance regulating driving motor vehicles on highways
986 or driving motorboats on the water, shall forward to the division within ten days, an abstract of the
987 court record of the conviction or plea held in abeyance of any person in the court for a reportable
988 traffic or motorboating violation of any laws or ordinances, and may recommend the suspension

989 of the license of the person convicted.

990 (3) The abstract shall be made upon a form approved and furnished by the division and
991 shall include:

992 (a) the name and address of the party charged;

993 (b) the number of his license certificate, if any;

994 (c) the registration number of the motor vehicle or motorboat involved;

995 (d) whether the motor vehicle was a commercial motor vehicle;

996 (e) whether the motor vehicle carried hazardous materials;

997 (f) the nature of the offense;

998 (g) the date of the hearing;

999 (h) the plea;

1000 (i) the judgment or whether bail was forfeited; and

1001 (j) the severity of the violation, which shall be graded by the court as "minimum,"
1002 "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

1003 (4) When a convicted person secures a judgment of acquittal or reversal in any appellate
1004 court after conviction in the court of first impression, the division shall reinstate his license
1005 immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

1006 Section 18. Section **53-3-220** is amended to read:

1007 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
1008 **disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited**
1009 **driving privileges.**

1010 (1) (a) The division shall immediately revoke or, when this chapter or Title 41, Chapter
1011 6, Traffic Rules and Regulations, specifically provides for denial, suspension, or disqualification,
1012 the division shall deny, suspend, or disqualify the license of a person upon receiving a record of
1013 his conviction for any of the following offenses:

1014 (i) manslaughter or negligent homicide resulting from driving a motor vehicle or
1015 motorboat, or automobile homicide under Section 76-5-207;

1016 (ii) driving or being in actual physical control of a motor vehicle or motorboat while under
1017 the influence of alcohol, any drug, or combination of them to a degree that renders the person
1018 incapable of safely driving a motor vehicle or motorboat as prohibited in Section 41-6-44 or as
1019 prohibited in an ordinance that complies with the requirements of Subsection 41-6-43(1);

1020 (iii) driving or being in actual physical control of a motor vehicle or motorboat while
1021 having a blood or breath alcohol content prohibited in Section 41-6-44 or as prohibited in an
1022 ordinance that complies with the requirements of Subsection 41-6-43(1);

1023 (iv) perjury or the making of a false affidavit to the division under this chapter, Title 41,
1024 Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
1025 motorboats or regulating driving on highways or waters;

1026 (v) any offense punishable as a felony under the motor vehicle or motorboat laws of this
1027 state;

1028 (vi) any other felony in which a motor vehicle or a motorboat is used;

1029 (vii) failure to stop and render aid as required under the laws of this state if a motor vehicle
1030 or motorboat accident results in the death or personal injury of another;

1031 (viii) two charges of reckless driving committed within a period of 12 months; but if upon
1032 a first conviction of reckless driving the judge or justice recommends suspension of the convicted
1033 person's license, the division may after a hearing suspend the license for a period of three months;

1034 (ix) failure to bring a motor vehicle or motorboat to a stop at the command of a peace
1035 officer as required in Section 41-6-13.5 or 73-18-20;

1036 (x) any offense specified in Part 4 of this chapter that requires disqualification;

1037 (xi) discharging or allowing the discharge of a firearm from a vehicle in violation of
1038 Subsection 76-10-508(2);

1039 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
1040 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

1041 (xiii) operating or being in actual physical control of a motor vehicle or motorboat while
1042 having any measurable controlled substance or metabolite of a controlled substance in the person's
1043 body in violation of Section 41-6-44.6; and

1044 (xiv) operating or being in actual physical control of a motor vehicle while having any
1045 alcohol in the person's body in violation of Section 53-3-232.

1046 (b) The division shall immediately revoke the license of a person upon receiving a record
1047 of an adjudication under Title 78, Chapter 3a, Juvenile Courts, for any of the following offenses:

1048 (i) discharging or allowing the discharge of a firearm from a vehicle in violation of
1049 Subsection 76-10-508(2); and

1050 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary

1051 device from a vehicle in violation of Subsection 76-10-306(4)(b).

1052 (c) Except when action is taken under Section 53-3-219 for the same offense, the division
1053 shall immediately suspend for six months the license of a person upon receiving a record of
1054 conviction for any of the following offenses:

1055 (i) any violation of:

1056 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

1057 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

1058 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

1059 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

1060 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

1061 (ii) any criminal offense that prohibits:

1062 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance
1063 that is prohibited under the acts described in Subsection (1)(c)(i); or

1064 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer
1065 any substance that is prohibited under the acts described in Subsection (1)(c)(i).

1066 (2) The division shall extend the period of the first denial, suspension, revocation, or
1067 disqualification for an additional like period, to a maximum of one year, upon receiving:

1068 (a) a record of the conviction of any person on a charge of driving a motor vehicle or
1069 motorboat while the person's license is denied, suspended, revoked, or disqualified;

1070 (b) a record of a conviction of the person for any violation of the motor vehicle or
1071 motorboat law in which the person was involved as a driver;

1072 (c) a report of an arrest of the person for any violation of the motor vehicle law or
1073 motorboat law in which the person was involved as a driver; or

1074 (d) a report of an accident in which the person was involved as a driver.

1075 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
1076 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
1077 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or
1078 revocation originally imposed under Section 53-3-221.

1079 (4) (a) The division may extend to a person the limited privilege of driving a motor vehicle
1080 to and from the person's place of employment or within other specified limits on recommendation
1081 of the trial judge in any case where a person is convicted of any of the offenses referred to in

1082 Subsections (1) and (2) except:

1083 (i) automobile homicide under Subsection (1)(a)(i);

1084 (ii) those offenses referred to in Subsections (1)(a)(ii), (a)(iii), (a)(xi), (a)(xii), (a)(xiii),
1085 (1)(b), and (1)(c); and

1086 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
1087 revocation, or disqualification was imposed because of a violation of Section 41-6-44, Section
1088 41-6-44.6, a local ordinance which complies with the requirements of Subsection 41-6-43(1),
1089 Section 41-6-44.10, or Section 76-5-207, or a criminal prohibition that the person was charged
1090 with violating as a result of a plea bargain after having been originally charged with violating one
1091 or more of these sections or ordinances.

1092 (b) This discretionary privilege is limited to when undue hardship would result from a
1093 failure to grant the privilege and may be granted only once to any individual during any single
1094 period of denial, suspension, revocation, or disqualification, or extension of that denial,
1095 suspension, revocation, or disqualification.

1096 (c) A limited CDL may not be granted to an individual disqualified under Part 4 of this
1097 chapter or whose license has been revoked, suspended, cancelled, or denied under this chapter.

1098 Section 19. Section **53-3-221** is amended to read:

1099 **53-3-221. Offenses which may result in denial, suspension, disqualification, or**
1100 **revocation of license without hearing -- Additional grounds for suspension -- Point system**
1101 **for traffic violations -- Notice and hearing -- Reporting of traffic or motorboating violation**
1102 **procedures.**

1103 (1) By following the emergency procedures in Title 63, Chapter 46b, Administrative
1104 Procedures Act, the division may immediately deny, suspend, disqualify, or revoke the license of
1105 any person without hearing and without receiving a record of the person's conviction of crime
1106 when the division has been notified or has reason to believe the person:

1107 (a) has committed any offenses for which mandatory suspension or revocation of a license
1108 is required upon conviction under Section 53-3-220;

1109 (b) has, by reckless or unlawful driving of a motor vehicle or motorboat, caused or
1110 contributed to an accident resulting in death or injury to any other person, or serious property
1111 damage;

1112 (c) is incompetent to drive a motor vehicle or motorboat or is afflicted with mental or

1113 physical infirmities or disabilities rendering it unsafe for the person to drive a motor vehicle upon
1114 the highways or a motorboat upon the waters;

1115 (d) has committed a serious violation of the motor vehicle laws or motorboat laws of this
1116 state;

1117 (e) has permitted an unlawful use of the license as defined in Section 53-3-229; [~~or~~]

1118 (f) has been convicted of serious offenses against traffic laws governing the movement of
1119 motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard for the
1120 safety of other persons on the highways[-]; or

1121 (g) has been named in a letter from the director of the Division of Parks and Recreation
1122 or his designee, stating that an administrative hearing has been held and the Division of Parks and
1123 Recreation has determined, in accordance with Section 73-18-4.5, that the person's license should
1124 be denied or suspended.

1125 (2) (a) The division may suspend the license of a person under Subsection (1) when the
1126 person has failed to comply with the terms stated on a [~~traffic~~] citation issued in this state, except
1127 this Subsection (2) does not apply to highway weight limit violations or violations of law
1128 governing the transportation of hazardous materials.

1129 (b) This Subsection (2) applies to parking and standing violations only if a court has issued
1130 a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy the terms
1131 of the citation.

1132 (c) (i) This Subsection (2) may not be exercised unless notice of the pending suspension
1133 of the driving privilege has been mailed at least ten days previously to the person at the address
1134 provided to the division.

1135 (ii) After clearance by the division, a report authorized by Section 53-3-104 may not
1136 contain any evidence of a suspension that occurred as a result of failure to comply with the terms
1137 stated on a [~~traffic~~] citation.

1138 (3) (a) The division may suspend the license of a person under Subsection (1) when the
1139 division has been notified by a court that the person has an outstanding unpaid fine, an outstanding
1140 incomplete restitution requirement, or an outstanding warrant levied by order of a court.

1141 (b) The suspension remains in effect until the division is notified by the court that the order
1142 has been satisfied.

1143 (c) After clearance by the division, a report authorized by Section 53-3-104 may not

1144 contain any evidence of the suspension.

1145 (4) The division shall make rules establishing a point system as provided for in this
1146 subsection.

1147 (a) (i) The division shall assign a number of points to each type of moving traffic violation
1148 as a measure of its seriousness.

1149 (ii) The points shall be based upon actual relationships between types of traffic violations
1150 and motor vehicle traffic accidents.

1151 (b) Every person convicted of a traffic violation shall have assessed against his driving
1152 record the number of points that the division has assigned to the type of violation of which the
1153 person has been convicted, except that the number of points assessed shall be decreased by 10%
1154 if on the abstract of the court record of the conviction the court has graded the severity of violation
1155 as minimum, and shall be increased by 10% if on the abstract the court has graded the severity of
1156 violation as maximum.

1157 (c) (i) A separate procedure for assessing points for speeding offenses shall be established
1158 by the division based upon the severity of the offense.

1159 (ii) The severity of a speeding violation shall be graded as:

1160 (A) "minimum" for exceeding the posted speed limit by up to ten miles per hour;

1161 (B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per hour;

1162 and

1163 (C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.

1164 (iii) Consideration shall be made for assessment of no points on minimum speeding
1165 violations, except for speeding violations in school zones.

1166 (d) (i) Points assessed against a person's driving record shall be deleted for violations
1167 occurring before a time limit set by the division.

1168 (ii) The time limit may not exceed three years.

1169 (iii) The division may also delete points to reward violation-free driving for periods of
1170 time set by the division.

1171 (e) (i) By publication in two newspapers having general circulation throughout the state,
1172 the division shall give notice of the number of points it has assigned to each type of traffic
1173 violation, the time limit set by the division for the deletion of points, and the point level at which
1174 the division will generally take action to deny or suspend under this section.

1175 (ii) The division may not change any of the information provided above regarding points
1176 without first giving new notice in the same manner.

1177 (5) (a) (i) Upon denying or suspending the license of a person under this section, the
1178 division shall immediately notify the licensee in writing and afford him an opportunity for a
1179 hearing in the county where the licensee resides.

1180 (ii) The hearing shall be documented, and the division or its authorized agent may
1181 administer oaths, may issue subpoenas for the attendance of witnesses and the production of
1182 relevant books and papers, and may require a reexamination of the licensee.

1183 (iii) One or more members of the division may conduct the hearing, and any decision made
1184 after a hearing before any number of the members of the division is as valid as if made after a
1185 hearing before the full membership of the division.

1186 (iv) After the hearing the division shall either rescind its order of denial or suspension,
1187 extend the denial or suspension of the license, or revoke the license.

1188 (b) The denial or suspension of the license remains in effect pending qualifications
1189 determined by the division regarding a person:

1190 (i) whose license has been denied or suspended following reexamination;

1191 (ii) who is incompetent to drive a motor vehicle;

1192 (iii) who is afflicted with mental or physical infirmities that might make him dangerous
1193 on the highways; or

1194 (iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

1195 (6) (a) The division may suspend or revoke the license of any resident of this state upon
1196 receiving notice of the conviction of that person in another state of an offense committed there
1197 that, if committed in this state, would be grounds for the suspension or revocation of a license.

1198 (b) The division may, upon receiving a record of the conviction in this state of a
1199 nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws
1200 or motorboat laws of this state, forward a certified copy of the record to the motor vehicle
1201 administrator in the state where the person convicted is a resident.

1202 (7) (a) The division may suspend or revoke the license of any nonresident to drive a motor
1203 vehicle or motorboat in this state for any cause for which the license of a resident driver may be
1204 suspended or revoked.

1205 (b) Any nonresident who drives a motor vehicle upon a highway [~~when his~~] or a motorboat

1206 on the water when the driver's license has been suspended or revoked by the division is guilty of
1207 a class C misdemeanor.

1208 (8) (a) The division may not deny or suspend the license of any person for a period of more
1209 than one year except:

1210 (i) for failure to comply with the terms of a [~~traffic~~] citation under Subsection (2);

1211 (ii) upon receipt of a second or subsequent order suspending juvenile driving privileges
1212 under Section 53-3-219;

1213 (iii) when extending a denial or suspension upon receiving certain records or reports under
1214 Subsection 53-3-220(2); and

1215 (iv) for failure to give and maintain owner's or operator's security under Section
1216 41-12a-411.

1217 (b) The division may suspend the license of a person under Subsection (2) until he shows
1218 satisfactory evidence of compliance with the terms of the [~~traffic~~] citation.

1219 (9) (a) By following the emergency procedures in Title 63, Chapter 46b, Administrative
1220 Procedures Act, the division may immediately suspend the license of any person without hearing
1221 and without receiving a record of his conviction for a crime when the division has reason to
1222 believe that the person's license was granted by the division through error or fraud or that the
1223 necessary consent for the license has been withdrawn or is terminated.

1224 (b) The procedure upon suspension is the same as under Subsection (5), except that after
1225 the hearing the division shall either rescind its order of suspension or cancel the license.

1226 (10) (a) The division, having good cause to believe that a licensed driver is incompetent
1227 or otherwise not qualified to be licensed, may upon written notice of at least five days to the
1228 licensee require him to submit to an examination.

1229 (b) Upon the conclusion of the examination the division may suspend or revoke the
1230 person's license, permit him to retain the license, or grant a license subject to a restriction imposed
1231 in accordance with Section 53-3-208.

1232 (c) Refusal or neglect of the licensee to submit to an examination is grounds for
1233 suspension or revocation of his license.

1234 (11) A report authorized by Section 53-3-104 may not contain any evidence of a conviction
1235 for speeding on an interstate system in this state if the conviction was for a speed of ten miles per
1236 hour or less, above the posted speed limit and did not result in an accident, unless authorized in

1237 writing by the individual whose report is being requested.

1238 (12) (a) By following the emergency procedures in Title 63, Chapter 46b, Administrative
1239 Procedures Act, the division may immediately suspend the license of a person if it has reason to
1240 believe that the person is the owner of a motor vehicle for which security is required under Title
1241 41, Chapter 12a, Motor Vehicle Financial Responsibility, and has driven the motor vehicle or
1242 permitted it to be driven within this state without the security being in effect.

1243 (b) Section 41-12a-411 regarding the requirement of proof of owner's or operator's security
1244 applies to persons whose driving privileges are suspended under this Subsection (12).

1245 (c) If the division exercises the right of immediate suspension granted under this
1246 subsection, the notice and hearing provisions of Subsection (5) apply.

1247 (d) A person whose license suspension has been sustained or whose license has been
1248 revoked by the division under this subsection may file a request for agency action requesting a
1249 hearing.

1250 (13) Any suspension or revocation of a person's license under this section also disqualifies
1251 any license issued to that person under Part 4 of this chapter.

1252 Section 20. Section **53-3-222** is amended to read:

1253 **53-3-222. Purpose of revocation or suspension for driving under the influence.**

1254 The Legislature finds that the purpose of this title relating to suspension or revocation of
1255 a person's license or privilege to drive a motor vehicle or motorboat for driving with a blood
1256 alcohol content above a certain level or while under the influence of alcohol, any drug, or a
1257 combination of alcohol and any drug, or for refusing to take a chemical test as provided in Section
1258 41-6-44.10, is protecting persons on highways and waters by quickly removing from the highways
1259 and waters those persons who have shown they are safety hazards.

1260 Section 21. Section **53-3-223** is amended to read:

1261 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
1262 **Hearing and decision -- Suspension and fee -- Judicial review.**

1263 (1) (a) If a peace officer has reasonable grounds to believe that a person may be violating
1264 or has violated Section 41-6-44, prohibiting the operation of a vehicle or motorboat with a certain
1265 blood or breath alcohol concentration and driving under the influence of any drug, alcohol, or
1266 combination of a drug and alcohol or while having any measurable controlled substance or
1267 metabolite of a controlled substance in the person's body in violation of Section 41-6-44.6, the

1268 peace officer may, in connection with arresting the person, request that the person submit to a
1269 chemical test or tests to be administered in compliance with the standards under Section
1270 41-6-44.10.

1271 (b) In this section, a reference to Section 41-6-44 includes any similar local ordinance
1272 adopted in compliance with Subsection 41-6-43(1).

1273 (2) The peace officer shall advise a person prior to the person's submission to a chemical
1274 test that a test result indicating a violation of Section 41-6-44 or 41-6-44.6 shall, and the existence
1275 of a blood alcohol content sufficient to render the person incapable of safely driving a motor
1276 vehicle or motorboat may, result in suspension or revocation of the person's license to drive a
1277 motor vehicle or motorboat.

1278 (3) If the person submits to a chemical test and the test results indicate a blood or breath
1279 alcohol content in violation of Section 41-6-44 or 41-6-44.6, or if the officer makes a
1280 determination, based on reasonable grounds, that the person is otherwise in violation of Section
1281 41-6-44, the officer directing administration of the test or making the determination shall serve on
1282 the person, on behalf of the division, immediate notice of the division's intention to suspend the
1283 person's license to drive a motor vehicle or motorboat.

1284 (4) (a) When the officer serves immediate notice on behalf of the division he shall:

1285 (i) take the Utah license certificate or permit, if any, of the driver;

1286 (ii) issue a temporary license certificate effective for only 29 days; and

1287 (iii) supply to the driver, on a form to be approved by the division, basic information
1288 regarding how to obtain a prompt hearing before the division.

1289 (b) A citation issued by the officer may, if approved as to form by the division, serve also
1290 as the temporary license certificate.

1291 (5) As a matter of procedure, the peace officer serving the notice shall send to the division
1292 within ten calendar days after the date of arrest and service of the notice:

1293 (a) the person's license certificate;

1294 (b) a copy of the citation issued for the offense;

1295 (c) a signed report on a form approved by the division indicating the chemical test results,
1296 if any; and

1297 (d) any other basis for the officer's determination that the person has violated Section
1298 41-6-44 or 41-6-44.6.

1299 (6) (a) Upon written request, the division shall grant to the person an opportunity to be
1300 heard within 29 days after the date of arrest. The request to be heard shall be made within ten
1301 calendar days of the date of the arrest.

1302 (b) A hearing, if held, shall be before the division in the county in which the arrest
1303 occurred, unless the division and the person agree that the hearing may be held in some other
1304 county.

1305 (c) The hearing shall be documented and shall cover the issues of:

1306 (i) whether a peace officer had reasonable grounds to believe the person was driving a
1307 motor vehicle or motorboat in violation of Section 41-6-44 or 41-6-44.6;

1308 (ii) whether the person refused to submit to the test; and

1309 (iii) the test results, if any.

1310 (d) (i) In connection with a hearing the division or its authorized agent:

1311 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and the
1312 production of relevant books and papers; or

1313 (B) may issue subpoenas for the attendance of necessary peace officers.

1314 (ii) The division shall pay witness fees and mileage from the Transportation Fund in
1315 accordance with the rates established in Section 21-5-4.

1316 (e) The division may designate one or more employees to conduct the hearing.

1317 (f) Any decision made after a hearing before any designated employee is as valid as if
1318 made by the division.

1319 (g) After the hearing, the division shall order whether the person's license to drive a motor
1320 vehicle is suspended or not.

1321 (h) If the person for whom the hearing is held fails to appear before the division as
1322 required in the notice, the division shall order whether the person's license to drive a motor vehicle
1323 is suspended or not.

1324 (7) (a) A first suspension, whether ordered or not challenged under this Subsection (7), is
1325 for a period of 90 days, beginning on the 30th day after the date of the arrest.

1326 (b) A second or subsequent suspension under this subsection is for a period of one year,
1327 beginning on the 30th day after the date of arrest.

1328 (8) (a) The division shall assess against a person, in addition to any fee imposed under
1329 Subsection 53-3-205(14) for driving under the influence, a fee under Section 53-3-105 to cover

1330 administrative costs, which shall be paid before the person's driving privilege is reinstated. This
1331 fee shall be cancelled if the person obtains an unappealed division hearing or court decision that
1332 the suspension was not proper.

1333 (b) A person whose license has been suspended by the division under this subsection may
1334 file a petition within 30 days after the suspension for a hearing on the matter which, if held, is
1335 governed by Section 53-3-224.

1336 Section 22. Section **53-3-225** is amended to read:

1337 **53-3-225. Eligibility for new license after revocation.**

1338 (1) (a) Except as provided in Subsections (1)(b) and (c), a person whose license has been
1339 revoked under this chapter may not apply for or receive any new license until the expiration of one
1340 year from the date the former license was revoked.

1341 (b) A person's license may be revoked for a longer period as provided in:

1342 (i) Section 53-3-220, for driving a motor vehicle or motorboat while the person's license
1343 is revoked, or involvement as a driver in an accident or violation of the motor vehicle laws or the
1344 motorboat laws; and

1345 (ii) Section 53-3-221, for failing to comply with the terms of a [~~traffic~~] citation.

1346 (c) (i) The length of the revocation required by Subsection 53-3-220(1)(a)(xi), (a)(xii),
1347 (b)(i), or (b)(ii) shall be specified in an order of the court adjudicating or convicting the person of
1348 the offense.

1349 (ii) If the person adjudicated of the offense is younger than 16 years of age, the license or
1350 driving privilege shall be revoked for a minimum of one year, from age 16, but not to exceed the
1351 date the person turns 21 years of age.

1352 (iii) If the person adjudicated or convicted of the offense is 16 years of age or older, the
1353 license or driving privilege shall be revoked for a minimum of one year, but not to exceed five
1354 years.

1355 (d) A revoked license may not be renewed.

1356 (e) Application for a new license shall be filed in accordance with Section 53-3-205.

1357 (f) The new license is subject to all provisions of an original license.

1358 (g) The division may not grant the license until an investigation of the character, driving
1359 abilities, and habits of the driver has been made to indicate whether it is safe to grant him a license.

1360 (2) Any resident or nonresident whose license to drive a motor vehicle or motorboat in this

1361 state has been suspended or revoked under this chapter may not drive a motor vehicle or motorboat
1362 in this state under a license, permit, or registration certificate issued by any other jurisdiction or
1363 other source during suspension or after revocation until a new license is obtained under this
1364 chapter.

1365 Section 23. Section **53-3-227** is amended to read:

1366 **53-3-227. Driving a motor vehicle or motorboat prohibited while driving privilege**
1367 **denied, suspended, disqualified, or revoked -- Penalties.**

1368 (1) A person whose driving privilege has been denied, suspended, disqualified, or revoked
1369 under this chapter or under the laws of the state in which the person's driving privilege was granted
1370 and who drives any motor vehicle upon the highways of this state or any motorboat on the waters
1371 while that driving privilege is denied, suspended, disqualified, or revoked shall be punished as
1372 provided in this section.

1373 (2) A person convicted of a violation of Subsection (1), other than a violation specified
1374 in Subsection (3), is guilty of a class C misdemeanor.

1375 (3) (a) A person is guilty of a class B misdemeanor whose conviction under Subsection
1376 (1) is based on his driving a motor vehicle or motorboat while the person's driving privilege is
1377 suspended, disqualified, or revoked for:

1378 (i) a refusal to submit to a chemical test under Section 41-6-44.10;

1379 (ii) a violation of Section 41-6-44;

1380 (iii) a violation of a local ordinance that complies with the requirements of Section
1381 41-6-43;

1382 (iv) a violation of Section 41-6-44.6;

1383 (v) a violation of Section 76-5-207;

1384 (vi) a criminal action that the person plead guilty to as a result of a plea bargain after
1385 having been originally charged with violating one or more of the sections or ordinances under this
1386 Subsection (3);

1387 (vii) a revocation or suspension which has been extended under Subsection 53-3-220(2);

1388 or

1389 (viii) where disqualification is the result of driving a commercial motor vehicle while the
1390 person's CDL is disqualified, suspended, canceled, or revoked under Subsection 53-3-414(1).

1391 (b) A person is guilty of a class B misdemeanor whose conviction under Subsection (1)

1392 is based upon the person driving a motor vehicle or motorboat while the person's driving privilege
1393 is suspended, disqualified, or revoked in any state for violations corresponding to the violations
1394 listed in Subsection (3)(a).

1395 (c) A fine imposed under this subsection shall be at least the maximum fine for a class C
1396 misdemeanor under Section 76-3-301.

1397 Section 24. Section **53-3-231** is amended to read:

1398 **53-3-231. Person under 21 may not operate a vehicle or motorboat with detectable**
1399 **alcohol in body -- Chemical test procedures -- Temporary license -- Hearing and decision --**
1400 **Suspension of license or operating privilege -- Fees -- Judicial review -- Referral to local**
1401 **substance abuse authority or program.**

1402 (1) (a) As used in this section:

1403 (i) "Local substance abuse authority" has the same meaning as provided in Section
1404 62A-8-101.

1405 (ii) "Substance abuse program" means any substance abuse program licensed by the
1406 Department of Human Services or the Department of Health and approved by the local substance
1407 abuse authority.

1408 (b) Calculations of blood, breath, or urine alcohol concentration under this section shall
1409 be made in accordance with the procedures in Subsection 41-6-44(2).

1410 (2) (a) A person younger than 21 years of age may not operate or be in actual physical
1411 control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol concentration
1412 in his body as shown by a chemical test.

1413 (b) (i) A person with a valid operator license who violates Subsection (2)(a), in addition
1414 to any other applicable penalties arising out of the incident, shall have his operator license denied
1415 or suspended as provided in Subsection (2)(b)(ii).

1416 (ii) (A) For a first offense under Subsection (2)(a), the Driver License Division of the
1417 Department of Public Safety shall deny the person's operator license if ordered or not challenged
1418 under this section for a period of 90 days beginning on the 30th day after the date of the arrest
1419 under Section 32A-12-209.

1420 (B) For a second or subsequent offense under Subsection (2)(a), within three years of a
1421 prior denial or suspension, the Driver License Division shall suspend the person's operator license
1422 for a period of one year beginning on the 30th day after the date of arrest.

1423 (c) (i) A person who has not been issued an operator license who violates Subsection
1424 (2)(a), in addition to any other penalties arising out of the incident, shall be punished as provided
1425 in Subsection (2)(c)(ii).

1426 (ii) For one year or until he is 17, whichever is longer, a person may not operate a vehicle
1427 or motorboat and the Driver License Division may not issue the person an operator license or
1428 learner's permit.

1429 (3) (a) When a peace officer has reasonable grounds to believe that a person may be
1430 violating or has violated Subsection (2), the peace officer may, in connection with arresting the
1431 person for a violation of Section 32A-12-209, request that the person submit to a chemical test or
1432 tests to be administered in compliance with the standards under Section 41-6-44.10.

1433 (b) The peace officer shall advise a person prior to the person's submission to a chemical
1434 test that a test result indicating a violation of Subsection (2)(a) will result in denial or suspension
1435 of the person's license to operate a motor vehicle or motorboat or a refusal to issue a license.

1436 (c) If the person submits to a chemical test and the test results indicate a blood, breath, or
1437 urine alcohol content in violation of Subsection (2)(a), or if the officer makes a determination,
1438 based on reasonable grounds, that the person is otherwise in violation of Subsection (2)(a), the
1439 officer directing administration of the test or making the determination shall serve on the person,
1440 on behalf of the Driver License Division, immediate notice of the Driver License Division's
1441 intention to deny or suspend the person's license to operate a vehicle or motorboat or refusal to
1442 issue a license under Subsection (2).

1443 (4) When the officer serves immediate notice on behalf of the Driver License Division,
1444 he shall:

1445 (a) take the Utah license certificate or permit, if any, of the operator;

1446 (b) issue a temporary license certificate effective for only 29 days if the driver had a valid
1447 operator's license; and

1448 (c) supply to the operator, on a form to be approved by the Driver License Division, basic
1449 information regarding how to obtain a prompt hearing before the Driver License Division.

1450 (5) A citation issued by the officer may, if approved as to form by the Driver License
1451 Division, serve also as the temporary license certificate under Subsection (4)(b).

1452 (6) As a matter of procedure, the peace officer serving the notice shall send to the Driver
1453 License Division within ten calendar days after the date of arrest and service of the notice:

- 1454 (a) the person's driver license certificate, if any;
- 1455 (b) a copy of the citation issued for the offense;
- 1456 (c) a signed report on a form approved by the Driver License Division indicating the
1457 chemical test results, if any; and
- 1458 (d) any other basis for the officer's determination that the person has violated Subsection
1459 (2).
- 1460 (7) (a) (i) Upon written request, the Driver License Division shall grant to the person an
1461 opportunity to be heard within 29 days after the date of arrest under Section 32A-12-209.
- 1462 (ii) The request shall be made within ten calendar days of the date of the arrest.
- 1463 (b) A hearing, if held, shall be before the Driver License Division in the county in which
1464 the arrest occurred, unless the Driver License Division and the person agree that the hearing may
1465 be held in some other county.
- 1466 (c) The hearing shall be documented and shall cover the issues of:
- 1467 (i) whether a peace officer had reasonable grounds to believe the person was operating a
1468 motor vehicle or motorboat in violation of Subsection (2)(a);
- 1469 (ii) whether the person refused to submit to the test; and
- 1470 (iii) the test results, if any.
- 1471 (d) In connection with a hearing the Driver License Division or its authorized agent may
1472 administer oaths and may issue subpoenas for the attendance of witnesses and the production of
1473 relevant books and papers.
- 1474 (e) One or more members of the Driver License Division may conduct the hearing.
- 1475 (f) Any decision made after a hearing before any number of the members of the Driver
1476 License Division is as valid as if made after a hearing before the full membership of the Driver
1477 License Division.
- 1478 (g) After the hearing, the Driver License Division shall order whether the person:
- 1479 (i) with a valid license to operate a motor vehicle or motorboat will have his license denied
1480 or not or suspended or not; or
- 1481 (ii) without a valid operator license will be refused a license under Subsection (2)(c).
- 1482 (h) If the person for whom the hearing is held fails to appear before the Driver License
1483 Division as required in the notice, the division shall order whether the person shall have his license
1484 denied, suspended, or not denied or suspended, or whether an operator license will be refused or

1485 not refused.

1486 (8) (a) Following denial or suspension the Driver License Division shall assess against a
1487 person, in addition to any fee imposed under Subsection 53-3-205(14), a fee under Section
1488 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover
1489 administrative costs. This fee shall be canceled if the person obtains an unappealed Driver License
1490 Division hearing or court decision that the suspension was not proper.

1491 (b) A person whose operator license has been denied, suspended, or postponed by the
1492 Driver License Division under this section may file a petition within 30 days after the suspension
1493 for a hearing on the matter which, if held, is governed by Section 53-3-224.

1494 (9) After reinstatement of an operator license for a first offense under this section, a report
1495 authorized under Section 53-3-104 may not contain evidence of the denial or suspension of the
1496 person's operator license under this section if he has not been convicted of any other offense for
1497 which the denial or suspension may be extended.

1498 (10) (a) In addition to the penalties in Subsection (2), a person who violates Subsection
1499 (2)(a) shall:

1500 (i) obtain an assessment and recommendation for appropriate action from a substance
1501 abuse program, but any associated costs shall be the person's responsibility; or

1502 (ii) be referred by the Driver License Division to the local substance abuse authority for
1503 an assessment and recommendation for appropriate action.

1504 (b) (i) Reinstatement of the person's operator license or the right to obtain an operator
1505 license is contingent upon successful completion of the action recommended by the local substance
1506 abuse authority or the substance abuse program.

1507 (ii) The local substance abuse authority's or the substance abuse program's recommended
1508 action shall be determined by an assessment of the person's alcohol abuse and may include:

1509 (A) a targeted education and prevention program;

1510 (B) an early intervention program; or

1511 (C) a substance abuse treatment program.

1512 (iii) Successful completion of the recommended action shall be determined by standards
1513 established by the Division of Substance Abuse.

1514 (c) At the conclusion of the penalty period imposed under Subsection (2), the local
1515 substance abuse authority or the substance abuse program shall notify the Driver License Division

1516 of the person's status regarding completion of the recommended action.

1517 (d) The local substance abuse authorities and the substance abuse programs shall cooperate
1518 with the Driver License Division in:

1519 (i) conducting the assessments;

1520 (ii) making appropriate recommendations for action; and

1521 (iii) notifying the Driver License Division about the person's status regarding completion
1522 of the recommended action.

1523 (e) (i) The local substance abuse authority is responsible for the cost of the assessment of
1524 the person's alcohol abuse, if the assessment is conducted by the local substance abuse authority.

1525 (ii) The local substance abuse authority or a substance abuse program selected by a person
1526 is responsible for:

1527 (A) conducting an assessment of the person's alcohol abuse; and

1528 (B) for making a referral to an appropriate program on the basis of the findings of the
1529 assessment.

1530 (iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees
1531 associated with the recommended program to which the person selected or is referred.

1532 (B) The costs and fees under Subsection (10)(e)(iii)(A) shall be based on a sliding scale
1533 consistent with the local substance abuse authority's policies and practices regarding fees for
1534 services or determined by the substance abuse program.

1535 Section 25. Section **53-3-232** is amended to read:

1536 **53-3-232. Conditional license -- May not operate vehicle or motorboat with alcohol**
1537 **in body penalty.**

1538 (1) As used in this section, "qualifying conviction" means:

1539 (a) a conviction of a violation of Section 41-6-44, Section 41-6-44.6, a local ordinance
1540 which complies with the requirements of Subsection 41-6-43(1), Section 76-5-207, or of
1541 alcohol-related reckless driving as described under Subsection 41-6-44(9);

1542 (b) a refusal and suspension under Section 41-6-44.10; or

1543 (c) a violation of Subsection (3).

1544 (2) The division may only issue, reinstate, or renew a driver license in the form of a no
1545 alcohol conditional license to a person who has a qualifying conviction for a period of:

1546 (a) two years after reinstatement of the driver license following a first qualifying

1547 conviction; and

1548 (b) six years after reinstatement of the driver license following a second or subsequent
1549 qualifying conviction.

1550 (3) A no alcohol conditional license shall be issued on the condition that the person may
1551 not operate or be in actual physical control of a vehicle or motorboat in this state with any alcohol
1552 in the person's body.

1553 (4) It is a class B misdemeanor for a person who has been issued a no alcohol conditional
1554 license to operate or be in actual physical control of a vehicle or motorboat in this state in violation
1555 of Subsection (3).

1556 Section 26. Section **73-18-4.5** is enacted to read:

1557 **73-18-4.5. Rulemaking to establish a point system for boating violations -- Boating**
1558 **record -- Notice -- Hearings.**

1559 (1) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1560 board shall make rules establishing a point system as provided for in this section.

1561 (a) (i) The board shall assign a number of points to each type of moving boating violation
1562 specified under this chapter as a measure of its seriousness.

1563 (ii) The points shall be based upon actual relationships between types of violations and
1564 boating accidents.

1565 (b) Every person convicted of a moving boating violation shall have assessed against his
1566 boating record the number of points that the board has assigned to the type of violation of which
1567 the person has been convicted.

1568 (c) The division shall keep a boating record of each person convicted of a moving boating
1569 violation under this chapter.

1570 (d) (i) Points assessed against a person's boating record shall be deleted for violations
1571 occurring before a time limit set by rule.

1572 (ii) The time limit may not exceed three years.

1573 (iii) The division may also delete points to reward violation-free driving for periods of
1574 time set by rule.

1575 (e) (i) By publication in two newspapers having general circulation throughout the state,
1576 the division shall give notice of the number of points assigned to each type of boating violation,
1577 the time limit set by rule for the deletion of points, and the point level at which the division will

1578 generally take action to hold a hearing and if needed, notify the Driver License Division that a
1579 driver licensed should be denied or suspended under this section.

1580 (ii) The board may not change any of the information provided above regarding points
1581 without first giving new notice in the same manner.

1582 (2) (a) (i) If a person is assessed sufficient points to have his license denied or suspended
1583 under this section, the division shall immediately notify the licensee in writing and afford him an
1584 opportunity for a hearing in the county where the licensee resides.

1585 (ii) The hearing shall be documented, and the division or its authorized agent may
1586 administer oaths, may issue subpoenas for the attendance of witnesses and the production of
1587 relevant books and papers, and may require a reexamination by the division of the licensee.

1588 (iii) One or more members of the division may conduct the hearing, and any decision made
1589 after a hearing before any number of the members of the division is as valid as if made after a
1590 hearing before the full membership of the division.

1591 (iv) After the hearing if the division determines that the action is warranted, the division
1592 shall send a letter to the Driver License Division that the person's license should be denied or
1593 suspended or that the denial or suspension should be rescinded or extended.

1594 (b) Upon action by the Driver License Division, the denial or suspension of the license
1595 remains in effect pending qualifications determined by the division regarding a person whose
1596 license has been denied or suspended following reexamination.

1597 Section 27. Section **73-18-10** is amended to read:

1598 **73-18-10. Owner of boat livery -- Duties.**

1599 (1) (a) The owner of a boat livery doing business in the state shall register with the division
1600 and pay a \$25 annual registration fee prior to conducting business in that year.

1601 (b) The owner of an out-of-state boat livery may register with the division for the same fee
1602 as required under Subsection (1)(a).

1603 ~~[(1)]~~ (2) The owner of a boat livery shall keep a record of the following: the name and
1604 address of the person hiring any vessel; the identification number of the vessel; the vessel's
1605 departure date and time; and the vessel's expected time of return. The record shall be preserved
1606 for at least one year.

1607 ~~[(2)]~~ (3) Neither the owner of a boat livery nor his agent or employee may permit any
1608 vessel to depart from the premises of the boat livery unless the owner has equipped it as required

1609 under this chapter and unless he has advised the lessee or renter of the vessel of all rules
1610 promulgated under this chapter which the lessee or renter must obey.

1611 (4) A boat livery may apply to the division to become authorized to issue a 14-day
1612 temporary motorboat operator license.

1613 (5) (a) A 14-day temporary motorboat operator license may only be issued by a division
1614 registered boat livery:

1615 (i) to a renter of the livery's motorboat or someone in the renter's party; and

1616 (ii) to the person after he has received a division approved boating safety training and the
1617 person has signed an affidavit stating he has received the training and will adhere to the boating
1618 laws and rules.

1619 (b) An authorized boat livery may only issue one temporary motorboat operator license
1620 to a person in a 30-day period.

1621 (6) Neither the owner of a boat livery nor his agent or employee may rent a motorboat to
1622 another person unless the person who will be the operator meets one of the provisions under
1623 Section 73-18-15.4.

1624 (7) If the division has reasonable grounds to believe a livery has failed to comply with any
1625 of the required provisions, the division may suspend or revoke the livery's registration after notice
1626 to the livery and upon hearing, if a hearing is requested by the livery within ten calendar days after
1627 the notice is sent.

1628 Section 28. Section **73-18-12.7** is amended to read:

1629 **73-18-12.7. Operating under the influence -- Seizure and impoundment of**
1630 **motorboat.**

1631 (1) As used in this section, "motorboat" has the same meaning provided in Section
1632 53-3-102.

1633 [~~(1)~~] (2) If a peace officer arrests or cites the operator of a [~~vessel~~] motorboat for violating
1634 Section [~~73-18-12.2~~] 41-6-44, 41-6-44.6, 41-6-44.10, or a local ordinance similar to Section
1635 [~~73-18-12.2~~] 41-6-44, which complies with Section [~~73-18-12.1~~] 41-6-43, the peace officer shall
1636 seize and impound the [~~vessel~~] motorboat. If necessary for transportation of the [~~vessel~~] motorboat
1637 for impoundment, the [~~vessel's~~] motorboat's trailer may be used to transport the [~~vessel~~] motorboat.

1638 [~~(2)~~] (3) If a registered owner of the [~~vessel~~] motorboat, other than the driver, is present
1639 at the time of arrest, the peace officer may release the [~~vessel~~] motorboat to that registered owner,

1640 but only if:

1641 (a) the registered owner:

1642 (i) requests removal of the ~~[vessel]~~ motorboat from the scene;

1643 (ii) presents to the peace officer sufficient identification to prove ownership of the ~~[vessel]~~

1644 motorboat; and

1645 (iii) would not, in the judgment of the peace officer, be in violation of Section ~~[73-18-12.2]~~

1646 41-6-44, 41-6-44.6, 41-6-44.10, or a local ordinance adopted in compliance with Section

1647 ~~[73-18-12.1]~~ 41-6-43, if permitted to operate the ~~[vessel]~~ motorboat; and

1648 (b) the ~~[vessel]~~ motorboat is legally operable.

1649 ~~[(3)]~~ (4) (a) Any peace officer who impounds a ~~[vessel]~~ motorboat under this section shall

1650 remove, or cause the ~~[vessel]~~ motorboat to be removed, to the nearest accessible docking area,

1651 public or private garage, state impound lot, or other approved storage facility that meets the

1652 standards set by rule by the Motor Vehicle Division of the State Tax Commission, or if there is

1653 none, another reasonably safe place. The standards set by the Motor Vehicle Division shall be fair

1654 and reasonable and shall be unrestrictive as to the number of docking or other impoundment areas

1655 per geographical area.

1656 (b) The peace officer or agency by whom the peace officer is employed shall within 24

1657 hours after the seizure notify the Motor Vehicle Division of the seizure and impoundment. The

1658 notice shall set forth:

1659 (i) the operator's name;

1660 (ii) a description of the ~~[vessel]~~ motorboat, its identification number, if any, and its

1661 assigned number;

1662 (iii) the date, time, and place of impoundment;

1663 (iv) the reason for impoundment; and

1664 (v) the location of the dock or other place where the ~~[vessel]~~ motorboat is stored.

1665 ~~[(4)]~~ (5) Upon receipt of the notice, the Motor Vehicle Division shall give notice to the

1666 registered owner of the ~~[vessel]~~ motorboat in the same manner as prescribed for vehicles by

1667 Section 41-1a-114. The notice shall:

1668 (a) set forth:

1669 (i) the date, time, and place of impoundment;

1670 (ii) the name of the person operating the ~~[vessel]~~ motorboat at the time of seizure;

- 1671 (iii) the reason for seizure and impoundment; and
- 1672 (iv) the location where the [~~vessel~~] motorboat is stored;
- 1673 (b) inform the registered owner that he is responsible for payment of transportation
- 1674 charges, impound fees, and storage fees charged against the [~~vessel~~] motorboat; and
- 1675 (c) inform the registered owner of the [~~vessel~~] motorboat of the conditions prescribed in
- 1676 Subsection [~~(5)~~] (6) which must be satisfied before the [~~vessel~~] motorboat may be released.
- 1677 [~~(5)~~] (6) (a) The impounded [~~vessel~~] motorboat shall be released after the registered owner
- 1678 or the owner's agent:
- 1679 (i) makes a claim for release of the [~~vessel~~] motorboat at any state office designated by the
- 1680 Motor Vehicle Division;
- 1681 (ii) pays [~~an~~] the same impound fee [~~of \$25~~] required in Subsection 41-6-44.30(5);
- 1682 (iii) presents identification sufficient to prove ownership of the impounded [~~vessel~~]
- 1683 motorboat; and
- 1684 (iv) pays all transportation, impound, and storage fees.
- 1685 (b) The transportation and storage fees shall be paid to the docking area or other storage
- 1686 facility where the [~~vessel~~] motorboat is stored. All impound fees assessed under this subsection
- 1687 are dedicated revenue to the Motor Vehicle Division.
- 1688 [~~(6)~~] (7) (a) Any impounded [~~vessel~~] motorboat not claimed by the registered owner or the
- 1689 owner's agent within 30 days shall be sold in accordance with the procedures specified in Section
- 1690 41-1a-1103 for the sale of impounded motor vehicles.
- 1691 (b) The proceeds, if any, shall be disposed of in the manner specified in Section
- 1692 41-1a-1104.
- 1693 (c) The date of impoundment is considered the date of seizure for purposes of computing
- 1694 the time period.
- 1695 [~~(7)~~] (8) (a) Transportation and storage fees shall be established by the Motor Vehicle
- 1696 Division and shall be reviewed by the Motor Vehicle Division annually to ensure equity for
- 1697 [~~vessel~~] motorboat owners and transportation and storage operators.
- 1698 (b) Transportation, impound fees, or storage fees are a lien on the [~~vessel~~] motorboat.
- 1699 [~~(8)~~] (9) The registered owner of the [~~vessel~~] motorboat, upon the payment of all fees and
- 1700 charges incurred in the seizure and impoundment of the owner's [~~vessel~~] motorboat, has a cause
- 1701 of action for all the fees and charges, together with damages, court costs, and attorney fees, against

1702 the operator of the ~~[vessel]~~ motorboat whose actions caused the impoundment.

1703 ~~[(9)]~~ (10) Liability may not be imposed upon any peace officer, the state, or any of its
1704 political subdivisions on account of the enforcement of this section.

1705 Section 29. Section **73-18-15.1** is repealed and reenacted to read:

1706 **73-18-15.1. Vessel navigation and steering laws.**

1707 (1) The operator of a vessel shall maintain a proper lookout by sight and hearing at all
1708 times to avoid the risk of collision.

1709 (2) When two motorboats approach each other where there is risk of collision, each shall
1710 alter course to the right and pass on the left side of the other.

1711 (3) When two motorboats are crossing paths and are at risk of a collision, the vessel which
1712 has the other vessel on its right side shall keep out of the way and yield right-of-way if necessary.

1713 (4) The operator of any vessel overtaking any other vessel shall keep out of the way of the
1714 vessel being overtaken.

1715 (5) A vessel underway shall keep out of the way of a:

1716 (a) vessel not under command;

1717 (b) vessel restricted in its ability to maneuver;

1718 (c) vessel engaged in fishing; and

1719 (d) sailing vessel.

1720 (6) If one of two vessels is to keep out of the way, the other vessel operator shall maintain
1721 his course and speed unless it becomes apparent the other vessel is not taking the appropriate
1722 action.

1723 (7) In narrow channels vessels underway shall keep to the right of the middle of the
1724 channel.

1725 (8) The operator of a vessel shall proceed at a safe speed at all times so that he can take
1726 proper and effective action to avoid collision and be stopped within a distance appropriate to the
1727 prevailing circumstances or conditions.

1728 (9) (a) When two sailboats are approaching one another so as to involve risk of collision,
1729 one of them shall keep out of the way of the other as follows:

1730 (i) when each has the wind on a different side, the vessel which has the wind on the left
1731 side shall keep out of the way of the other;

1732 (ii) when both have the wind on the same side, the vessel which is to the windward shall

- 1733 keep out of the way of the vessel which is to leeward; and
- 1734 (iii) if the operator of a vessel with the wind on the left side sees a vessel to windward and
- 1735 cannot determine with certainty whether the other vessel has the wind on the left or on the right
- 1736 side, the operator shall keep out of way of the other vessel.
- 1737 (b) For purposes of this Subsection (9), the windward side shall be the side opposite that
- 1738 on which the mainsail is carried.
- 1739 (10) The operator of any vessel may not exceed a wakeless speed when:
- 1740 (a) within 150 feet of:
- 1741 (i) another vessel;
- 1742 (ii) a person in or floating on the water;
- 1743 (iii) a water skier being towed by another boat;
- 1744 (iv) a shore fisherman;
- 1745 (v) a launching ramp;
- 1746 (vi) a dock; or
- 1747 (vii) a designated swimming area; or
- 1748 (b) in an area designated as a wakeless speed area.
- 1749 (11) The operator of a motorboat is responsible for any damage or injury caused by the
- 1750 wake produced by the operator's motorboat.
- 1751 (12) (a) Except as provided in Subsection (12)(b), the operator of a motorboat that is less
- 1752 than 65 feet in length may not exceed a wakeless speed while any person is riding upon the bow
- 1753 decking, gunwales, transom, seatbacks, or motor cover.
- 1754 (b) Subsection (12)(a) does not apply if the motorboat is:
- 1755 (i) between 16 feet and 65 feet in length; and
- 1756 (ii) the motorboat is equipped with adequate rails or other safeguards to prevent a person
- 1757 from falling overboard.
- 1758 (13) If a person is riding upon the bow decking of a motorboat which does not have
- 1759 designed seating for passengers, the person shall straddle one of the upright supports of the bow
- 1760 rail and may not block the vision of the operator.
- 1761 (14) The operator of a vessel may not tow a water skier or a person on another device:
- 1762 (a) between sunset and sunrise; or
- 1763 (b) unless an onboard observer who is at least eight years of age is designated by the

1764 operator to watch the person being towed.

1765 (15) The operator of a vessel being operated between sunset and sunrise shall display
1766 lighted navigation lights approved by the division.

1767 (16) A person who violates this section is guilty of a class C misdemeanor.

1768 Section 30. Section **73-18-15.2** is amended to read:

1769 **73-18-15.2. Minimum age of operators -- Boating safety course for youth to operate**
1770 **personal watercraft.**

1771 (1) (a) [~~Except as provided in Subsection (2), a~~] A person under [16] 12 years of age may
1772 not operate a motorboat on the waters of this state[, if he is accompanied by a person who is at
1773 least 18 years of age].

1774 (b) A person under 16 years of age may operate a sailboat, if he is under the direct
1775 supervision of a person who is at least 18 years of age.

1776 (2) A person [~~under 16 years of age and~~] who is 12 years of age or older but under 16 years
1777 of age may operate a personal watercraft provided he:

1778 (a) is under the direct supervision of a person who is at least 18 years of age;

1779 (b) completes a boating safety course approved by the division; and

1780 (c) has in his possession a boating safety certificate issued [~~by the boating safety course~~
1781 ~~provider~~] or approved by the division.

1782 [~~(3) A person under 18 years of age and 16 years of age or older may operate a personal~~
1783 ~~watercraft, if he:]~~

1784 [~~(a) completes a boating safety course approved by the division; and]~~

1785 [~~(b) has in his possession a boating safety certificate issued by the boating safety course~~
1786 ~~provider.]~~

1787 [~~(4) A person required to attend a boating safety course under Subsection (3)(a) need not~~
1788 ~~be accompanied by a parent or legal guardian while completing a boating safety course.]~~

1789 [~~(5) No person may give permission to another person to operate a vessel in violation of~~
1790 ~~this section.]~~

1791 [~~(6)~~] (3) As used in this section, "direct supervision" means oversight at a distance within
1792 which visual contact is maintained.

1793 [~~(7)~~] (4) (a) The division may collect a fee not to exceed \$12 from each person who takes
1794 the division's boating safety course to help defray the cost of the boating safety course.

1795 (b) Money collected from the fee collected under Subsection [~~(7)~~] (4)(a) shall be deposited
1796 in the Boating Account.

1797 Section 31. Section **73-18-15.4** is enacted to read:

1798 **73-18-15.4. Motorboat operators must be licensed.**

1799 (1) As used in this section, "motorboat" has the same meaning as provided in Section
1800 53-3-102.

1801 (2) Beginning January 1, 2006, a person may not operate or drive a motorboat on the
1802 waters of this state unless the person is:

1803 (a) granted the privilege to operate a motorboat by being licensed as a driver and by
1804 obtaining a motorboat endorsement to the driver license in accordance with Title 53, Chapter 3,
1805 Uniform Driver License Act;

1806 (b) at least 12 years of age, has successfully completed a motorboat safety course
1807 established under Subsection (3), and is accompanied on board and directly supervised by a person
1808 who is otherwise licensed under the provisions of this section;

1809 (c) a nonresident who is at least 16 years of age and who:

1810 (i) has in his immediate possession the nonresident's motorboat license or certificate from
1811 a jurisdiction that requires a course approved by the National Association of State Boating Law
1812 Administrators; or

1813 (ii) is a holder of a nonresident temporary motorboat operator permit issued by the division
1814 under Subsection (3) and has the permit in his immediate possession;

1815 (d) at least 18 years of age and is operating a motorboat that is rented from a division
1816 licensed boat livery under Section 73-18-10 and:

1817 (i) a copy of the rental agreement is on board the motorboat; and

1818 (ii) the operator has in his immediate possession a division authorized 14-day temporary
1819 motorboat operator license;

1820 (e) a licensed Utah river guide permit holder and he is carrying passengers for hire and
1821 operating a motorboat in accordance with the requirements of Subsection 73-18-4(1)(d);

1822 (f) a holder of a valid master's, mate's, or operator's license issued by the United States
1823 Coast Guard;

1824 (g) a holder of a Utah vessel operator permit; or

1825 (h) operating or driving an official United States Government motorboat on official

1826 business with a valid United States Government motorboat operators certification.

1827 (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1828 division shall make rules:

1829 (a) establishing approved motorboat safety courses:

1830 (i) for operators who are at least 12 years of age;

1831 (ii) to assist in the preparation for a person to obtain a motorboat endorsement to a driver
1832 license; and

1833 (iii) that are consistent with courses approved by the National Association of State Boating
1834 Laws Administrators; and

1835 (b) establishing a nonresident temporary motorboat operator permit for a nonresident at
1836 least 16 years of age who does not have a motorboat license or certificate from a jurisdiction that
1837 is recognized under Subsection (2)(c).

1838 (4) In accordance with Section 63-38-3.2, the division shall establish fees to cover the
1839 costs of the approved motor boat safety course and fees to cover the costs of issuing the
1840 nonresident temporary motorboat operator permit based on the duration of the permit.

1841 Section 32. Section **73-18-15.5** is enacted to read:

1842 **73-18-15.5. Authorizing or permitting driving a vessel in violation of law.**

1843 (1) A person may not authorize or knowingly permit a vessel owned by him or that is
1844 under his control to be driven by a person in violation of this chapter, Title 41, Chapter 6, Article
1845 5, Driving While Intoxicated and Reckless Driving, or Title 53, Chapter 3, Uniform Driver License
1846 Act.

1847 (2) A person who violates Subsection (1) is guilty of a class C misdemeanor.

1848 Section 33. Section **78-3a-104** is amended to read:

1849 **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**

1850 (1) Except as otherwise provided by law, the juvenile court has exclusive original
1851 jurisdiction in proceedings concerning:

1852 (a) a minor who has violated any federal, state, or local law or municipal ordinance or a
1853 person younger than 21 years of age who has violated any law or ordinance before becoming 18
1854 years of age, regardless of where the violation occurred, excluding traffic and boating laws and
1855 ordinances;

1856 (b) a person 21 years of age or older who has failed or refused to comply with an order of

1857 the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's 21st
1858 birthday; however, the continuing jurisdiction is limited to causing compliance with existing
1859 orders;

1860 (c) a minor who is an abused child, neglected child, or dependent child, as those terms are
1861 defined in Section 78-3a-103;

1862 (d) a protective order for a minor who is alleged to be an abused child or neglected child,
1863 except as provided in Section 78-3a-105, and unless the petition is filed by a natural parent or
1864 stepparent of the minor against a natural parent or stepparent of the minor;

1865 (e) the determination of the custody of a minor or to appoint a guardian of the person or
1866 other guardian of a minor who comes within the court's jurisdiction under other provisions of this
1867 section;

1868 (f) the termination of the legal parent-child relationship in accordance with Part 4,
1869 Termination of Parental Rights Act, including termination of residual parental rights and duties;

1870 (g) the treatment or commitment of a mentally retarded minor;

1871 (h) a minor who is a habitual truant from school;

1872 (i) the judicial consent to the marriage of a minor under age 16 upon a determination of
1873 voluntariness or where otherwise required by law, employment, or enlistment of a minor when
1874 consent is required by law;

1875 (j) any parent or parents of a minor committed to a secure youth corrections facility, to
1876 order, at the discretion of the court and on the recommendation of a secure youth corrections
1877 facility, the parent or parents of a minor committed to a secure youth corrections facility for a
1878 custodial term, to undergo group rehabilitation therapy under the direction of a secure youth
1879 corrections facility therapist, who has supervision of that parent's or parents' minor, or any other
1880 therapist the court may direct, for a period directed by the court as recommended by a secure youth
1881 corrections facility;

1882 (k) a minor under Title 55, Chapter 12, Interstate Compact on Juveniles;

1883 (l) the treatment or commitment of a mentally ill child. The court may commit a child to
1884 the physical custody of a local mental health authority or to the legal custody of the Division of
1885 Mental Health in accordance with the procedures and requirements of Title 62A, Chapter 12, Part
1886 2A, Commitment of Persons Under Age 18 to Division of Mental Health. The court may not
1887 commit a child directly to the Utah State Hospital;

1888 (m) the commitment of a minor in accordance with Section 62A-8-501; and

1889 (n) de novo review of final agency actions resulting from an informal adjudicative
1890 proceeding as provided in Section 63-46b-15.

1891 (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive
1892 jurisdiction over any traffic or boating offense committed by a minor under 16 years of age and
1893 concurrent jurisdiction over all other traffic or boating offenses committed by a minor 16 years of
1894 age or older, except that the court shall have exclusive jurisdiction over the following [~~traffic~~]
1895 offenses committed by a minor under 18 years of age:

1896 (a) Section 76-5-207, automobile homicide;

1897 (b) Section 41-6-44, operating a vehicle or motorboat while under the influence of alcohol
1898 or drugs;

1899 (c) Section 41-6-45 or 73-18-12, reckless driving;

1900 (d) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or semitrailer
1901 for an extended period of time; and

1902 (e) Section 41-6-13.5 or 73-18-20, fleeing a peace officer.

1903 (3) The court also has jurisdiction over traffic and boating offenses that are part of a single
1904 criminal episode filed in a petition that contains an offense over which the court has jurisdiction.

1905 (4) The juvenile court has jurisdiction over questions of custody, support, and visitation
1906 certified to it by the district court pursuant to Section 78-3a-105.

1907 (5) The juvenile court has jurisdiction over an ungovernable or runaway minor who is
1908 referred to it by the Division of Child and Family Services or by public or private agencies that
1909 contract with the division to provide services to that minor where, despite earnest and persistent
1910 efforts by the division or agency, the minor has demonstrated that he:

1911 (a) is beyond the control of his parent, guardian, lawful custodian, or school authorities
1912 to the extent that his behavior or condition endangers his own welfare or the welfare of others; or

1913 (b) has run away from home.

1914 (6) This section does not restrict the right of access to the juvenile court by private
1915 agencies or other persons.

1916 (7) The juvenile court has jurisdiction of all magistrate functions relative to cases arising
1917 under Section 78-3a-602.

1918 Section 34. Section **78-18-1** is amended to read:

1919 **78-18-1. Basis for punitive damages awards -- Section inapplicable to DUI cases --**
1920 **Division of award with state.**

1921 (1) (a) Except as otherwise provided by statute, punitive damages may be awarded only
1922 if compensatory or general damages are awarded and it is established by clear and convincing
1923 evidence that the acts or omissions of the tortfeasor are the result of willful and malicious or
1924 intentionally fraudulent conduct, or conduct that manifests a knowing and reckless indifference
1925 toward, and a disregard of, the rights of others.

1926 (b) The limitations, standards of evidence, and standards of conduct of Subsection (1)(a)
1927 do not apply to any claim for punitive damages arising out of the tortfeasor's operation of a motor
1928 vehicle or motorboat while voluntarily intoxicated or under the influence of any drug or
1929 combination of alcohol and drugs as prohibited by Section 41-6-44.

1930 (c) The award of a penalty under Section 78-11-15 or 78-11-16 regarding shoplifting is
1931 not subject to the prior award of compensatory or general damages under Subsection (1)(a)
1932 whether or not restitution has been paid to the merchant prior to or as a part of a civil action under
1933 Section 78-11-15 or 78-11-16.

1934 (2) Evidence of a party's wealth or financial condition shall be admissible only after a
1935 finding of liability for punitive damages has been made.

1936 (3) In any judgment where punitive damages are awarded and paid, 50% of the amount of
1937 the punitive damages in excess of \$20,000 shall, after payment of attorneys' fees and costs, be
1938 remitted to the state treasurer for deposit into the General Fund.

1939 Section 35. **Repealer.**

1940 This act repeals:

1941 Section **73-18-12.1, Operating under influence -- Local ordinances to be consistent**
1942 **with chapter.**

1943 Section **73-18-12.2, Boating under the influence of alcohol or drugs or with high blood**
1944 **or breath alcohol content -- Criminal punishment -- Arrest without a warrant.**

1945 Section **73-18-12.3, Operating under the influence -- Standards for administration and**
1946 **interpretation of chemical analysis.**

1947 Section **73-18-12.4, Operating under the influence -- Admissibility of chemical test --**
1948 **Other evidence.**

1949 Section **73-18-12.5, Operating under the influence -- Prosecuting violations of local**

1950 **ordinances.**

1951 Section **73-18-12.6, Operating under the influence -- Implied consent to chemical tests**

1952 **for alcohol or drugs -- Refusal to submit -- Revocation of registration -- Court action on**

1953 **revocation-- Person incapable of refusal -- Results of test available -- Who may give test --**

1954 **Evidence.**

1955 Section 36. **Effective date.**

1956 This act takes effect on July 1, 2001.

Legislative Review Note
as of 2-2-01 8:44 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel