

Representative Loraine T. Pace proposes the following substitute bill:

**MOTORBOATING AND BOATING UNDER
THE INFLUENCE PROVISIONS**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Loraine T. Pace

This act modifies the Motor Vehicle Code, the Public Safety Code, and the Water and Irrigation Code. This act combines driving under the influence provisions with boating under the influence provisions. This act establishes certain moving boating violations and a minimum age for motorboat operators. This act takes effect on July 1, 2002.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

41-6-43.5, as enacted by Chapter 121, Laws of Utah 1996

41-6-44.20, as last amended by Chapter 23, Laws of Utah 1990

41-6-44.30, as last amended by Chapter 202, Laws of Utah 2001

41-6-102.5, as enacted by Chapter 202, Laws of Utah 2001

53-3-102, as last amended by Chapter 170, Laws of Utah 1996

53-3-218, as last amended by Chapter 85, Laws of Utah 2001

53-3-221, as last amended by Chapter 85, Laws of Utah 2001

53-3-231, as last amended by Chapter 85, Laws of Utah 2001

53-3-232, as enacted by Chapter 213, Laws of Utah 1998

73-18-12, as repealed and reenacted by Chapter 118, Laws of Utah 1987

73-18-15.2, as last amended by Chapter 205, Laws of Utah 1998

78-3a-104, as last amended by Chapters 213 and 255, Laws of Utah 2001

78-18-1, as last amended by Chapter 6, Laws of Utah 1991

ENACTS:



26 **73-18-15.5**, Utah Code Annotated 1953

27 REPEALS AND REENACTS:

28 **73-18-15.1**, as enacted by Chapter 99, Laws of Utah 1987

29 REPEALS:

30 **73-18-12.1**, as enacted by Chapter 118, Laws of Utah 1987

31 **73-18-12.2**, as last amended by Chapter 94, Laws of Utah 1998

32 **73-18-12.3**, as enacted by Chapter 118, Laws of Utah 1987

33 **73-18-12.4**, as enacted by Chapter 118, Laws of Utah 1987

34 **73-18-12.5**, as enacted by Chapter 118, Laws of Utah 1987

35 **73-18-12.6**, as last amended by Chapter 79, Laws of Utah 1996

36 **73-18-12.7**, as last amended by Chapter 202, Laws of Utah 2001

37 **73-18-12.8**, as last amended by Chapter 202, Laws of Utah 2001

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

39 Section 1. Section **41-6-43.5** is amended to read:

40 **41-6-43.5. Definitions.**

41 As used in this article, "vehicle" or "motor vehicle," in addition to the definitions provided
42 under Section 41-6-1, includes an off-highway [~~vehicles~~] vehicle as defined under Section 41-22-2
43 and a motorboat as defined in Section 73-18-2.

44 Section 2. Section **41-6-44.20** is amended to read:

45 **41-6-44.20. Drinking alcoholic beverage and open containers in motor vehicle**
46 **prohibited -- Definitions -- Exceptions.**

47 (1) A person may not drink any alcoholic beverage while operating a motor vehicle or
48 while a passenger in a motor vehicle, whether the vehicle is moving, stopped, or parked on any
49 highway.

50 (2) A person may not keep, carry, possess, transport, or allow another to keep, carry,
51 possess, or transport in the passenger compartment of a motor vehicle, when the vehicle is on any
52 highway, any container which contains any alcoholic beverage if the container has been opened,
53 its seal broken, or the contents of the container partially consumed.

54 (3) In this section:

55 (a) "Alcoholic beverage" has the meaning given in Section 32A-1-105.

56 (b) "Chartered bus" has the meaning given in Section 32A-1-105.

57 (c) "Limousine" has the meaning given in Section 32A-1-105.

58 (d) "Passenger compartment" means the area of the vehicle normally occupied by the
59 operator and passengers and includes areas accessible to them while traveling, such as a utility or
60 glove compartment, but does not include a separate front or rear trunk compartment or other area
61 of the vehicle not accessible to the operator or passengers while inside the vehicle.

62 (4) Subsections (1) and (2) do not apply to passengers in the living quarters of a motor
63 home or camper.

64 (5) Subsection (2) does not apply to passengers traveling in any licensed taxicab or bus.

65 (6) Subsections (1) and (2) do not apply to passengers who have carried their own
66 alcoholic beverage onto a limousine or chartered bus that is in compliance with Subsections
67 32A-12-213 (1) (b) and (c).

68 (7) Subsections (1) and (2) do not apply to a § [person] PASSENGER § in a motorboat on
68a the waters of this
69 state as these terms are defined in Section 73-18-2.

70 Section 3. Section **41-6-44.30** is amended to read:

71 **41-6-44.30. Seizure and impoundment of vehicles by peace officers -- Impound**
72 **requirements -- Removal of vehicle by owner.**

73 (1) If a peace officer arrests or cites the operator of a vehicle for violating Section 41-6-44,
74 41-6-44.6, or 41-6-44.10, or a local ordinance similar to Section 41-6-44 which complies with
75 Subsection 41-6-43(1), the peace officer shall seize and impound the vehicle in accordance with
76 Section 41-6-102.5, except as provided under Subsection (2).

77 (2) If a registered owner of the vehicle, other than the operator, is present at the time of
78 arrest, the peace officer may release the vehicle to that registered owner, but only if:

79 (a) the registered owner:

80 ~~[(a)]~~ (i) requests to remove the vehicle from the scene;

80a **§ AND §**

81 ~~[(b)]~~ (ii) presents to the peace officer ~~[a valid operator's license and]~~ sufficient
82 identification to prove ownership of the vehicle or motorboat;

83 (b) the registered owner identifies a driver with a valid operator's license who:

84 ~~[(c)]~~ (i) complies with all restrictions of his operator's license; and

85 ~~[(d)]~~ (ii) would not, in the judgment of the officer, be in violation of Section 41-6-44,
86 41-6-44.6, or 41-6-44.10, or a local ordinance similar to Section 41-6-44 which complies with

87 Subsection 41-6-43(1), if permitted to operate the vehicle~~[-and if];~~ and

88 (c) the vehicle itself is legally operable.

89 (3) If necessary for transportation of a motorboat for impoundment under this section, the
90 motorboat's trailer may be used to transport the motorboat.

91 Section 4. Section **41-6-102.5** is amended to read:

92 **41-6-102.5. Removal and impoundment of vehicles -- Reporting and notification**
93 **requirements.**

94 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under
95 Sections 41-1a-1101, 41-6-44.30, 41-6-102, 41-6-116.10, [~~73-18-12.7, 73-18-12.8;~~] or 73-18-20.1
96 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement
97 agency or highway authority as defined in Section 72-1-102, the removal or impoundment of the
98 vehicle, vessel, or outboard motor shall be at the expense of the owner, to a state impound yard,
99 or if none, to a garage, docking area, or other place of safety.

100 (2) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be
101 removed by a tow truck motor carrier that meets standards established:

102 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

103 (b) by the department under Subsection (9).

104 (3) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report
105 of the removal shall be sent to the Motor Vehicle Division by:

106 (i) the peace officer or agency by whom the peace officer is employed; and

107 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator
108 is employed.

109 (b) The report shall be in a form specified by the Motor Vehicle Division and shall include:

110 (i) the operator's name, if known;

111 (ii) a description of the vehicle, vessel, or outboard motor;

112 (iii) the vehicle identification number or vessel or outboard motor identification number;

113 (iv) the license number or other identification number issued by a state agency;

114 (v) the date, time, and place of impoundment;

115 (vi) the reason for removal or impoundment;

116 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard
117 motor; and

118 (viii) the place where the vehicle, vessel, or outboard motor is stored.

119 (c) Until the tow truck operator or tow truck motor carrier reports the removal as required
120 under Subsection (3), a tow truck motor carrier or impound yard may not:

121 (i) collect any fee associated with the removal; and

122 (ii) begin charging storage fees.

123 (4) (a) Upon receipt of the report, the Motor Vehicle Division shall give notice to the
124 registered owner of the vehicle, vessel, or outboard motor and any lien holder in the manner
125 prescribed by Section 41-1a-114.

126 (b) The notice shall:

127 (i) state the date, time, and place of removal, the name, if applicable, of the person
128 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and
129 the place where the vehicle, vessel, or outboard motor is stored;

130 (ii) state that the registered owner is responsible for payment of towing, impound, and
131 storage fees charged against the vehicle, vessel, or outboard motor; and

132 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the conditions
133 that must be satisfied before the vehicle, vessel, or outboard motor is released.

134 (c) If the vehicle, vessel, or outboard motor is not registered in this state, the Motor
135 Vehicle Division shall make a reasonable effort to notify the registered owner and any lien holder
136 of the removal and the place where the vehicle, vessel, or outboard motor is stored.

137 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where the
138 vehicle, vessel, or outboard motor is stored.

139 (5) (a) The vehicle, vessel, or outboard motor shall be released after the registered owner,
140 lien holder, or the owner's agent:

141 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the
142 State Tax Commission;

143 (ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel,
144 or outboard motor;

145 (iii) completes the registration, if needed, and pays the appropriate fees;

146 (iv) if the impoundment was made under Section 41-6-44.30, pays an administrative
147 impound fee of \$200~~[-if the vehicle was impounded under Section 41-6-44.30];~~

148 ~~[(v) pays an administrative impound fee of \$25, if the vessel or outboard motor was~~
149 ~~impounded under Section 73-18-12.7; and]~~

150 ~~[(vi)]~~ (v) pays all towing and storage fees to the place where the vehicle, vessel, or
151 outboard motor is stored.

152 (b) (i) Twenty-five dollars of the impound fees assessed under Subsection (5)(a)(iv) are
153 dedicated credits to the Motor Vehicle Division;

154 (ii) \$84 of the impound fees assessed under Subsection (5)(a)(iv) shall be deposited in the
155 Department of Public Safety Restricted Account created in Section 53-3-106; and

156 (iii) the remainder of the impound fees assessed under Subsection (5)(a)(iv) shall be
157 deposited in the General Fund.

158 ~~[(c) The revenue from the administrative impound fee assessed under Subsection (5)(a)(v)
159 are dedicated credits to the Motor Vehicle Division.]~~

160 (6) An impounded vehicle, vessel, or outboard motor not claimed by the registered owner
161 or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in accordance
162 with that section and the proceeds, if any, shall be disposed of as provided in Section 41-1a-1104.
163 The date of impoundment is considered the date of seizure for computing the time period provided
164 in Section 41-1a-1103.

165 (7) The registered owner who pays all fees and charges incurred in the impoundment of
166 the owner's vehicle, vessel, or outboard motor, has a cause of action for all the fees and charges,
167 together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel,
168 or outboard motor whose actions caused the removal or impoundment.

169 (8) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,
170 or outboard motor.

171 (9) The department shall make rules in accordance with Title 63, Chapter 46a, Utah
172 Administrative Rulemaking Act, setting the performance standards for towing companies to be
173 used by the department.

174 (10) (a) The Motor Vehicle Division may specify that a report required under Subsection
175 (3) be submitted in electronic form utilizing a database for submission, storage, and retrieval of
176 the information.

177 (b) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator
178 of the database may adopt a schedule of fees assessed for utilizing the database. The fees shall be
179 reasonable and fair and shall reflect the cost of administering the database.

180 Section 5. Section **53-3-102** is amended to read:

181 **53-3-102. Definitions.**

182 As used in this chapter:

183 (1) "Cancellation" means the termination by the division of a license issued through error
184 or fraud or for which consent under Section 53-3-211 has been withdrawn.185 (2) "Class D license" means the class of license issued to drive motor vehicles not defined
186 as commercial motor vehicles or motorcycles under this chapter.187 (3) "Class M license" means the class of license issued to drive a motorcycle as defined
188 under this chapter.189 (4) "Commercial driver license" or "CDL" means a license issued substantially in
190 accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle
191 Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act,
192 which authorizes the holder to drive a class of commercial motor vehicle.193 (5) (a) "Commercial motor vehicle" means a motor vehicle designed or used to transport
194 passengers or property if the vehicle:195 (i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as
196 determined by federal regulation;

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

198 (iii) is transporting hazardous materials and is required to be placarded in accordance with
199 49 C.F.R. Part 172, Subpart F.200 (b) The following vehicles are not considered a commercial motor vehicle for purposes
201 of Part 4:202 (i) equipment owned and operated by the United States Department of Defense when
203 driven by any active duty military personnel and members of the reserves and national guard on
204 active duty including personnel on full-time national guard duty, personnel on part-time training,
205 and national guard military technicians and civilians who are required to wear military uniforms
206 and are subject to the code of military justice;207 (ii) vehicles controlled and driven by a farmer to transport agricultural products, farm
208 machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation
209 as a motor carrier for hire;

210 (iii) firefighting and emergency vehicles; and

211 (iv) recreational vehicles that are not used in commerce and are driven solely as family or

212 personal conveyances for recreational purposes.

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

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

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

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

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

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

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

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

226 (9) "Disqualification" means either:

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

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

231 (c) the loss of qualification that automatically follows conviction of an offense listed in
232 49 C.F.R. Part 383.51.

233 (10) "Division" means the Driver License Division of the department created in Section
234 53-3-103.

235 (11) "Drive" means:

236 (a) to operate or be in physical control of a motor vehicle upon a highway; and

237 (b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections
238 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within
239 the state.

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

242 (b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who

243 is required to hold a CDL under Part 4 or federal law.

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

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

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

249 (16) "License" means the privilege to drive a motor vehicle.

250 (17) "License certificate" means the evidence of the privilege issued under this chapter to
251 drive a motor vehicle.

252 (18) "Motorboat" has the same meaning as provided under Section 73-18-2.

253 [~~(18)~~] (19) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or
254 saddle for the use of the rider and designed to travel with not more than three wheels in contact
255 with the ground.

256 [~~(19)~~] (20) "Nonresident" means a person who:

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

258 (b) (i) has not engaged in any gainful occupation in this state for an aggregate period of
259 60 days in the preceding 12 months; or

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

261 [~~(20)~~] (21) (a) "Owner" means a person other than a lienholder having an interest in the
262 property or title to a vehicle.

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

265 [~~(21)~~] (22) "Renewal" means to validate a license certificate so that it expires at a later
266 date.

267 [~~(22)~~] (23) "Reportable violation" means an offense required to be reported to the division
268 as determined by the division and includes those offenses against which points are assessed under
269 Section 53-3-221.

270 [~~(23)~~] (24) "Revocation" means the termination by action of the division of a licensee's
271 privilege to drive a motor vehicle.

272 [~~(24)~~] (25) "School bus" means every publicly or privately owned motor vehicle designed
273 for transporting ten or more passengers and operated for the transportation of children to or from

274 school or school activities.

275 [~~(25)~~] (26) "Suspension" means the temporary withdrawal by action of the division of a
276 licensee's privilege to drive a motor vehicle.

277 [~~(26)~~] (27) "Taxicab" means any class D motor vehicle transporting any number of
278 passengers for hire and that is subject to state or federal regulation as a taxi.

279 Section 6. Section **53-3-218** is amended to read:

280 **53-3-218. Court to report convictions and may recommend suspension of license --**
281 **Severity of speeding violation defined.**

282 (1) As used in this section:

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

285 (b) "court" includes an administrative traffic proceeding in accordance with Section
286 10-3-703.5.

287 (2) **§ (A) §** A court having jurisdiction over offenses committed under this chapter or any other
288 law of this state, or under any municipal ordinance regulating driving motor vehicles on highways
289 or driving motorboats on the water, shall forward to the division within ten days, an abstract of the
290 court record of the conviction or plea held in abeyance of any person in the court for a reportable
291 traffic or motorboating violation of any laws or ordinances, and may recommend the suspension
292 of the license of the person convicted.

292a **§ (b) WHEN THE DIVISION RECEIVES A COURT RECORD OF A CONVICTION OR PLEA IN ABEYANCE**
292b **FOR A MOTORBOAT VIOLATION, THE DIVISION MAY ONLY TAKE ACTION AGAINST A PERSON'S**
292c **DRIVER LICENSE IF THE MOTORBOAT VIOLATION IS FOR A VIOLATION OF TITLE 41, CHAPTER 6,**
292d **ARTICLE 5, DRIVING WHILE INTOXICATED AND RECKLESS DRIVING. §**

293 (3) The abstract shall be made in the form prescribed by the division and shall include:

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

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

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

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

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

299 (f) the nature of the offense;

300 (g) the date of the hearing;

301 (h) the plea;

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

303 (j) the severity of the violation, which shall be graded by the court as "minimum,"

304 "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

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

308 Section 7. Section **53-3-221** is amended to read:

309 **53-3-221. Offenses which may result in denial, suspension, disqualification, or**
310 **revocation of license without hearing -- Additional grounds for suspension -- Point system**
311 **for traffic violations -- Notice and hearing -- Reporting of traffic violation procedures.**

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

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

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

320 (c) is incompetent to drive a motor vehicle or is afflicted with mental or physical
321 infirmities or disabilities rendering it unsafe for the person to drive a motor vehicle upon the
322 highways;

323 (d) has committed a serious violation of the motor vehicle laws of this state;

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

325 (f) has been convicted of serious offenses against traffic laws governing the movement of
326 motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard for the
327 safety of other persons on the highways.

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

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

335 (c) (i) This Subsection (2) may not be exercised unless notice of the pending suspension

336 of the driving privilege has been sent at least ten days previously to the person at the address
337 provided to the division.

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

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

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

346 (c) After clearance by the division, a report authorized by Section 53-3-104 may not
347 contain any evidence of the suspension.

348 (4) The division shall make rules establishing a point system as provided for in this
349 Subsection (4).

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

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

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

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

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

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

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

365 and

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

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

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

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

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

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

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

380 (5) (a) (i) Upon denying or suspending the license of a person under this section, the
381 division shall immediately notify the licensee in a manner specified by the division and afford him
382 an opportunity for a hearing in the county where the licensee resides.

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

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

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

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

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

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

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

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

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

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

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

408 (b) Any nonresident who drives a motor vehicle upon a highway when his license has been
409 suspended or revoked by the division is guilty of a class C misdemeanor.

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

412 (i) for failure to comply with the terms of a traffic citation under Subsection (2);

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

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

417 (iv) for failure to give and maintain owner's or operator's security under Section
418 41-12a-411.

419 (b) The division may suspend the license of a person under Subsection (2) until he shows
420 satisfactory evidence of compliance with the terms of the traffic citation.

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

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

428 (10) (a) The division, having good cause to believe that a licensed driver is incompetent

429 or otherwise not qualified to be licensed, may upon notice in a manner specified by the division
430 of at least five days to the licensee require him to submit to an examination.

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

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

436 (11) A report authorized by Section 53-3-104 may not contain any evidence of a conviction
437 for speeding on an interstate system in this state if the conviction was for a speed of ten miles per
438 hour or less, above the posted speed limit and did not result in an accident, unless authorized in
439 a manner specified by the division by the individual whose report is being requested.

440 (12) (a) By following the emergency procedures in Title 63, Chapter 46b, Administrative
441 Procedures Act, the division may immediately suspend the license of a person if it has reason to
442 believe that the person is the owner of a motor vehicle for which security is required under Title
443 41, Chapter 12a, Motor Vehicle Financial Responsibility, and has driven the motor vehicle or
444 permitted it to be driven within this state without the security being in effect.

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

447 (c) If the division exercises the right of immediate suspension granted under this
448 Subsection (12), the notice and hearing provisions of Subsection (5) apply.

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

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

454 Section 8. Section **53-3-231** is amended to read:

455 **53-3-231. Person under 21 may not operate vehicle with detectable alcohol in body**
456 **-- Chemical test procedures -- Temporary license -- Hearing and decision -- Suspension of**
457 **license or operating privilege -- Fees -- Judicial review -- Referral to local substance abuse**
458 **authority or program.**

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

460 (i) "Local substance abuse authority" has the same meaning as provided in Section
461 62A-8-101.

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

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

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

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

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

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

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

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

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

489 (b) The peace officer shall advise a person prior to the person's submission to a chemical
490 test that a test result indicating a violation of Subsection (2)(a) will result in denial or suspension

491 of the person's license to operate a motor vehicle or a refusal to issue a license.

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

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

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

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

504 (c) supply to the operator, in a manner specified by the division, basic information
505 regarding how to obtain a prompt hearing before the Driver License Division.

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

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

510 (a) the person's driver license certificate, if any;

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

512 (c) a signed report in a manner specified by the Driver License Division indicating the
513 chemical test results, if any; and

514 (d) any other basis for the officer's determination that the person has violated Subsection
515 (2).

516 (7) (a) (i) Upon request in a manner specified by the division, the Driver License Division
517 shall grant to the person an opportunity to be heard within 29 days after the date of arrest under
518 Section 32A-12-209.

519 (ii) The request shall be made within ten calendar days of the date of the arrest.

520 (b) A hearing, if held, shall be before the Driver License Division in the county in which
521 the arrest occurred, unless the Driver License Division and the person agree that the hearing may

522 be held in some other county.

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

524 (i) whether a peace officer had reasonable grounds to believe the person was operating a
525 motor vehicle or motorboat in violation of Subsection (2)(a);

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

527 (iii) the test results, if any.

528 (d) In connection with a hearing the Driver License Division or its authorized agent may
529 administer oaths and may issue subpoenas for the attendance of witnesses and the production of
530 relevant books and papers and records as defined in Section 46-4-102.

531 (e) One or more members of the Driver License Division may conduct the hearing.

532 (f) Any decision made after a hearing before any number of the members of the Driver
533 License Division is as valid as if made after a hearing before the full membership of the Driver
534 License Division.

535 (g) After the hearing, the Driver License Division shall order whether the person:

536 (i) with a valid license to operate a motor vehicle will have his license denied or not or
537 suspended or not; or

538 (ii) without a valid operator license will be refused a license under Subsection (2)(c).

539 (h) If the person for whom the hearing is held fails to appear before the Driver License
540 Division as required in the notice, the division shall order whether the person shall have his license
541 denied, suspended, or not denied or suspended, or whether an operator license will be refused or
542 not refused.

543 (8) (a) Following denial or suspension the Driver License Division shall assess against a
544 person, in addition to any fee imposed under Subsection 53-3-205(14), a fee under Section
545 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover
546 administrative costs. This fee shall be canceled if the person obtains an unappealed Driver License
547 Division hearing or court decision that the suspension was not proper.

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

551 (9) After reinstatement of an operator license for a first offense under this section, a report
552 authorized under Section 53-3-104 may not contain evidence of the denial or suspension of the

553 person's operator license under this section if he has not been convicted of any other offense for
554 which the denial or suspension may be extended.

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

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

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

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

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

566 (A) a targeted education and prevention program;

567 (B) an early intervention program; or

568 (C) a substance abuse treatment program.

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

571 (c) At the conclusion of the penalty period imposed under Subsection (2), the local
572 substance abuse authority or the substance abuse program shall notify the Driver License Division
573 of the person's status regarding completion of the recommended action.

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

576 (i) conducting the assessments;

577 (ii) making appropriate recommendations for action; and

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

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

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

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

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

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

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

592 Section 9. Section **53-3-232** is amended to read:

593 **53-3-232. Conditional license -- May not operate vehicle with alcohol in body**
594 **penalty.**

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

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

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

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

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

603 (a) two years after reinstatement of the driver license following a first qualifying
604 conviction; and

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

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

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

613 Section 10. Section **73-18-12** is amended to read:

614 **73-18-12. Operation in willful or wanton disregard for safety -- Penalty.**

615 ~~[No]~~ (1) A person may not operate any nonmotorized vessel, or manipulate any water
616 skis~~[, aquaplane, or similar]~~ or any device towed by a motorboat in a willful or wanton disregard
617 for the safety of persons or property.

618 (2) A violation of ~~[this section]~~ Subsection (1) is a class B misdemeanor.

619 Section 11. Section **73-18-15.1** is repealed and reenacted to read:

620 **73-18-15.1. Vessel navigation and steering laws.**

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

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

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

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

630 (5) The operator of a vessel underway shall keep out of the way of a:

631 (a) vessel not under command;

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

633 (c) vessel engaged in fishing; and

634 (d) sailing vessel.

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

638 (7) In narrow channels an operator of a vessel underway shall keep to the right of the
639 middle of the channel.

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

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

645 (i) when each has the wind on a different side, the operator of the vessel which has the

646 wind on the left side shall keep out of the way of the other;

647 (ii) when both have the wind on the same side, the operator of the vessel which is to the
648 windward shall keep out of the way of the vessel which is to leeward; and

649 (iii) if the operator of a vessel with the wind on the left side sees a vessel to windward and
650 cannot determine with certainty whether the other vessel has the wind on the left or on the right
651 side, the operator shall keep out of way of the other vessel.

652 (b) For purposes of this Subsection (9), the windward side shall be the side opposite that
653 on which the mainsail is carried.

654 (10) The operator of any vessel may not exceed a wakeless speed when:

655 (a) within 150 feet of:

656 (i) another vessel;

657 (ii) a person in or floating on the water;

658 (iii) a water skier being towed by another boat;

659 (iv) a shore fisherman;

660 (v) a launching ramp;

661 (vi) a dock; or

662 (vii) a designated swimming area; or

663 (b) in an area designated as a wakeless speed area.

664 (11) The operator of a motorboat is responsible for any damage or injury caused by the
665 wake produced by the operator's motorboat.

666 (12) (a) Except as provided in Subsection (12)(b), the operator of a motorboat that is less
667 than 65 feet in length may not exceed a wakeless speed while any person is riding upon the bow
668 decking, gunwales, transom, seatbacks, or motor cover.

669 (b) Subsection (12)(a) does not apply if the motorboat is:

670 (i) between 16 feet and 65 feet in length; and

671 (ii) the motorboat is equipped with adequate rails or other safeguards to prevent a person
672 from falling overboard.

673 (13) If a person is riding upon the bow decking of a motorboat which does not have
674 designed seating for passengers, the person shall straddle one of the upright supports of the bow
675 rail and may not block the vision of the operator.

676 (14) The operator of a vessel may not tow a water skier or a person on another device:

677 (a) unless an onboard observer, who is at least eight years of age, is designated by the
 678 operator to watch the person being towed; or

679 (b) between sunset and sunrise.

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

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

683 Section 12. Section **73-18-15.2** is amended to read:

684 **73-18-15.2. Minimum age of operators -- Boating safety course for youth to operate**
 685 **personal watercraft.**

686 (1) (a) ~~§ [(ii)] § [Except as provided in Subsection (2), a]~~ A person under § [16] [12] §
 686a years of age may
 687 not operate a motorboat on the waters of this state § **UNLESS THE PERSON IS UNDER THE**
 687a **ON-BOARD AND DIRECT SUPERVISION OF A PERSON WHO IS AT LEAST 18 YEARS OF AGE** § [; if
 687b he is accompanied by a person who is at
 688 least 18 years of age].

689 ~~§ [(ii) A person who is at least 12 years of age but under 16 years of age may operate a~~
 690 ~~motorboat, if the person is under the § **ON-BOARD AND** § direct supervision of a person who is at~~
 690a ~~least 18 years of age.] §~~

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

693 (2) A person [~~under 16 years of age and~~] who is at least 12 years of age or older but under
 694 16 years of age may operate a personal watercraft provided he:

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

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

697 (c) has in his possession a boating safety certificate issued by the boating safety course
 698 provider.

699 (3) A person who is at least 16 years of age but under 18 years of age [and 16 years of age
 700 or older] may operate a personal watercraft, if [he] the person:

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

702 (b) has in his possession a boating safety certificate issued by the boating safety course
 703 provider.

704 (4) A person required to attend a boating safety course under Subsection (3)(a) need not
 705 be accompanied by a parent or legal guardian while completing a boating safety course.

706 (5) ~~[No]~~ A person may not give permission to another person to operate a vessel in
 707 violation of this section.

708 (6) As used in this section, "direct supervision" means oversight at a distance within which
709 visual contact is maintained.

710 (7) (a) The division may collect a fee not to exceed \$12 from each person who takes the
711 division's boating safety course to help defray the cost of the boating safety course.

712 (b) Money collected from the fee collected under Subsection (7)(a) shall be deposited in
713 the Boating Account.

714 Section 13. Section **73-18-15.5** is enacted to read:

715 **73-18-15.5. Authorizing or permitting driving a vessel in violation of law.**

716 (1) A person may not authorize or knowingly permit a vessel owned by him or that is
717 under his control to be driven by a person in violation of this chapter or Title 41, Chapter 6, Article
718 5, Driving While Intoxicated and Reckless Driving.

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

720 Section 14. Section **78-3a-104** is amended to read:

721 **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**

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

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

728 (b) a person 21 years of age or older who has failed or refused to comply with an order of
729 the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's 21st
730 birthday; however, the continuing jurisdiction is limited to causing compliance with existing
731 orders;

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

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

737 (e) the determination of the custody of a minor or to appoint a guardian of the person or
738 other guardian of a minor who comes within the court's jurisdiction under other provisions of this

739 section;

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

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

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

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

747 (j) any parent or parents of a minor committed to a secure youth corrections facility, to
748 order, at the discretion of the court and on the recommendation of a secure youth corrections
749 facility, the parent or parents of a minor committed to a secure youth corrections facility for a
750 custodial term, to undergo group rehabilitation therapy under the direction of a secure youth
751 corrections facility therapist, who has supervision of that parent's or parents' minor, or any other
752 therapist the court may direct, for a period directed by the court as recommended by a secure youth
753 corrections facility;

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

755 (l) the treatment or commitment of a mentally ill child. The court may commit a child to
756 the physical custody of a local mental health authority or to the legal custody of the Division of
757 Mental Health in accordance with the procedures and requirements of Title 62A, Chapter 12, Part
758 2A, Commitment of Persons Under Age 18 to Division of Mental Health. The court may not
759 commit a child directly to the Utah State Hospital;

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

761 (n) de novo review of final agency actions resulting from an informal adjudicative
762 proceeding as provided in Section 63-46b-15; and

763 (o) adoptions conducted in accordance with the procedures described in Title 78, Chapter
764 30, Adoption, when the juvenile court has previously entered an order terminating the rights of a
765 parent and finds that adoption is in the best interest of the minor.

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

770 offenses committed by a minor under 18 years of age:

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

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

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

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

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

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

779 (4) The juvenile court has jurisdiction over questions of custody, support, parent-time, and
780 visitation certified to it by the district court pursuant to Section 78-3a-105.

781 (5) The juvenile court has jurisdiction over an ungovernable or runaway minor who is
782 referred to it by the Division of Child and Family Services or by public or private agencies that
783 contract with the division to provide services to that minor where, despite earnest and persistent
784 efforts by the division or agency, the minor has demonstrated that he:

785 (a) is beyond the control of his parent, guardian, lawful custodian, or school authorities to
786 the extent that his behavior or condition endangers his own welfare or the welfare of others; or

787 (b) has run away from home.

788 (6) This section does not restrict the right of access to the juvenile court by private
789 agencies or other persons.

790 (7) The juvenile court has jurisdiction of all magistrate functions relative to cases arising
791 under Section 78-3a-602.

792 Section 15. Section **78-18-1** is amended to read:

793 **78-18-1. Basis for punitive damages awards -- Section inapplicable to DUI cases --**
794 **Division of award with state.**

795 (1) (a) Except as otherwise provided by statute, punitive damages may be awarded only
796 if compensatory or general damages are awarded and it is established by clear and convincing
797 evidence that the acts or omissions of the tortfeasor are the result of willful and malicious or
798 intentionally fraudulent conduct, or conduct that manifests a knowing and reckless indifference
799 toward, and a disregard of, the rights of others.

800 (b) The limitations, standards of evidence, and standards of conduct of Subsection (1)(a)

801 do not apply to any claim for punitive damages arising out of the tortfeasor's operation of a motor
802 vehicle or motorboat while voluntarily intoxicated or under the influence of any drug or
803 combination of alcohol and drugs as prohibited by Section 41-6-44.

804 (c) The award of a penalty under Section 78-11-15 or 78-11-16 regarding shoplifting is not
805 subject to the prior award of compensatory or general damages under Subsection (1)(a) whether
806 or not restitution has been paid to the merchant prior to or as a part of a civil action under Section
807 78-11-15 or 78-11-16.

808 (2) Evidence of a party's wealth or financial condition shall be admissible only after a
809 finding of liability for punitive damages has been made.

810 (3) In any judgment where punitive damages are awarded and paid, 50% of the amount of
811 the punitive damages in excess of \$20,000 shall, after payment of attorneys' fees and costs, be
812 remitted to the state treasurer for deposit into the General Fund.

813 Section 16. **Repealer.**

814 This act repeals:

815 Section **73-18-12.1, Operating under influence -- Local ordinances to be consistent**
816 **with chapter.**

817 Section **73-18-12.2, Boating under the influence of alcohol or drugs or with high blood**
818 **or breath alcohol content -- Criminal punishment -- Arrest without a warrant.**

819 Section **73-18-12.3, Operating under the influence -- Standards for administration and**
820 **interpretation of chemical analysis.**

821 Section **73-18-12.4, Operating under the influence -- Admissibility of chemical test --**
822 **Other evidence.**

823 Section **73-18-12.5, Operating under the influence -- Prosecuting violations of local**
824 **ordinances.**

825 Section **73-18-12.6, Operating under the influence -- Implied consent to chemical tests**
826 **for alcohol or drugs -- Refusal to submit -- Revocation of registration -- Court action on**
827 **revocation -- Person incapable of refusal -- Results of test available -- Who may give test --**
828 **Evidence.**

829 Section **73-18-12.7, Operating under the influence -- Seizure and impoundment of**
830 **vessel.**

831 Section **73-18-12.8, Operating under the influence -- Removal or impoundment of**

832 **vehicle used to tow impounded vessel.**

833 Section 17. **Effective date.**

834 This act takes effect on July 1, 2002.