

1                                   **MOTORBOAT DRIVER LICENSING AND**  
2                                   **BOATING UNDER THE INFLUENCE**  
3                                   **PROVISIONS**

4                                   2002 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Sponsor: Loraine T. Pace**

7   **This act modifies the Motor Vehicle Code, the Public Safety Code, and the Water and**  
8   **Irrigation Code. This act provides for driver licensing requirements for driving a**  
9   **motorboat, including driver licensing sanctions for boating offenses. This act combines**  
10 **driving under the influence provisions with boating under the influence provisions. This act**  
11 **establishes certain moving boating violations and allows certain boat liveries to issue**  
12 **temporary boating licenses. This act takes effect on July 1, 2002.**

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

14 AMENDS:

15       **41-6-43**, as last amended by Chapter 138, Laws of Utah 1987

16       **41-6-43.5**, as enacted by Chapter 121, Laws of Utah 1996

17       **41-6-44**, as last amended by Chapters 64, 289, 309 and 355, Laws of Utah 2001

18       **41-6-44.3**, as last amended by Chapter 138, Laws of Utah 1987

19       **41-6-44.5**, as last amended by Chapter 161, Laws of Utah 1993

20       **41-6-44.6**, as last amended by Chapter 355, Laws of Utah 2001

21       **41-6-44.8**, as last amended by Chapters 47 and 71, Laws of Utah 1996

22       **41-6-44.10**, as last amended by Chapter 46, Laws of Utah 2001

23       **41-6-44.12**, as enacted by Chapter 157, Laws of Utah 1999

24       **41-6-44.30**, as last amended by Chapter 202, Laws of Utah 2001

25       **41-6-102.5**, as enacted by Chapter 202, Laws of Utah 2001

26       **53-3-102**, as last amended by Chapter 170, Laws of Utah 1996

27       **53-3-105**, as last amended by Chapter 85, Laws of Utah 2001



- 28           **53-3-106**, as last amended by Chapter 202, Laws of Utah 2001  
29           **53-3-203**, as last amended by Chapter 51, Laws of Utah 1997  
30           **53-3-205**, as last amended by Chapters 85 and 117, Laws of Utah 2001  
31           **53-3-217**, as last amended by Chapter 51, Laws of Utah 1997  
32           **53-3-218**, as last amended by Chapter 85, Laws of Utah 2001  
33           **53-3-220**, as last amended by Chapter 213, Laws of Utah 1998  
34           **53-3-221**, as last amended by Chapter 85, Laws of Utah 2001  
35           **53-3-222**, as last amended by Chapter 155, Laws of Utah 1995  
36           **53-3-223**, as last amended by Chapters 46 and 85, Laws of Utah 2001  
37           **53-3-225**, as last amended by Chapter 5, Laws of Utah 1993, Second Special Session  
38           **53-3-227**, as last amended by Chapter 47, Laws of Utah 1996  
39           **53-3-231**, as last amended by Chapter 85, Laws of Utah 2001  
40           **53-3-232**, as enacted by Chapter 213, Laws of Utah 1998  
41           **73-18-10**, as last amended by Chapter 197, Laws of Utah 1986  
42           **73-18-15.2**, as last amended by Chapter 205, Laws of Utah 1998  
43           **78-3a-104**, as last amended by Chapters 213 and 255, Laws of Utah 2001  
44           **78-18-1**, as last amended by Chapter 6, Laws of Utah 1991

## 45 ENACTS:

- 46           **73-18-4.5**, Utah Code Annotated 1953  
47           **73-18-15.4**, Utah Code Annotated 1953  
48           **73-18-15.5**, Utah Code Annotated 1953

## 49 REPEALS AND REENACTS:

- 50           **73-18-15.1**, as enacted by Chapter 99, Laws of Utah 1987

## 51 REPEALS:

- 52           **73-18-12.1**, as enacted by Chapter 118, Laws of Utah 1987  
53           **73-18-12.2**, as last amended by Chapter 94, Laws of Utah 1998  
54           **73-18-12.3**, as enacted by Chapter 118, Laws of Utah 1987  
55           **73-18-12.4**, as enacted by Chapter 118, Laws of Utah 1987  
56           **73-18-12.5**, as enacted by Chapter 118, Laws of Utah 1987  
57           **73-18-12.6**, as last amended by Chapter 79, Laws of Utah 1996  
58           **73-18-12.7**, as last amended by Chapter 202, Laws of Utah 2001

59           **73-18-12.8**, as last amended by Chapter 202, Laws of Utah 2001

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

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

62           **41-6-43. Local DUI and related ordinances and reckless driving ordinances --**

63 **Consistent with code.**

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

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

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

74           **41-6-43.5. Definitions.**

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

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

77           (2) "Vehicle" or "motor vehicle," in addition to the definitions provided under Section  
78 41-6-1, includes off-highway vehicles as defined under Section 41-22-2.

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

80           **41-6-44. Driving under the influence of alcohol, drugs, or with specified or unsafe**  
81 **blood alcohol concentration -- Measurement of blood or breath alcohol -- Criminal**  
82 **punishment -- Arrest without warrant -- Penalties -- Suspension or revocation of license.**

83           (1) As used in this section:

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

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

87           (i) this section;

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

89           (iii) local ordinances similar to this section or alcohol-related reckless driving adopted in

90 compliance with Section 41-6-43;

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

92 (v) statutes or ordinances in effect in any other state, the United States, or any district,  
93 possession, or territory of the United States which would constitute a violation of this section or  
94 alcohol-related reckless driving if committed in this state, including punishments administered  
95 under 10 U.S.C. Sec. 815;

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

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

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

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

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

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

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

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

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

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

119 (c) Alcohol concentration in the blood shall be based upon grams of alcohol per 100  
120 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of alcohol

121 per 210 liters of breath.

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

124 (i) class B misdemeanor; or

125 (ii) class A misdemeanor if the person:

126 (A) has also inflicted bodily injury upon another as a proximate result of having operated  
127 the vehicle or motorboat in a negligent manner;

128 (B) had a passenger under 16 years of age in the vehicle or motorboat at the time of the  
129 offense; or

130 (C) was 21 years of age or older and had a passenger under 18 years of age in the vehicle  
131 or motorboat at the time of the offense.

132 (b) A person convicted of a violation of Subsection (2) is guilty of a third degree felony  
133 if the person has also inflicted serious bodily injury upon another as a proximate result of having  
134 operated the vehicle or motorboat in a negligent manner.

135 (4) (a) As part of any sentence imposed the court shall, upon a first conviction, impose a  
136 mandatory jail sentence of not less than 48 consecutive hours.

137 (b) The court may, as an alternative to all or part of a jail sentence, require the person to:

138 (i) work in a compensatory-service work program for not less than 24 hours; or

139 (ii) participate in home confinement through the use of electronic monitoring in  
140 accordance with Subsection (13).

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

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

144 (ii) order the person to participate in an educational series if the court does not order  
145 substance abuse treatment as described under Subsection (4)(d); and

146 (iii) impose a fine of not less than \$700.

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

149 (e)(i) Except as provided in Subsection (4)(e)(ii), the court may order probation for the  
150 person in accordance with Subsection (14).

151 (ii) If there is admissible evidence that the person had a blood alcohol level of .16 or

152 higher, the court shall order probation for the person in accordance with Subsection (14).

153 (5) (a) If a person is convicted under Subsection (2) within ten years of a prior conviction  
154 under this section, the court shall as part of any sentence impose a mandatory jail sentence of not  
155 less than 240 consecutive hours.

156 (b) The court may, as an alternative to all or part of a jail sentence, require the person to:

157 (i) work in a compensatory-service work program for not less than 240 hours; or

158 (ii) participate in home confinement through the use of electronic monitoring in  
159 accordance with Subsection (13).

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

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

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

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

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

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

169 (6) (a) A conviction for a violation of Subsection (2) is a third degree felony if it is  
170 committed:

171 (i) within ten years of two or more prior convictions under this section; or

172 (ii) at any time after a conviction of:

173 (A) automobile homicide under Section 76-5-207 that is committed after July 1, 2001; or

174 (B) a felony violation under this section that is committed after July 1, 2001.

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

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

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

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

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

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

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

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

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

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

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

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

216 (c) The court shall notify the Driver License Division of each conviction of Section  
217 41-6-44.6 or 41-6-45 entered under this Subsection (9).

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

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

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

225 (ii) revoke for one year the license of a person convicted of any subsequent offense under  
226 Subsection (2) if the violation is committed within a period of ten years from the date of the prior  
227 violation; and

228 (iii) suspend or revoke the license of a person as ordered by the court under Subsection  
229 (12).

230 (b) The Driver License Division shall subtract from any suspension or revocation period  
231 the number of days for which a license was previously suspended under Section 53-3-223 or  
232 53-3-231, if the previous suspension was based on the same occurrence upon which the record of  
233 conviction is based.

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

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

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

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



- 245 (i) the person to wear an electronic monitoring device at all times;
- 246 (ii) that a device be placed in the home or other specified location of the person, so that  
247 the person's compliance with the court's order may be monitored; and
- 248 (iii) the person to pay the costs of the electronic monitoring.
- 249 (c) The court shall order the appropriate entity described in Subsection (13)(e) to place an  
250 electronic monitoring device on the person and install electronic monitoring equipment in the  
251 residence of the person or other specified location.
- 252 (d) The court may:
- 253 (i) require the person's electronic home monitoring device to include a substance abuse  
254 testing instrument;
- 255 (ii) restrict the amount of alcohol the person may consume during the time the person is  
256 subject to home confinement;
- 257 (iii) set specific time and location conditions that allow the person to attend school  
258 educational classes, or employment and to travel directly between those activities and the person's  
259 home; and
- 260 (iv) waive all or part of the costs associated with home confinement if the person is  
261 determined to be indigent by the court.
- 262 (e) The electronic monitoring described in this section may either be administered directly  
263 by the appropriate corrections agency, probation monitoring agency, or by contract with a private  
264 provider.
- 265 (f) The electronic monitoring provider shall cover the costs of waivers by the court under  
266 Subsection (13)(c)(iv).
- 267 (14) (a) If supervised probation is ordered under Section 41-6-44.6 or Subsection (4)(e)  
268 or (5)(e):
- 269 (i) the court shall specify the period of the probation;
- 270 (ii) the person shall pay all of the costs of the probation; and
- 271 (iii) the court may order any other conditions of the probation.
- 272 (b) The court shall provide the probation described in this section by contract with a  
273 probation monitoring agency or a private probation provider.
- 274 (c) The probation provider described in Subsection (14)(b) shall monitor the person's  
275 compliance with all conditions of the person's sentence, conditions of probation, and court orders

276 received under this article and shall notify the court of any failure to comply with or complete that  
277 sentence or those conditions or orders.

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

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

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

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

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

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

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

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

292 **41-6-44.3. Standards for chemical breath analysis -- Evidence.**

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

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

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

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

306 (3) If the judge finds that the standards established under Subsection (1) and the conditions

307 of Subsection (2) have been met, there is a presumption that the test results are valid and further  
308 foundation for introduction of the evidence is unnecessary.

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

310 **41-6-44.5. Admissibility of chemical test results in actions for driving under the**  
311 **influence -- Weight of evidence.**

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

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

319 (2) If the chemical test was taken more than two hours after the alleged driving or actual  
320 physical control, the test result is admissible as evidence of the person's blood or breath alcohol  
321 level at the time of the alleged operating or actual physical control, but the trier of fact shall  
322 determine what weight is given to the result of the test.

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

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

327 **41-6-44.6. Definitions -- Driving with any measurable controlled substance in the**  
328 **body -- Penalties -- Arrest without warrant.**

329 (1) As used in this section:

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

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

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

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

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

337 (3) It is an affirmative defense to prosecution under this section that the controlled

338 substance was involuntarily ingested by the accused or prescribed by a practitioner for use by the  
339 accused.

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

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

345 (6) The Driver License Division shall:

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

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

350 (c) subtract from any suspension or revocation period the number of days for which a  
351 license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension  
352 was based on the same occurrence upon which the record of conviction is based.

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

358 (8) The court shall order supervised probation in accordance with Subsection 41-6-44(14)  
359 for a person convicted under Subsection (2).

360 Section 7. Section **41-6-44.8** is amended to read:

361 **41-6-44.8. Municipal attorneys for specified offenses may prosecute for certain DUI**  
362 **offenses and driving while license is suspended or revoked.**

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

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

366 (2) alleged violations of Section 53-3-227, which consist of the person operating a vehicle  
367 or motorboat while the person's driving privilege is suspended or revoked for a violation of Section  
368 41-6-44, a local ordinance which complies with the requirements of Section 41-6-43, Section

369 41-6-44.10, Section 76-5-207, or a criminal prohibition that the person was charged with violating  
370 as a result of a plea bargain after having been originally charged with violating one or more of  
371 those sections or ordinances.

372 Section 8. Section **41-6-44.10** is amended to read:

373 **41-6-44.10. Implied consent to chemical tests for alcohol or drug -- Number of tests**  
374 **-- Refusal -- Warning, report -- Hearing, revocation of license -- Appeal -- Person incapable**  
375 **of refusal -- Results of test available -- Who may give test -- Evidence.**

376 (1) (a) A person operating a motor vehicle or motorboat in this state is considered to have  
377 given his consent to a chemical test or tests of his breath, blood, or urine for the purpose of  
378 determining whether he was operating or in actual physical control of a motor vehicle or motorboat  
379 while having a blood or breath alcohol content statutorily prohibited under Section 41-6-44,  
380 53-3-231, or 53-3-232, while under the influence of alcohol, any drug, or combination of alcohol  
381 and any drug under Section 41-6-44, or while having any measurable controlled substance or  
382 metabolite of a controlled substance in the person's body in violation of Section 41-6-44.6, if the  
383 test is or tests are administered at the direction of a peace officer having grounds to believe that  
384 person to have been operating or in actual physical control of a motor vehicle or motorboat while  
385 having a blood or breath alcohol content statutorily prohibited under Section 41-6-44, 53-3-231,  
386 or 53-3-232, or while under the influence of alcohol, any drug, or combination of alcohol and any  
387 drug under Section 41-6-44, or while having any measurable controlled substance or metabolite  
388 of a controlled substance in the person's body in violation of Section 41-6-44.6.

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

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

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

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

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

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

- 410 (i) take the Utah license certificate or permit, if any, of the operator;
- 411 (ii) issue a temporary license effective for only 29 days; and
- 412 (iii) supply to the operator, on a form approved by the Driver License Division, basic  
413 information regarding how to obtain a hearing before the Driver License Division.

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

416 (d) As a matter of procedure, the peace officer shall submit a signed report, within ten  
417 calendar days after the date of the arrest, that he had grounds to believe the arrested person had  
418 been operating or was in actual physical control of a motor vehicle or motorboat while having a  
419 blood or breath alcohol content statutorily prohibited under Section 41-6-44, 53-3-231, or  
420 53-3-232, or while under the influence of alcohol, any drug, or combination of alcohol and any  
421 drug under Section 41-6-44, or while having any measurable controlled substance or metabolite  
422 of a controlled substance in the person's body in violation of Section 41-6-44.6, and that the person  
423 had refused to submit to a chemical test or tests under Subsection (1).

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

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

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

430 (iv) If the person does not make a timely written request for a hearing before the division,

431 his privilege to operate a motor vehicle in the state is revoked beginning on the 30th day after the  
432 date of arrest for a period of:

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

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

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

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

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

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

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

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

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

448 (ii) The division shall pay witness fees and mileage from the Transportation Fund in  
449 accordance with the rates established in Section 78-46-28.

450 (i) If after a hearing, the Driver License Division determines that the person was requested  
451 to submit to a chemical test or tests and refused to submit to the test or tests, or if the person fails  
452 to appear before the Driver License Division as required in the notice, the Driver License Division  
453 shall revoke his license or permit to operate a motor vehicle in Utah beginning on the date the  
454 hearing is held for a period of:

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

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

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

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

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

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

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

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

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

477 (b) Any physician, registered nurse, practical nurse, or person authorized under Section  
478 26-1-30 who, at the direction of a peace officer, draws a sample of blood from any person whom  
479 a peace officer has reason to believe is driving in violation of this chapter, or hospital or medical  
480 facility at which the sample is drawn, is immune from any civil or criminal liability arising from  
481 drawing the sample, if the test is administered according to standard medical practice.

482 (6) (a) The person to be tested may, at his own expense, have a physician of his own  
483 choice administer a chemical test in addition to the test or tests administered at the direction of a  
484 peace officer.

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

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

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



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

499 Section 9. Section **41-6-44.12** is amended to read:

500 **41-6-44.12. Reporting test results -- Immunity from liability.**

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

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

508 (a) person's blood alcohol concentration meets or exceeds the limit under Subsection  
509 41-6-44(2)(a)(i);

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

512 (c) person has any measurable controlled substance or metabolite of a controlled substance  
513 in the person's body which could be a violation of Subsection 41-6-44(2)(a)(ii) or Section  
514 41-6-44.6.

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

516 (a) name of the person being treated;

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

518 (c) results disclosed by the test.

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

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

524 Section 10. Section **41-6-44.30** is amended to read:

525 **41-6-44.30. Seizure and impoundment of vehicles by peace officers -- Impound**  
526 **requirements -- Removal of vehicle by owner.**

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

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

534 (a) the registered owner:

535 ~~[(a)]~~ (i) requests to remove the vehicle or motorboat from the scene;

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

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

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

540 ~~[(d)]~~ (ii) would not, in the judgment of the officer, be in violation of Section 41-6-44,  
541 41-6-44.6, or 41-6-44.10, or a local ordinance similar to Section 41-6-44 which complies with  
542 Subsection 41-6-43(1), if permitted to operate the vehicle~~[-and if]~~ or motorboat; and

543 (c) the vehicle or motorboat itself is legally operable.

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

546 Section 11. Section **41-6-102.5** is amended to read:

547 **41-6-102.5. Removal and impoundment of vehicles -- Reporting and notification**  
548 **requirements.**

549 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under  
550 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  
551 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement  
552 agency or highway authority as defined in Section 72-1-102, the removal or impoundment of the  
553 vehicle, vessel, or outboard motor shall be at the expense of the owner, to a state impound yard,  
554 or if none, to a garage, docking area, or other place of safety.

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

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

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

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

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

562 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator  
563 is employed.

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

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

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

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

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

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

571 (vi) the reason for removal or impoundment;

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

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

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

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

578 (ii) begin charging storage fees.

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

582 (b) The notice shall:

583 (i) state the date, time, and place of removal, the name, if applicable, of the person

584 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and

585 the place where the vehicle, vessel, or outboard motor is stored;

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

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

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

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

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

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

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

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

602 (iv) if the impoundment was made under Section 41-6-44.30, pays an administrative  
603 impound fee of:

604 (A) \$200~~[; if the vehicle was impounded under Section 41-6-44.30]; or~~

605 (B) \$25 for a vessel or outboard motor; and

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

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

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

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

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

616 (c) The revenue from the administrative impound fee assessed under Subsection

617 (5)(a)(v)(B) are dedicated credits to the Motor Vehicle Division.

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

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

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

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

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

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

638 Section 12. Section **53-3-102** is amended to read:

639 **53-3-102. Definitions.**

640 As used in this chapter:

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

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

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

647 (4) "Commercial driver license" or "CDL" means a license issued substantially in

648 accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle  
649 Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act,  
650 which authorizes the holder to drive a class of commercial motor vehicle.

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

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

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

656 (iii) is transporting hazardous materials and is required to be placarded in accordance with  
657 49 C.F.R. Part 172, Subpart F.

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

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

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

668 (iii) firefighting and emergency vehicles; and

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

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

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

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

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

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

678 (e) violation of a condition of release without bail, regardless of whether the penalty is

679 rebated, suspended, or probated.

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

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

684 (9) "Disqualification" means either:

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

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

689 (c) the loss of qualification that automatically follows conviction of an offense listed in  
690 49 C.F.R. Part 383.51.

691 (10) "Division" means the Driver License Division of the department created in Section  
692 53-3-103.

693 (11) "Drive" means:

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

695 (i) motor vehicle upon a highway; or

696 (ii) motorboat on the water; and

697 (b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections  
698 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within  
699 the state.

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

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

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

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

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

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

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

713 (18) "Motorboat" means any vessel equipped to be propelled by machinery, whether or not  
714 the machinery is the principal source of propulsion. Motorboat does not include a vessel with a  
715 maximum engine or motor output of ten horsepower or less as listed by the manufacturer's  
716 specifications.

717 [~~18~~] (19) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or  
718 saddle for the use of the rider and designed to travel with not more than three wheels in contact  
719 with the ground.

720 [~~19~~] (20) "Nonresident" means a person who:

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

722 (b) (i) has not engaged in any gainful occupation in this state for an aggregate period of  
723 60 days in the preceding 12 months; or

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

725 [~~20~~] (21) (a) "Owner" means a person other than a lienholder having an interest in the  
726 property or title to a vehicle.

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

729 [~~21~~] (22) "Renewal" means to validate a license certificate so that it expires at a later  
730 date.

731 [~~22~~] (23) "Reportable violation" means an offense required to be reported to the division  
732 as determined by the division and includes those offenses against which points are assessed under  
733 Section 53-3-221.

734 [~~23~~] (24) "Revocation" means the termination by action of the division of a licensee's  
735 privilege to drive a motor vehicle or motorboat.

736 [~~24~~] (25) "School bus" means every publicly or privately owned motor vehicle designed  
737 for transporting ten or more passengers and operated for the transportation of children to or from  
738 school or school activities.

739 [~~25~~] (26) "Suspension" means the temporary withdrawal by action of the division of a  
740 licensee's privilege to drive a motor vehicle or motorboat.



741 ~~[(26)]~~ (27) "Taxicab" means any class D motor vehicle transporting any number of  
742 passengers for hire and that is subject to state or federal regulation as a taxi.

743 (28) "Vessel" has the same meaning as provided under Section 73-18-2.

744 (29) "Water" means any waters within the territorial limits of this state.

745 Section 13. Section **53-3-105** is amended to read:

746 **53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and**  
747 **identification cards.**

748 The following fees apply under this chapter:

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

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

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

753 (4) An original provisional license application for a class M license under Section  
754 53-3-205 is \$27.50.

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

756 ~~[(5)]~~ (6) An original application for a motorcycle endorsement under Section 53-3-205 is  
757 \$7.50.

758 ~~[(6)]~~ (7) An original application for a taxicab endorsement under Section 53-3-205 is \$5.

759 ~~[(7)]~~ (8) A renewal of a class D license under Section 53-3-214 is \$20 unless Subsection  
760 ~~[(13)]~~ (15) applies.

761 ~~[(8)]~~ (9) A renewal of a class M license under Section 53-3-214 is \$22.50.

762 ~~[(9)]~~ (10) A renewal of a provisional license application for a class D license under Section  
763 53-3-214 is \$20.

764 ~~[(10)]~~ (11) A renewal of a provisional license application for a class M license under  
765 Section 53-3-214 is \$22.50.

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

767 ~~[(11)]~~ (13) A renewal of a motorcycle endorsement under Section 53-3-214 is \$7.50.

768 ~~[(12)]~~ (14) A renewal of a taxicab endorsement under Section 53-3-214 is \$5.

769 ~~[(13)]~~ (15) A renewal of a class D license for a person 65 and older under Section  
770 53-3-214 is \$8.

771 ~~[(14)]~~ (16) An extension of a class D license under Section 53-3-214 is \$15 unless

772 Subsection [~~(20)~~] (23) applies.

773 [~~(15)~~] (17) An extension of a class M license under Section 53-3-214 is \$17.50.

774 [~~(16)~~] (18) An extension of a provisional license application for a class D license under  
775 Section 53-3-214 is \$15.

776 [~~(17)~~] (19) An extension of a provisional license application for a class M license under  
777 Section 53-3-214 is \$17.50.

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

779 [~~(18)~~] (21) An extension of a motorcycle endorsement under Section 53-3-214 is \$7.50.

780 [~~(19)~~] (22) An extension of a taxicab endorsement under Section 53-3-214 is \$5.

781 [~~(20)~~] (23) An extension of a class D license for a person 65 and older under Section  
782 53-3-214 is \$6.

783 [~~(21)~~] (24) An original or renewal application for a commercial class A, B, or C license  
784 or an original or renewal of a provisional commercial class A or B license under Part 4 of this  
785 chapter is:

786 (a) \$35 for the knowledge test; and

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

788 [~~(22)~~] (25) Each original CDL endorsement for passengers, hazardous material, double or  
789 triple trailers, or tankers is \$5.

790 [~~(23)~~] (26) An original CDL endorsement for a school bus under Part 4 of this chapter is  
791 \$5.

792 [~~(24)~~] (27) A renewal of a CDL endorsement under Part 4 of this chapter is \$5.

793 [~~(25)~~] (28) A retake of a CDL knowledge or a CDL skills test provided for in Section  
794 53-3-205 is \$15.

795 [~~(26)~~] (29) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$5.

796 [~~(27)~~] (30) A duplicate class A, B, C, D, or M license certificate under Section 53-3-215  
797 is \$13.

798 [~~(28)~~] (31) (a) A license reinstatement application under Section 53-3-205 is \$25.

799 (b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or  
800 combination of alcohol and any drug-related offense is \$25 in addition to the fee under Subsection  
801 [~~(28)~~] (31)(a).

802 [~~(29)~~] (32) An administrative fee for license reinstatement after an alcohol, drug, or

803 combination of alcohol and any drug-related offense under Section 41-6-44.10, 53-3-223, or  
804 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part  
805 4 of this chapter is \$150. This administrative fee is in addition to the fees under Subsection [~~(28)~~]  
806 (31).

807 [~~(30)~~] (33) (a) An administrative fee for providing the driving record of a driver under  
808 Section 53-3-104 or 53-3-420 is \$4.

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

811 [~~(31)~~] (34) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

812 [~~(32)~~] (35) An identification card application under Section 53-3-808 is \$8.

813 Section 14. Section **53-3-106** is amended to read:

814 **53-3-106. Disposition of revenues under this chapter -- Restricted account created**  
815 **-- Uses as provided by appropriation -- Nonlapsing.**

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

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

819 (a) all monies received under this chapter;

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

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

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

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

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

827 (5) The amount in excess of \$35 of the fees collected under Subsection [~~53-3-105(29)~~]  
828 53-3-105(32) shall be appropriated by the Legislature from this account to the department to  
829 implement the provisions of Section 53-1-117, except that of the amount in excess of \$35, \$30  
830 shall be deposited in the State Laboratory Drug Testing restricted account created in Section  
831 26-1-34.

832 (6) All monies received under Subsection 41-6-102.5(5)(b)(ii) shall be appropriated by the  
833 Legislature from this account to the department to implement the provisions of Section 53-1-117.

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

835 Section 15. Section **53-3-203** is amended to read:

836 **53-3-203. Authorizing or permitting driving in violation of chapter -- Renting of**  
837 **motor vehicles or motorboats -- License requirements -- Employees must be licensed --**  
838 **Violations.**

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

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

844 (b) A person may not rent a motor vehicle or motorboat to another person until he has  
845 inspected the license certificate of the person who will be the driver and verified the signature on  
846 the license certificate by comparison with the signature of the person who will be the driver written  
847 in his presence.

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

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

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

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

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

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

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

857 (4) A person who violates Subsection (1), (2)(a), or (3) is guilty of a class C misdemeanor.

858 Section 16. Section **53-3-205** is amended to read:

859 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**

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

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

862 **-- License agreement.**

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

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

- 865 (b) accompanied by a nonrefundable fee set under Section 53-3-105.
- 866 (2) An application and fee for an original class D license entitle the applicant to:
- 867 (a) not more than three attempts to pass both the knowledge and skills tests for a class D
- 868 license within six months of the date of the application;
- 869 (b) a learner permit if needed after the knowledge test is passed; and
- 870 (c) an original class D license and license certificate after all tests are passed.
- 871 (3) An application and fee for an original class M license entitle the applicant to:
- 872 (a) not more than three attempts to pass both the knowledge and skills tests for a class M
- 873 license within six months of the date of the application;
- 874 (b) a learner permit if needed after the knowledge test is passed; and
- 875 (c) an original class M license and license certificate after all tests are passed.
- 876 (4) An application and fee for a motorboat, motorcycle, or taxicab endorsement entitle the
- 877 applicant to:
- 878 (a) not more than three attempts to pass both the knowledge and skills tests within six
- 879 months of the date of the application;
- 880 (b) a motorcycle learner permit if needed after the motorcycle knowledge test is passed;
- 881 and
- 882 (c) a motorboat, motorcycle, or taxicab endorsement when [att] the applicable tests are
- 883 passed.
- 884 (5) An application and fees for a commercial class A, B, or C license entitle the applicant
- 885 to:
- 886 (a) not more than two attempts to pass a knowledge test and not more than two attempts
- 887 to pass a skills test within six months of the date of the application;
- 888 (b) a commercial driver instruction permit if needed after the knowledge test is passed; and
- 889 (c) an original commercial class A, B, or C license and license certificate when all
- 890 applicable tests are passed.
- 891 (6) An application and fee for a CDL endorsement entitle the applicant to:
- 892 (a) not more than two attempts to pass a knowledge test and not more than two attempts
- 893 to pass a skills test within six months of the date of the application; and
- 894 (b) a CDL endorsement when all tests are passed.
- 895 (7) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test

896 within the number of attempts provided in Subsection (5) or (6), each test may be taken two  
897 additional times within the six months for the fee provided in Section 53-3-105.

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

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

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

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

905 (e) A license and any endorsement to the license held by a person ordered to active duty  
906 and stationed outside Utah in any of the armed forces of the United States, which expires during  
907 the time period the person is stationed outside of the state, is valid until 90 days after the person  
908 has been discharged or has left the service, unless the license is suspended, disqualified, denied,  
909 or has been cancelled or revoked by the division, or the licensee updates the information or  
910 photograph on the license certificate.

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

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

916 (ii) briefly describe the applicant;

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

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

923 (v) state whether the applicant intends to make an anatomical gift under Title 26, Chapter  
924 28, Uniform Anatomical Gift Act, in compliance with Subsection (16);

925 (vi) provide all other information the division requires; and

926 (vii) be signed which may include electronic signatures as defined in Section 46-4-102.

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

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

931 (a) current license certificate;

932 (b) birth certificate;

933 (c) Selective Service registration; or

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

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

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

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

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

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

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

952 (16) (a) The indication of intent under Subsection (9)(a)(v) shall be authenticated by the  
953 licensee in accordance with division rule.

954 (b) (i) Notwithstanding Title 63, Chapter 2, Government Records Access and Management  
955 Act, the division may, upon request, release to an organ procurement organization, as defined in  
956 Section 26-28-2, the names and addresses of all persons who under Subsection (9)(a)(v) indicate  
957 that they intend to make an anatomical gift.

- 958 (ii) An organ procurement organization may use released information only to:
- 959 (A) obtain additional information for an anatomical gift registry; and
- 960 (B) inform licensees of anatomical gift options, procedures, and benefits.

961 (17) The division and its employees are not liable, as a result of false or inaccurate  
962 information provided under Subsection (9)(a)(v), for direct or indirect:

- 963 (a) loss;
- 964 (b) detriment; or
- 965 (c) injury.

966 Section 17. Section **53-3-217** is amended to read:

967 **53-3-217. License to be carried when driving -- Production in court -- Violation.**

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

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

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

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

975 Section 18. Section **53-3-218** is amended to read:

976 **53-3-218. Court to report convictions and may recommend suspension of license --**  
977 **Severity of speeding violation defined.**

978 (1) As used in this section:

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

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

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



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

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

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

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

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

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

995 (f) the nature of the offense;

996 (g) the date of the hearing;

997 (h) the plea;

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

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

1000 "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

1001 (4) When a convicted person secures a judgment of acquittal or reversal in any appellate  
1002 court after conviction in the court of first impression, the division shall reinstate his license  
1003 immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

1004 Section 19. Section **53-3-220** is amended to read:

1005 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**  
1006 **disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited**  
1007 **driving privileges.**

1008 (1) (a) The division shall immediately revoke or, when this chapter or Title 41, Chapter  
1009 6, Traffic Rules and Regulations, specifically provides for denial, suspension, or disqualification,  
1010 the division shall deny, suspend, or disqualify the license of a person upon receiving a record of  
1011 his conviction for any of the following offenses:

1012 (i) manslaughter or negligent homicide resulting from driving a motor vehicle or  
1013 motorboat, or automobile homicide under Section 76-5-207;

1014 (ii) driving or being in actual physical control of a motor vehicle or motorboat while under  
1015 the influence of alcohol, any drug, or combination of them to a degree that renders the person  
1016 incapable of safely driving a motor vehicle or motorboat as prohibited in Section 41-6-44 or as  
1017 prohibited in an ordinance that complies with the requirements of Subsection 41-6-43(1);

1018 (iii) driving or being in actual physical control of a motor vehicle or motorboat while  
1019 having a blood or breath alcohol content prohibited in Section 41-6-44 or as prohibited in an

1020 ordinance that complies with the requirements of Subsection 41-6-43(1);

1021 (iv) perjury or the making of a false affidavit to the division under this chapter, Title 41,  
1022 Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or  
1023 motorboats or regulating driving on highways or waters;

1024 (v) any offense punishable as a felony under the motor vehicle or motorboat laws of this  
1025 state;

1026 (vi) any other felony in which a motor vehicle or a motorboat is used;

1027 (vii) failure to stop and render aid as required under the laws of this state if a motor vehicle  
1028 or motorboat accident results in the death or personal injury of another;

1029 (viii) two charges of reckless driving committed within a period of 12 months; but if upon  
1030 a first conviction of reckless driving the judge or justice recommends suspension of the convicted  
1031 person's license, the division may after a hearing suspend the license for a period of three months;

1032 (ix) failure to bring a motor vehicle or motorboat to a stop at the command of a peace  
1033 officer as required in Section 41-6-13.5 or 73-18-20;

1034 (x) any offense specified in Part 4 of this chapter that requires disqualification;

1035 (xi) discharging or allowing the discharge of a firearm from a vehicle in violation of  
1036 Subsection 76-10-508(2);

1037 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or  
1038 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

1039 (xiii) operating or being in actual physical control of a motor vehicle or motorboat while  
1040 having any measurable controlled substance or metabolite of a controlled substance in the person's  
1041 body in violation of Section 41-6-44.6; and

1042 (xiv) operating or being in actual physical control of a motor vehicle while having any  
1043 alcohol in the person's body in violation of Section 53-3-232.

1044 (b) The division shall immediately revoke the license of a person upon receiving a record  
1045 of an adjudication under Title 78, Chapter 3a, Juvenile Courts, for any of the following offenses:

1046 (i) discharging or allowing the discharge of a firearm from a vehicle in violation of  
1047 Subsection 76-10-508(2); and

1048 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary  
1049 device from a vehicle in violation of Subsection 76-10-306(4)(b).

1050 (c) Except when action is taken under Section 53-3-219 for the same offense, the division

1051 shall immediately suspend for six months the license of a person upon receiving a record of  
1052 conviction for any of the following offenses:

1053 (i) any violation of:

1054 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

1055 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

1056 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

1057 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

1058 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

1059 (ii) any criminal offense that prohibits:

1060 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance

1061 that is prohibited under the acts described in Subsection (1)(c)(i); or

1062 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer

1063 any substance that is prohibited under the acts described in Subsection (1)(c)(i).

1064 (2) The division shall extend the period of the first denial, suspension, revocation, or

1065 disqualification for an additional like period, to a maximum of one year, upon receiving:

1066 (a) a record of the conviction of any person on a charge of driving a motor vehicle or

1067 motorboat while the person's license is denied, suspended, revoked, or disqualified;

1068 (b) a record of a conviction of the person for any violation of the motor vehicle or

1069 motorboat law in which the person was involved as a driver;

1070 (c) a report of an arrest of the person for any violation of the motor vehicle law or

1071 motorboat law in which the person was involved as a driver; or

1072 (d) a report of an accident in which the person was involved as a driver.

1073 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is

1074 driving while the person's license is denied, suspended, disqualified, or revoked, the person is

1075 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or

1076 revocation originally imposed under Section 53-3-221.

1077 (4) (a) The division may extend to a person the limited privilege of driving a motor vehicle

1078 to and from the person's place of employment or within other specified limits on recommendation

1079 of the trial judge in any case where a person is convicted of any of the offenses referred to in

1080 Subsections (1) and (2) except:

1081 (i) automobile homicide under Subsection (1)(a)(i);

1082 (ii) those offenses referred to in Subsections (1)(a)(ii), (a)(iii), (a)(xi), (a)(xii), (a)(xiii),  
1083 (1)(b), and (1)(c); and

1084 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,  
1085 revocation, or disqualification was imposed because of a violation of Section 41-6-44, Section  
1086 41-6-44.6, a local ordinance which complies with the requirements of Subsection 41-6-43(1),  
1087 Section 41-6-44.10, or Section 76-5-207, or a criminal prohibition that the person was charged  
1088 with violating as a result of a plea bargain after having been originally charged with violating one  
1089 or more of these sections or ordinances.

1090 (b) This discretionary privilege is limited to when undue hardship would result from a  
1091 failure to grant the privilege and may be granted only once to any individual during any single  
1092 period of denial, suspension, revocation, or disqualification, or extension of that denial,  
1093 suspension, revocation, or disqualification.

1094 (c) A limited CDL may not be granted to an individual disqualified under Part 4 of this  
1095 chapter or whose license has been revoked, suspended, cancelled, or denied under this chapter.

1096 Section 20. Section **53-3-221** is amended to read:

1097 **53-3-221. Offenses which may result in denial, suspension, disqualification, or**  
1098 **revocation of license without hearing -- Additional grounds for suspension -- Point system**  
1099 **for traffic violations -- Notice and hearing -- Reporting of traffic violation procedures.**

1100 (1) By following the emergency procedures in Title 63, Chapter 46b, Administrative  
1101 Procedures Act, the division may immediately deny, suspend, disqualify, or revoke the license of  
1102 any person without hearing and without receiving a record of the person's conviction of crime  
1103 when the division has been notified or has reason to believe the person:

1104 (a) has committed any offenses for which mandatory suspension or revocation of a license  
1105 is required upon conviction under Section 53-3-220;

1106 (b) has, by reckless or unlawful driving of a motor vehicle or motorboat, caused or  
1107 contributed to an accident resulting in death or injury to any other person, or serious property  
1108 damage;

1109 (c) is incompetent to drive a motor vehicle or motorboat or is afflicted with mental or  
1110 physical infirmities or disabilities rendering it unsafe for the person to drive a motor vehicle upon  
1111 the highways or a motorboat upon the waters;

1112 (d) has committed a serious violation of the motor vehicle laws or motorboat laws of this

1113 state;

1114 (e) has permitted an unlawful use of the license as defined in Section 53-3-229; [~~or~~]

1115 (f) has been convicted of serious offenses against traffic laws governing the movement of  
1116 motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard for the  
1117 safety of other persons on the highways[-]; or

1118 (g) has been named in a letter from the director of the Division of Parks and Recreation  
1119 or his designee, stating that an administrative hearing has been held and the Division of Parks and  
1120 Recreation has determined, in accordance with Section 73-18-4.5, that the person's license should  
1121 be denied or suspended.

1122 (2) (a) The division may suspend the license of a person under Subsection (1) when the  
1123 person has failed to comply with the terms stated on a traffic or motorboat citation issued in this  
1124 state, except this Subsection (2) does not apply to highway weight limit violations or violations  
1125 of law governing the transportation of hazardous materials.

1126 (b) This Subsection (2) applies to parking and standing violations only if a court has issued  
1127 a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy the terms  
1128 of the citation.

1129 (c) (i) This Subsection (2) may not be exercised unless notice of the pending suspension  
1130 of the driving privilege has been sent at least ten days previously to the person at the address  
1131 provided to the division.

1132 (ii) After clearance by the division, a report authorized by Section 53-3-104 may not  
1133 contain any evidence of a suspension that occurred as a result of failure to comply with the terms  
1134 stated on a traffic or motorboat citation.

1135 (3) (a) The division may suspend the license of a person under Subsection (1) when the  
1136 division has been notified by a court that the person has an outstanding unpaid fine, an outstanding  
1137 incomplete restitution requirement, or an outstanding warrant levied by order of a court.

1138 (b) The suspension remains in effect until the division is notified by the court that the order  
1139 has been satisfied.

1140 (c) After clearance by the division, a report authorized by Section 53-3-104 may not  
1141 contain any evidence of the suspension.

1142 (4) The division shall make rules establishing a point system as provided for in this  
1143 Subsection (4).

1144 (a) (i) The division shall assign a number of points to each type of moving traffic violation  
1145 as a measure of its seriousness.

1146 (ii) The points shall be based upon actual relationships between types of traffic violations  
1147 and motor vehicle traffic accidents.

1148 (b) Every person convicted of a traffic violation shall have assessed against his driving  
1149 record the number of points that the division has assigned to the type of violation of which the  
1150 person has been convicted, except that the number of points assessed shall be decreased by 10%  
1151 if on the abstract of the court record of the conviction the court has graded the severity of violation  
1152 as minimum, and shall be increased by 10% if on the abstract the court has graded the severity of  
1153 violation as maximum.

1154 (c) (i) A separate procedure for assessing points for speeding offenses shall be established  
1155 by the division based upon the severity of the offense.

1156 (ii) The severity of a speeding violation shall be graded as:

1157 (A) "minimum" for exceeding the posted speed limit by up to ten miles per hour;

1158 (B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per hour;

1159 and

1160 (C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.

1161 (iii) Consideration shall be made for assessment of no points on minimum speeding  
1162 violations, except for speeding violations in school zones.

1163 (d) (i) Points assessed against a person's driving record shall be deleted for violations  
1164 occurring before a time limit set by the division.

1165 (ii) The time limit may not exceed three years.

1166 (iii) The division may also delete points to reward violation-free driving for periods of  
1167 time set by the division.

1168 (e) (i) By publication in two newspapers having general circulation throughout the state,  
1169 the division shall give notice of the number of points it has assigned to each type of traffic  
1170 violation, the time limit set by the division for the deletion of points, and the point level at which  
1171 the division will generally take action to deny or suspend under this section.

1172 (ii) The division may not change any of the information provided above regarding points  
1173 without first giving new notice in the same manner.

1174 (5) (a) (i) Upon denying or suspending the license of a person under this section, the

1175 division shall immediately notify the licensee in a manner specified by the division and afford him  
1176 an opportunity for a hearing in the county where the licensee resides.

1177 (ii) The hearing shall be documented, and the division or its authorized agent may  
1178 administer oaths, may issue subpoenas for the attendance of witnesses and the production of  
1179 relevant books and papers, and may require a reexamination of the licensee.

1180 (iii) One or more members of the division may conduct the hearing, and any decision made  
1181 after a hearing before any number of the members of the division is as valid as if made after a  
1182 hearing before the full membership of the division.

1183 (iv) After the hearing the division shall either rescind its order of denial or suspension,  
1184 extend the denial or suspension of the license, or revoke the license.

1185 (b) The denial or suspension of the license remains in effect pending qualifications  
1186 determined by the division regarding a person:

1187 (i) whose license has been denied or suspended following reexamination;

1188 (ii) who is incompetent to drive a motor vehicle;

1189 (iii) who is afflicted with mental or physical infirmities that might make him dangerous  
1190 on the highways; or

1191 (iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

1192 (6) (a) The division may suspend or revoke the license of any resident of this state upon  
1193 receiving notice of the conviction of that person in another state of an offense committed there  
1194 that, if committed in this state, would be grounds for the suspension or revocation of a license.

1195 (b) The division may, upon receiving a record of the conviction in this state of a  
1196 nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws  
1197 or motorboat laws of this state, forward a certified copy of the record to the motor vehicle  
1198 administrator in the state where the person convicted is a resident.

1199 (7) (a) The division may suspend or revoke the license of any nonresident to drive a motor  
1200 vehicle or motorboat in this state for any cause for which the license of a resident driver may be  
1201 suspended or revoked.

1202 (b) Any nonresident who drives a motor vehicle upon a highway [~~when his~~] or a motorboat  
1203 on the water when the driver's license has been suspended or revoked by the division is guilty of  
1204 a class C misdemeanor.

1205 (8) (a) The division may not deny or suspend the license of any person for a period of more

1206 than one year except:

1207 (i) for failure to comply with the terms of a traffic or motorboat citation under Subsection  
1208 (2);

1209 (ii) upon receipt of a second or subsequent order suspending juvenile driving privileges  
1210 under Section 53-3-219;

1211 (iii) when extending a denial or suspension upon receiving certain records or reports under  
1212 Subsection 53-3-220(2); and

1213 (iv) for failure to give and maintain owner's or operator's security under Section  
1214 41-12a-411.

1215 (b) The division may suspend the license of a person under Subsection (2) until he shows  
1216 satisfactory evidence of compliance with the terms of the traffic or motorboat citation.

1217 (9) (a) By following the emergency procedures in Title 63, Chapter 46b, Administrative  
1218 Procedures Act, the division may immediately suspend the license of any person without hearing  
1219 and without receiving a record of his conviction for a crime when the division has reason to  
1220 believe that the person's license was granted by the division through error or fraud or that the  
1221 necessary consent for the license has been withdrawn or is terminated.

1222 (b) The procedure upon suspension is the same as under Subsection (5), except that after  
1223 the hearing the division shall either rescind its order of suspension or cancel the license.

1224 (10) (a) The division, having good cause to believe that a licensed driver is incompetent  
1225 or otherwise not qualified to be licensed, may upon notice in a manner specified by the division  
1226 of at least five days to the licensee require him to submit to an examination.

1227 (b) Upon the conclusion of the examination the division may suspend or revoke the  
1228 person's license, permit him to retain the license, or grant a license subject to a restriction imposed  
1229 in accordance with Section 53-3-208.

1230 (c) Refusal or neglect of the licensee to submit to an examination is grounds for  
1231 suspension or revocation of his license.

1232 (11) A report authorized by Section 53-3-104 may not contain any evidence of a conviction  
1233 for speeding on an interstate system in this state if the conviction was for a speed of ten miles per  
1234 hour or less, above the posted speed limit and did not result in an accident, unless authorized in  
1235 a manner specified by the division by the individual whose report is being requested.

1236 (12) (a) By following the emergency procedures in Title 63, Chapter 46b, Administrative



1237 Procedures Act, the division may immediately suspend the license of a person if it has reason to  
1238 believe that the person is the owner of a motor vehicle for which security is required under Title  
1239 41, Chapter 12a, Motor Vehicle Financial Responsibility, and has driven the motor vehicle or  
1240 permitted it to be driven within this state without the security being in effect.

1241 (b) Section 41-12a-411 regarding the requirement of proof of owner's or operator's security  
1242 applies to persons whose driving privileges are suspended under this Subsection (12).

1243 (c) If the division exercises the right of immediate suspension granted under this  
1244 Subsection (12), the notice and hearing provisions of Subsection (5) apply.

1245 (d) A person whose license suspension has been sustained or whose license has been  
1246 revoked by the division under this subsection may file a request for agency action requesting a  
1247 hearing.

1248 (13) Any suspension or revocation of a person's license under this section also disqualifies  
1249 any license issued to that person under Part 4 of this chapter.

1250 Section 21. Section **53-3-222** is amended to read:

1251 **53-3-222. Purpose of revocation or suspension for driving under the influence.**

1252 The Legislature finds that the purpose of this title relating to suspension or revocation of  
1253 a person's license or privilege to drive a motor vehicle or motorboat for driving with a blood  
1254 alcohol content above a certain level or while under the influence of alcohol, any drug, or a  
1255 combination of alcohol and any drug, or for refusing to take a chemical test as provided in Section  
1256 41-6-44.10, is protecting persons on highways and waters by quickly removing from the highways  
1257 and waters those persons who have shown they are safety hazards.

1258 Section 22. Section **53-3-223** is amended to read:

1259 **53-3-223. Chemical test for driving under the influence -- Temporary license --**  
1260 **Hearing and decision -- Suspension and fee -- Judicial review.**

1261 (1) (a) If a peace officer has reasonable grounds to believe that a person may be violating  
1262 or has violated Section 41-6-44, prohibiting the operation of a vehicle or motorboat with a certain  
1263 blood or breath alcohol concentration and driving under the influence of any drug, alcohol, or  
1264 combination of a drug and alcohol or while having any measurable controlled substance or  
1265 metabolite of a controlled substance in the person's body in violation of Section 41-6-44.6, the  
1266 peace officer may, in connection with arresting the person, request that the person submit to a  
1267 chemical test or tests to be administered in compliance with the standards under Section

1268 41-6-44.10.

1269 (b) In this section, a reference to Section 41-6-44 includes any similar local ordinance  
1270 adopted in compliance with Subsection 41-6-43(1).

1271 (2) The peace officer shall advise a person prior to the person's submission to a chemical  
1272 test that a test result indicating a violation of Section 41-6-44 or 41-6-44.6 shall, and the existence  
1273 of a blood alcohol content sufficient to render the person incapable of safely driving a motor  
1274 vehicle or motorboat may, result in suspension or revocation of the person's license to drive a  
1275 motor vehicle or motorboat.

1276 (3) If the person submits to a chemical test and the test results indicate a blood or breath  
1277 alcohol content in violation of Section 41-6-44 or 41-6-44.6, or if the officer makes a  
1278 determination, based on reasonable grounds, that the person is otherwise in violation of Section  
1279 41-6-44, the officer directing administration of the test or making the determination shall serve on  
1280 the person, on behalf of the division, immediate notice of the division's intention to suspend the  
1281 person's license to drive a motor vehicle or motorboat.

1282 (4) (a) When the officer serves immediate notice on behalf of the division he shall:

1283 (i) take the Utah license certificate or permit, if any, of the driver;

1284 (ii) issue a temporary license certificate effective for only 29 days; and

1285 (iii) supply to the driver, on a form to be approved by the division, basic information  
1286 regarding how to obtain a prompt hearing before the division.

1287 (b) A citation issued by the officer may, if approved as to form by the division, serve also  
1288 as the temporary license certificate.

1289 (5) As a matter of procedure, the peace officer serving the notice shall send to the division  
1290 within ten calendar days after the date of arrest and service of the notice:

1291 (a) the person's license certificate;

1292 (b) a copy of the citation issued for the offense;

1293 (c) a signed report on a form approved by the division indicating the chemical test results,  
1294 if any; and

1295 (d) any other basis for the officer's determination that the person has violated Section  
1296 41-6-44 or 41-6-44.6.

1297 (6) (a) Upon request in a manner specified by the division, the division shall grant to the  
1298 person an opportunity to be heard within 29 days after the date of arrest. The request to be heard

1299 shall be made within ten calendar days of the date of the arrest.

1300 (b) A hearing, if held, shall be before the division in the county in which the arrest  
1301 occurred, unless the division and the person agree that the hearing may be held in some other  
1302 county.

1303 (c) The hearing shall be documented and shall cover the issues of:

1304 (i) whether a peace officer had reasonable grounds to believe the person was driving a  
1305 motor vehicle or motorboat in violation of Section 41-6-44 or 41-6-44.6;

1306 (ii) whether the person refused to submit to the test; and

1307 (iii) the test results, if any.

1308 (d) (i) In connection with a hearing the division or its authorized agent:

1309 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and the  
1310 production of relevant books and papers; or

1311 (B) may issue subpoenas for the attendance of necessary peace officers.

1312 (ii) The division shall pay witness fees and mileage from the Transportation Fund in  
1313 accordance with the rates established in Section 78-46-28.

1314 (e) The division may designate one or more employees to conduct the hearing.

1315 (f) Any decision made after a hearing before any designated employee is as valid as if  
1316 made by the division.

1317 (g) After the hearing, the division shall order whether the person's license to drive a motor  
1318 vehicle or motorboat is suspended or not.

1319 (h) If the person for whom the hearing is held fails to appear before the division as  
1320 required in the notice, the division shall order whether the person's license to drive a motor vehicle  
1321 or motorboat is suspended or not.

1322 (7) (a) A first suspension, whether ordered or not challenged under this Subsection (7), is  
1323 for a period of 90 days, beginning on the 30th day after the date of the arrest.

1324 (b) A second or subsequent suspension under this subsection is for a period of one year,  
1325 beginning on the 30th day after the date of arrest.

1326 (8) (a) The division shall assess against a person, in addition to any fee imposed under  
1327 Subsection 53-3-205(14) for driving under the influence, a fee under Section 53-3-105 to cover  
1328 administrative costs, which shall be paid before the person's driving privilege is reinstated. This  
1329 fee shall be cancelled if the person obtains an unappealed division hearing or court decision that

1330 the suspension was not proper.

1331 (b) A person whose license has been suspended by the division under this section may file  
1332 a petition within 30 days after the suspension for a hearing on the matter which, if held, is  
1333 governed by Section 53-3-224.

1334 Section 23. Section **53-3-225** is amended to read:

1335 **53-3-225. Eligibility for new license after revocation.**

1336 (1) (a) Except as provided in Subsections (1)(b) and (c), a person whose license has been  
1337 revoked under this chapter may not apply for or receive any new license until the expiration of one  
1338 year from the date the former license was revoked.

1339 (b) A person's license may be revoked for a longer period as provided in:

1340 (i) Section 53-3-220, for driving a motor vehicle or motorboat while the person's license  
1341 is revoked, or involvement as a driver in an accident or violation of the motor vehicle laws or the  
1342 motorboat laws; and

1343 (ii) Section 53-3-221, for failing to comply with the terms of a [~~traffic~~] citation.

1344 (c) (i) The length of the revocation required by Subsection 53-3-220(1)(a)(xi), (a)(xii),  
1345 (b)(i), or (b)(ii) shall be specified in an order of the court adjudicating or convicting the person of  
1346 the offense.

1347 (ii) If the person adjudicated of the offense is younger than 16 years of age, the license or  
1348 driving privilege shall be revoked for a minimum of one year, from age 16, but not to exceed the  
1349 date the person turns 21 years of age.

1350 (iii) If the person adjudicated or convicted of the offense is 16 years of age or older, the  
1351 license or driving privilege shall be revoked for a minimum of one year, but not to exceed five  
1352 years.

1353 (d) A revoked license may not be renewed.

1354 (e) Application for a new license shall be filed in accordance with Section 53-3-205.

1355 (f) The new license is subject to all provisions of an original license.

1356 (g) The division may not grant the license until an investigation of the character, driving  
1357 abilities, and habits of the driver has been made to indicate whether it is safe to grant him a license.

1358 (2) Any resident or nonresident whose license to drive a motor vehicle or motorboat in this  
1359 state has been suspended or revoked under this chapter may not drive a motor vehicle or motorboat  
1360 in this state under a license, permit, or registration certificate issued by any other jurisdiction or

1361 other source during suspension or after revocation until a new license is obtained under this  
1362 chapter.

1363 Section 24. Section **53-3-227** is amended to read:

1364 **53-3-227. Driving a motor vehicle or motorboat prohibited while driving privilege**  
1365 **denied, suspended, disqualified, or revoked -- Penalties.**

1366 (1) A person whose driving privilege has been denied, suspended, disqualified, or revoked  
1367 under this chapter or under the laws of the state in which the person's driving privilege was granted  
1368 and who drives any motor vehicle upon the highways of this state or any motorboat on the waters  
1369 while that driving privilege is denied, suspended, disqualified, or revoked shall be punished as  
1370 provided in this section.

1371 (2) A person convicted of a violation of Subsection (1), other than a violation specified  
1372 in Subsection (3), is guilty of a class C misdemeanor.

1373 (3) (a) A person is guilty of a class B misdemeanor whose conviction under Subsection  
1374 (1) is based on his driving a motor vehicle or motorboat while the person's driving privilege is  
1375 suspended, disqualified, or revoked for:

1376 (i) a refusal to submit to a chemical test under Section 41-6-44.10;

1377 (ii) a violation of Section 41-6-44;

1378 (iii) a violation of a local ordinance that complies with the requirements of Section  
1379 41-6-43;

1380 (iv) a violation of Section 41-6-44.6;

1381 (v) a violation of Section 76-5-207;

1382 (vi) a criminal action that the person plead guilty to as a result of a plea bargain after  
1383 having been originally charged with violating one or more of the sections or ordinances under this  
1384 Subsection (3);

1385 (vii) a revocation or suspension which has been extended under Subsection 53-3-220(2);

1386 or

1387 (viii) where disqualification is the result of driving a commercial motor vehicle while the  
1388 person's CDL is disqualified, suspended, canceled, or revoked under Subsection 53-3-414(1).

1389 (b) A person is guilty of a class B misdemeanor whose conviction under Subsection (1)  
1390 is based upon the person driving a motor vehicle or motorboat while the person's driving privilege  
1391 is suspended, disqualified, or revoked in any state for violations corresponding to the violations

1392 listed in Subsection (3)(a).

1393 (c) A fine imposed under this subsection shall be at least the maximum fine for a class C  
1394 misdemeanor under Section 76-3-301.

1395 Section 25. Section **53-3-231** is amended to read:

1396 **53-3-231. Person under 21 may not operate vehicle with detectable alcohol in body**  
1397 **-- Chemical test procedures -- Temporary license -- Hearing and decision -- Suspension of**  
1398 **license or operating privilege -- Fees -- Judicial review -- Referral to local substance abuse**  
1399 **authority or program.**

1400 (1) (a) As used in this section:

1401 (i) "Local substance abuse authority" has the same meaning as provided in Section  
1402 62A-8-101.

1403 (ii) "Substance abuse program" means any substance abuse program licensed by the  
1404 Department of Human Services or the Department of Health and approved by the local substance  
1405 abuse authority.

1406 (b) Calculations of blood, breath, or urine alcohol concentration under this section shall  
1407 be made in accordance with the procedures in Subsection 41-6-44(2).

1408 (2) (a) A person younger than 21 years of age may not operate or be in actual physical  
1409 control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol concentration  
1410 in his body as shown by a chemical test.

1411 (b) (i) A person with a valid operator license who violates Subsection (2)(a), in addition  
1412 to any other applicable penalties arising out of the incident, shall have his operator license denied  
1413 or suspended as provided in Subsection (2)(b)(ii).

1414 (ii) (A) For a first offense under Subsection (2)(a), the Driver License Division of the  
1415 Department of Public Safety shall deny the person's operator license if ordered or not challenged  
1416 under this section for a period of 90 days beginning on the 30th day after the date of the arrest  
1417 under Section 32A-12-209.

1418 (B) For a second or subsequent offense under Subsection (2)(a), within three years of a  
1419 prior denial or suspension, the Driver License Division shall suspend the person's operator license  
1420 for a period of one year beginning on the 30th day after the date of arrest.

1421 (c) (i) A person who has not been issued an operator license who violates Subsection  
1422 (2)(a), in addition to any other penalties arising out of the incident, shall be punished as provided

1423 in Subsection (2)(c)(ii).

1424 (ii) For one year or until he is 17, whichever is longer, a person may not operate a vehicle  
1425 or motorboat and the Driver License Division may not issue the person an operator license or  
1426 learner's permit.

1427 (3) (a) When a peace officer has reasonable grounds to believe that a person may be  
1428 violating or has violated Subsection (2), the peace officer may, in connection with arresting the  
1429 person for a violation of Section 32A-12-209, request that the person submit to a chemical test or  
1430 tests to be administered in compliance with the standards under Section 41-6-44.10.

1431 (b) The peace officer shall advise a person prior to the person's submission to a chemical  
1432 test that a test result indicating a violation of Subsection (2)(a) will result in denial or suspension  
1433 of the person's license to operate a motor vehicle or motorboat or a refusal to issue a license.

1434 (c) If the person submits to a chemical test and the test results indicate a blood, breath, or  
1435 urine alcohol content in violation of Subsection (2)(a), or if the officer makes a determination,  
1436 based on reasonable grounds, that the person is otherwise in violation of Subsection (2)(a), the  
1437 officer directing administration of the test or making the determination shall serve on the person,  
1438 on behalf of the Driver License Division, immediate notice of the Driver License Division's  
1439 intention to deny or suspend the person's license to operate a vehicle or motorboat or refusal to  
1440 issue a license under Subsection (2).

1441 (4) When the officer serves immediate notice on behalf of the Driver License Division,  
1442 he shall:

1443 (a) take the Utah license certificate or permit, if any, of the operator;

1444 (b) issue a temporary license certificate effective for only 29 days if the driver had a valid  
1445 operator's license; and

1446 (c) supply to the operator, in a manner specified by the division, basic information  
1447 regarding how to obtain a prompt hearing before the Driver License Division.

1448 (5) A citation issued by the officer may, if approved as to form by the Driver License  
1449 Division, serve also as the temporary license certificate under Subsection (4)(b).

1450 (6) As a matter of procedure, the peace officer serving the notice shall send to the Driver  
1451 License Division within ten calendar days after the date of arrest and service of the notice:

1452 (a) the person's driver license certificate, if any;

1453 (b) a copy of the citation issued for the offense;

1454 (c) a signed report in a manner specified by the Driver License Division indicating the  
1455 chemical test results, if any; and

1456 (d) any other basis for the officer's determination that the person has violated Subsection  
1457 (2).

1458 (7) (a) (i) Upon request in a manner specified by the division, the Driver License Division  
1459 shall grant to the person an opportunity to be heard within 29 days after the date of arrest under  
1460 Section 32A-12-209.

1461 (ii) The request shall be made within ten calendar days of the date of the arrest.

1462 (b) A hearing, if held, shall be before the Driver License Division in the county in which  
1463 the arrest occurred, unless the Driver License Division and the person agree that the hearing may  
1464 be held in some other county.

1465 (c) The hearing shall be documented and shall cover the issues of:

1466 (i) whether a peace officer had reasonable grounds to believe the person was operating a  
1467 motor vehicle or motorboat in violation of Subsection (2)(a);

1468 (ii) whether the person refused to submit to the test; and

1469 (iii) the test results, if any.

1470 (d) In connection with a hearing the Driver License Division or its authorized agent may  
1471 administer oaths and may issue subpoenas for the attendance of witnesses and the production of  
1472 relevant books and papers and records as defined in Section 46-4-102.

1473 (e) One or more members of the Driver License Division may conduct the hearing.

1474 (f) Any decision made after a hearing before any number of the members of the Driver  
1475 License Division is as valid as if made after a hearing before the full membership of the Driver  
1476 License Division.

1477 (g) After the hearing, the Driver License Division shall order whether the person:

1478 (i) with a valid license to operate a motor vehicle or motorboat will have his license denied  
1479 or not or suspended or not; or

1480 (ii) without a valid operator license will be refused a license under Subsection (2)(c).

1481 (h) If the person for whom the hearing is held fails to appear before the Driver License  
1482 Division as required in the notice, the division shall order whether the person shall have his license  
1483 denied, suspended, or not denied or suspended, or whether an operator license will be refused or  
1484 not refused.



1485 (8) (a) Following denial or suspension the Driver License Division shall assess against a  
1486 person, in addition to any fee imposed under Subsection 53-3-205(14), a fee under Section  
1487 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover  
1488 administrative costs. This fee shall be canceled if the person obtains an unappealed Driver License  
1489 Division hearing or court decision that the suspension was not proper.

1490 (b) A person whose operator license has been denied, suspended, or postponed by the  
1491 Driver License Division under this section may file a petition within 30 days after the suspension  
1492 for a hearing on the matter which, if held, is governed by Section 53-3-224.

1493 (9) After reinstatement of an operator license for a first offense under this section, a report  
1494 authorized under Section 53-3-104 may not contain evidence of the denial or suspension of the  
1495 person's operator license under this section if he has not been convicted of any other offense for  
1496 which the denial or suspension may be extended.

1497 (10) (a) In addition to the penalties in Subsection (2), a person who violates Subsection  
1498 (2)(a) shall:

1499 (i) obtain an assessment and recommendation for appropriate action from a substance  
1500 abuse program, but any associated costs shall be the person's responsibility; or

1501 (ii) be referred by the Driver License Division to the local substance abuse authority for  
1502 an assessment and recommendation for appropriate action.

1503 (b) (i) Reinstatement of the person's operator license or the right to obtain an operator  
1504 license is contingent upon successful completion of the action recommended by the local substance  
1505 abuse authority or the substance abuse program.

1506 (ii) The local substance abuse authority's or the substance abuse program's recommended  
1507 action shall be determined by an assessment of the person's alcohol abuse and may include:

1508 (A) a targeted education and prevention program;

1509 (B) an early intervention program; or

1510 (C) a substance abuse treatment program.

1511 (iii) Successful completion of the recommended action shall be determined by standards  
1512 established by the Division of Substance Abuse.

1513 (c) At the conclusion of the penalty period imposed under Subsection (2), the local  
1514 substance abuse authority or the substance abuse program shall notify the Driver License Division  
1515 of the person's status regarding completion of the recommended action.

1516 (d) The local substance abuse authorities and the substance abuse programs shall cooperate  
1517 with the Driver License Division in:

1518 (i) conducting the assessments;

1519 (ii) making appropriate recommendations for action; and

1520 (iii) notifying the Driver License Division about the person's status regarding completion  
1521 of the recommended action.

1522 (e) (i) The local substance abuse authority is responsible for the cost of the assessment of  
1523 the person's alcohol abuse, if the assessment is conducted by the local substance abuse authority.

1524 (ii) The local substance abuse authority or a substance abuse program selected by a person  
1525 is responsible for:

1526 (A) conducting an assessment of the person's alcohol abuse; and

1527 (B) for making a referral to an appropriate program on the basis of the findings of the  
1528 assessment.

1529 (iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees  
1530 associated with the recommended program to which the person selected or is referred.

1531 (B) The costs and fees under Subsection (10)(e)(iii)(A) shall be based on a sliding scale  
1532 consistent with the local substance abuse authority's policies and practices regarding fees for  
1533 services or determined by the substance abuse program.

1534 Section 26. Section **53-3-232** is amended to read:

1535 **53-3-232. Conditional license -- May not operate vehicle with alcohol in body**  
1536 **penalty.**

1537 (1) As used in this section, "qualifying conviction" means:

1538 (a) a conviction of a violation of Section 41-6-44, Section 41-6-44.6, a local ordinance  
1539 which complies with the requirements of Subsection 41-6-43(1), Section 76-5-207, or of  
1540 alcohol-related reckless driving as described under Subsection 41-6-44(9);

1541 (b) a refusal and suspension under Section 41-6-44.10; or

1542 (c) a violation of Subsection (3).

1543 (2) The division may only issue, reinstate, or renew a driver license in the form of a no  
1544 alcohol conditional license to a person who has a qualifying conviction for a period of:

1545 (a) two years after reinstatement of the driver license following a first qualifying  
1546 conviction; and

1547 (b) six years after reinstatement of the driver license following a second or subsequent  
1548 qualifying conviction.

1549 (3) A no alcohol conditional license shall be issued on the condition that the person may  
1550 not operate or be in actual physical control of a vehicle or motorboat in this state with any alcohol  
1551 in the person's body.

1552 (4) It is a class B misdemeanor for a person who has been issued a no alcohol conditional  
1553 license to operate or be in actual physical control of a vehicle or motorboat in this state in violation  
1554 of Subsection (3).

1555 Section 27. Section **73-18-4.5** is enacted to read:

1556 **73-18-4.5. Rulemaking to establish a point system for boating violations -- Boating**  
1557 **record -- Notice -- Hearings.**

1558 (1) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1559 board shall make rules establishing a point system as provided for in this section.

1560 (a) (i) The board shall assign a number of points to each type of moving boating violation  
1561 specified under this chapter as a measure of its seriousness.

1562 (ii) The points shall be based upon actual relationships between types of violations and  
1563 boating accidents.

1564 (b) Every person convicted of a moving boating violation shall have assessed against his  
1565 boating record the number of points that the board has assigned to the type of violation of which  
1566 the person has been convicted.

1567 (c) The division shall keep a boating record of each person convicted of a moving boating  
1568 violation under this chapter.

1569 (d) (i) Points assessed against a person's boating record shall be deleted for violations  
1570 occurring before a time limit set by rule.

1571 (ii) The time limit may not exceed three years.

1572 (iii) The division may also delete points to reward violation-free driving for periods of  
1573 time set by rule.

1574 (e) (i) By publication in two newspapers having general circulation throughout the state,  
1575 the division shall give notice of the number of points assigned to each type of boating violation,  
1576 the time limit set by rule for the deletion of points, and the point level at which the division will  
1577 generally take action to hold a hearing and if needed, notify the Driver License Division that a

1578 driver license should be denied or suspended under this section.

1579 (ii) The board may not change any of the information provided above regarding points  
1580 without first giving new notice in the same manner.

1581 (2) (a) (i) If a person is assessed sufficient points to have his license denied or suspended  
1582 under this section, the division shall immediately notify the licensee in writing and afford him an  
1583 opportunity for a hearing in the county where the licensee resides.

1584 (ii) The hearing shall be documented, and the division or its authorized agent may  
1585 administer oaths, may issue subpoenas for the attendance of witnesses and the production of  
1586 relevant books and papers, and may require a reexamination by the division of the licensee.

1587 (iii) One or more members of the division may conduct the hearing, and any decision made  
1588 after a hearing before any number of the members of the division is as valid as if made after a  
1589 hearing before the full membership of the division.

1590 (iv) After the hearing if the division determines that the action is warranted, the division  
1591 shall send a letter to the Driver License Division that the person's license should be denied or  
1592 suspended or that the denial or suspension should be rescinded or extended.

1593 (b) Upon action by the Driver License Division, the denial or suspension of the license  
1594 remains in effect pending qualifications determined by the division regarding a person whose  
1595 license has been denied or suspended following reexamination.

1596 Section 28. Section **73-18-10** is amended to read:

1597 **73-18-10. Owner of boat livery -- Duties.**

1598 (1) (a) The owner of a boat livery doing business in the state shall register with the division  
1599 and pay a \$25 annual registration fee prior to conducting business in that year.

1600 (b) The owner of an out-of-state boat livery may register with the division for the same fee  
1601 as required under Subsection (1)(a).

1602 ~~[(+)]~~ (2) The owner of a boat livery shall keep a record of the following: the name and  
1603 address of the person hiring any vessel; the identification number of the vessel; the vessel's  
1604 departure date and time; and the vessel's expected time of return. The record shall be preserved  
1605 for at least one year.

1606 ~~[(2)]~~ (3) Neither the owner of a boat livery nor his agent or employee may permit any  
1607 vessel to depart from the premises of the boat livery unless the owner has equipped it as required  
1608 under this chapter and unless he has advised the lessee or renter of the vessel of all rules

1609 promulgated under this chapter which the lessee or renter must obey.

1610 (4) A boat livery may apply to the division to become authorized to issue a 14-day  
1611 temporary motorboat operator license.

1612 (5) (a) A 14-day temporary motorboat operator license may only be issued by a division  
1613 registered boat livery:

1614 (i) to a renter of the livery's motorboat or someone in the renter's party; and

1615 (ii) to the person after he has received a division approved boating safety training and the  
1616 person has signed an affidavit stating he has received the training and will adhere to the boating  
1617 laws and rules.

1618 (b) An authorized boat livery may only issue one temporary motorboat operator license  
1619 to a person in a 30-day period.

1620 (6) Neither the owner of a boat livery nor his agent or employee may rent a motorboat to  
1621 another person unless the person who will be the operator meets one of the provisions under  
1622 Section 73-18-15.4.

1623 (7) If the division has reasonable grounds to believe a livery has failed to comply with any  
1624 of the required provisions, the division may suspend or revoke the livery's registration after notice  
1625 to the livery and upon hearing, if a hearing is requested by the livery within ten calendar days after  
1626 the notice is sent.

1627 Section 29. Section **73-18-15.1** is repealed and reenacted to read:

1628 **73-18-15.1. Vessel navigation and steering laws.**

1629 (1) The operator of a vessel shall maintain a proper lookout by sight and hearing at all  
1630 times to avoid the risk of collision.

1631 (2) When the operators of two motorboats approach each other where there is risk of  
1632 collision, each operator shall alter course to the right and pass on the left side of the other.

1633 (3) When the operators of two motorboats are crossing paths and are at risk of a collision,  
1634 the operator of the vessel which has the other vessel on its right side shall keep out of the way and  
1635 yield right-of-way if necessary.

1636 (4) The operator of any vessel overtaking any other vessel shall keep out of the way of the  
1637 vessel being overtaken.

1638 (5) The operator of a vessel underway shall keep out of the way of a:

1639 (a) vessel not under command;

1640 (b) vessel restricted in its ability to maneuver;

1641 (c) vessel engaged in fishing; and

1642 (d) sailing vessel.

1643 (6) If the operator of one of two vessels is to keep out of the way, the other vessel operator  
1644 shall maintain his course and speed unless it becomes apparent the other vessel is not taking the  
1645 appropriate action.

1646 (7) In narrow channels an operator of a vessel underway shall keep to the right of the  
1647 middle of the channel.

1648 (8) The operator of a vessel shall proceed at a safe speed at all times so that he can take  
1649 proper and effective action to avoid collision and be stopped within a distance appropriate to the  
1650 prevailing circumstances or conditions.

1651 (9) (a) When the operators of two sailboats are approaching one another so as to involve  
1652 risk of collision, one of the operators shall keep out of the way of the other as follows:

1653 (i) when each has the wind on a different side, the operator of the vessel which has the  
1654 wind on the left side shall keep out of the way of the other;

1655 (ii) when both have the wind on the same side, the operator of the vessel which is to the  
1656 windward shall keep out of the way of the vessel which is to leeward; and

1657 (iii) if the operator of a vessel with the wind on the left side sees a vessel to windward and  
1658 cannot determine with certainty whether the other vessel has the wind on the left or on the right  
1659 side, the operator shall keep out of way of the other vessel.

1660 (b) For purposes of this Subsection (9), the windward side shall be the side opposite that  
1661 on which the mainsail is carried.

1662 (10) The operator of any vessel may not exceed a wakeless speed when:

1663 (a) within 150 feet of:

1664 (i) another vessel;

1665 (ii) a person in or floating on the water;

1666 (iii) a water skier being towed by another boat;

1667 (iv) a shore fisherman;

1668 (v) a launching ramp;

1669 (vi) a dock; or

1670 (vii) a designated swimming area; or

1671 (b) in an area designated as a wakeless speed area.

1672 (11) The operator of a motorboat is responsible for any damage or injury caused by the  
1673 wake produced by the operator's motorboat.

1674 (12) (a) Except as provided in Subsection (12)(b), the operator of a motorboat that is less  
1675 than 65 feet in length may not exceed a wakeless speed while any person is riding upon the bow  
1676 decking, gunwales, transom, seatbacks, or motor cover.

1677 (b) Subsection (12)(a) does not apply if the motorboat is:

1678 (i) between 16 feet and 65 feet in length; and

1679 (ii) the motorboat is equipped with adequate rails or other safeguards to prevent a person  
1680 from falling overboard.

1681 (13) If a person is riding upon the bow decking of a motorboat which does not have  
1682 designed seating for passengers, the person shall straddle one of the upright supports of the bow  
1683 rail and may not block the vision of the operator.

1684 (14) The operator of a vessel may not tow a water skier or a person on another device:

1685 (a) unless an onboard observer, who is at least eight years of age, is designated by the  
1686 operator to watch the person being towed; or

1687 (b) between sunset and sunrise.

1688 (15) The operator of a vessel being operated between sunset and sunrise shall display  
1689 lighted navigation lights approved by the division.

1690 (16) A person who violates this section is guilty of a class C misdemeanor.

1691 Section 30. Section **73-18-15.2** is amended to read:

1692 **73-18-15.2. Minimum age of operators -- Boating safety course for youth to operate**  
1693 **personal watercraft.**

1694 (1) (a) ~~[Except as provided in Subsection (2), a]~~ A person under [16] 12 years of age may  
1695 not operate a motorboat on the waters of this state~~[, if he is accompanied by a person who is at~~  
1696 ~~least 18 years of age].~~

1697 (b) A person under 16 years of age may operate a sailboat, if he is under the direct  
1698 supervision of a person who is at least 18 years of age.

1699 (2) A person ~~[under 16 years of age and]~~ who is 12 years of age or older but under 16 years  
1700 of age may operate a personal watercraft provided he:

1701 (a) is under the direct supervision of a person who is at least 18 years of age;

1702 (b) completes a boating safety course approved by the division; and

1703 (c) has in his possession a boating safety certificate issued [~~by the boating safety course~~  
1704 ~~provider~~] or approved by the division.

1705 [~~(3) A person under 18 years of age and 16 years of age or older may operate a personal~~  
1706 ~~watercraft, if he:]~~

1707 [~~(a) completes a boating safety course approved by the division; and]~~

1708 [~~(b) has in his possession a boating safety certificate issued by the boating safety course~~  
1709 ~~provider.]~~

1710 [~~(4) A person required to attend a boating safety course under Subsection (3)(a) need not~~  
1711 ~~be accompanied by a parent or legal guardian while completing a boating safety course.]~~

1712 [~~(5) No person may give permission to another person to operate a vessel in violation of~~  
1713 ~~this section.]~~

1714 [~~(6)~~ (3) As used in this section, "direct supervision" means oversight at a distance within  
1715 which visual contact is maintained.

1716 [~~(7)~~ (4) (a) The division may collect a fee not to exceed \$12 from each person who takes  
1717 the division's boating safety course to help defray the cost of the boating safety course.

1718 (b) Money collected from the fee collected under Subsection [~~(7)~~ (4)(a) shall be deposited  
1719 in the Boating Account.

1720 Section 31. Section **73-18-15.4** is enacted to read:

1721 **73-18-15.4. Motorboat operators must be licensed.**

1722 (1) As used in this section, "motorboat" has the same meaning as provided in Section  
1723 53-3-102.

1724 (2) Beginning January 1, 2007, a person may not operate or drive a motorboat on the  
1725 waters of this state unless the person is:

1726 (a) granted the privilege to operate a motorboat by being licensed as a driver and by  
1727 obtaining a motorboat endorsement to the driver license in accordance with Title 53, Chapter 3,  
1728 Uniform Driver License Act;

1729 (b) at least 12 years of age; and

1730 (i) has successfully completed a motorboat safety course established under Subsection (3),  
1731 and is accompanied on board and directly supervised by a person who is at least 18 years of age  
1732 and otherwise licensed under the provisions of this section; or



- 1733 (ii) is operating a personal watercraft in accordance with Section 73-18-15.2;  
1734 (c) a nonresident who is at least 16 years of age and who:  
1735 (i) has in his immediate possession the nonresident's motorboat license or a certificate  
1736 showing successful completion of a course approved by the National Association of State Boating  
1737 Law Administrators; or  
1738 (ii) is a holder of a nonresident temporary motorboat operator license issued by the  
1739 division under Subsection (3) and has the license in his immediate possession;  
1740 (d) at least 18 years of age and is operating a motorboat that is rented from a division  
1741 licensed boat livery under Section 73-18-10 and:  
1742 (i) a copy of the rental agreement is on board the motorboat; and  
1743 (ii) the operator has in his immediate possession a division authorized 14-day temporary  
1744 motorboat operator license;  
1745 (e) a licensed Utah river guide permit holder and he is carrying passengers for hire and  
1746 operating a motorboat in accordance with the requirements of Subsection 73-18-4(1)(d);  
1747 (f) a holder of a valid master's, mate's, or operator's license issued by the United States  
1748 Coast Guard;  
1749 (g) a holder of a Utah vessel operator permit; or  
1750 (h) operating or driving an official United States Government motorboat on official  
1751 business with a valid United States Government motorboat operators certification.  
1752 (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1753 division shall make rules:  
1754 (a) establishing approved motorboat safety courses:  
1755 (i) for operators who are at least 12 years of age;  
1756 (ii) to assist in the preparation for a person to obtain a motorboat endorsement to a driver  
1757 license; and  
1758 (iii) that are consistent with courses approved by the National Association of State Boating  
1759 Laws Administrators; and  
1760 (b) establishing a nonresident temporary motorboat operator license for a nonresident at  
1761 least 16 years of age who does not have a motorboat license or certificate from a jurisdiction that  
1762 is recognized under Subsection (2)(c).  
1763 (4) In accordance with Section 63-38-3.2, the division shall establish fees to cover the

1764 costs of the approved motor boat safety course and fees to cover the costs of issuing the  
1765 nonresident temporary motorboat operator license based on the duration of the license.

1766 Section 32. Section **73-18-15.5** is enacted to read:

1767 **73-18-15.5. Authorizing or permitting driving a vessel in violation of law.**

1768 (1) A person may not authorize or knowingly permit a vessel owned by him or that is  
1769 under his control to be driven by a person in violation of this chapter, Title 41, Chapter 6, Article  
1770 5, Driving While Intoxicated and Reckless Driving, or Title 53, Chapter 3, Uniform Driver License  
1771 Act.

1772 (2) A person who violates Subsection (1) is guilty of a class C misdemeanor.

1773 Section 33. Section **78-3a-104** is amended to read:

1774 **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**

1775 (1) Except as otherwise provided by law, the juvenile court has exclusive original  
1776 jurisdiction in proceedings concerning:

1777 (a) a minor who has violated any federal, state, or local law or municipal ordinance or a  
1778 person younger than 21 years of age who has violated any law or ordinance before becoming 18  
1779 years of age, regardless of where the violation occurred, excluding traffic and boating laws and  
1780 ordinances;

1781 (b) a person 21 years of age or older who has failed or refused to comply with an order of  
1782 the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's 21st  
1783 birthday; however, the continuing jurisdiction is limited to causing compliance with existing  
1784 orders;

1785 (c) a minor who is an abused child, neglected child, or dependent child, as those terms are  
1786 defined in Section 78-3a-103;

1787 (d) a protective order for a minor who is alleged to be an abused child or neglected child,  
1788 except as provided in Section 78-3a-105, and unless the petition is filed by a natural parent or  
1789 stepparent of the minor against a natural parent or stepparent of the minor;

1790 (e) the determination of the custody of a minor or to appoint a guardian of the person or  
1791 other guardian of a minor who comes within the court's jurisdiction under other provisions of this  
1792 section;

1793 (f) the termination of the legal parent-child relationship in accordance with Part 4,  
1794 Termination of Parental Rights Act, including termination of residual parental rights and duties;

- 1795 (g) the treatment or commitment of a mentally retarded minor;
- 1796 (h) a minor who is a habitual truant from school;
- 1797 (i) the judicial consent to the marriage of a minor under age 16 upon a determination of  
1798 voluntariness or where otherwise required by law, employment, or enlistment of a minor when  
1799 consent is required by law;
- 1800 (j) any parent or parents of a minor committed to a secure youth corrections facility, to  
1801 order, at the discretion of the court and on the recommendation of a secure youth corrections  
1802 facility, the parent or parents of a minor committed to a secure youth corrections facility for a  
1803 custodial term, to undergo group rehabilitation therapy under the direction of a secure youth  
1804 corrections facility therapist, who has supervision of that parent's or parents' minor, or any other  
1805 therapist the court may direct, for a period directed by the court as recommended by a secure youth  
1806 corrections facility;
- 1807 (k) a minor under Title 55, Chapter 12, Interstate Compact on Juveniles;
- 1808 (l) the treatment or commitment of a mentally ill child. The court may commit a child to  
1809 the physical custody of a local mental health authority or to the legal custody of the Division of  
1810 Mental Health in accordance with the procedures and requirements of Title 62A, Chapter 12, Part  
1811 2A, Commitment of Persons Under Age 18 to Division of Mental Health. The court may not  
1812 commit a child directly to the Utah State Hospital;
- 1813 (m) the commitment of a minor in accordance with Section 62A-8-501;
- 1814 (n) de novo review of final agency actions resulting from an informal adjudicative  
1815 proceeding as provided in Section 63-46b-15; and
- 1816 (o) adoptions conducted in accordance with the procedures described in Title 78, Chapter  
1817 30, Adoption, when the juvenile court has previously entered an order terminating the rights of a  
1818 parent and finds that adoption is in the best interest of the minor.
- 1819 (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive  
1820 jurisdiction over any traffic or boating offense committed by a minor under 16 years of age and  
1821 concurrent jurisdiction over all other traffic or boating offenses committed by a minor 16 years of  
1822 age or older, except that the court shall have exclusive jurisdiction over the following [~~traffic~~]  
1823 offenses committed by a minor under 18 years of age:
- 1824 (a) Section 76-5-207, automobile homicide;
- 1825 (b) Section 41-6-44, operating a vehicle or motorboat while under the influence of alcohol

1826 or drugs;

1827 (c) Section 41-6-45 or 73-18-12, reckless driving;

1828 (d) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or semitrailer  
1829 for an extended period of time; and

1830 (e) Section 41-6-13.5 or 73-18-20, fleeing a peace officer.

1831 (3) The court also has jurisdiction over traffic and boating offenses that are part of a single  
1832 criminal episode filed in a petition that contains an offense over which the court has jurisdiction.

1833 (4) The juvenile court has jurisdiction over questions of custody, support, parent-time, and  
1834 visitation certified to it by the district court pursuant to Section 78-3a-105.

1835 (5) The juvenile court has jurisdiction over an ungovernable or runaway minor who is  
1836 referred to it by the Division of Child and Family Services or by public or private agencies that  
1837 contract with the division to provide services to that minor where, despite earnest and persistent  
1838 efforts by the division or agency, the minor has demonstrated that he:

1839 (a) is beyond the control of his parent, guardian, lawful custodian, or school authorities  
1840 to the extent that his behavior or condition endangers his own welfare or the welfare of others; or

1841 (b) has run away from home.

1842 (6) This section does not restrict the right of access to the juvenile court by private  
1843 agencies or other persons.

1844 (7) The juvenile court has jurisdiction of all magistrate functions relative to cases arising  
1845 under Section 78-3a-602.

1846 Section 34. Section **78-18-1** is amended to read:

1847 **78-18-1. Basis for punitive damages awards -- Section inapplicable to DUI cases --**  
1848 **Division of award with state.**

1849 (1) (a) Except as otherwise provided by statute, punitive damages may be awarded only  
1850 if compensatory or general damages are awarded and it is established by clear and convincing  
1851 evidence that the acts or omissions of the tortfeasor are the result of willful and malicious or  
1852 intentionally fraudulent conduct, or conduct that manifests a knowing and reckless indifference  
1853 toward, and a disregard of, the rights of others.

1854 (b) The limitations, standards of evidence, and standards of conduct of Subsection (1)(a)  
1855 do not apply to any claim for punitive damages arising out of the tortfeasor's operation of a motor  
1856 vehicle or motorboat while voluntarily intoxicated or under the influence of any drug or

1857 combination of alcohol and drugs as prohibited by Section 41-6-44.

1858 (c) The award of a penalty under Section 78-11-15 or 78-11-16 regarding shoplifting is  
1859 not subject to the prior award of compensatory or general damages under Subsection (1)(a)  
1860 whether or not restitution has been paid to the merchant prior to or as a part of a civil action under  
1861 Section 78-11-15 or 78-11-16.

1862 (2) Evidence of a party's wealth or financial condition shall be admissible only after a  
1863 finding of liability for punitive damages has been made.

1864 (3) In any judgment where punitive damages are awarded and paid, 50% of the amount of  
1865 the punitive damages in excess of \$20,000 shall, after payment of attorneys' fees and costs, be  
1866 remitted to the state treasurer for deposit into the General Fund.

1867 Section 35. **Repealer.**

1868 This act repeals:

1869 Section **73-18-12.1, Operating under influence -- Local ordinances to be consistent**  
1870 **with chapter.**

1871 Section **73-18-12.2, Boating under the influence of alcohol or drugs or with high blood**  
1872 **or breath alcohol content -- Criminal punishment -- Arrest without a warrant.**

1873 Section **73-18-12.3, Operating under the influence -- Standards for administration and**  
1874 **interpretation of chemical analysis.**

1875 Section **73-18-12.4, Operating under the influence -- Admissibility of chemical test --**  
1876 **Other evidence.**

1877 Section **73-18-12.5, Operating under the influence -- Prosecuting violations of local**  
1878 **ordinances.**

1879 Section **73-18-12.6, Operating under the influence -- Implied consent to chemical tests**  
1880 **for alcohol or drugs -- Refusal to submit -- Revocation of registration -- Court action on**  
1881 **revocation -- Person incapable of refusal -- Results of test available -- Who may give test --**  
1882 **Evidence.**

1883 Section **73-18-12.7, Operating under the influence -- Seizure and impoundment of**  
1884 **vessel.**

1885 Section **73-18-12.8, Operating under the influence -- Removal or impoundment of**  
1886 **vehicle used to tow impounded vessel.**

1887 Section 36. **Effective date.**

1888

This act takes effect on July 1, 2002.

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**Legislative Review Note**  
**as of 8-27-01 8:10 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**Committee Note**

The Transportation Interim Committee recommended this bill.