

**Senator Carlene M. Walker** proposes the following substitute bill:

**ALCOHOL RESTRICTED DRIVERS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Carlene M. Walker**

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**LONG TITLE**

**General Description:**

This bill modifies the Motor Vehicles Code and the Public Safety Code by amending provisions related to certain persons operating a vehicle with any measurable or detectable amount of alcohol in the person's body.

**Highlighted Provisions:**

This bill:

- ▶ changes the restricted blood alcohol content level for certain persons and changes the violation from a driving under the influence violation to an alcohol restricted driver violation;
- ▶ defines certain persons as alcohol restricted drivers;
- ▶ provides that it is a class B misdemeanor for an alcohol restricted driver to drive a vehicle with any measurable or detectable amount of alcohol in the person's body;
- ▶ requires a peace officer to warn a person that has been placed under arrest for refusing to submit to a chemical test for alcohol or drugs that a refusal to submit to a chemical test for alcohol or drugs may result in a five or ten-year prohibition of the person driving with any measurable or detectable amount of alcohol in the person's body;
- ▶ provides that a peace officer may impound a vehicle for certain violations;
- ▶ prohibits the Driver License Division from issuing, reinstating, or renewing a driver



26 license in the form of a no alcohol conditional license beginning on July 1, 2005;

27       ▶ repeals provisions regarding:

28             • no alcohol conditional licenses beginning on July 1, 2015; and

29             • coded licenses beginning on July 1, 2005; and

30       ▶ makes technical changes.

31 **Monies Appropriated in this Bill:**

32       None

33 **Other Special Clauses:**

34       This bill takes effect July 1, 2005.

35       This bill provides a coordination clause.

36 **Utah Code Sections Affected:**

37 AMENDS:

38       **41-6a-502**, as renumbered and amended by Chapter 2, Laws of Utah 2005

39       **41-6a-503**, as enacted by Chapter 2, Laws of Utah 2005

40       **41-6a-520**, as renumbered and amended by Chapter 2, Laws of Utah 2005

41       **41-6a-521**, as enacted by Chapter 2, Laws of Utah 2005

42       **41-6a-524**, as enacted by Chapter 2, Laws of Utah 2005

43       **41-6a-527**, as renumbered and amended by Chapter 2, Laws of Utah 2005

44       **53-3-220**, as last amended by Chapters 161 and 205, Laws of Utah 2004

45       **53-3-227**, as last amended by Chapter 205, Laws of Utah 2004

46       **53-3-232**, as last amended by Chapter 161, Laws of Utah 2004

47       **63-55-253**, as last amended by Chapter 90, Laws of Utah 2004

48 ENACTS:

49       **41-6a-529**, Utah Code Annotated 1953

50       **41-6a-530**, Utah Code Annotated 1953

51 REPEALS:

52       **53-3-233**, as last amended by Chapter 161, Laws of Utah 2004



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

55       Section 1. Section **41-6a-502** is amended to read:

56       **41-6a-502. Driving under the influence of alcohol, drugs, or a combination of**

57 **both or with specified or unsafe blood alcohol concentration.**

58 (1) A person may not operate or be in actual physical control of a vehicle within this  
59 state if the person:

60 (a) has sufficient alcohol in the person's body that a subsequent chemical test shows  
61 that the person has a blood or breath alcohol concentration of .08 grams or greater at the time  
62 of the test;

63 (b) is under the influence of alcohol, any drug, or the combined influence of alcohol  
64 and any drug to a degree that renders the person incapable of safely operating a vehicle; or

65 (c) has a blood or breath alcohol concentration of .08 grams or greater at the time of  
66 operation or actual physical control[; ~~or~~].

67 [~~(d) (i) is 21 years of age or older;~~]

68 [~~(ii) has a passenger under 16 years of age in the vehicle at the time of operation or  
69 actual physical control;~~]

70 [~~(iii) has committed a violation of this Subsection (1)(d) within ten years of a prior  
71 conviction as defined in Subsection 41-6a-501(2); and]~~

72 [~~(iv) (A) has sufficient alcohol in the person's body that a subsequent chemical test  
73 shows that the person has a blood or breath alcohol concentration of .05 grams or greater at the  
74 time of the test; or]~~

75 [~~(B) has a blood or breath alcohol concentration of .05 grams or greater at the time of  
76 operation or actual physical control.]~~

77 (2) Alcohol concentration in the blood shall be based upon grams of alcohol per 100  
78 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of  
79 alcohol per 210 liters of breath.

80 (3) A violation of this section includes a violation under a local ordinance similar to  
81 this section adopted in compliance with Section 41-6a-510.

82 Section 2. Section **41-6a-503** is amended to read:

83 **41-6a-503. Penalties for driving under the influence violations.**

84 (1) A person convicted the first or second time of a violation of [~~Subsections~~] Section  
85 41-6a-502[~~(1)(a) through (c)~~] is guilty of a:

86 (a) class B misdemeanor; or

87 (b) class A misdemeanor if the person:

88 (i) has also inflicted bodily injury upon another as a proximate result of having  
89 operated the vehicle in a negligent manner;

90 (ii) had a passenger under 16 years of age in the vehicle at the time of the offense; or

91 (iii) was 21 years of age or older and had a passenger under 18 years of age in the  
92 vehicle at the time of the offense.

93 (2) A person convicted of a violation of Section 41-6a-502 is guilty of a third degree  
94 felony if:

95 (a) the person has also inflicted serious bodily injury upon another as a proximate  
96 result of having operated the vehicle in a negligent manner;

97 (b) the conviction under Section 41-6a-502 is within ten years of two or more prior  
98 convictions as defined in Subsection 41-6a-501(2); or

99 (c) the conviction under Section 41-6a-502 is at any time after a conviction of:

100 (i) automobile homicide under Section 76-5-207 that is committed after July 1, 2001;

101 (ii) a felony violation of Section 41-6a-502 or a statute previously in effect in this state  
102 that would constitute a violation of Section 41-6a-502 that is committed after July 1, 2001; or

103 (iii) any conviction described in Subsection (2)(c)(i) or (ii) which judgment of  
104 conviction is reduced under Section 76-3-402.

105 [~~(3) A person convicted of a violation of Subsection 41-6a-502(1)(d) is guilty of:~~]

106 [~~(a) a class B misdemeanor; or~~]

107 [~~(b) a class A misdemeanor if the person has also inflicted bodily injury upon another  
108 as a proximate result of having operated the vehicle in a negligent manner.]~~]

109 Section 3. Section **41-6a-520** is amended to read:

110 **41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of**  
111 **tests -- Refusal -- Warning, report.**

112 (1) (a) A person operating a motor vehicle in this state is considered to have given the  
113 person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for  
114 the purpose of determining whether the person was operating or in actual physical control of a  
115 motor vehicle while:

116 (i) having a blood or breath alcohol content statutorily prohibited under Section  
117 41-6a-502, 41-6a-530 53-3-231, or 53-3-232[~~, or Subsection 53-3-227(4)~~];

118 (ii) under the influence of alcohol, any drug, or combination of alcohol and any drug

119 under Section 41-6a-502; or

120 (iii) having any measurable controlled substance or metabolite of a controlled  
121 substance in the person's body in violation of Section 41-6a-517.

122 (b) A test or tests authorized under this Subsection (1) must be administered at the  
123 direction of a peace officer having grounds to believe that person to have been operating or in  
124 actual physical control of a motor vehicle while in violation of any provision under Subsections  
125 (1)(a)(i) through (iii).

126 (c) (i) The peace officer determines which of the tests are administered and how many  
127 of them are administered.

128 (ii) If a peace officer requests more than one test, refusal by a person to take one or  
129 more requested tests, even though the person does submit to any other requested test or tests, is  
130 a refusal under this section.

131 (d) (i) A person who has been requested under this section to submit to a chemical test  
132 or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be  
133 administered.

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

138 (2) (a) A peace officer requesting a test or tests shall warn a person that refusal to  
139 submit to the test or tests may result in revocation of the person's license to operate a motor  
140 vehicle and a five or ten-year prohibition of the person driving with any measurable or  
141 detectable amount of alcohol in the person's body depending on the person's prior driving  
142 history if the person:

143 (i) has been placed under arrest;

144 (ii) has then been requested by a peace officer to submit to any one or more of the  
145 chemical tests under Subsection (1); and

146 (iii) refuses to submit to any chemical test requested.

147 (b) (i) Following the warning under Subsection (2)(a), if the person does not  
148 immediately request that the chemical test or tests as offered by a peace officer be  
149 administered, a peace officer shall, on behalf of the Driver License Division and within 24

150 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's  
151 privilege or license to operate a motor vehicle.

152 (ii) When a peace officer gives the notice on behalf of the Driver License Division, the  
153 peace officer shall:

154 (A) take the Utah license certificate or permit, if any, of the operator;

155 (B) issue a temporary license certificate effective for only 29 days from the date of  
156 arrest; and

157 (C) supply to the operator, in a manner specified by the Driver License Division, basic  
158 information regarding how to obtain a hearing before the Driver License Division.

159 (c) A citation issued by a peace officer may, if provided in a manner specified by the  
160 Driver License Division, also serve as the temporary license certificate.

161 (d) As a matter of procedure, the peace officer shall submit a signed report, within ten  
162 calendar days after the day on which notice is provided under Subsection (2)(b), that:

163 (i) the peace officer had grounds to believe the arrested person was in violation of any  
164 provision under Subsections (1)(a)(i) through (iii); and

165 (ii) the person had refused to submit to a chemical test or tests under Subsection (1).

166 (3) Upon the request of the person who was tested, the results of the test or tests shall  
167 be made available to the person.

168 (4) (a) The person to be tested may, at the person's own expense, have a physician of  
169 the person's own choice administer a chemical test in addition to the test or tests administered  
170 at the direction of a peace officer.

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

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

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

179 Section 4. Section **41-6a-521** is amended to read:

180 **41-6a-521. Revocation hearing for refusal -- Appeal.**

181 (1) (a) A person who has been notified of the Driver License Division's intention to  
182 revoke the person's license under Section 41-6a-520 is entitled to a hearing.

183 (b) A request for the hearing shall be made in writing within ten calendar days after the  
184 day on which notice is provided.

185 (c) Upon request in a manner specified by the Driver License Division, the Driver  
186 License Division shall grant to the person an opportunity to be heard within 29 days after the  
187 date of arrest.

188 (d) If the person does not make a request for a hearing before the Driver License  
189 Division under this Subsection (1), the person's privilege to operate a motor vehicle in the state  
190 is revoked beginning on the 30th day after the date of arrest for a period of:

191 (i) 18 months unless Subsection (1)(d)(ii) applies; or

192 (ii) 24 months if the person has had a previous:

193 (A) license sanction for an offense that occurred within the previous ten years from the  
194 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, 53-3-231, or  
195 53-3-232~~[, or Subsection 53-3-227(4)]~~; or

196 (B) conviction for an offense that occurred within the previous ten years from the date  
197 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would  
198 constitute a violation of Section 41-6a-502.

199 (2) (a) Except as provided in Subsection (2)(b), if a hearing is requested by the person,  
200 the hearing shall be conducted by the Driver License Division in the county in which the  
201 offense occurred.

202 (b) The Driver License Division may hold a hearing in some other county if the Driver  
203 License Division and the person both agree.

204 (3) The hearing shall be documented and shall cover the issues of:

205 (a) whether a peace officer had reasonable grounds to believe that a person was  
206 operating a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 41-6a-530, 53-3-231,  
207 or ~~[Subsection 53-3-227(4)]~~ 53-3-232; and

208 (b) whether the person refused to submit to the test or tests under Section 41-6a-520.

209 (4) (a) In connection with the hearing, the division or its authorized agent:

210 (i) may administer oaths and may issue subpoenas for the attendance of witnesses and  
211 the production of relevant books and papers; and

212 (ii) shall issue subpoenas for the attendance of necessary peace officers.

213 (b) The Driver License Division shall pay witness fees and mileage from the

214 Transportation Fund in accordance with the rates established in Section 78-46-28.

215 (5) (a) If after a hearing, the Driver License Division determines that the person was  
216 requested to submit to a chemical test or tests and refused to submit to the test or tests, or if the  
217 person fails to appear before the Driver License Division as required in the notice, the Driver  
218 License Division shall revoke the person's license or permit to operate a motor vehicle in Utah  
219 beginning on the date the hearing is held for a period of:

220 (i) 18 months unless Subsection (5)(a)(ii) applies; or

221 (ii) 24 months if the person has had a previous:

222 (A) license sanction for an offense that occurred within the previous ten years from the  
223 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, 53-3-231, or  
224 53-3-232[, or ~~Subsection 53-3-227(4)~~]; or

225 (B) conviction for an offense that occurred within the previous ten years from the date  
226 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would  
227 constitute a violation of Section 41-6a-502.

228 (b) The Driver License Division shall also assess against the person, in addition to any  
229 fee imposed under Subsection 53-3-205(13), a fee under Section 53-3-105, which shall be paid  
230 before the person's driving privilege is reinstated, to cover administrative costs.

231 (c) The fee shall be cancelled if the person obtains an unappealed court decision  
232 following a proceeding allowed under Subsection (2) that the revocation was improper.

233 (6) (a) Any person whose license has been revoked by the Driver License Division  
234 under this section may seek judicial review.

235 (b) Judicial review of an informal adjudicative proceeding is a trial.

236 (c) Venue is in the district court in the county in which the offense occurred.

237 Section 5. Section **41-6a-524** is amended to read:

238 **41-6a-524. Refusal as evidence.**

239 If a person under arrest refuses to submit to a chemical test or tests or any additional  
240 test under Section 41-6a-520, evidence of any refusal is admissible in any civil or criminal  
241 action or proceeding arising out of acts alleged to have been committed while the person was  
242 operating or in actual physical control of a motor vehicle while:



- 243 (1) under the influence of:
- 244 (a) alcohol;
- 245 (b) any drug; or
- 246 (c) a combination of alcohol and any drug; [or]
- 247 (2) having any measurable controlled substance or metabolite of a controlled substance
- 248 in the person's body[-];

249 (3) having any measurable or detectable amount of alcohol in the person's body if the  
250 person is an alcohol restricted driver as defined under Section 41-6a-529; or

251 (4) having any measurable or detectable amount of alcohol in the person's body if the  
252 person has been issued a conditional license under Section 53-3-232.

253 Section 6. Section **41-6a-527** is amended to read:

254 **41-6a-527. Seizure and impoundment of vehicles by peace officers -- Impound**  
255 **requirements -- Removal of vehicle by owner.**

256 (1) If a peace officer arrests or cites the operator of a vehicle for violating Section  
257 41-6a-502, 41-6a-517, 41-6a-520, [or] 41-6a-530, 53-3-231, 53-3-232, Subsection  
258 41-6a-518(10), or a local ordinance similar to Section 41-6a-502 which complies with  
259 Subsection 41-6a-510(1), [~~or 53-3-227(4)~~], the peace officer shall seize and impound the  
260 vehicle in accordance with Section 41-6a-1406, except as provided under Subsection (2).

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

263 (a) the registered owner:

264 (i) requests to remove the vehicle from the scene; and

265 (ii) presents to the peace officer sufficient identification to prove ownership of the  
266 vehicle or motorboat;

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

268 (i) complies with all restrictions of his operator's license; and

269 (ii) would not, in the judgment of the officer, be in violation of Section 41-6a-502,  
270 41-6a-517, [or] 41-6a-520, 41-6a-530, 53-3-231, 53-3-232, Subsection 41-6a-518(10), or a

271 local ordinance similar to Section 41-6a-502 which complies with Subsection 41-6a-510(1) [~~or~~  
272 ~~53-3-227(4)~~] if permitted to operate the vehicle; and

273 (c) the vehicle itself is legally operable.

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

276 Section 7. Section **41-6a-529** is enacted to read:

277 **41-6a-529. Definitions -- Alcohol restricted drivers.**

278 (1) As used in this section and section 41-6a-530, "alcohol restricted driver" means a  
279 person who:

280 (a) within the last two years:

281 (i) has been convicted of:

282 (A) a misdemeanor violation of Section 41-6a-502;

283 (B) alcohol, any drug, or a combination of both-related reckless driving under Section  
284 41-6a-512;

285 (C) local ordinances similar to Section 41-6a-502 or alcohol, any drug, or a  
286 combination of both-related reckless driving adopted in compliance with Section 41-6a-510;

287 (D) a violation described in Subsections (1)(a)(i)(A) through (C), which judgment of  
288 conviction is reduced under Section 76-3-402; or

289 (E) statutes or ordinances previously in effect in this state or in effect in any other state,  
290 the United States, or any district, possession, or territory of the United States which would  
291 constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of  
292 both-related reckless driving if committed in this state, including punishments administered  
293 under 10 U.S.C. Sec. 815; or

294 (ii) has had the person's driving privilege suspended under Section 53-3-223 based on  
295 an arrest which occurred on or after July 1, 2005;

296 (b) within the last five years:

297 (i) has had the person's driving privilege revoked for refusal to submit to a chemical  
298 test under Section 41-6a-520, which refusal occurred on or after July 1, 2005; or

299 (ii) (A) has been convicted of an offense described in Subsection (1)(a)(i); and

300 (B) at the time of operation or actual physical control of a vehicle the person:

301 (I) is 21 years of age or older;

302 (II) has a passenger under 16 years of age in the vehicle;

303 (c) within the last ten years:

304 (i) has been convicted of an offense described in Subsection (1)(a)(i) which conviction

305 was within ten years of a prior conviction for an offense described in Subsection (1)(a)(i); or  
306 (ii) has had the person's driving privilege revoked for refusal to submit to a chemical  
307 test and the refusal is within ten years after:

308 (A) a prior refusal to submit to a chemical test under Section 41-6a-520; or  
309 (B) a prior conviction for an offense described in Subsection (1)(a)(i) which is not  
310 based on the same arrest as the refusal; or

311 (d) at any time has been convicted of:  
312 (i) automobile homicide under Section 76-5-207 for an offense that occurred on or  
313 after July 1, 2005; or

314 (ii) a felony violation of Section 41-6a-502 for an offense that occurred on or after July  
315 1, 2005.

316 (2) For purposes of this section and Section 41-6a-530, a plea of guilty or no contest to  
317 a violation described in Subsections (1)(a)(i) which plea is held in abeyance under Title 77,  
318 Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been  
319 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

320 Section 8. Section **41-6a-530** is enacted to read:

321 **41-6a-530. Alcohol restricted drivers -- Prohibited from operating a vehicle while**  
322 **having any measurable or detectable amount of alcohol in the person's body -- Penalties.**

323 (1) An alcohol restricted driver who operates or is in actual physical control of a  
324 vehicle in this state with any measurable or detectable amount of alcohol in the person's body is  
325 guilty of a class B misdemeanor.

326 (2) A "measurable or detectable amount" of alcohol in the person's body may be  
327 established by:

328 (a) a chemical test;  
329 (b) evidence other than a chemical test; or  
330 (c) a combination of Subsections (2)(a) and (b).

331 Section 9. Section **53-3-220** is amended to read:

332 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**  
333 **disqualification of license -- Offense requiring an extension of period -- Hearing --**  
334 **Limited driving privileges.**

335 (1) (a) The division shall immediately revoke or, when this chapter or Title 41, Chapter

336 [6] 6a, Traffic ~~[Rules and Regulations]~~ Code, specifically provides for denial, suspension, or  
337 disqualification, the division shall deny, suspend, or disqualify the license of a person upon  
338 receiving a record of the person's conviction for any of the following offenses:

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

341 (ii) driving or being in actual physical control of a motor vehicle while under the  
342 influence of alcohol, any drug, or combination of them to a degree that renders the person  
343 incapable of safely driving a motor vehicle as prohibited in Section ~~[41-6-44]~~ 41-6a-502 or as  
344 prohibited in an ordinance that complies with the requirements of Subsection ~~[41-6-43]~~  
345 41-6a-510(1);

346 (iii) driving or being in actual physical control of a motor vehicle while having a blood  
347 or breath alcohol content prohibited in Section ~~[41-6-44]~~ 41-6a-502 or as prohibited in an  
348 ordinance that complies with the requirements of Subsection ~~[41-6-43]~~ 41-6a-510(1);

349 (iv) perjury or the making of a false affidavit to the division under this chapter, Title  
350 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or  
351 regulating driving on highways;

352 (v) any felony under the motor vehicle laws of this state;

353 (vi) any other felony in which a motor vehicle is used to facilitate the offense;

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

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

360 (ix) failure to bring a motor vehicle to a stop at the command of a peace officer as  
361 required in Section ~~[41-6-13.5]~~ 41-6a-206;

362 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that  
363 requires disqualification;

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

366 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or

367 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

368 (xiii) operating or being in actual physical control of a motor vehicle while having any  
369 measurable controlled substance or metabolite of a controlled substance in the person's body in  
370 violation of Section [~~41-6-44.6~~] 41-6a-517; [~~and~~]

371 (xiv) until July 30, 2015, operating or being in actual physical control of a motor  
372 vehicle while having any alcohol in the person's body in violation of Section 53-3-232[-]; and

373 (xv) operating or being in actual physical control of a motor vehicle while having any  
374 measurable or detectable amount of alcohol in the person's body in violation of Section  
375 41-6a-530.

376 (b) The division shall immediately revoke the license of a person upon receiving a  
377 record of an adjudication under Title 78, Chapter 3a, Juvenile Court Act of 1996, for any of the  
378 following offenses:

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

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

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

386 (i) any violation of:

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

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

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

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

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

392 (ii) any criminal offense that prohibits:

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

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

397 (2) [~~(a)~~] The division shall extend the period of the first denial, suspension, revocation,

398 or disqualification for an additional like period, to a maximum of one year for each subsequent  
399 occurrence, upon receiving:

400 [(i)] (a) a record of the conviction of any person on a charge of driving a motor vehicle  
401 while the person's license is denied, suspended, revoked, or disqualified;

402 [(ii)] (b) a record of a conviction of the person for any violation of the motor vehicle  
403 law in which the person was involved as a driver;

404 [(iii)] (c) a report of an arrest of the person for any violation of the motor vehicle law in  
405 which the person was involved as a driver; or

406 [(iv)] (d) a report of an accident in which the person was involved as a driver.

407 [(b) For a violation of Subsection 53-3-227(4), the division shall extend the period of  
408 the first suspension, revocation, or disqualification for an additional one-year period.]

409 (3) When the division receives a report under Subsection (2)[(a)(iii)](c) or [(iv)] (d)  
410 that a person is driving while the person's license is denied, suspended, disqualified, or  
411 revoked, the person is entitled to a hearing regarding the extension of the time of denial,  
412 suspension, disqualification, or revocation originally imposed under Section 53-3-221.

413 (4) (a) The division may extend to a person the limited privilege of driving a motor  
414 vehicle to and from the person's place of employment or within other specified limits on  
415 recommendation of the trial judge in any case where a person is convicted of any of the  
416 offenses referred to in Subsections (1) and (2) except:

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

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

420 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,  
421 revocation, or disqualification was imposed because of a violation of Section [~~41-6-44, Section~~  
422 ~~41-6-44.6~~] 41-6a-502, 41-6a-517, a local ordinance which complies with the requirements of  
423 Subsection [~~41-6-43~~] 41-6a-510(1), Section [~~41-6-44.10~~] 41-6a-520, or Section 76-5-207, or a  
424 criminal prohibition that the person was charged with violating as a result of a plea bargain  
425 after having been originally charged with violating one or more of these sections or ordinances.

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

429 suspension, revocation, or disqualification.

430 (c) A limited CDL may not be granted to an individual disqualified under Part 4,  
431 Uniform Commercial Driver License Act, or whose license has been revoked, suspended,  
432 cancelled, or denied under this chapter.

433 Section 10. Section **53-3-227** is amended to read:

434 **53-3-227. Driving a motor vehicle prohibited while driving privilege denied,**  
435 **suspended, disqualified, or revoked -- Penalties.**

436 (1) A person whose driving privilege has been denied, suspended, disqualified, or  
437 revoked under this chapter or under the laws of the state in which the person's driving privilege  
438 was granted and who drives any motor vehicle upon the highways of this state while that  
439 driving privilege is denied, suspended, disqualified, or revoked shall be punished as provided  
440 in this section.

441 (2) A person convicted of a violation of Subsection (1), other than a violation specified  
442 in Subsection (3) [~~or (4)~~], is guilty of a class C misdemeanor.

443 (3) (a) A person is guilty of a class B misdemeanor if the person's conviction under  
444 Subsection (1) is based on the person driving a motor vehicle while the person's driving  
445 privilege is suspended, disqualified, or revoked for:

446 (i) a refusal to submit to a chemical test under Section [~~41-6-44.10~~] 41-6a-520;

447 (ii) a violation of Section [~~41-6-44~~] 41-6a-502;

448 (iii) a violation of a local ordinance that complies with the requirements of Section  
449 [~~41-6-43~~] 41-6a-510;

450 (iv) a violation of Section [~~41-6-44.6~~] 41-6a-517;

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

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

455 (vii) a revocation or suspension which has been extended under Subsection  
456 53-3-220(2); or

457 (viii) where disqualification is the result of driving a commercial motor vehicle while  
458 the person's CDL is disqualified, suspended, canceled, or revoked under Subsection  
459 53-3-414(1).

460 (b) A person is guilty of a class B misdemeanor if the person's conviction under  
461 Subsection (1) is based on the person driving a motor vehicle while the person's driving  
462 privilege is suspended, disqualified, or revoked by any state, the United States, or any district,  
463 possession, or territory of the United States for violations corresponding to the violations listed  
464 in Subsections (3)(a)(i) through (viii).

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

467 ~~[(4)(a) A person is guilty of a class B misdemeanor if:]~~

468 ~~[(i) the person's conviction under Subsection (1) is based on the person driving a motor  
469 vehicle while the person's driving privilege is suspended, disqualified, or revoked for:]~~

470 ~~[(A) any violations listed in Subsections (3)(a)(i) through (vi); or]~~

471 ~~[(B) a violation listed in Subsection (3)(a)(vii) if the original revocation or suspension  
472 was based on any violations listed in Subsections (3)(a)(i) through (vi); and]~~

473 ~~[(ii) the person had any alcohol in the person's body at the time of the violation under  
474 Subsection (1).]~~

475 ~~[(b) A person is guilty of a class B misdemeanor if:]~~

476 ~~[(i) the person's conviction under Subsection (1) is based on the person driving a motor  
477 vehicle while the person's driving privilege is suspended, disqualified, or revoked by any state,  
478 the United States, or any district, possession, or territory of the United States for violations  
479 corresponding to:]~~

480 ~~[(A) the violations listed in Subsections (3)(a)(i) through (vi); or]~~

481 ~~[(B) a violation listed in Subsection (3)(a)(vii) if the original revocation or suspension  
482 was based on any violation corresponding to the violations listed in Subsections (3)(a)(i)  
483 through (vi); and]~~

484 ~~[(ii) the person had any alcohol in the person's body at the time of the violation under  
485 Subsection (1).]~~

486 ~~[(c) (i) As part of any sentence imposed for a violation of this Subsection (4), the court  
487 shall order:]~~

488 ~~[(A) a jail sentence of not less than 48 consecutive hours;]~~

489 ~~[(B) a compensatory-service work program for not less than 48 hours; or]~~

490 ~~[(C) home confinement through the use of electronic monitoring in accordance with~~



491 ~~Subsection 41-6-44(13);]~~

492 ~~[(ii) In addition to the penalties under Subsection (4)(c)(i), the court shall impose a fine~~  
493 ~~of not less than \$750.]~~

494 Section 11. Section **53-3-232** is amended to read:

495 **53-3-232. Conditional license -- May not operate a vehicle or motorboat with**  
496 **alcohol in body -- Penalty.**

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

498 (a) a conviction of a violation of Section ~~[41-6-44]~~ 41-6a-502, Section ~~[41-6-44.6]~~  
499 41-6a-517, a local ordinance which complies with the requirements of Subsection ~~[41-6-43]~~  
500 41-6a-510(1), Section 76-5-207, or of alcohol-related reckless driving as described under  
501 Subsection ~~[41-6-44(9)]~~ 41-6a-512(1);

502 (b) a revocation under Section ~~[41-6-44.10]~~ 41-6a-521 if the revocation is not based on  
503 the same arrest as a conviction under Subsection (1)(a); or

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

505 (2) ~~[The]~~ (a) Until June 30, 2005, the division may only issue, reinstate, or renew a  
506 driver license in the form of a no alcohol conditional license to a person who has a qualifying  
507 conviction for a period of:

508 ~~[(a)]~~ (i) two years after issuance of a Utah driver license or permit following a first  
509 qualifying conviction that occurred within the previous ten years from the date of arrest; and

510 ~~[(b)]~~ (ii) ten years after issuance of a Utah driver license or permit following a second  
511 or subsequent qualifying conviction that occurred within the previous ten years from the date of  
512 arrest.

513 (b) Beginning on July 1, 2005, the division may not issue, reinstate, or renew a driver  
514 license in the form of a no alcohol conditional license.

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

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

521 Section 12. Section **63-55-253** is amended to read:

522           **63-55-253. Repeal dates, Titles 53, 53A, and 53B.**

523           The following provisions of Title 53A are repealed on the following dates:

524           (1) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program is  
525 repealed July 1, 2005.

526           (2) The State Instructional Materials Commission, created in Section 53A-14-101, is  
527 repealed July 1, 2011.

528           (3) Title 53A, Chapter 20a, Public Education Revenue Bond Act, is repealed July 1,  
529 2007.

530           (4) Section 53-3-232, Conditional licenses, is repealed July 1, 2015.

531           Section 13. **Repealer.**

532           This bill repeals:

533           Section **53-3-233, Coded licenses.**

534           Section 14. **Effective date.**

535           This bill takes effect July 1, 2005.

536           Section 15. **Coordinating S.B. 42 with H.B. 65.**

537           If this S.B. 42 and H.B. 65, Driver License and Commercial Driver License

538 Amendments, both pass, it is the intent of the Legislature that Subsection 53-3-220(1)(a)(xv) in

539 S.B. 42 supercedes Subsection 53-3-220(1)(a)(xv) in H.B. 65 when the Office of Legislative

540 Research and General Counsel prepares the Utah Code database for publication.

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**Fiscal Note**  
**Bill Number SB0042s01**

**Alcoholic Restricted Drivers**

*11-Feb-05*

*3:22 PM*

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**State Impact**

It is estimated that provisions of this bill can be implemented with existing resources.

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**Individual and Business Impact**

No fiscal impact for those who comply with provisions of the bill.

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**Office of the Legislative Fiscal Analyst**