

1 **DRIVING UNDER THE INFLUENCE**

2 **AMENDMENTS**

3 2007 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Carlene M. Walker**

6 House Sponsor: Paul Ray

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Motor Vehicles Code and the Public Safety Code by amending
11 provisions related to driving under the influence.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ clarifies the application of the ten-year look back period for felony driving under the
15 influence violations;

16 ▶ amends the definition of alcohol restricted driver;

17 ▶ provides that a court shall order an ignition interlock system as a condition of
18 probation for an alcohol restricted driver violation or describe why the order would
19 not be appropriate;

20 ▶ increases the fee for a license reinstatement application for an alcohol or
21 drug-related offense;

22 ▶ increases the administrative fee for license reinstatement after an alcohol or
23 drug-related offense and increases the amount of revenue generated by the
24 administrative fee that is deposited in the State Laboratory Drug Testing restricted
25 account;

26 ▶ provides that the Driver License Division shall deny, suspend, disqualify, or revoke
27 a person's license for certain violations;

28 ▶ requires the Driver License Division to reinstate a person's license if the person's
29 charges for certain violations are reduced or dismissed within the suspension period;

30 ▶ requires the Driver License Division to immediately revoke, deny, suspend, or
31 disqualify a person's driver license upon receiving record of a person's conviction
32 for operating a vehicle without an ignition interlock system if the person is an
33 interlock restricted driver; and

34 ▶ makes technical changes.

35 **Monies Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 **AMENDS:**

41 **41-6a-503**, as enacted by Chapter 2 and last amended by Chapter 91, Laws of Utah
42 2005

43 **41-6a-521**, as enacted by Chapter 2 and last amended by Chapter 91, Laws of Utah
44 2005

45 **41-6a-529**, as last amended by Chapter 341, Laws of Utah 2006

46 **41-6a-530**, as enacted by Chapter 91, Laws of Utah 2005

47 **53-3-105**, as last amended by Chapter 201, Laws of Utah 2006

48 **53-3-106**, as last amended by Chapter 201, Laws of Utah 2006

49 **53-3-220**, as last amended by Chapter 168, Laws of Utah 2006

50 **53-3-223**, as last amended by Chapter 2, Laws of Utah 2005

51 **53-3-224**, as last amended by Chapter 226, Laws of Utah 1999

52 **53-3-227**, as last amended by Chapters 2, 91 and 220, Laws of Utah 2005

53 **53-3-231**, as last amended by Chapter 2, Laws of Utah 2005

54 **53-3-418**, as last amended by Chapter 2, Laws of Utah 2005



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

57 Section 1. Section **41-6a-503** is amended to read:

58 **41-6a-503. Penalties for driving under the influence violations.**

59 (1) A person convicted the first or second time of a violation of Section 41-6a-502 is
60 guilty of a:

61 (a) class B misdemeanor; or

62 (b) class A misdemeanor if the person:

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

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

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

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

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

72 (b) the person has two or more prior convictions as defined in Subsection
73 41-6a-501(2), each of which is within ten years of:

74 (i) the current conviction under Section 41-6a-502 [is within ten years of two or more
75 prior convictions as defined in Subsection 41-6a-501(2)]; or

76 (ii) the commission of the offense upon which the current conviction is based; or

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

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

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

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

83 Section 2. Section **41-6a-521** is amended to read:

84 **41-6a-521. Revocation hearing for refusal -- Appeal.**

85 (1) (a) A person who has been notified of the Driver License Division's intention to

86 revoke the person's license under Section 41-6a-520 is entitled to a hearing.

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

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

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

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

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

97 (A) license sanction for an offense that occurred within the previous ten years from the
98 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, 53-3-231, or
99 53-3-232; or

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

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

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

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

109 (a) whether a peace officer had reasonable grounds to believe that a person was
110 operating a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 41-6a-530, 53-3-231,
111 or 53-3-232; and

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

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

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

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

117 (b) The Driver License Division shall pay witness fees and mileage from the
118 Transportation Fund in accordance with the rates established in Section 78-46-28.

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

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

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

126 (A) license sanction for an offense that occurred within the previous ten years from the
127 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, 53-3-231, or
128 53-3-232; or

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

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

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

137 (6) (a) Any person whose license has been revoked by the Driver License Division
138 under this section following an administrative hearing may seek judicial review.

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

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

141 Section 3. Section **41-6a-529** is amended to read:

142 **41-6a-529. Definitions -- Alcohol restricted drivers.**

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

145 (a) within the last two years:

146 (i) has been convicted of:

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

148 (B) alcohol, any drug, or a combination of both-related reckless driving under Section
149 41-6a-512;

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

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

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

159 (ii) has had the person's driving privilege suspended under Section 53-3-223 for an
160 alcohol-related offense based on an arrest which occurred on or after July 1, 2005;

161 (b) within the last three years has been convicted of a violation of this section or
162 Section 41-6a-518.2;

163 [~~(b)~~] (c) within the last five years:

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

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

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

168 (I) is 21 years of age or older; and

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

170 ~~[(e)]~~ (d) within the last ten years:

171 (i) has been convicted of an offense described in Subsection (1)(a)(i) which conviction
172 was within ten years of a prior conviction for an offense described in Subsection (1)(a)(i); or

173 (ii) has had the person's driving privilege revoked for refusal to submit to a chemical
174 test and the refusal is within ten years after:

175 (A) a prior refusal to submit to a chemical test under Section 41-6a-520; or

176 (B) a prior conviction for an offense described in Subsection (1)(a)(i) which is not
177 based on the same arrest as the refusal; or

178 ~~[(d)]~~ (e) at any time has been convicted of:

179 (i) automobile homicide under Section 76-5-207 for an offense that occurred on or
180 after July 1, 2005; or

181 (ii) a felony violation of Section 41-6a-502 for an offense that occurred on or after July
182 1, 2005.

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

187 Section 4. Section **41-6a-530** is amended to read:

188 **41-6a-530. Alcohol restricted drivers -- Prohibited from operating a vehicle while**
189 **having any measurable or detectable amount of alcohol in the person's body -- Penalties.**

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

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

195 (a) a chemical test;

196 (b) evidence other than a chemical test; or

197 (c) a combination of Subsections (2)(a) and (b).

198 (3) For any person convicted of a violation of this section, the court shall order the
199 installation of an ignition interlock system as a condition of probation in accordance with
200 Section 41-6a-518 or describe on the record or in a minute entry why the order would not be
201 appropriate.

202 Section 5. Section **53-3-105** is amended to read:

203 **53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling,**
204 **and identification cards.**

205 The following fees apply under this chapter:

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

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

208 (3) An original provisional license application for a class D license under Section
209 53-3-205 is \$25.

210 (4) An original provisional license application for a class M license under Section
211 53-3-205 is \$27.50.

212 (5) An original application for a motorcycle endorsement under Section 53-3-205 is
213 \$7.50.

214 (6) An original application for a taxicab endorsement under Section 53-3-205 is \$5.

215 (7) A learner permit application under Section 53-3-210.5 is \$15.

216 (8) A renewal of a class D license under Section 53-3-214 is \$20 unless Subsection
217 (14) applies.

218 (9) A renewal of a class M license under Section 53-3-214 is \$22.50.

219 (10) A renewal of a provisional license application for a class D license under Section
220 53-3-214 is \$20.

221 (11) A renewal of a provisional license application for a class M license under Section
222 53-3-214 is \$22.50.

223 (12) A renewal of a motorcycle endorsement under Section 53-3-214 is \$7.50.

224 (13) A renewal of a taxicab endorsement under Section 53-3-214 is \$5.

225 (14) A renewal of a class D license for a person 65 and older under Section 53-3-214 is

- 226 \$8.
- 227 (15) An extension of a class D license under Section 53-3-214 is \$15 unless Subsection
228 (21) applies.
- 229 (16) An extension of a class M license under Section 53-3-214 is \$17.50.
- 230 (17) An extension of a provisional license application for a class D license under
231 Section 53-3-214 is \$15.
- 232 (18) An extension of a provisional license application for a class M license under
233 Section 53-3-214 is \$17.50.
- 234 (19) An extension of a motorcycle endorsement under Section 53-3-214 is \$7.50.
- 235 (20) An extension of a taxicab endorsement under Section 53-3-214 is \$5.
- 236 (21) An extension of a class D license for a person 65 and older under Section
237 53-3-214 is \$6.
- 238 (22) An original or renewal application for a commercial class A, B, or C license or an
239 original or renewal of a provisional commercial class A or B license under Part 4, Uniform
240 Commercial Driver License Act, is:
- 241 (a) \$35 for the knowledge test; and
242 (b) \$55 for the skills test.
- 243 (23) Each original CDL endorsement for passengers, hazardous material, double or
244 triple trailers, or tankers is \$5.
- 245 (24) An original CDL endorsement for a school bus under Part 4, Uniform Commercial
246 Driver License Act, is \$5.
- 247 (25) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver
248 License Act, is \$5.
- 249 (26) A retake of a CDL knowledge or a CDL skills test provided for in Section
250 53-3-205 is \$15.
- 251 (27) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$5.
- 252 (28) A duplicate class A, B, C, D, or M license certificate under Section 53-3-215 is
253 \$13.

254 (29) (a) A license reinstatement application under Section 53-3-205 is \$25.

255 (b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or
256 combination of alcohol and any drug-related offense is [~~\$25~~] \$35 in addition to the fee under
257 Subsection (29)(a).

258 (30) (a) An administrative fee for license reinstatement after an alcohol, drug, or
259 combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or
260 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under
261 Part 4, Uniform Commercial Driver License Act, is [~~\$150~~] \$170.

262 (b) This administrative fee is in addition to the fees under Subsection (29).

263 (31) (a) An administrative fee for providing the driving record of a driver under
264 Section 53-3-104 or 53-3-420 is \$4.

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

267 (32) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

268 (33) An identification card application under Section 53-3-808 is \$8.

269 Section 6. Section **53-3-106** is amended to read:

270 **53-3-106. Disposition of revenues under this chapter -- Restricted account created**
271 **-- Uses as provided by appropriation -- Nonlapsing.**

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

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

275 (a) all monies received under this chapter;

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

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

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

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

281 (4) The expenses of the department in carrying out this chapter shall be provided for by

282 legislative appropriation from this account.

283 (5) The amount in excess of [~~\$35~~] \$45 of the fees collected under Subsection
284 53-3-105(30) shall be appropriated by the Legislature from this account to the department to
285 implement the provisions of Section 53-1-117, except that of the amount in excess of [~~\$35~~]
286 \$45, [~~\$30~~] \$40 shall be deposited in the State Laboratory Drug Testing restricted account
287 created in Section 26-1-34.

288 (6) All monies received under Subsection 41-6a-1406(6)(b)(ii) shall be appropriated by
289 the Legislature from this account to the department to implement the provisions of Section
290 53-1-117.

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

292 Section 7. Section **53-3-220** is amended to read:

293 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
294 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
295 **Limited driving privileges.**

296 (1) (a) The division shall immediately revoke or, when this chapter or Title 41, Chapter
297 6a, Traffic Code, specifically provides for denial, suspension, or disqualification, the division
298 shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's
299 conviction for any of the following offenses:

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

302 (ii) driving or being in actual physical control of a motor vehicle while under the
303 influence of alcohol, any drug, or combination of them to a degree that renders the person
304 incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited
305 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

306 (iii) driving or being in actual physical control of a motor vehicle while having a blood
307 or breath alcohol content prohibited in Section 41-6a-502 or as prohibited in an ordinance that
308 complies with the requirements of Subsection 41-6a-510(1);

309 (iv) perjury or the making of a false affidavit to the division under this chapter, Title

310 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
311 regulating driving on highways;

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

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

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

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

320 (ix) failure to bring a motor vehicle to a stop at the command of a peace officer as
321 required in Section 41-6a-210;

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

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

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

328 (xiii) operating or being in actual physical control of a motor vehicle while having any
329 measurable controlled substance or metabolite of a controlled substance in the person's body in
330 violation of Section 41-6a-517;

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

333 (xv) operating or being in actual physical control of a motor vehicle while having any
334 measurable or detectable amount of alcohol in the person's body in violation of Section
335 41-6a-530; [~~and~~]

336 (xvi) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
337 violation of Section 41-6a-606[-]; and

338 (xvii) operating or being in actual physical control of a motor vehicle in this state
339 without an ignition interlock system in violation of Section 41-6a-518.2.

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

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

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

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

350 (i) any violation of:

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

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

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

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

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

356 (ii) any criminal offense that prohibits:

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

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

361 (2) The division shall extend the period of the first denial, suspension, revocation, or
362 disqualification for an additional like period, to a maximum of one year for each subsequent
363 occurrence, upon receiving:

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

366 (b) a record of a conviction of the person for any violation of the motor vehicle law in
367 which the person was involved as a driver;

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

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

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

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

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

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

382 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
383 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
384 41-6a-517, a local ordinance which complies with the requirements of Subsection
385 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person
386 was charged with violating as a result of a plea bargain after having been originally charged
387 with violating one or more of these sections or ordinances.

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

392 (c) A limited CDL may not be granted to an individual disqualified under Part 4,
393 Uniform Commercial Driver License Act, or whose license has been revoked, suspended,

394 cancelled, or denied under this chapter.

395 Section 8. Section **53-3-223** is amended to read:

396 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
397 **Hearing and decision -- Suspension and fee -- Judicial review.**

398 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
399 violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a
400 certain blood or breath alcohol concentration and driving under the influence of any drug,
401 alcohol, or combination of a drug and alcohol or while having any measurable controlled
402 substance or metabolite of a controlled substance in the person's body in violation of Section
403 41-6a-517, the peace officer may, in connection with arresting the person, request that the
404 person submit to a chemical test or tests to be administered in compliance with the standards
405 under Section 41-6a-520.

406 (b) In this section, a reference to Section 41-6a-502 includes any similar local
407 ordinance adopted in compliance with Subsection 41-6a-510(1).

408 (2) The peace officer shall advise a person prior to the person's submission to a
409 chemical test that a test result indicating a violation of Section 41-6a-502 or 41-6a-517 shall,
410 and the existence of a blood alcohol content sufficient to render the person incapable of safely
411 driving a motor vehicle may, result in suspension or revocation of the person's license to drive
412 a motor vehicle.

413 (3) If the person submits to a chemical test and the test results indicate a blood or
414 breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer
415 makes a determination, based on reasonable grounds, that the person is otherwise in violation
416 of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of
417 arrest, give notice of the division's intention to suspend the person's license to drive a motor
418 vehicle.

419 (4) (a) When a peace officer gives notice on behalf of the division, the peace officer
420 shall:

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

422 (ii) issue a temporary license certificate effective for only 29 days from the date of
423 arrest; and

424 (iii) supply to the driver, in a manner specified by the division, basic information
425 regarding how to obtain a prompt hearing before the division.

426 (b) A citation issued by a peace officer may, if provided in a manner specified by the
427 division, also serve as the temporary license certificate.

428 (5) As a matter of procedure, a peace officer shall send to the division within ten
429 calendar days after the day on which notice is provided:

430 (a) the person's license certificate;

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

432 (c) a signed report in a manner specified by the division indicating the chemical test
433 results, if any; and

434 (d) any other basis for the peace officer's determination that the person has violated
435 Section 41-6a-502 or 41-6a-517.

436 (6) (a) Upon request in a manner specified by the division, the division shall grant to
437 the person an opportunity to be heard within 29 days after the date of arrest. The request to be
438 heard shall be made within ten calendar days of the day on which notice is provided under
439 Subsection (5).

440 (b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the
441 division in the county in which the arrest occurred.

442 (ii) The division may hold a hearing in some other county if the division and the person
443 both agree.

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

445 (i) whether a peace officer had reasonable grounds to believe the person was driving a
446 motor vehicle in violation of Section 41-6a-502 or 41-6a-517;

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

448 (iii) the test results, if any.

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

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

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

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

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

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

458 ~~[(g) After the hearing, the division shall order whether the person's license to drive a
459 motor vehicle is suspended or not.]~~

460 ~~[(h) If the person for whom the hearing is held fails to appear before the division as
461 required in the notice, the division shall order whether the person's license to drive a motor
462 vehicle is suspended or not.]~~

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

465 ~~[(b) A second or subsequent suspension for an offense that occurred within the
466 previous ten years under this Subsection (7) is for a period of one year, beginning on the 30th
467 day after the date of arrest.]~~

468 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
469 grounds to believe that the person was driving a motor vehicle in violation of Section
470 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the
471 notice, or if a hearing is not requested under this section, the division shall suspend the person's
472 license or permit to operate a motor vehicle for a period of:

473 (i) 90 days beginning on the 30th day after the date of arrest for a first suspension; or

474 (ii) one year beginning on the 30th day after the date of arrest for a second or
475 subsequent suspension for an offense that occurred within the previous ten years.

476 (b) (i) Notwithstanding the provisions in Subsection (7)(a)(i), the division shall
477 reinstate a person's license prior to completion of the 90 day suspension period imposed under

478 Subsection (7)(a)(i) if the person's charge for a violation of Section 41-6a-502 or 41-6a-517 is
479 reduced or dismissed prior to completion of the suspension period.

480 (ii) The division shall immediately reinstate a person's license upon receiving written
481 verification of the person's dismissal of a charge for a violation of Section 41-6a-502 or
482 41-6a-517.

483 (iii) The division shall reinstate a person's license no sooner than 60 days beginning on
484 the 30th day after the date of arrest upon receiving written verification of the person's reduction
485 of a charge for a violation of Section 41-6a-502 or 41-6a-517.

486 (iv) If a person's license is reinstated under this Subsection (7)(b), the person is
487 required to pay the license reinstatement fees under Subsections 53-3-105(29) and (30).

488 (8) (a) The division shall assess against a person, in addition to any fee imposed under
489 Subsection 53-3-205(13) for driving under the influence, a fee under Section 53-3-105 to cover
490 administrative costs, which shall be paid before the person's driving privilege is reinstated. This
491 fee shall be cancelled if the person obtains an unappealed division hearing or court decision
492 that the suspension was not proper.

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

496 Section 9. Section **53-3-224** is amended to read:

497 **53-3-224. Filing a petition for hearing -- Judicial review of license cancellation,**
498 **revocation, or suspension -- Scope of review.**

499 (1) A person denied a license or whose license has been cancelled, suspended, or
500 revoked by the division following an administrative hearing may seek judicial review of the
501 division's order.

502 (2) (a) Venue for judicial review of informal adjudicative proceedings is in the district
503 court in the county where the offense occurred, which resulted in the cancellation, suspension,
504 or revocation.

505 (b) Persons not residing in the state shall file in Salt Lake County or the county where

506 the offense occurred, which resulted in the cancellation, suspension, or revocation.

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

508 **53-3-227. Driving a motor vehicle prohibited while driving privilege denied,**
509 **suspended, disqualified, or revoked -- Penalties.**

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

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

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

520 (i) a refusal to submit to a chemical test under Section 41-6a-520;

521 (ii) a violation of Section 41-6a-502;

522 (iii) a violation of a local ordinance that complies with the requirements of Section
523 41-6a-510;

524 (iv) a violation of Section 41-6a-517;

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

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

529 (vii) a revocation or suspension which has been extended under Subsection
530 53-3-220(2); [~~or~~]

531 (viii) where disqualification is the result of driving a commercial motor vehicle while
532 the person's CDL is disqualified, suspended, canceled, or revoked under Subsection
533 53-3-414(1)[~~;~~]; or

534 (ix) a violation of Section 41-6a-530.

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

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

542 Section 11. Section **53-3-231** is amended to read:

543 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**
544 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**
545 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**
546 **Referral to local substance abuse authority or program.**

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

548 (i) "Local substance abuse authority" has the same meaning as provided in Section
549 62A-15-102.

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

553 (b) Calculations of blood, breath, or urine alcohol concentration under this section shall
554 be made in accordance with the procedures in Subsection 41-6a-502(1).

555 (2) (a) A person younger than 21 years of age may not operate or be in actual physical
556 control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol
557 concentration in the person's body as shown by a chemical test.

558 (b) [(†)] A person [~~with a valid operator license~~] who violates Subsection (2)(a), in
559 addition to any other applicable penalties arising out of the incident, shall have the person's
560 operator license denied or suspended as provided in Subsection [~~(2)(b)(ii)~~] (8).

561 [(ii) (A) ~~For a first offense under Subsection (2)(a), the division shall deny the person's~~

562 operator license if ordered or not challenged under this section for a period of 90 days
563 beginning on the 30th day after the date of the arrest under Section 32A-12-209.]

564 [~~(B) For a second or subsequent offense under Subsection (2)(a), within three years of~~
565 ~~a prior denial or suspension, the division shall suspend the person's operator license for a~~
566 ~~period of one year beginning on the 30th day after the date of arrest.]~~

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

570 [~~(ii) For one year or until the person is 17, whichever is longer, a person may not~~
571 ~~operate a vehicle and the division may not issue the person an operator license or learner's~~
572 ~~permit.]~~

573 (3) (a) When a peace officer has reasonable grounds to believe that a person may be
574 violating or has violated Subsection (2), the peace officer may, in connection with arresting the
575 person for a violation of Section 32A-12-209, request that the person submit to a chemical test
576 or tests to be administered in compliance with the standards under Section 41-6a-520.

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

580 (c) If the person submits to a chemical test and the test results indicate a blood, breath,
581 or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a
582 determination, based on reasonable grounds, that the person is otherwise in violation of
583 Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the
584 arrest, give notice of the division's intention to deny or suspend the person's license to operate a
585 vehicle or refusal to issue a license under [~~Subsection (2)~~] this section.

586 (4) When a peace officer gives notice on behalf of the division, the peace officer shall:

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

588 (b) issue a temporary license certificate effective for only 29 days from the date of
589 arrest if the driver had a valid operator's license; and

590 (c) supply to the operator, in a manner specified by the division, basic information
591 regarding how to obtain a prompt hearing before the division.

592 (5) A citation issued by a peace officer may, if provided in a manner specified by the
593 division, also serve as the temporary license certificate under Subsection (4)(b).

594 (6) As a matter of procedure, a peace officer shall send to the division within ten
595 calendar days after the day on which notice is provided:

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

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

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

600 (d) any other basis for a peace officer's determination that the person has violated
601 Subsection (2).

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

605 (ii) The request shall be made within ten calendar days of the day on which notice is
606 provided.

607 (b) (i) Except as provided in Subsection (7)(b)(ii), a hearing, if held, shall be before the
608 division in the county in which the arrest occurred.

609 (ii) The division may hold a hearing in some other county if the division and the person
610 both agree.

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

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

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

615 (iii) the test results, if any.

616 (d) In connection with a hearing, the division or its authorized agent may administer
617 oaths and may issue subpoenas for the attendance of witnesses and the production of relevant

618 books and papers and records as defined in Section 46-4-102.

619 (e) One or more members of the division may conduct the hearing.

620 (f) Any decision made after a hearing before any number of the members of the
621 division is as valid as if made after a hearing before the full membership of the division.

622 [~~(g) After the hearing, the division shall order whether the person:~~]

623 [~~(i) with a valid license to operate a motor vehicle will have the person's license denied
624 or not or suspended or not; or]~~

625 [~~(ii) without a valid operator license will be refused a license under Subsection (2)(c).]~~

626 [~~(h) If the person for whom the hearing is held fails to appear before the division as
627 required in the notice, the division shall order whether the person shall have the person's
628 license denied, suspended, or not denied or suspended, or whether an operator license will be
629 refused or not refused.]~~

630 (8) If, after a hearing, the division determines that a peace officer had reasonable
631 grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a),
632 if the person fails to appear before the division as required in the notice, or if the person does
633 not request a hearing under this section, the division shall:

634 (a) deny the person's license for a period of 90 days beginning on the 30th day after the
635 date of arrest for a first offense under Subsection (2)(a);

636 (b) suspend the person's license for a period of one year beginning on the 30th day after
637 the date of arrest for a second or subsequent offense under Subsection (2)(a) within three years
638 of a prior denial or suspension; or

639 (c) deny the person's application for a license or learner's permit until the person is 17
640 years of age or for a period of one year, whichever is longer, if the person has not been issued
641 an operator license.

642 [(8)] (9) (a) (i) Following denial or suspension the division shall assess against a
643 person, in addition to any fee imposed under Subsection 53-3-205(13), a fee under Section
644 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover
645 administrative costs.

646 (ii) This fee shall be canceled if the person obtains an unappealed division hearing or
647 court decision that the suspension was not proper.

648 (b) A person whose operator license has been denied, suspended, or postponed by the
649 division under this section following an administrative hearing may file a petition within 30
650 days after the suspension for a hearing on the matter which, if held, is governed by Section
651 53-3-224.

652 [~~9~~] (10) After reinstatement of an operator license for a first offense under this
653 section, a report authorized under Section 53-3-104 may not contain evidence of the denial or
654 suspension of the person's operator license under this section if the person has not been
655 convicted of any other offense for which the denial or suspension may be extended.

656 [~~10~~] (11) (a) In addition to the penalties in Subsection [~~2~~] (8), a person who violates
657 Subsection (2)(a) shall:

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

660 (ii) be referred by the division to the local substance abuse authority for an assessment
661 and recommendation for appropriate action.

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

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

668 (A) a targeted education and prevention program;

669 (B) an early intervention program; or

670 (C) a substance abuse treatment program.

671 (iii) Successful completion of the recommended action shall be determined by
672 standards established by the Division of Substance Abuse and Mental Health.

673 (c) At the conclusion of the penalty period imposed under Subsection (2), the local

674 substance abuse authority or the substance abuse program shall notify the division of the
675 person's status regarding completion of the recommended action.

676 (d) The local substance abuse authorities and the substance abuse programs shall
677 cooperate with the division in:

678 (i) conducting the assessments;

679 (ii) making appropriate recommendations for action; and

680 (iii) notifying the division about the person's status regarding completion of the
681 recommended action.

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

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

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

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

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

692 (B) The costs and fees under Subsection [~~(10)~~] (11)(e)(iii)(A) shall be based on a
693 sliding scale consistent with the local substance abuse authority's policies and practices
694 regarding fees for services or determined by the substance abuse program.

695 Section 12. Section **53-3-418** is amended to read:

696 **53-3-418. Prohibited alcohol level for drivers -- Procedures, including hearing.**

697 (1) A person who holds or is required to hold a CDL may not drive a commercial
698 motor vehicle in this state if the person:

699 (a) has sufficient alcohol in the person's body that a subsequent chemical test shows
700 that the person has a blood or breath alcohol concentration of .04 grams or greater at the time
701 of the test after the alleged driving of the commercial motor vehicle;

702 (b) is under the influence of alcohol, any drug, or the combined influence of alcohol
703 and any drug to degree that renders the person incapable of safely driving a commercial motor
704 vehicle; or

705 (c) has a blood or breath alcohol concentration of .04 grams or greater at the time of
706 driving the commercial motor vehicle.

707 (2) A person who holds or is required to hold a CDL and who drives a commercial
708 motor vehicle in this state is considered to have given the person's consent to a test or tests of
709 the person's blood, breath, or urine to determine the concentration of alcohol or the presence of
710 other drugs in the person's physical system.

711 (3) If a peace officer or port-of-entry agent has reasonable cause to believe that a
712 person may be violating this section, the peace officer or port-of-entry agent may request the
713 person to submit to a chemical test to be administered in compliance with Section 41-6a-515.

714 (4) When a peace officer or port-of-entry agent requests a person to submit to a test
715 under this section, the peace officer or port-of-entry agent shall advise the person that test
716 results indicating .04 grams or greater alcohol concentration or refusal to submit to any test
717 requested will result in the person's disqualification under Section 53-3-414 from driving a
718 commercial motor vehicle.

719 (5) If test results under this section indicate .04 grams or greater of alcohol
720 concentration or the person refuses to submit to any test requested under this section, a peace
721 officer or port-of-entry agent shall, on behalf of the division and within 24 hours of the arrest,
722 give the person notice of the division's intention to disqualify the person's privilege to drive a
723 commercial motor vehicle.

724 (6) When a peace officer or port-of-entry agent gives notice under Subsection (5), the
725 peace officer or port-of-entry agent shall:

726 (a) take any Utah license certificate or permit held by the driver;

727 (b) issue to the driver a temporary license certificate effective for 29 days from the date
728 of arrest;

729 (c) provide the driver, in a manner specified by the division, basic information

730 regarding how to obtain a prompt hearing before the division; and

731 (d) issue a 24-hour out-of-service order.

732 (7) A notice of disqualification issued under Subsection (6) may serve also as the
733 temporary license certificate under that subsection, if provided in a manner specified by the
734 division.

735 (8) As a matter of procedure, a peace officer or port-of-entry agent shall, within ten
736 calendar days after the day on which notice is provided, send to the division the person's
737 license certificate, a copy of the notice, and a report signed by the peace officer or port-of-entry
738 agent that indicates the results of any chemical test administered or that the person refused a
739 test.

740 (9) (a) A person disqualified under this section has the right to a hearing regarding the
741 disqualification.

742 (b) The request for the hearing shall be submitted to the division in a manner specified
743 by the division and shall be made within ten calendar days of the date the notice was issued. If
744 requested, the hearing shall be conducted within 29 days after the date of arrest.

745 (10) (a) (i) Except as provided in Subsection (10)(a)(ii), a hearing held under this
746 section shall be held before the division and in the county where the notice was issued.

747 (ii) The division may hold a hearing in some other county if the division and the person
748 both agree.

749 (b) The hearing shall be documented and shall determine:

750 (i) whether the peace officer or port-of-entry agent had reasonable grounds to believe
751 the person had been driving a motor vehicle in violation of this section;

752 (ii) whether the person refused to submit to any requested test; and

753 (iii) any test results obtained.

754 (c) In connection with a hearing the division or its authorized agent may administer
755 oaths and may issue subpoenas for the attendance of witnesses and the production of relevant
756 books and documents.

757 (d) One or more members of the division may conduct the hearing.

758 (e) A decision made after a hearing before any number of members of the division is as
759 valid as if the hearing were held before the full membership of the division.

760 (f) After a hearing under this section the division shall indicate by order if the person's
761 CDL is disqualified.

762 (g) If the person for whom the hearing is held fails to appear before the division as
763 required in the notice, the division shall indicate by order if the person's CDL is disqualified.

764 (11) (a) If the division disqualifies a person under this section following an
765 administrative hearing, the person may petition for a hearing under Section 53-3-224.

766 (b) The petition shall be filed within 30 days after the division issues the
767 disqualification.

768 (12) (a) A person who violates this section shall be punished in accordance with
769 Section 53-3-414.

770 (b) (i) In accordance with Section 53-3-414, the first disqualification under this section
771 shall be for one year, and a second disqualification shall be for life.

772 (ii) A disqualification under Section 53-3-414 begins on the 30th day after the date of
773 arrest.

774 (13) (a) In addition to the fees imposed under Section 53-3-205 for reinstatement of a
775 CDL, a fee under Section 53-3-105 to cover administrative costs shall be paid before the
776 driving privilege is reinstated.

777 (b) The fees under Sections 53-3-105 and 53-3-205 shall be canceled if an unappealed
778 hearing at the division or court level determines the disqualification was not proper.