

NOT-A-DROP DRIVERS PROGRAM

AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Richard A. Greenwood

Senate Sponsor: Carlene M. Walker

LONG TITLE

General Description:

This bill modifies the Uniform Driver License Act by amending provisions relating to persons under 21 years of age operating a vehicle with a detectable amount of alcohol in the person's body.

Highlighted Provisions:

This bill:

- provides that reinstatement of a person's license within five years after the effective date of a license sanction for a person under 21 years of age operating a vehicle with a detectable amount of alcohol in the person's body is contingent upon the person's completion of an action recommended by a local substance abuse authority or a substance abuse program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-231, as last amended by Laws of Utah 2007, Chapter 261



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

29 Section 1. Section **53-3-231** is amended to read:

30 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**
31 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**
32 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**
33 **Referral to local substance abuse authority or program.**

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

35 (i) "Local substance abuse authority" has the same meaning as provided in Section
36 62A-15-102.

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

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

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

45 (b) A person who violates Subsection (2)(a), in addition to any other applicable
46 penalties arising out of the incident, shall have the person's operator license denied or
47 suspended as provided in Subsection (8).

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

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

55 (c) If the person submits to a chemical test and the test results indicate a blood, breath,
56 or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a
57 determination, based on reasonable grounds, that the person is otherwise in violation of
58 Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the

59 arrest, give notice of the division's intention to deny or suspend the person's license to operate a
60 vehicle or refusal to issue a license under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

90 (iii) the test results, if any.

91 (d) In connection with a hearing, the division or its authorized agent may administer
92 oaths and may issue subpoenas for the attendance of witnesses and the production of relevant
93 books and papers and records as defined in Section 46-4-102.

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

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

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

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

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

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

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

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

115 (b) A person whose operator license has been denied, suspended, or postponed by the
116 division under this section following an administrative hearing may file a petition within 30
117 days after the suspension for a hearing on the matter which, if held, is governed by Section
118 53-3-224.

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

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

123 (11) (a) In addition to the penalties in Subsection (8), a person who violates Subsection
124 (2)(a) shall:

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

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

129 (b) (i) Reinstatement of the person's operator license or the right to obtain an operator
130 license within five years of the effective date of the license sanction under Subsection (8) is
131 contingent upon successful completion of the action recommended by the local substance
132 abuse authority or the substance abuse program.

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

136 (A) a targeted education and prevention program;

137 (B) an early intervention program; or

138 (C) a substance abuse treatment program.

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

141 (c) At the conclusion of the penalty period imposed under Subsection (2), the local
142 substance abuse authority or the substance abuse program shall notify the division of the
143 person's status regarding completion of the recommended action.

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

146 (i) conducting the assessments;

147 (ii) making appropriate recommendations for action; and

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

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

152 authority.

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

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

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

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

160 (B) The costs and fees under Subsection (11)(e)(iii)(A) shall be based on a sliding scale
161 consistent with the local substance abuse authority's policies and practices regarding fees for
162 services or determined by the substance abuse program.

Legislative Review Note
as of **1-14-08 11:09 AM**

Office of Legislative Research and General Counsel

H.B. 324 - Not-a-drop Drivers Program Amendments

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
