

1 **DRIVING UNDER THE INFLUENCE**

2 **AMENDMENTS**

3 2008 GENERAL SESSION

4 STATE OF UTAH

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

6 House Sponsor: \_\_\_\_\_

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8 **LONG TITLE**

9 **Committee Note:**

10 The Transportation Interim Committee recommended this bill.

11 **General Description:**

12 This bill amends provisions relating to driving under the influence.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ amends definitions;
- 16 ▶ enacts an impaired driving plea;
- 17 ▶ provides that a plea to a driving under the influence violation may be entered as an
- 18 impaired driving conviction in certain circumstances;
- 19 ▶ provides that an impaired driving violation is a class B misdemeanor;
- 20 ▶ provides requirements for a court entering a conviction of impaired driving in
- 21 certain circumstances;
- 22 ▶ requires the court to notify the Driver License Division of an impaired driving
- 23 conviction;
- 24 ▶ provides sentencing requirements for impaired driving convictions;
- 25 ▶ repeals certain plea requirements when the prosecution agrees to a plea of guilty or
- 26 no contest to an alcohol or drug-related reckless charge in satisfaction or substitute
- 27 of an original charge of driving under the influence;



- 28           ▶ provides that a tampering with an ignition interlock system violation may be tried in
- 29 certain cities or counties;
- 30           ▶ repeals certain alcohol or drug-related reckless driving plea restrictions;
- 31           ▶ increases the administrative impound fee for a driving under the influence violation
- 32 impound; and
- 33           ▶ makes technical changes.

**34 Monies Appropriated in this Bill:**

35           This bill appropriates:

- 36           ▶ as an ongoing appropriation subject to future budget constraints, \$660,000 from the
- 37 General Fund for fiscal year 2008-09 to the Department of Public Safety, Utah
- 38 Highway Patrol; and
- 39           ▶ as an ongoing appropriation subject to future budget constraints, \$660,000 from the
- 40 General Fund for fiscal year 2008-09 to the Department of Public Safety, Liquor
- 41 Law Enforcement Program.

**42 Other Special Clauses:**

- 43           This bill takes effect on July 1, 2008.
- 44           This bill provides revisor instructions.

**45 Utah Code Sections Affected:**

46 AMENDS:

- 47           **41-6a-501**, as enacted by Laws of Utah 2005, Chapter 2
- 48           **41-6a-510**, as renumbered and amended by Laws of Utah 2005, Chapter 2
- 49           **41-6a-518.1**, as enacted by Laws of Utah 2006, Chapter 341
- 50           **41-6a-518.2**, as enacted by Laws of Utah 2006, Chapter 341
- 51           **41-6a-529**, as last amended by Laws of Utah 2007, Chapter 261
- 52           **41-6a-1406**, as last amended by Laws of Utah 2005, Chapter 56 and renumbered and
- 53 amended by Laws of Utah 2005, Chapter 2
- 54           **53-3-220**, as last amended by Laws of Utah 2007, Chapter 261
- 55           **53-3-232**, as last amended by Laws of Utah 2005, Chapters 2, 91, and 220

56 ENACTS:

- 57           **41-6a-502.5**, Utah Code Annotated 1953

58 REPEALS:

59 **41-6a-512**, as enacted by Laws of Utah 2005, Chapter 2



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

62 Section 1. Section **41-6a-501** is amended to read:

63 **41-6a-501. Definitions.**

64 (1) As used in this part:

65 (a) "Assessment" means an in-depth clinical interview with a licensed mental health  
66 therapist:

67 (i) used to determine if a person is in need of:

68 (A) substance abuse treatment that is obtained at a substance abuse program;

69 (B) an educational series; or

70 (C) a combination of Subsections (1)(a)(i)(A) and (B); and

71 (ii) that is approved by the Board of Substance Abuse and Mental Health in accordance  
72 with Section 62A-15-105.

73 (b) "Drug" or "drugs" means any substance that, when taken into the human body, can  
74 impair the ability of a person to safely operate a motor vehicle.

75 [~~(b)~~] (c) "Educational series" means an educational series obtained at a substance abuse  
76 program that is approved by the Board of Substance Abuse and Mental Health in accordance  
77 with Section 62A-15-105.

78 [~~(c)~~] (d) "Negligence" means simple negligence, the failure to exercise that degree of  
79 care that an ordinarily reasonable and prudent person exercises under like or similar  
80 circumstances.

81 [~~(d)~~] (e) "Screening" means a preliminary appraisal of a person:

82 (i) used to determine if the person is in need of:

83 (A) an assessment; or

84 (B) an educational series; and

85 (ii) that is approved by the Board of Substance Abuse and Mental Health in accordance  
86 with Section 62A-15-105.

87 [~~(e)~~] (f) "Serious bodily injury" means bodily injury that creates or causes:

88 (i) serious permanent disfigurement;

89 (ii) protracted loss or impairment of the function of any bodily member or organ; or

90 (iii) a substantial risk of death.

91 [~~(f)~~] (g) "Substance abuse treatment" means treatment obtained at a substance abuse  
92 program that is approved by the Board of Substance Abuse and Mental Health in accordance  
93 with Section 62A-15-105.

94 [~~(g)~~] (h) "Substance abuse treatment program" means a state licensed substance abuse  
95 program.

96 [~~(h)~~] (i) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in  
97 Section 41-6a-102; and

98 (ii) "Vehicle" or "motor vehicle" includes:

99 (A) an off-highway vehicle as defined under Section 41-22-2; and

100 (B) a motorboat as defined in Section 73-18-2.

101 (2) As used in Section 41-6a-503:

102 (a) "Conviction" means any conviction for a violation of:

103 (i) driving under the influence under Section 41-6a-502;

104 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a  
105 combination of both-related reckless driving under [Sections];

106 (I) Section 41-6a-512, repealed by this bill; and

107 (II) Section 41-6a-528; or

108 (B) for an offense committed on or after July 1, 2008, impaired driving under Section  
109 41-6a-502.5;

110 (iii) driving with any measurable controlled substance that is taken illegally in the body  
111 under Section 41-6a-517;

112 (iv) local ordinances similar to Section 41-6a-502 [~~or~~], alcohol, any drug, or a  
113 combination of both-related reckless driving prior to July 1, 2008, or impaired driving under  
114 Section 41-6a-502.5 adopted in compliance with Section 41-6a-510;

115 (v) automobile homicide under Section 76-5-207;

116 (vi) Subsection 58-37-8(2)(g);

117 (vii) a violation described in Subsections (2)(a)(i) through (vi), which judgment of  
118 conviction is reduced under Section 76-3-402; or

119 (viii) statutes or ordinances previously in effect in this state or in effect in any other  
120 state, the United States, or any district, possession, or territory of the United States which

121 would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of  
122 both-related reckless driving if committed in this state, including punishments administered  
123 under 10 U.S.C. Sec. 815.

124 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i)  
125 through (viii) which plea [is] was held in abeyance under Title 77, Chapter 2a, Pleas in  
126 Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been  
127 subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for  
128 purposes of:

129 (i) enhancement of penalties under:

130 (A) this Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

131 (B) automobile homicide under Section 76-5-207; and

132 (ii) expungement under Section 77-18-12.

133 Section 2. Section **41-6a-502.5** is enacted to read:

134 **41-6a-502.5. Impaired driving -- Penalty -- Sentencing requirements.**

135 (1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of  
136 Section 41-6a-502 may be entered as a conviction of impaired driving under this section if:

137 (a) the defendant completes court ordered probation requirements; or

138 (b) (i) the prosecutor agrees as part of a negotiated plea; and

139 (ii) the court finds the plea to be in the interest of justice.

140 (2) A conviction entered under this section is a class B misdemeanor.

141 (3) (a) (i) If the entry of an impaired driving plea is based on successful completion of  
142 probation under Subsection (1)(a), the court shall enter the conviction at the time of plea.

143 (ii) If the defendant fails to appear before the court and establish successful completion  
144 of the court ordered probation requirements under Subsection (1)(a), the court shall enter an  
145 amended conviction of Section 41-6a-502.

146 (iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of  
147 conviction.

148 (b) The court may enter a conviction of impaired driving immediately under  
149 Subsection (1)(b).

150 (4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor  
151 violation of Section 41-6a-502 as impaired driving under this section is a reduction of one

152 degree.

153 (5) The court shall notify the Driver License Division of each conviction entered under  
154 this section.

155 (6) (a) The provisions in Subsections 41-6a-505(1), (2), and (3) that require a  
156 sentencing court to order a convicted person to participate in a screening, an assessment, or an  
157 educational series, or obtain substance abuse treatment or do a combination of those things,  
158 apply to a conviction entered under this section.

159 (b) The court shall render the same order regarding screening, assessment, an  
160 educational series, or substance abuse treatment in connection with a first, second, or  
161 subsequent conviction under this section as the court would render in connection with applying  
162 respectively, the first, second, or subsequent conviction requirements of Subsection  
163 41-6a-505(1), (2), or (3).

164 Section 3. Section **41-6a-510** is amended to read:

165 **41-6a-510. Local DUI and related ordinances and reckless driving and impaired**  
166 **driving ordinances -- Consistent with code.**

167 (1) An ordinance adopted by a local authority that governs the following matters shall  
168 be consistent with the provisions in this code which govern the following matters:

169 (a) a person's operating or being in actual physical control of a motor vehicle while  
170 having alcohol in the blood or while under the influence of alcohol or any drug or the  
171 combined influence of alcohol and any drug; or

172 (b) in relation to any of the matters described in Subsection (1)(a), the use of:

173 (i) a chemical test or chemical tests;

174 (ii) evidentiary presumptions;

175 (iii) penalties; or

176 (iv) any combination of the matters described in Subsection (1).

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

180 Section 4. Section **41-6a-518.1** is amended to read:

181 **41-6a-518.1. Tampering with an ignition interlock system.**

182 (1) As used in this section:

183 (a) "ignition interlock system" has the same meaning as defined in Section 41-6a-518;  
184 and

185 (b) "interlock restricted driver" has the same meaning as defined in Section  
186 41-6a-518.2.

187 (2) (a) A person may not:

188 (i) circumvent or tamper with the operation of an ignition interlock system;

189 (ii) knowingly furnish an interlock restricted driver a motor vehicle without an ignition  
190 interlock system unless authorized under Subsection 41-6a-518(7);

191 (iii) blow into an ignition interlock system or start a motor vehicle equipped with an  
192 ignition interlock system for the purpose of allowing an interlock restricted driver to operate a  
193 motor vehicle; or

194 (iv) advertise for sale, offer for sale, sell, or lease an ignition interlock system unless  
195 the system has been certified by the commissioner as required under Subsection 41-6a-518(8).

196 (b) An interlock restricted driver may not:

197 (i) rent, lease, or borrow a motor vehicle without an ignition interlock system; or

198 (ii) request another person to blow into an ignition interlock system in order to allow  
199 the interlock restricted driver to operate the motor vehicle.

200 (c) A violation of any provision under this Subsection (2) is a class B misdemeanor.

201 (d) A person who commits a violation of this section may be tried:

202 (i) in the city or county:

203 (A) where the installation of the ignition interlock system was ordered;

204 (B) where the ignition interlock system was actually installed;

205 (C) where the defendant tampered with or attempted to tamper with the ignition  
206 interlock system; or

207 (D) where the tampered-with ignition interlock system is found; or

208 (ii) if multiple offenses of ignition interlock system tampering occur in multiple  
209 jurisdictions, in any county:

210 (A) where the ignition interlock system was tampered with or installed; or

211 (B) where the defendant resides.

212 (3) It is an affirmative defense to a charge of a violation of this section if:

213 (a) the starting of a motor vehicle, or the request to start a motor vehicle, that is

214 equipped with an ignition interlock system is done for the purpose of safety or mechanical  
215 repair of the system or the motor vehicle; and

216 (b) the interlock restricted driver does not operate the motor vehicle.

217 Section 5. Section 41-6a-518.2 is amended to read:

218 **41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition**  
219 **interlock system.**

220 (1) As used in this section:

221 (a) "ignition interlock system" means a constant monitoring device or any similar  
222 device that:

223 (i) is in working order at the time of operation or actual physical control; and

224 (ii) is certified by the Commissioner of Public Safety in accordance with Subsection  
225 41-6a-518(8); and

226 (b) (i) "interlock restricted driver" means a person who:

227 (A) has been ordered by a court or the Board of Pardons and Parole as a condition of  
228 probation or parole not to operate a motor vehicle without an ignition interlock system;

229 (B) (I) within the last three years has been convicted of an offense that occurred after  
230 May 1, 2006 which would be a conviction as defined under Section 41-6a-501; and

231 (II) the ~~[conviction]~~ offense described under Subsection (1)(b)(i)(B)(I) is committed  
232 within ten years [of one or more prior convictions] from the date that one or more prior  
233 offenses was committed if the prior offense resulted in a conviction as defined in Subsection  
234 41-6a-501(2);

235 (C) within the last three years has been convicted of a violation of this section;

236 (D) within the last three years has had the person's driving privilege revoked for refusal  
237 to submit to a chemical test under Section 41-6a-520, which refusal occurred after May 1,  
238 2006;

239 (E) within the last three years has been convicted of a violation of Section 41-6a-502  
240 and was under the age of 21 at the time the offense was committed;

241 ~~[(E)]~~ (F) within the last six years has been convicted of a felony violation of Section  
242 41-6a-502 for an offense that occurred after May 1, 2006; or

243 ~~[(F)]~~ (G) within the last ten years has been convicted of automobile homicide under  
244 Section 76-5-207 for an offense that occurred after May 1, 2006; and



245 (ii) "interlock restricted driver" does not include a person if:

246 (A) the person's conviction described in Subsection (1)(b)(i)(B)(I) is a conviction under  
247 Section 41-6a-517; and

248 (B) all of the person's prior convictions described in Subsection (1)(b)(i)(B)(II) are  
249 convictions under Section 41-6a-517.

250 (2) For purposes of this section, a plea of guilty or no contest to a violation of Section  
251 41-6a-502 which plea [~~is~~] was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,  
252 prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently  
253 reduced or dismissed in accordance with the plea in abeyance agreement.

254 (3) An interlock restricted driver that operates or is in actual physical control of a  
255 vehicle in this state without an ignition interlock system is guilty of a class B misdemeanor.

256 (4) (a) It is an affirmative defense to a charge of a violation of Subsection (3) if:

257 (i) an interlock restricted driver:

258 (A) operated or was in actual physical control of a vehicle owned by the interlock  
259 restricted driver's employer;

260 (B) had given written notice to the employer of the interlock restricted driver's  
261 interlock restricted status prior to the operation or actual physical control under Subsection  
262 (4)(a)(i); and

263 (C) had on the interlock restricted driver's person or in the vehicle at the time of  
264 operation or physical control proof of having given notice to the interlock restricted driver's  
265 employer; and

266 (ii) the operation or actual physical control under Subsection (4)(a)(i)(A) was in the  
267 scope of the interlock restricted driver's employment.

268 (b) The affirmative defense under Subsection (4)(a) does not apply to:

269 (i) an employer-owned motor vehicle that is made available to an interlock restricted  
270 driver for personal use; or

271 (ii) a motor vehicle owned by a business entity that is all or partly owned or controlled  
272 by the interlock restricted driver.

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

274 **41-6a-529. Definitions -- Alcohol restricted drivers.**

275 (1) As used in this section and Section 41-6a-530, "alcohol restricted driver" means a

276 person who:

277 (a) within the last two years:

278 (i) has been convicted of:

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

280 (B) alcohol, any drug, or a combination of both-related reckless driving under Section  
281 41-6a-512, repealed by this bill;

282 (C) impaired driving under Section 41-6a-502.5;

283 ~~[(C)]~~ (D) local ordinances similar to Section 41-6a-502 ~~[or]~~, alcohol, any drug, or a  
284 combination of both-related reckless driving prior to July 1, 2008, or impaired driving adopted  
285 in compliance with Section 41-6a-510;

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

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

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

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

297 (c) within the last five years:

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

300 (ii) ~~[(A)]~~ has been convicted of ~~[an offense described in Subsection (1)(a)(i); and]~~ a  
301 class A misdemeanor violation of Section 41-6a-502 committed on or after July 1, 2008;

302 ~~[(B) at the time of operation or actual physical control of a vehicle the person:]~~

303 ~~[(F) is 21 years of age or older; and]~~

304 ~~[(H) has a passenger under 16 years of age in the vehicle;]~~

305 (d) within the last ten years:

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

307 [~~conviction~~] offense was committed within ten years of [~~a prior conviction for an~~] the  
308 commission of a prior offense described in Subsection (1)(a)(i) for which the person was  
309 convicted; or

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

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

313 (B) a prior conviction for an offense described in Subsection (1)(a)(i) which is not  
314 based on the same arrest as the refusal; [~~or~~]

315 (e) at any time has been convicted of:

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

318 (ii) a felony violation of Section 41-6a-502 for an offense that occurred on or after July  
319 1, 2005[~~;~~]; or

320 (f) at the time of operation of a vehicle is under 21 years of age.

321 (2) For purposes of this section and Section 41-6a-530, a plea of guilty or no contest to  
322 a violation described in Subsection (1)(a)(i) which plea [~~is~~] was held in abeyance under Title  
323 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even  
324 if the charge has been subsequently reduced or dismissed in accordance with the plea in  
325 abeyance agreement.

326 Section 7. Section **41-6a-1406** is amended to read:

327 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**  
328 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

329 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under  
330 Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace  
331 officer or by an order of a person acting on behalf of a law enforcement agency or highway  
332 authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the  
333 expense of the owner.

334 (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or  
335 impounded to:

336 (a) a state impound yard; or

337 (b) if none, a garage, docking area, or other place of safety.

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

- 340 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and
- 341 (b) by the department under Subsection (10).

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

- 344 (i) the peace officer or agency by whom the peace officer is employed; and
- 345 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck  
346 operator is employed.

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

- 349 (i) the operator's name, if known;
- 350 (ii) a description of the vehicle, vessel, or outboard motor;
- 351 (iii) the vehicle identification number or vessel or outboard motor identification  
352 number;
- 353 (iv) the license number or other identification number issued by a state agency;
- 354 (v) the date, time, and place of impoundment;
- 355 (vi) the reason for removal or impoundment;
- 356 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or  
357 outboard motor; and
- 358 (viii) the place where the vehicle, vessel, or outboard motor is stored.

359 (c) Until the tow truck operator or tow truck motor carrier reports the removal as  
360 required under this Subsection (4), a tow truck motor carrier or impound yard may not:

- 361 (i) collect any fee associated with the removal; and
- 362 (ii) begin charging storage fees.

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

366 (b) The notice shall:

- 367 (i) state the date, time, and place of removal, the name, if applicable, of the person  
368 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,

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

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

372 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the  
373 conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

374 (iv) inform the registered owner and lienholder of the division's intent to sell the  
375 vehicle, vessel, or outboard motor, if within 30 days from the date of the removal or  
376 impoundment under this section, the owner, lien holder, or the owner's agent fails to make a  
377 claim for release of the vehicle, vessel, or outboard motor.

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

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

383 (6) (a) The vehicle, vessel, or outboard motor shall be released after the registered  
384 owner, lien holder, or the owner's agent:

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

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

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

390 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative  
391 impound fee of [~~\$230~~] \$330; and

392 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard  
393 motor is stored.

394 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under  
395 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

396 (ii) \$97 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be  
397 deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;  
398 and

399 (iii) the remainder of the administrative impound fee assessed under Subsection

400 (6)(a)(iv) shall be deposited in the General Fund.

401 (c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be  
402 waived or refunded by the State Tax Commission if the registered owner, lien holder, or  
403 owner's agent presents written evidence to the State Tax Commission that:

404 (i) the Driver License Division determined that the arrested person's driver license  
405 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter  
406 or other report from the Driver License Division presented within 30 days of the final  
407 notification from the Driver License Division; or

408 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the  
409 stolen vehicle report presented within 30 days of the impoundment.

410 (7) (a) An impounded vehicle, vessel, or outboard motor not claimed by the registered  
411 owner or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in  
412 accordance with that section and the proceeds, if any, shall be disposed of as provided under  
413 Section 41-1a-1104.

414 (b) The date of impoundment is considered the date of seizure for computing the time  
415 period provided under Section 41-1a-1103.

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

420 (9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,  
421 or outboard motor.

422 (10) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
423 the department shall make rules setting the performance standards for towing companies to be  
424 used by the department.

425 (11) (a) The Motor Vehicle Division may specify that a report required under  
426 Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and  
427 retrieval of the information.

428 (b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the  
429 administrator of the database may adopt a schedule of fees assessed for utilizing the database.

430 (ii) The fees under this Subsection (11)(b) shall:

431 (A) be reasonable and fair; and

432 (B) reflect the cost of administering the database.

433 Section 8. Section **53-3-220** is amended to read:

434 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**  
435 **disqualification of license -- Offense requiring an extension of period -- Hearing --**  
436 **Limited driving privileges.**

437 (1) (a) The division shall immediately revoke or, when this chapter or Title 41, Chapter  
438 6a, Traffic Code, specifically provides for denial, suspension, or disqualification, the division  
439 shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's  
440 conviction for any of the following offenses:

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

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

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

450 (iv) perjury or the making of a false affidavit to the division under this chapter, Title  
451 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or  
452 regulating driving on highways;

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

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

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

457 (viii) two charges of reckless driving, impaired driving, or any combination of reckless  
458 driving and impaired driving committed within a period of 12 months; but if upon a first  
459 conviction of reckless driving or impaired driving the judge or justice recommends suspension  
460 of the convicted person's license, the division may after a hearing suspend the license for a  
461 period of three months;

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

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

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

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

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

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

475 (xv) operating or being in actual physical control of a motor vehicle while having any  
476 measurable or detectable amount of alcohol in the person's body in violation of Section  
477 41-6a-530;

478 (xvi) engaging in a motor vehicle speed contest or exhibition of speed on a highway in  
479 violation of Section 41-6a-606; and

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

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

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

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

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

492 (i) any violation of:



- 493 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 494 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 495 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 496 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
- 497 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or
- 498 (ii) any criminal offense that prohibits:
- 499 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance
- 500 that is prohibited under the acts described in Subsection (1)(c)(i); or
- 501 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or
- 502 transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).
- 503 (2) The division shall extend the period of the first denial, suspension, revocation, or
- 504 disqualification for an additional like period, to a maximum of one year for each subsequent
- 505 occurrence, upon receiving:
- 506 (a) a record of the conviction of any person on a charge of driving a motor vehicle
- 507 while the person's license is denied, suspended, revoked, or disqualified;
- 508 (b) a record of a conviction of the person for any violation of the motor vehicle law in
- 509 which the person was involved as a driver;
- 510 (c) a report of an arrest of the person for any violation of the motor vehicle law in
- 511 which the person was involved as a driver; or
- 512 (d) a report of an accident in which the person was involved as a driver.
- 513 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
- 514 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
- 515 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,
- 516 or revocation originally imposed under Section 53-3-221.
- 517 (4) (a) The division may extend to a person the limited privilege of driving a motor
- 518 vehicle to and from the person's place of employment or within other specified limits on
- 519 recommendation of the trial judge in any case where a person is convicted of any of the
- 520 offenses referred to in Subsections (1) and (2) except:
- 521 (i) automobile homicide under Subsection (1)(a)(i);
- 522 (ii) those offenses referred to in Subsections (1)(a)(ii), (a)(iii), (a)(xi), (a)(xii), (a)(xiii),
- 523 (1)(b), and (1)(c); and

524 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,  
525 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,  
526 41-6a-517, a local ordinance which complies with the requirements of Subsection  
527 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person  
528 was charged with violating as a result of a plea bargain after having been originally charged  
529 with violating one or more of these sections or ordinances.

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

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

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

538 **53-3-232. Conditional license -- May not operate a vehicle or motorboat with**  
539 **alcohol in body -- Penalty.**

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

541 (a) a conviction of a violation of Section 41-6a-502, Section 41-6a-517, a local  
542 ordinance which complies with the requirements of Subsection 41-6a-510(1), Section  
543 76-5-207, or of alcohol-related reckless driving as described under Subsection 41-6a-512(1),  
544 repealed by this bill;

545 (b) a revocation under Section 41-6a-521 if the revocation is not based on the same  
546 arrest as a conviction under Subsection (1)(a); or

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

548 (2) (a) Until June 30, 2005, the division may only issue, reinstate, or renew a driver  
549 license in the form of a no alcohol conditional license to a person who has a qualifying  
550 conviction for a period of:

551 (i) two years after issuance of a Utah driver license or permit following a first  
552 qualifying conviction for an offense, the arrest for which occurred within the previous ten  
553 years; and

554 (ii) ten years after issuance of a Utah driver license or permit following a second or

555 subsequent qualifying conviction for an offense, the arrest for which occurred within the  
556 previous ten years.

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

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

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

565 **Section 10. Repealer.**

566 This bill repeals:

567 Section **41-6a-512, Factual basis for alcohol or drug-related reckless driving plea.**

568 **Section 11. Appropriation.**

569 (1) As an ongoing appropriation subject to future budget constraints, there is  
570 appropriated from the General Fund for fiscal year 2008-09, \$660,000 to the Department of  
571 Public Safety, Utah Highway Patrol to be used for additional Driving Under the Influence Law  
572 Enforcement Officers.

573 (2) As an ongoing appropriation subject to future budget constraints, there is  
574 appropriated from the General Fund for fiscal year 2008-09, \$660,000 to the Department of  
575 Public Safety, Liquor Law Enforcement Program to be used for additional Liquor Law  
576 Enforcement Officers.

577 **Section 12. Effective date.**

578 This bill takes effect on July 1, 2008.

579 **Section 13. Revisor instructions.**

580 It is the intent of the Legislature that, in preparing the Utah Code database for  
581 publication, the Office of Legislative Research and General Counsel shall replace the  
582 references in Subsections 41-6a-501(2)(a)(ii)(A)(I), 41-6a-529(1)(a)(i)(B), and 53-3-232(1)(a)  
583 from "this bill" to the bill's designated chapter number in the Laws of Utah.

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**Legislative Review Note**  
**as of 10-22-07 10:10 AM**

**Office of Legislative Research and General Counsel**

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**S.B. 15 - Driving Under the Influence Amendments**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

It is estimated that enactment of this bill will increase ongoing state revenues by \$1,788,000 beginning FY 2009. The bill appropriates ongoing General Funds beginning FY 2009 of \$1,320,000 to the Department of Public Safety (\$660,000 to the Utah Highway Patrol and \$660,000 to Liquor Law Enforcement). The Department of Public Safety Driver License Division will require one-time FY 2009 Restricted Funds of \$7,500 for system programming changes. The Courts will require ongoing General Funds beginning FY 2009 of \$210,000. The Department of Corrections will require one-time FY 2009 General Funds of \$132,000 and ongoing General Funds beginning FY 2010 of \$264,000.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$1,662,000	\$1,794,000	\$0	\$1,712,400	\$1,712,400
Transportation Fund Restricted	\$0	\$7,500	\$0	\$0	\$58,200	\$58,200
Dedicated Credits	\$0	\$0	\$0	\$0	\$17,400	\$17,400
<b>Total</b>	<b>\$0</b>	<b>\$1,669,500</b>	<b>\$1,794,000</b>	<b>\$0</b>	<b>\$1,788,000</b>	<b>\$1,788,000</b>

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**Individual, Business and/or Local Impact**

Local governments may also benefit from the increased number and range of traffic citations issued from speeding to Driving Under the Influence offenses.