

DRIVER LICENSE SANCTIONS AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This bill modifies the Motor Vehicles Code and the Uniform Driver License Act by amending driver license sanction requirements.

Highlighted Provisions:

This bill:

- ▶ increases the driver license suspension periods for certain driving under the influence or alcohol related offenses committed on or after July 1, 2009:
 - from a period of 90 days to one year for a person 21 years of age or older on the date of arrest who has violated certain driving under the influence or alcohol related offenses for the first time;
 - from a period of one year to two years for a person 21 years of age or older on the date of arrest who has violated certain driving under the influence or alcohol related offenses two or more times;
 - from a period of 24 months to a period of 36 months for a person who is 21 years of age or older, who refuses to submit to a chemical test, and who has a previous license sanction for certain alcohol related offenses;
 - from a period of 90 days to until the person is 21 years of age or for a period of one year, whichever is longer, for a person under 21 years of age on the date of arrest who has violated certain driving under the influence or alcohol related offenses for the first time;



28 • from a period of 90 days to until the person is 21 years of age or for a period of
29 two years, whichever is longer, for a person under 21 years of age on the date of
30 arrest who has violated certain driving under the influence or alcohol related
31 offenses two or more times;

32 • from a period of 18 months to until the person is 21 years of age or for a period
33 of 18 months, whichever is longer, for a person who is under 21 years of age
34 and who refuses to submit to a chemical test;

35 • from a period of 24 months to until the person is 21 years of age or for a period
36 of 36 months, whichever is longer, for a person who is under 21 years of age
37 who refuses to submit to a chemical test, and who has a previous license
38 sanction for certain alcohol related offenses;

39 • for certain alcohol related offenses and for a person under the age of eligibility
40 for a driver license, the Driver License Division shall deny a person's license
41 until the person is 18 years of age or for a period of one year, whichever is
42 longer, if the person has not been issued a license or learner's permit and the
43 person violates certain alcohol related offenses for the first time; and

44 ▶ makes technical changes.

45 **Monies Appropriated in this Bill:**

46 None

47 **Other Special Clauses:**

48 This bill takes effect on July 1, 2009.

49 **Utah Code Sections Affected:**

50 AMENDS:

51 **32A-12-209**, as last amended by Laws of Utah 2008, Chapter 3

52 **32A-12-209.5**, as last amended by Laws of Utah 2008, Chapter 3

53 **41-6a-509**, as enacted by Laws of Utah 2005, Chapter 2

54 **41-6a-517**, as last amended by Laws of Utah 2006, Chapter 8

55 **41-6a-521**, as last amended by Laws of Utah 2008, Chapters 3 and 304

56 **53-3-219**, as last amended by Laws of Utah 2008, Chapter 3

57 **53-3-223**, as last amended by Laws of Utah 2008, Chapters 3, 226, and 304

58 **53-3-231**, as last amended by Laws of Utah 2008, Chapter 304

59 76-9-701, as last amended by Laws of Utah 2008, Chapter 3
60 78A-6-606, as renumbered and amended by Laws of Utah 2008, Chapter 3



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

63 Section 1. Section 32A-12-209 is amended to read:

64 **32A-12-209. Unlawful purchase, possession, consumption by minors --**
65 **Measurable amounts in body.**

- 66 (1) Unless specifically authorized by this title, it is unlawful for any minor to:
- 67 (a) purchase any alcoholic beverage or product;
- 68 (b) attempt to purchase any alcoholic beverage or product;
- 69 (c) solicit another person to purchase any alcoholic beverage or product;
- 70 (d) possess any alcoholic beverage or product;
- 71 (e) consume any alcoholic beverage or product; or
- 72 (f) have measurable blood, breath, or urine alcohol concentration in the minor's body.

73 (2) It is unlawful for the purpose of purchasing or otherwise obtaining an alcoholic
74 beverage or product for a minor for:

- 75 (a) any minor to misrepresent the minor's age; or
- 76 (b) any other person to misrepresent the age of a minor.

77 (3) It is unlawful for a minor to possess or consume any alcoholic beverage while
78 riding in a limousine or chartered bus.

79 ~~[(4) When a minor who is at least 18 years old, but younger than 21 years old, is found~~
80 ~~by a court to have violated this section:]~~

81 ~~[(a) if the violation is the minor's first violation of this section, the court may suspend~~
82 ~~the minor's driving privileges; or]~~

83 ~~[(b) if the violation is the minor's second or subsequent violation of this section, the~~
84 ~~court shall suspend the minor's driving privileges.]~~

85 (4) When a minor who is at least 18 years old, but younger than 21 years old, is found
86 by a court to have violated this section, the court hearing the case shall suspend the minor's
87 driving privileges under Section 53-3-219.

88 (5) When a minor who is at least 13 years old, but younger than 18 years old, is found
89 by the court to have violated this section, the provisions regarding suspension of the driver's

90 license under Section 78A-6-606 apply to the violation.

91 (6) When the court issues an order suspending a person's driving privileges for a
92 violation of this section, the Driver License Division shall suspend the person's license under
93 Section 53-3-219.

94 (7) When the Department of Public Safety receives the arrest or conviction record of a
95 person for a driving offense committed while the person's license is suspended pursuant to this
96 section, the department shall extend the suspension for an additional like period of time.

97 (8) This section does not apply to a minor's consumption of an alcoholic beverage or
98 product in accordance with this title:

99 (a) for medicinal purposes if the alcoholic beverage or product is furnished by:

100 (i) the parent or guardian of the minor; or

101 (ii) the minor's physician or dentist; or

102 (b) as part of a church's or religious organization's religious services.

103 Section 2. Section **32A-12-209.5** is amended to read:

104 **32A-12-209.5. Unlawful admittance or attempt to gain admittance by minor.**

105 (1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the
106 premises of:

107 (a) a tavern; or

108 (b) a class D private club, except to the extent authorized by Subsection 32A-5-107(8).

109 (2) A minor who violates this section is guilty of a class C misdemeanor.

110 ~~[(3) When a minor who is at least 18 years old, but younger than 21 years old, is found
111 by a court to have violated this section:]~~

112 ~~[(a) if the violation is the minor's first violation of this section, the court may suspend
113 the minor's driving privileges; or]~~

114 ~~[(b) if the violation is the minor's second or subsequent violation of this section, the
115 court shall suspend the minor's driving privileges.]~~

116 (3) When a minor who is at least 18 years old, but younger than 21 years old, is found
117 by a court to have violated this section, the court hearing the case shall suspend the minor's
118 driving privileges under Section 53-3-219.

119 (4) When a minor who is at least 13 years old, but younger than 18 years old, is found
120 by a court to have violated this section, the provisions regarding suspension of the driver's

121 license under Section 78A-6-606 apply to the violation.

122 (5) When the court issues an order suspending a person's driving privileges for a
123 violation of this section, the Driver License Division shall suspend the person's license under
124 Section 53-3-219.

125 (6) When the Department of Public Safety receives the arrest or conviction record of a
126 person for a driving offense committed while the person's license is suspended pursuant to this
127 section, the department shall extend the suspension for an additional like period of time.

128 Section 3. Section **41-6a-509** is amended to read:

129 **41-6a-509. Driver license suspension or revocation for a driving under the**
130 **influence violation.**

131 (1) (a) The Driver License Division shall:

132 (i) if the person is 21 years of age or older at the time of arrest:

133 [(i)] (A) suspend for [90 days] a period of one year the operator's license of a person
134 convicted for the first time under Section 41-6a-502[;] of an offense committed on or after July
135 1, 2009; and

136 [(ii)] (B) revoke for [one year] a period of two years the license of a person [convicted
137 of any subsequent offense under Section 41-6a-502 or] if:

138 (I) the person has a prior conviction as defined under Subsection 41-6a-501(2) [if]; and

139 (II) the current driving under the influence violation under Section 41-6a-502 is
140 committed:

141 (Aa) within a period of ten years from the date of the prior violation; and

142 (Bb) on or after July 1, 2009;

143 (ii) if the person is under 21 years of age at the time of arrest:

144 (A) suspend the person's driver license until the person is 21 years of age or for a
145 period of one year, whichever is longer, if the person is convicted for the first time of a driving
146 under the influence violation under Section 41-6a-502 of an offense that was committed on or
147 after July 1, 2009;

148 (B) deny the person's application for a license or learner's permit until the person is 21
149 years of age or for a period of one year, whichever is longer, if the person:

150 (I) is convicted for the first time of a driving under the influence violation under
151 Section 41-6a-502 of an offense committed on or after July 1, 2009; and

152 (II) has not been issued an operator license;
153 (C) revoke the person's driver license until the person is 21 years of age or for a period
154 of two years, whichever is longer, if:

155 (I) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
156 (II) the current driving under the influence violation under Section 41-6a-502 is
157 committed:

158 (Aa) within a period of ten years from the date of the prior violation; and
159 (Bb) on or after July 1, 2009;

160 (D) deny the person's application for a license or learner's permit until the person is 21
161 years of age or for a period of two years, whichever is longer, if:

162 (I) the person has a prior conviction as defined under Subsection 41-6a-501(2);
163 (II) the current driving under the influence violation under Section 41-6a-502 is
164 committed:

165 (Aa) within a period of ten years from the date of the prior violation; and
166 (Bb) on or after July 1, 2009; and

167 (III) the person has not been issued an operator license; or
168 (iii) suspend or revoke the license of a person as ordered by the court under Subsection
169 (2).

170 (b) The Driver License Division shall suspend the operator's license of a person
171 convicted under Section 41-6a-502 of an offense that was committed prior to July 1, 2009, for
172 the suspension periods in effect prior to July 1, 2009.

173 ~~[(b)]~~ (c) The Driver License Division shall subtract from any suspension or revocation
174 period the number of days for which a license was previously suspended under Section
175 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
176 which the record of conviction is based.

177 (2) (a) (i) In addition to any other penalties provided in this section, a court may order
178 the operator's license of a person who is convicted of a violation of Section 41-6a-502 to be
179 suspended or revoked for an additional period of 90 days, 180 days, one year, or two years to
180 remove from the highways those persons who have shown they are safety hazards.

181 (ii) The additional suspension or revocation period provided in this Subsection (2) shall
182 begin the date on which the individual would be eligible to reinstate the individual's driving

183 privilege for a violation of Section 41-6a-502.

184 (b) If the court suspends or revokes the person's license under this Subsection (2), the
185 court shall prepare and send to the Driver License Division an order to suspend or revoke that
186 person's driving privileges for a specified period of time.

187 (3) (a) The court shall notify the Driver License Division if a person fails to:

188 (i) complete all court ordered:

189 (A) screening;

190 (B) assessment;

191 (C) educational series;

192 (D) substance abuse treatment; and

193 (E) hours of work in a compensatory-service work program; or

194 (ii) pay all fines and fees, including fees for restitution and treatment costs.

195 (b) Upon receiving the notification described in Subsection (3)(a), the division shall
196 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

197 Section 4. Section **41-6a-517** is amended to read:

198 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
199 **body -- Penalties -- Arrest without warrant.**

200 (1) As used in this section:

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

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

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

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

205 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not
206 operate or be in actual physical control of a motor vehicle within this state if the person has any
207 measurable controlled substance or metabolite of a controlled substance in the person's body.

208 (3) It is an affirmative defense to prosecution under this section that the controlled
209 substance was:

210 (a) involuntarily ingested by the accused;

211 (b) prescribed by a practitioner for use by the accused; or

212 (c) otherwise legally ingested.

213 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B

214 misdemeanor.

215 (b) A person who violates this section is subject to conviction and sentencing under
216 both this section and any applicable offense under Section 58-37-8.

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

221 (6) The Driver License Division shall:

222 (a) if the person is 21 years of age or older on the date of arrest:

223 ~~[(a)]~~ (i) suspend, for ~~[90 days]~~ a period of one year, the driver license of a person
224 convicted under Subsection (2) of an offense committed on or after July 1, 2009;

225 ~~[(b)]~~ (ii) revoke, for ~~[one year]~~ a period of two years, the driver license of a person
226 [convicted of a second or subsequent offense under Subsection (2) or] if:

227 (A) the person has a prior conviction as defined under Subsection 41-6a-501(2);~~if];~~

228 and

229 (B) the current violation under Subsection (2) is committed;

230 (I) within a period of ten years after the date of the prior violation; and

231 (II) on or after July 1, 2009;

232 (b) if the person is under 21 years of age on the date of arrest:

233 (i) suspend, until the person is 21 years of age or for a period of one year, the driver
234 license of a person convicted under Subsection (2) of an offense committed on or after July 1,
235 2009;

236 (ii) revoke, until the person is 21 years of age or for a period of two years, the driver
237 license of a person if:

238 (A) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

239 (B) the current violation under Subsection (2) is committed;

240 (I) within a period of ten years after the date of the prior violation; and

241 (II) on or after July 1, 2009; and

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

245 (d) The division shall deny, suspend, or revoke a person's license for the denial and
246 suspension periods in effect prior to July 1, 2009, for conviction of a violation under
247 Subsection (2) that was committed prior to July 1, 2009.

248 (7) (a) The court shall notify the Driver License Division if a person fails to:
249 (i) complete all court ordered screening and assessment, educational series, and
250 substance abuse treatment; or

251 (ii) pay all fines and fees, including fees for restitution and treatment costs.

252 (b) Upon receiving the notification, the division shall suspend the person's driving
253 privilege in accordance with Subsections 53-3-221(2) and (3).

254 (8) The court shall order supervised probation in accordance with Section 41-6a-507
255 for a person convicted under Subsection (2).

256 Section 5. Section **41-6a-521** is amended to read:

257 **41-6a-521. Revocation hearing for refusal -- Appeal.**

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

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

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

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

268 (i) for a person 21 years of age or older on the date of arrest, for a period of:

269 [(†)] (A) 18 months, if the arrest was made on or after July 1, 2009, and unless
270 Subsection (1)(d)[(†)](i)(B) applies; or

271 [(†) 24] (B) 36 months, if the arrest was made on or after July 1, 2009, and the person
272 has had a previous:

273 [(A)] (I) license sanction for an offense that occurred within the previous ten years
274 from the date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, 53-3-231, or
275 53-3-232; or

276 ~~(B)~~ (II) conviction for an offense that occurred within the previous ten years from the
277 date of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
278 constitute a violation of Section 41-6a-502[-];

279 (ii) for a person under 21 years of age on the date of arrest:

280 (A) until the person is 21 years of age, or for a period of 18 months, whichever is
281 longer, if the arrest was made on or after July 1, 2009, and unless Subsection (1)(d)(ii)(B)
282 applies; or

283 (B) until the person is 21 years of age, or for a period of 36 months, whichever is
284 longer, if the arrest was made on or after July 1, 2009, and the person has had a previous:

285 (I) license sanction for an offense that occurred within the previous ten years from the
286 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, 53-3-231, or
287 53-3-232; or

288 (II) conviction for an offense that occurred within the previous ten years from the date
289 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
290 constitute a violation of Section 41-6a-502; or

291 (iii) for a person that was arrested prior to July 1, 2009, for the suspension periods in
292 effect prior to July 1, 2009.

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

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

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

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

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

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

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

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

307 (b) The Driver License Division shall pay witness fees and mileage from the
308 Transportation Fund in accordance with the rates established in Section 78B-1-119.

309 (5) (a) If after a hearing, the Driver License Division determines that the person was
310 requested to submit to a chemical test or tests and refused to submit to the test or tests, or if the
311 person fails to appear before the Driver License Division as required in the notice, the Driver
312 License Division shall revoke the person's license or permit to operate a motor vehicle in Utah
313 beginning on the date the hearing is held:

314 (i) for a person 21 years of age or older on the date of arrest, for a period of:

315 [(i)] (A) 18 months, if the arrest was made on or after July 1, 2009, and unless
316 Subsection (5)(a)[(i)](B) applies; or

317 [(i)] 24] (B) 36 months, if the arrest was made on or after July 1, 2009, and the person
318 has had a previous:

319 [(A)] (I) license sanction for an offense that occurred within the previous ten years
320 from the date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, 53-3-231, or
321 53-3-232; or

322 [(B)] (II) conviction for an offense that occurred within the previous ten years from the
323 date of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
324 constitute a violation of Section 41-6a-502[-];

325 (ii) for a person under 21 years of age on the date of arrest:

326 (A) until the person is 21 years of age, or for a period of 18 months, whichever is
327 longer, for an arrest that was made on or after July 1, 2009, and unless Subsection (5)(a)(ii)(B)
328 applies; or

329 (B) until the person is 21 years of age, or for a period of 36 months, whichever is
330 longer, if the arrest was made on or after July 1, 2009, and the person has had a previous:

331 (I) license sanction for an offense that occurred within the previous ten years from the
332 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, 53-3-231, or
333 53-3-232; or

334 (II) conviction for an offense that occurred within the previous ten years from the date
335 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
336 constitute a violation of Section 41-6a-502; or

337 (iii) for a person that was arrested prior to July 1, 2009, for the suspension periods in

338 effect prior to July 1, 2009.

339 (b) The Driver License Division shall also assess against the person, in addition to any
340 fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid
341 before the person's driving privilege is reinstated, to cover administrative costs.

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

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

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

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

348 Section 6. Section **53-3-219** is amended to read:

349 **53-3-219. Suspension of minor's driving privileges.**

350 (1) The division shall immediately suspend all driving privileges of any person upon
351 receipt of an order suspending driving privileges under Section 32A-12-209, Section
352 32A-12-209.5, Subsection 76-9-701(1), or Section 78A-6-606.

353 (a) Upon receipt of the first order suspending a person's driving privileges, the division
354 shall:

355 (i) impose a suspension [for 90 days or,] until the person is 21 years of age or for a
356 period of one year, whichever is longer;

357 (ii) if the person [is under the age of eligibility for a driver license, the suspension shall
358 begin on the date of conviction and continue for the first 90 days following the date of
359 eligibility:] has not been issued an operator license, deny the person's application for a license
360 or learner's permit until the person is 21 years of age or for a period of one year, whichever is
361 longer; or

362 (iii) if the person is under the age of eligibility for a driver license, deny the person's
363 application for a license or learner's permit until the person is 18 years of age;

364 (b) Upon receipt of a second or subsequent order suspending a person's driving
365 privileges, the division shall [impose a suspension for six months or, if the person is under the
366 age of eligibility for a driver license, the suspension shall begin on the date of conviction and
367 continue for the first six months following the date of eligibility.];

368 (i) impose a suspension until the person is 21 years of age or for a period of two years,

369 whichever is longer; or

370 (ii) if the person has not been issued an operator license or is under the age of
371 eligibility for a driver license, deny the person's application for a license or learner's permit
372 until the person is 21 years of age or for a period of two years, whichever is longer.

373 [~~(c) Upon receipt of a third or subsequent order suspending a person's driving~~
374 ~~privileges, the division shall impose a suspension for one year or, if the person is under the age~~
375 ~~of eligibility for a driver license, the suspension shall begin on the date of conviction and~~
376 ~~continue for one year beginning on the date of eligibility.]~~

377 (2) After reinstatement of the license under Subsection (1)(a), a report authorized under
378 Section 53-3-104 may not contain evidence of the suspension of a minor's license under this
379 section if the minor has not been convicted of any other offense for which the suspension under
380 Subsection (1)(a) may be extended.

381 Section 7. Section **53-3-223** is amended to read:

382 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
383 **Hearing and decision -- Suspension and fee -- Judicial review.**

384 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
385 violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a
386 certain blood or breath alcohol concentration and driving under the influence of any drug,
387 alcohol, or combination of a drug and alcohol or while having any measurable controlled
388 substance or metabolite of a controlled substance in the person's body in violation of Section
389 41-6a-517, the peace officer may, in connection with arresting the person, request that the
390 person submit to a chemical test or tests to be administered in compliance with the standards
391 under Section 41-6a-520.

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

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

399 (3) If the person submits to a chemical test and the test results indicate a blood or

400 breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer
401 makes a determination, based on reasonable grounds, that the person is otherwise in violation
402 of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of
403 arrest, give notice of the division's intention to suspend the person's license to drive a motor
404 vehicle.

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

- 407 (i) take the Utah license certificate or permit, if any, of the driver;
- 408 (ii) issue a temporary license certificate effective for only 29 days from the date of
409 arrest; and
- 410 (iii) supply to the driver, in a manner specified by the division, basic information
411 regarding how to obtain a prompt hearing before the division.

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

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

- 416 (a) the person's license certificate;
- 417 (b) a copy of the citation issued for the offense;
- 418 (c) a signed report in a manner specified by the division indicating the chemical test
419 results, if any; and
- 420 (d) any other basis for the peace officer's determination that the person has violated
421 Section 41-6a-502 or 41-6a-517.

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

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

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

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

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

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

434 (iii) the test results, if any.

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

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

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

439 (ii) The division shall pay witness fees and mileage from the Transportation Fund in
440 accordance with the rates established in Section 78B-1-119.

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

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

444 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
445 grounds to believe that the person was driving a motor vehicle in violation of Section
446 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the
447 notice, or if a hearing is not requested under this section, the division shall [~~suspend the~~
448 ~~person's license or permit to operate a motor vehicle~~]:

449 (i) if the person is 21 years of age or older at the time of arrest and the arrest was made
450 on or after July 1, 2009, suspend the person's license or permit to operate a motor vehicle for a
451 period of:

452 [~~(i) 90 days~~] (A) one year beginning on the 30th day after the date of arrest for a first
453 suspension; or

454 [~~(ii) one year~~] (B) two years beginning on the 30th day after the date of arrest for a
455 second or subsequent suspension for an offense that occurred within the previous ten years.

456 (ii) if the person is under 21 years of age at the time of arrest and the arrest was made
457 on or after July 1, 2009:

458 (A) suspend the person's license or permit to operate a motor vehicle:

459 (I) until the person is 21 years of age or for a period of one year, whichever is longer,
460 beginning on the 30th day after the date of a arrest for a first suspension; or

461 (II) until the person is 21 years of age or for a period of two years, whichever is longer,

462 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an
463 offense that occurred within the previous ten years; or

464 (B) deny the person's application for a license or learner's permit:

465 (I) until the person is 21 years of age or for a period of one year, whichever is longer,

466 for a first suspension if the person has not been issued an operator license; or

467 (II) until the person is 21 years of age or for a period of two years, whichever is longer,

468 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an
469 offense that occurred within the previous ten years.

470 (b) The division shall deny or suspend a person's license for the denial and suspension
471 periods in effect prior to July 1, 2009 for an offense that was committed prior to July 1, 2009.

472 ~~[(b)]~~ (c) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division
473 shall reinstate a person's license prior to completion of the [90-day] one year suspension period
474 imposed under Subsection (7)(a)(i)(A):

475 (A) immediately upon receiving written verification of the person's dismissal of a
476 charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received
477 prior to completion of the suspension period; or

478 (B) no sooner than 60 days beginning on the 30th day after the date of arrest upon
479 receiving written verification of the person's reduction of a charge for a violation of Section
480 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the
481 suspension period.

482 (ii) If a person's license is reinstated under this Subsection (7)~~[(b)]~~(c), the person is

483 required to pay the license reinstatement fees under Subsections 53-3-105(23) and (24).

484 (iii) The driver license reinstatements authorized under this Subsection (7)~~[(b)]~~(c) only

485 apply to a [90-day] one year suspension period imposed under Subsection (7)(a)(i)(A).

486 (8) (a) The division shall assess against a person, in addition to any fee imposed under
487 Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover
488 administrative costs, which shall be paid before the person's driving privilege is reinstated. This
489 fee shall be cancelled if the person obtains an unappealed division hearing or court decision
490 that the suspension was not proper.

491 (b) A person whose license has been suspended by the division under this section
492 following an administrative hearing may file a petition within 30 days after the suspension for a

493 hearing on the matter which, if held, is governed by Section 53-3-224.

494 Section 8. Section **53-3-231** is amended to read:

495 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**
496 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**
497 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**
498 **Referral to local substance abuse authority or program.**

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

500 (i) "Local substance abuse authority" has the same meaning as provided in Section
501 62A-15-102.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

555 (iii) the test results, if any.

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

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

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

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

566 (a) deny the person's license until the person is 21 years of age or for a period of [90
567 days] one year, whichever is longer, beginning on the 30th day after the date of arrest for a first
568 offense under Subsection (2)(a) committed on or after July 1, 2009;

569 (b) suspend the person's license until the person is 21 years of age or for a period of
570 [one year] two years, whichever is longer, beginning on the 30th day after the date of arrest for
571 a second or subsequent offense under Subsection (2)(a):

572 (i) within [~~three~~] ten years of a prior denial or suspension; [~~or~~] and

573 (ii) committed on or after July 1, 2009;

574 (c) deny the person's application for a license or learner's permit until the person is [~~17~~]
575 21 years of age or for a period of one year, whichever is longer, if:

576 (i) the person has not been issued an operator license[-]; and

577 (ii) the suspension is for a first offense under Subsection (2)(a) committed on or after
578 July 1, 2009; or

579 (d) deny the person's application for a license or learner's permit until the person is 21
580 years of age or for a period of two years, whichever is longer, if:

581 (i) the person has not been issued an operator license; and

582 (ii) the suspension is for a second or subsequent offense under Subsection (2)(a):

583 (A) within ten years of a prior denial or suspension; and

584 (B) committed on or after July 1, 2009.

585 (e) The division shall deny or suspend a person's license for the denial and suspension

586 periods in effect prior to July 1, 2009 for a violation under Subsection (2)(a) that was
587 committed prior to July 1, 2009.

588 (9) (a) (i) Following denial or suspension the division shall assess against a person, in
589 addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105,
590 which shall be paid before the person's driving privilege is reinstated, to cover administrative
591 costs.

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

594 (b) A person whose operator license has been denied, suspended, or postponed by the
595 division under this section following an administrative hearing may file a petition within 30
596 days after the suspension for a hearing on the matter which, if held, is governed by Section
597 53-3-224.

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

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

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

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

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

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

614 (A) a targeted education and prevention program;

615 (B) an early intervention program; or

616 (C) a substance abuse treatment program.

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

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

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

624 (i) conducting the assessments;

625 (ii) making appropriate recommendations for action; and

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

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

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

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

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

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

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

641 Section 9. Section **76-9-701** is amended to read:

642 **76-9-701. Intoxication -- Release of arrested person or placement in detoxification**
643 **center.**

644 (1) A person is guilty of intoxication if the person is under the influence of alcohol, a
645 controlled substance, or any substance having the property of releasing toxic vapors, to a
646 degree that the person may endanger the person or another, in a public place or in a private
647 place where the person unreasonably disturbs other persons.

648 (2) (a) A peace officer or a magistrate may release from custody a person arrested
649 under this section if the peace officer or magistrate believes imprisonment is unnecessary for
650 the protection of the person or another.

651 (b) A peace officer may take the arrested person to a detoxification center or other
652 special facility as an alternative to incarceration or release from custody.

653 ~~[(3) When a person who is at least 18 years old, but younger than 21 years old, is found
654 by a court to have violated this section:]~~

655 ~~[(a) if the violation is the person's first violation of this section, the court may suspend
656 the person's driving privileges; or]~~

657 ~~[(b) if the violation is the person's second or subsequent violation of this section, the
658 court shall suspend the person's driving privileges.]~~

659 (3) When a minor who is at least 18 years old, but younger than 21 years old, is found
660 by a court to have violated this section, the court hearing the case shall suspend the minor's
661 driving privileges under Section 53-3-219.

662 (4) When a person who is at least 13 years old, but younger than 18 years old, is found
663 by a court to have violated this section, the provisions regarding suspension of the driver's
664 license under Section 78A-6-606 apply to the violation.

665 (5) When the court issues an order suspending a person's driving privileges for a
666 violation of this section, the person's driver license shall be suspended under Section 53-3-219.

667 (6) An offense under this section is a class C misdemeanor.

668 Section 10. Section **78A-6-606** is amended to read:

669 **78A-6-606. Suspension of license for certain offenses.**

670 (1) This section applies to minors who are at least 13 years of age when found by the
671 court to be within its jurisdiction by the commission of any offense under:

672 (a) Section 58-37-8;

673 (b) Section 32A-12-209;

674 (c) Section 32A-12-209.5;

675 (d) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

676 (e) Title 58, Chapter 37b, Imitation Controlled Substances; or

677 (f) Subsection 76-9-701(1).

678 (2) If the court hearing the case determines that the minor committed an offense under

679 Section 58-37-8 or Title 58, Chapter 37a or 37b, the court shall prepare and send to the Driver
680 License Division of the Department of Public Safety an order to suspend that minor's driving
681 privileges.

682 ~~(3) (a) [If the court hearing the case determines that the minor violated Section~~
683 ~~32A-12-209, Section 32A-12-209.5, or Subsection 76-9-701(1), and the violation is the~~
684 ~~minor's: (a) first violation, the] The court [may] hearing the case shall~~ suspend the minor's
685 driving privileges[; or (b) second or subsequent violation, the court shall suspend the minor's
686 driving privileges.] if:

687 (i) the minor violated Section 32A-12-209, Section 32A-12-209.5, or Subsection
688 76-9-701(1); and

689 (ii) the violation described in Subsection (3)(a)(i) was committed on or after July 1,
690 2009.

691 (b) The suspension periods and requirements that were in effect prior to July 1, 2009,
692 apply:

693 (i) to a minor that violated Section 32A-12-209, Section 32A-12-209.5, or Subsection
694 76-9-701(1); and

695 (ii) for a violation that was committed prior to July 1, 2009.

696 (4) A minor's license shall be suspended under Section 53-3-219 when a court issues
697 an order suspending the minor's driving privileges for a violation of:

698 (a) Section 32A-12-209;

699 (b) Section 32A-12-209.5;

700 (c) Section 58-37-8;

701 (d) Title 58, Chapter 37a or 37b; or

702 (e) Subsection 76-9-701(1).

703 (5) When the Department of Public Safety receives the arrest or conviction record of a
704 person for a driving offense committed while his license is suspended under this section, the
705 department shall extend the suspension for a like period of time.

706 Section 11. **Effective date.**

707 This bill takes effect on July 1, 2009.

Legislative Review Note
as of 3-9-09 3:34 PM

Office of Legislative Research and General Counsel

S.B. 272 - Driver License Sanctions Amendments

Fiscal Note

2009 General Session
State of Utah

State Impact

Enactment of this bill would require a one-time appropriation of \$12,000 to the Department of Public Safety for programming costs. Increasing the suspension periods for certain offenses decreases revenue to the Public Safety Restricted Account by \$930,000 in FY 2010 and \$333,500 in FY 2011; the action also decreases revenue to the Department of Health by \$225,400 in FY 2010 and \$72,000 in FY 2011 and the Drivers License Division by \$492,500 in FY 2010 and \$176,600 in FY 2011.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$12,000	\$0	\$0	\$0	\$0
General Fund Restricted	\$0	\$0	\$0	\$0	(\$225,400)	(\$72,000)
Transportation Fund Restricted	\$0	\$0	\$0	\$0	(\$1,422,500)	(\$510,100)
Total	\$0	\$12,000	\$0	\$0	(\$1,647,900)	(\$582,100)

Individual, Business and/or Local Impact

Certain individuals will be unable to drive for longer periods of time. Businesses and local entities are likely unaffected.