

1 **ALCOHOL OR DRUG RELATED OFFENSE AMENDMENTS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Scott K. Jenkins**

5 House Sponsor: Rebecca P. Edwards

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to the driver license suspension period and other
10 sentencing requirements for certain alcohol or drug related offenses.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ amends the administrative suspension periods for certain alcohol related offenses;
- 14 ▶ amends the driver license suspension period for a person convicted of certain
15 alcohol or drug related offenses;
- 16 ▶ provides that a court may shorten a person's driver license suspension period for
17 certain alcohol or drug related offenses prior to the completion of the suspension
18 period if the person completes certain requirements; and
- 19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill takes effect on July 1, 2011.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **41-6a-509**, as last amended by Laws of Utah 2009, Chapters 201 and 390

27 **41-6a-517**, as last amended by Laws of Utah 2009, Chapter 390

28 **41-6a-521**, as last amended by Laws of Utah 2009, Chapters 40 and 390

29 **53-3-223**, as last amended by Laws of Utah 2009, Chapters 40, 201, and 390

30 **53-3-231 (Effective 07/01/11)**, as last amended by Laws of Utah 2010, Chapter 276



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **41-6a-509** is amended to read:

34 **41-6a-509. Driver license suspension or revocation for a driving under the**
35 **influence violation.**

36 (1) ~~[(a)]~~ The Driver License Division shall~~[:-(i)]~~, if the person is 21 years of age or
37 older at the time of arrest:

38 ~~[(A)]~~ (a) suspend for a period of 120 days the operator's license of a person convicted
39 for the first time under Section 41-6a-502 of an offense committed on or after July 1, 2009;

40 ~~[and]~~ or

41 ~~[(B)]~~ (b) revoke for a period of two years the license of a person if:

42 ~~[(i)]~~ (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

43 and

44 ~~[(ii)]~~ (ii) the current driving under the influence violation under Section 41-6a-502 is
45 committed:

46 ~~[(Aa)]~~ (A) within a period of 10 years from the date of the prior violation; and

47 ~~[(Bb)]~~ (B) on or after July 1, 2009~~[:]~~.

48 (2) The Driver License Division shall, if the person is 19 years of age or older but
49 under 21 years of age at the time of arrest:

50 (a) suspend the person's driver license until the person is 21 years of age or for a period
51 of one year, whichever is longer, if the person is convicted for the first time of a driving under
52 the influence violation under Section 41-6a-502 of an offense that was committed on or after
53 July 1, 2011;

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

56 (i) is convicted for the first time of a driving under the influence violation under
57 Section 41-6a-502 of an offense committed on or after July 1, 2011; and

58 (ii) has not been issued an operator license;

59 (c) revoke the person's driver license until the person is 21 years of age or for a period
60 of two years, whichever is longer, if:

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

62 (ii) the current driving under the influence violation under Section 41-6a-502 is
63 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior
64 violation; or

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

67 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

68 (ii) the current driving under the influence violation under Section 41-6a-502 is
69 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior
70 violation; and

71 (iii) the person has not been issued an operator license.

72 ~~[(ii)]~~ (3) The Driver License Division shall, if the person is under [21] 19 years of age
73 at the time of arrest:

74 ~~[(A)]~~ (a) suspend the person's driver license until the person is 21 years of age [or for a
75 period of 120 days, whichever is longer,] if the person is convicted for the first time of a
76 driving under the influence violation under Section 41-6a-502 of an offense that was
77 committed on or after July 1, 2009;

78 ~~[(B)]~~ (b) deny the person's application for a license or learner's permit until the person
79 is 21 years of age [or for a period of 120 days, whichever is longer,] if the person:

80 ~~[(i)]~~ (i) is convicted for the first time of a driving under the influence violation under
81 Section 41-6a-502 of an offense committed on or after July 1, 2009; and

82 ~~[(ii)]~~ (ii) has not been issued an operator license;

83 ~~[(C)]~~ (c) revoke the person's driver license until the person is 21 years of age [or for a
84 period of two years, whichever is longer,] if:

85 ~~[(i)]~~ (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

86 and

87 ~~[(H)]~~ (ii) the current driving under the influence violation under Section 41-6a-502 is
88 committed~~[-(Aa)]~~ on or after July 1, 2009, and within a period of 10 years from the date of the
89 prior violation; ~~[and]~~ or

90 ~~[(Bb) on or after July 1, 2009; or]~~

91 ~~[(D)]~~ (d) deny the person's application for a license or learner's permit until the person
92 is 21 years of age ~~[or for a period of two years, whichever is longer,]~~ if:

93 ~~[(F)]~~ (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

94 ~~[(H)]~~ (ii) the current driving under the influence violation under Section 41-6a-502 is
95 committed~~[-(Aa)]~~ on or after July 1, 2009, and within a period of 10 years from the date of the
96 prior violation; and

97 ~~[(Bb) on or after July 1, 2009; and]~~

98 ~~[(H)]~~ (iii) the person has not been issued an operator license~~[-and]~~.

99 ~~[(iii)]~~ (4) The Driver License Division shall suspend or revoke the license of a person
100 as ordered by the court under Subsection ~~[(2)]~~ (10).

101 ~~[(b)]~~ (5) The Driver License Division shall:

102 (a) deny, suspend, or revoke the operator's license of a person convicted under Section
103 41-6a-502 of an offense that was committed prior to July 1, 2009, for the denial, suspension, or
104 revocation periods in effect prior to July 1, 2009~~[-]; or~~

105 (b) deny, suspend, or revoke the operator's license of a person for the denial,
106 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

107 (i) the person was 20 years of age or older but under 21 years of age at the time of
108 arrest; and

109 (ii) the conviction under Section 41-6a-502 is for an offense that was committed on or
110 after July 1, 2009, and prior to July 1, 2011.

111 ~~[(e)]~~ (6) The Driver License Division shall subtract from any suspension or revocation
112 period the number of days for which a license was previously suspended under Section
113 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon

114 which the record of conviction is based.

115 ~~[(7)]~~ (7) If a conviction recorded as impaired driving is amended to a driving under the
116 influence conviction under Section 41-6a-502 in accordance with Subsection
117 41-6a-502.5(3)(a)(ii), the Driver License Division:

118 ~~[(a)]~~ (a) may not subtract from any suspension or revocation any time for which a
119 license was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

120 ~~[(b)]~~ (b) shall start the suspension or revocation time under Subsection (1)~~(a)]~~ on the
121 date of the amended conviction.

122 (8) A court that reported a conviction of a violation of Section 41-6a-502 for a
123 violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the
124 suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to
125 completion of the suspension period if the person:

126 (a) (i) for a suspension imposed under Subsection (2)(a) or (b), completes at least six
127 months of the license suspension; or

128 (ii) for a license suspension imposed under Subsection (3)(a) or (b), completes at least
129 two years of the license suspension;

130 (b) completes a screening;

131 (c) completes an assessment, if it is found appropriate by a screening under Subsection
132 (8)(b);

133 (d) completes substance abuse treatment if it is found appropriate by the assessment
134 under Subsection (8)(c);

135 (e) completes an educational series if substance abuse treatment is not required by an
136 assessment under Subsection (8)(c) or the court does not order substance abuse treatment;

137 (f) has not been convicted of a violation of any motor vehicle law in which the person
138 was involved as the operator of the vehicle during the suspension period imposed under
139 Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

140 (g) has complied with all the terms of the person's probation or all orders of the court if
141 not ordered to probation; and

142 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
143 person has not unlawfully consumed alcohol during the suspension period imposed under
144 Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

145 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
146 affidavit or sworn statement to the court certifying that to the parent or legal guardian's
147 knowledge the person has not unlawfully consumed alcohol during the suspension period
148 imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

149 (9) If the court shortens a person's license suspension period in accordance with the
150 requirements of Subsection (8), the court shall forward the order shortening the person's
151 suspension period prior to the completion of the suspension period imposed under Subsection
152 (2)(a) or (b) or Subsection (3)(a) or (b) to the Driver License Division.

153 [~~2~~] (10) (a) (i) In addition to any other penalties provided in this section, a court may
154 order the operator's license of a person who is convicted of a violation of Section 41-6a-502 to
155 be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or
156 two years to remove from the highways those persons who have shown they are safety hazards.

157 (ii) The additional suspension or revocation period provided in this Subsection [~~2~~]
158 (10) shall begin the date on which the individual would be eligible to reinstate the individual's
159 driving privilege for a violation of Section 41-6a-502.

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

163 [~~3~~] (11) (a) The court shall notify the Driver License Division if a person fails to:

164 (i) complete all court ordered:

165 (A) screening;

166 (B) assessment;

167 (C) educational series;

168 (D) substance abuse treatment; and

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

- 170 (ii) pay all fines and fees, including fees for restitution and treatment costs.
- 171 (b) Upon receiving the notification described in Subsection [~~(3)~~] (11)(a), the division
- 172 shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and
- 173 (3).

174 Section 2. Section **41-6a-517** is amended to read:

175 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
176 **body -- Penalties -- Arrest without warrant.**

- 177 (1) As used in this section:
 - 178 (a) "Controlled substance" means any substance scheduled under Section 58-37-4.
 - 179 (b) "Practitioner" has the same meaning as provided in Section 58-37-2.
 - 180 (c) "Prescribe" has the same meaning as provided in Section 58-37-2.
 - 181 (d) "Prescription" has the same meaning as provided in Section 58-37-2.
- 182 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not
- 183 operate or be in actual physical control of a motor vehicle within this state if the person has any
- 184 measurable controlled substance or metabolite of a controlled substance in the person's body.
- 185 (3) It is an affirmative defense to prosecution under this section that the controlled
- 186 substance was:
 - 187 (a) involuntarily ingested by the accused;
 - 188 (b) prescribed by a practitioner for use by the accused; or
 - 189 (c) otherwise legally ingested.
- 190 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B
- 191 misdemeanor.
- 192 (b) A person who violates this section is subject to conviction and sentencing under
- 193 both this section and any applicable offense under Section 58-37-8.
- 194 (5) A peace officer may, without a warrant, arrest a person for a violation of this
- 195 section when the officer has probable cause to believe the violation has occurred, although not
- 196 in the officer's presence, and if the officer has probable cause to believe that the violation was
- 197 committed by the person.

198 (6) The Driver License Division shall~~[(a)]~~, if the person is 21 years of age or older on
199 the date of arrest:

200 [(i)] (a) suspend, for a period of 120 days, the driver license of a person convicted
201 under Subsection (2) of an offense committed on or after July 1, 2009; or

202 [(ii)] (b) revoke, for a period of two years, the driver license of a person if:

203 [~~(A)~~] (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);
204 and

205 [~~(B)~~] (ii) the current violation under Subsection (2) is committed~~[(H)]~~ on or after July
206 1, 2009, and within a period of 10 years after the date of the prior violation~~[-and]~~.

207 [~~(H)~~ on or after July 1, 2009;]

208 (7) The Driver License Division shall, if the person is 19 years of age or older but
209 under 21 years of age on the date of arrest:

210 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is
211 longer, the driver license of a person convicted under Subsection (2) of an offense committed
212 on or after July 1, 2011; or

213 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is
214 longer, the driver license of a person if:

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

216 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
217 and within a period of 10 years after the date of the prior violation.

218 [~~(b)~~] (8) The Driver License Division shall, if the person is under [~~21~~] 19 years of age
219 on the date of arrest:

220 [(i)] (a) suspend, until the person is 21 years of age [~~or for a period of 120 days~~], the
221 driver license of a person convicted under Subsection (2) of an offense committed on or after
222 July 1, 2009; or

223 [(ii)] (b) revoke, until the person is 21 years of age [~~or for a period of two years~~], the
224 driver license of a person if:

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

226 and

227 ~~[(B)]~~ (ii) the current violation under Subsection (2) is committed~~[-(F)]~~ on or after July
228 1, 2009, and within a period of 10 years after the date of the prior violation~~[-and]~~.

229 ~~[(H) on or after July 1, 2009;]~~

230 ~~[(e)]~~ (9) The Driver License Division shall subtract from any suspension or revocation
231 period the number of days for which a license was previously suspended under Section
232 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
233 which the record of conviction is based~~[-and]~~.

234 (10) The Driver License Division shall:

235 ~~[(d)]~~ (a) deny, suspend, or revoke a person's license for the denial and suspension
236 periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that
237 was committed prior to July 1, 2009~~[-]; or~~

238 (b) deny, suspend, or revoke the operator's license of a person for the denial,
239 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

240 (i) the person was 20 years of age or older but under 21 years of age at the time of
241 arrest; and

242 (ii) the conviction under Subsection (2) is for an offense that was committed on or after
243 July 1, 2009, and prior to July 1, 2011.

244 (11) A court that reported a conviction of a violation of this section for a violation that
245 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension
246 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period
247 if the person:

248 (a) (i) for a license suspension imposed under Subsection (7)(a), completes at least six
249 months of the license suspension; or

250 (ii) for a license suspension imposed under Subsection (8)(a), completes at least two
251 years of the license suspension;

252 (b) completes a screening;

253 (c) completes an assessment, if it is found appropriate by a screening under Subsection

254 (11)(b):

255 (d) completes substance abuse treatment if it is found appropriate by the assessment
256 under Subsection (11)(c):

257 (e) completes an educational series if substance abuse treatment is not required by the
258 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

259 (f) has not been convicted of a violation of any motor vehicle law in which the person
260 was involved as the operator of the vehicle during the suspension period imposed under
261 Subsection (7)(a) or (8)(a):

262 (g) has complied with all the terms of the person's probation or all orders of the court if
263 not ordered to probation; and

264 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
265 person has not consumed a controlled substance not prescribed by a practitioner for use by the
266 person or unlawfully consumed alcohol during the suspension period imposed under
267 Subsection (7)(a) or (8)(a); or

268 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
269 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
270 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
271 for use by the person or unlawfully consumed alcohol during the suspension period imposed
272 under Subsection (7)(a) or (8)(a).

273 (12) If the court shortens a person's license suspension period in accordance with the
274 requirements of Subsection (11), the court shall forward the order shortening the person's
275 license suspension period prior to the completion of the suspension period imposed under
276 Subsection (7)(a) or (8)(a) to the Driver License Division.

277 [~~7~~] (13) (a) The court shall notify the Driver License Division if a person fails to:

278 (i) complete all court ordered screening and assessment, educational series, and
279 substance abuse treatment; or

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

281 (b) Upon receiving the notification, the division shall suspend the person's driving

282 privilege in accordance with Subsections 53-3-221(2) and (3).

283 ~~[(8)]~~ (14) The court shall order supervised probation in accordance with Section
284 41-6a-507 for a person convicted under Subsection (2).

285 Section 3. Section **41-6a-521** is amended to read:

286 **41-6a-521. Revocation hearing for refusal -- Appeal.**

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

289 (b) A request for the hearing shall be made in writing within 10 calendar days after the
290 day on which notice is provided.

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

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

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

298 (A) 18 months, unless Subsection (1)(d)(i)(B) applies; or

299 (B) 36 months, if the arrest was made on or after July 1, 2009, and the person has had a
300 previous:

301 (I) license sanction for an offense that occurred within the previous 10 years from the
302 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, 53-3-231, or
303 53-3-232; or

304 (II) conviction for an offense that occurred within the previous 10 years from the date
305 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
306 constitute a violation of Section 41-6a-502;

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

308 (A) until the person is 21 years of age or for a period of ~~[18 months]~~ two years,

309 whichever is longer, if the arrest was made on or after July 1, ~~[2009]~~ 2011, unless Subsection

310 (1)(d)(ii)(B) applies; or

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

313 (I) license sanction for an offense that occurred within the previous 10 years from the
314 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, 53-3-231, or
315 53-3-232; or

316 (II) conviction for an offense that occurred within the previous 10 years from the date
317 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
318 constitute a violation of Section 41-6a-502; or

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

321 (2) (a) Except as provided in Subsection (2)(b), if a hearing is requested by the person,
322 the hearing shall be conducted by the Driver License Division in:

323 (i) the county in which the offense occurred; or

324 (ii) a county which is adjacent to the county in which the offense occurred.

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

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

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

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

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

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

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

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

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

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

344 (A) 18 months unless Subsection (5)(a)(i)(B) applies; or

345 (B) 36 months, if the arrest was made on or after July 1, 2009, and the person has had a
346 previous:

347 (I) license sanction for an offense that occurred within the previous 10 years from the
348 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, 53-3-231, or
349 53-3-232; or

350 (II) conviction for an offense that occurred within the previous 10 years from the date
351 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
352 constitute a violation of Section 41-6a-502;

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

354 (A) until the person is 21 years of age or for a period of [~~18 months~~] two years,
355 whichever is longer, for an arrest that was made on or after July 1, [~~2009~~] 2011, and unless
356 Subsection (5)(a)(ii)(B) applies; or

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

359 (I) license sanction for an offense that occurred within the previous 10 years from the
360 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, 53-3-231, or
361 53-3-232; or

362 (II) conviction for an offense that occurred within the previous 10 years from the date
363 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
364 constitute a violation of Section 41-6a-502; or

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

366 effect prior to July 1, 2009.

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

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

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

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

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

376 Section 4. Section **53-3-223** is amended to read:

377 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
378 **Hearing and decision -- Suspension and fee -- Judicial review.**

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

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

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

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

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

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

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

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

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

409 (5) As a matter of procedure, a peace officer shall send to the division within 10
410 calendar days after the day on which notice is provided:

411 (a) the person's license certificate;

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

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

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

417 (6) (a) Upon request in a manner specified by the division, the division shall grant to
418 the person an opportunity to be heard within 29 days after the date of arrest. The request to be
419 heard shall be made within 10 calendar days of the day on which notice is provided under
420 Subsection (5).

421 (b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the

422 division in:

423 (A) the county in which the arrest occurred; or

424 (B) a county that is adjacent to the county in which the arrest occurred.

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

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

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

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

431 (iii) the test results, if any.

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

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

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

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

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

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

441 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
442 grounds to believe that the person was driving a motor vehicle in violation of Section
443 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the
444 notice, or if a hearing is not requested under this section, the division shall:

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

448 (A) 120 days beginning on the 30th day after the date of arrest for a first suspension; or

449 (B) two years beginning on the 30th day after the date of arrest for a second or

450 subsequent suspension for an offense that occurred within the previous 10 years; ~~[or]~~
451 (ii) if the person is 19 years of age or older but under 21 years of age at the time of
452 arrest and the arrest was made on or after July 1, 2011:
453 (A) suspend the person's license or permit to operate a motor vehicle:
454 (I) for a period of six months, beginning on the 30th day after the date of arrest for a
455 first suspension; or
456 (II) until the person is 21 years of age or for a period of two years, whichever is longer,
457 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an
458 offense that occurred within the previous 10 years; or
459 (B) deny the person's application for a license or learner's permit:
460 (I) for a period of six months for a first suspension, if the person has not been issued an
461 operator license; or
462 (II) until the person is 21 years of age or for a period of two years, whichever is longer,
463 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an
464 offense that occurred within the previous 10 years; or
465 ~~[(ii)]~~ (iii) if the person is under ~~[21]~~ 19 years of age at the time of arrest and the arrest
466 was made on or after July 1, 2009:
467 (A) suspend the person's license or permit to operate a motor vehicle:
468 (I) ~~[until the person is 21 years of age or for a period of 120 days, whichever is longer,]~~
469 for a period of two years beginning on the 30th day after the date of arrest for a first
470 suspension; or
471 (II) until the person is 21 years of age or for a period of two years, whichever is longer,
472 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an
473 offense that occurred within the previous 10 years; or
474 (B) deny the person's application for a license or learner's permit:
475 (I) ~~[until the person is 21 years of age or for a period of 120 days, whichever is longer,]~~
476 for a period of two years for a first suspension, if the person has not been issued an operator
477 license; or

478 (II) until the person is 21 years of age or for a period of two years, whichever is longer,
479 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an
480 offense that occurred within the previous 10 years.

481 (b) The division shall deny or suspend a person's license for the denial and suspension
482 periods in effect:

483 (i) prior to July 1, 2009, for an offense that was committed prior to July 1, 2009~~[-]; or~~

484 (ii) from July 1, 2009, through June 30, 2011, if:

485 (A) the person was 20 years 6 months of age or older but under 21 years of age at the
486 time of arrest; and

487 (B) the conviction under Subsection (2) is for an offense that was committed on or
488 after July 1, 2009, and prior to July 1, 2011.

489 (c) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall
490 reinstate a person's license prior to completion of the 120 day suspension period imposed under
491 Subsection (7)(a)(i)(A):

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

495 (B) no sooner than 60 days beginning on the 30th day after the date of arrest upon
496 receiving written verification of the person's reduction of a charge for a violation of Section
497 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the
498 suspension period.

499 (ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A) or (7)(b)(~~†~~), the
500 division shall reinstate a person's license prior to completion of the [~~90~~] 120-day suspension
501 period imposed under Subsection (7)(a)(i)(A) immediately upon receiving written verification
502 of the person's conviction of impaired driving under Section 41-6a-502.5 if:

503 (A) the written verification is received prior to completion of the suspension period;
504 and

505 (B) the reporting court notifies the Driver License Division that the defendant is

506 participating in or has successfully completed the program of a driving under the influence
507 court as defined in Section 41-6a-501.

508 (iii) If a person's license is reinstated under this Subsection (7)(c), the person is
509 required to pay the license reinstatement fees under Subsections 53-3-105(23) and (24).

510 (iv) The driver license reinstatements authorized under this Subsection (7)(c) only
511 apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

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

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

520 Section 5. Section **53-3-231 (Effective 07/01/11)** is amended to read:

521 **53-3-231 (Effective 07/01/11). Person under 21 may not operate a vehicle or**
522 **motorboat with detectable alcohol in body -- Chemical test procedures -- Temporary**
523 **license -- Hearing and decision -- Suspension of license or operating privilege -- Fees --**
524 **Judicial review -- Referral to local substance abuse authority or program.**

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

526 (i) "Local substance abuse authority" has the same meaning as provided in Section
527 62A-15-102.

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

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

533 (2) (a) A person younger than 21 years of age may not operate or be in actual physical

534 control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol
535 concentration in the person's body as shown by a chemical test.

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

539 (3) (a) When a peace officer has reasonable grounds to believe that a person may be
540 violating or has violated Subsection (2), the peace officer may, in connection with arresting the
541 person for a violation of Section 32B-4-409, request that the person submit to a chemical test
542 or tests to be administered in compliance with the standards under Section 41-6a-520.

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

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

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

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

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

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

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

560 (6) As a matter of procedure, a peace officer shall send to the division within 10
561 calendar days after the day on which notice is provided:

562 (a) the person's driver license certificate, if any;
563 (b) a copy of the citation issued for the offense;
564 (c) a signed report in a manner specified by the Driver License Division indicating the
565 chemical test results, if any; and

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

568 (7) (a) (i) Upon request in a manner specified by the division, the Driver License
569 Division shall grant to the person an opportunity to be heard within 29 days after the date of
570 arrest under Section 32B-4-409.

571 (ii) The request shall be made within 10 calendar days of the day on which notice is
572 provided.

573 (b) (i) Except as provided in Subsection (7)(b)(ii), a hearing, if held, shall be before the
574 division in:

575 (A) the county in which the arrest occurred; or

576 (B) a county that is adjacent to the county in which the arrest occurred.

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

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

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

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

583 (iii) the test results, if any.

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

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

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

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

594 (a) for a person 19 years of age or older but under 21 years of age on the date of arrest:

595 (i) deny the person's license until [~~the person is 21 years of age or for a period of 120~~
596 ~~days, whichever is longer;~~] the person complies with Subsection (11)(b)(i) but for a period of
597 not less than six months beginning on the 30th day after the date of arrest for a first offense
598 under Subsection (2)(a) committed on or after July 1, 2009;

599 [~~(b)~~] (ii) suspend the person's license until the person complies with Subsection
600 (11)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is
601 longer, beginning on the 30th day after the date of arrest for a second or subsequent offense
602 under Subsection (2)(a)[~~:(i)~~] committed on or after July 1, 2009, and within 10 years of a prior
603 denial or suspension; [~~and~~]

604 [~~(ii)~~ committed on or after July 1, 2009;]

605 [~~(c)~~] (iii) deny the person's application for a license or learner's permit until [~~the person~~
606 ~~is 21 years of age or for a period of one year, whichever is longer;~~] the person complies with
607 Subsection (11)(b)(i) but for a period of not less than six months if:

608 [~~(i)~~] (A) the person has not been issued an operator license; and

609 [~~(ii)~~] (B) the suspension is for a first offense under Subsection (2)(a) committed on or
610 after July 1, 2009;

611 [~~(d)~~] (iv) deny the person's application for a license or learner's permit until the person
612 complies with Subsection (11)(b)(i) and until the person is 21 years of age or for a period of
613 two years, whichever is longer, if:

614 [~~(i)~~] (A) the person has not been issued an operator license; and

615 [~~(ii)~~] (B) the suspension is for a second or subsequent offense under Subsection (2)(a)[~~:(~~
616 ~~A)~~] committed on or after July 1, 2009, and within 10 years of a prior denial or suspension;

617 [~~and~~] or

618 ~~[(B) committed on or after July 1, 2009; or]~~
619 ~~[(e)]~~ (v) deny or suspend a person's license for the denial and suspension periods in
620 effect:
621 (A) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed
622 prior to July 1, 2009[-]; or
623 (B) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of
624 age or older but under 21 years of age at the time of arrest and the conviction under Subsection
625 (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; and
626 (b) for a person under 19 years of age on the date of arrest:
627 (i) deny the person's license until the person complies with Subsection (11)(b)(i) but
628 for a period of not less than one year beginning on the 30th day after the date of arrest for a first
629 offense under Subsection (2)(a) committed on or after July 1, 2009;
630 (ii) suspend the person's license until the person complies with Subsection (11)(b)(i)
631 and until the person is 21 years of age or for a period of two years, whichever is longer,
632 beginning on the 30th day after the date of arrest for a second or subsequent offense under
633 Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or
634 suspension;
635 (iii) deny the person's application for a license or learner's permit until the person
636 complies with Subsection (11)(b)(i) but for a period of not less than one year if:
637 (A) the person has not been issued an operator license; and
638 (B) the suspension is for a first offense under Subsection (2)(a) committed on or after
639 July 1, 2009;
640 (iv) deny the person's application for a license or learner's permit until the person
641 complies with Subsection (11)(b)(i) and until the person is 21 years of age or for a period of
642 two years, whichever is longer, if:
643 (A) the person has not been issued an operator license; and
644 (B) the suspension is for a second or subsequent offense under Subsection (2)(a)
645 committed on or after July 1, 2009, and within 10 years of a prior denial or suspension; or

646 (v) deny or suspend a person's license for the denial and suspension periods in effect
647 prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed prior to July 1,
648 2009.

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

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

655 (b) A person whose operator license has been denied, suspended, or postponed by the
656 division under this section following an administrative hearing may file a petition within 30
657 days after the suspension for a hearing on the matter which, if held, is governed by Section
658 53-3-224.

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

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

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

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

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

673 (ii) The local substance abuse authority's or the substance abuse program's

674 recommended action shall be determined by an assessment of the person's alcohol abuse and
675 may include:

676 (A) a targeted education and prevention program;

677 (B) an early intervention program; or

678 (C) a substance abuse treatment program.

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

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

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

686 (i) conducting the assessments;

687 (ii) making appropriate recommendations for action; and

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

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

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

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

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

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

700 (B) The costs and fees under Subsection (11)(e)(iii)(A) shall be based on a sliding scale
701 consistent with the local substance abuse authority's policies and practices regarding fees for

702 services or determined by the substance abuse program.

703 Section 6. **Effective date.**

704 This bill takes effect on July 1, 2011.