

1                   **AMENDMENTS TO DRIVER LICENSE SUSPENSION FOR**  
2                   **DRIVING UNDER THE INFLUENCE OFFENSES**

3                                   2011 THIRD SPECIAL SESSION

4                                   STATE OF UTAH

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

6                                   House Sponsor: Rebecca P. Edwards

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill modifies the Uniform Driver License Act by amending provisions relating to  
11 the driver license suspension periods for certain driving under the influence offenses.

12                   **Highlighted Provisions:**

13                   This bill:

14                   ▶ provides that if the Driver License Division determines that a peace officer had  
15 reasonable grounds to believe that a person was driving a motor vehicle in violation  
16 of certain driving under the influence offenses and the arrest was made on or after  
17 July 1, 2009, the Driver License Division shall, if the person is 19 years of age or  
18 older but under 21 years of age at the time of arrest, suspend the person's license or  
19 permit to operate a motor vehicle:

- 20                   • for a period of six months for a first suspension; or
- 21                   • until the person is 21 years of age or for a period of two years, whichever is  
22 longer, for a second or subsequent suspension for an offense that occurred  
23 within the previous 10 years.

24                   **Money Appropriated in this Bill:**

25                   None

26                   **Other Special Clauses:**

27                   This bill provides an immediate effective date.

28                   **Utah Code Sections Affected:**

29                   AMENDS:

30           **53-3-223**, as last amended by Laws of Utah 2011, Chapter 312



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

33           Section 1. Section **53-3-223** is amended to read:

34           **53-3-223. Chemical test for driving under the influence -- Temporary license --**  
35 **Hearing and decision -- Suspension and fee -- Judicial review.**

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

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

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

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

57           (4) (a) When a peace officer gives notice on behalf of the division, the peace officer

58 shall:

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

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

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

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

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

68 (a) the person's license certificate;

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

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

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

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

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

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

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

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

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

85 (i) whether a peace officer had reasonable grounds to believe the person was driving a

86 motor vehicle in violation of Section 41-6a-502 or 41-6a-517;

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

88 (iii) the test results, if any.

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

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

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

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

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

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

98 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable  
99 grounds to believe that the person was driving a motor vehicle in violation of Section  
100 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the  
101 notice, or if a hearing is not requested under this section, the division shall:

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

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

106 (B) two years beginning on the 30th day after the date of arrest for a second or  
107 subsequent suspension for an offense that occurred within the previous 10 years;

108 (ii) if the person is 19 years of age or older but under 21 years of age at the time of  
109 arrest and the arrest was made on or after July 1, [~~2011~~] 2009:

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

111 (I) for a period of six months, beginning on the 30th day after the date of arrest for a  
112 first suspension; or

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

114 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an  
115 offense that occurred within the previous 10 years; or

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

117 (I) for a period of six months for a first suspension, if the person has not been issued an  
118 operator license; or

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

122 (iii) if the person is under 19 years of age at the time of arrest and the arrest was made  
123 on or after July 1, 2009:

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

125 (I) for a period of two years beginning on the 30th day after the date of arrest for a first  
126 suspension; or

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

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

131 (I) for a period of two years for a first suspension, if the person has not been issued an  
132 operator license; or

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

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

138 (i) prior to July 1, 2009, for an offense that was committed prior to July 1, 2009; or

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

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

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

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

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

150 (B) no sooner than 60 days beginning on the 30th day after the date of arrest upon  
151 receiving written verification of the person's reduction of a charge for a violation of Section  
152 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the  
153 suspension period.

154 (ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A) or (7)(b), the division  
155 shall reinstate a person's license prior to completion of the 120-day suspension period imposed  
156 under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's  
157 conviction of impaired driving under Section 41-6a-502.5 if:

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

160 (B) the reporting court notifies the Driver License Division that the defendant is  
161 participating in or has successfully completed the program of a driving under the influence  
162 court as defined in Section 41-6a-501.

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

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

167 (8) (a) The division shall assess against a person, in addition to any fee imposed under  
168 Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover  
169 administrative costs, which shall be paid before the person's driving privilege is reinstated.

170 This fee shall be cancelled if the person obtains an unappealed division hearing or court  
171 decision that the suspension was not proper.

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

175 Section 2. **Effective date.**

176 If approved by two-thirds of all the members elected to each house, this bill takes effect  
177 upon approval by the governor, or the day following the constitutional time limit of Utah  
178 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
179 the date of veto override.