

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

8 **LONG TITLE**

9 **Committee Note:**

10 The Transportation Interim Committee recommended this bill.

11 **General Description:**

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

14 **Highlighted Provisions:**

15 This bill:

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

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

26 **Money Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 This bill provides an immediate effective date.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53-3-223**, as last amended by Laws of Utah 2011, Chapter 312



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

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

36 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
37 **Hearing and decision -- Suspension and fee -- Judicial review.**

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

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

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

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

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

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

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

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

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

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

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

- 82 (A) the county in which the arrest occurred; or
- 83 (B) a county that is adjacent to the county in which the arrest occurred.

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

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

- 87 (i) whether a peace officer had reasonable grounds to believe the person was driving a
88 motor vehicle in violation of Section 41-6a-502 or 41-6a-517;
- 89 (ii) whether the person refused to submit to the test; and

90 (iii) the test results, if any.

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

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

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

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

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

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

100 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
101 grounds to believe that the person was driving a motor vehicle in violation of Section
102 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the
103 notice, or if a hearing is not requested under this section, the division shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

152 (B) no sooner than 60 days beginning on the 30th day after the date of arrest upon
153 receiving written verification of the person's reduction of a charge for a violation of Section
154 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the
155 suspension period.

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

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

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

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

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

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

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

177 Section 2. **Effective date.**

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

Legislative Review Note
as of 9-21-11 6:29 PM

Office of Legislative Research and General Counsel