

**DRIVER LICENSE SUSPENSION MODIFICATIONS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Douglas V. Sagers**

Senate Sponsor: Evan J. Vickers

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**LONG TITLE**

**General Description:**

This bill modifies the Traffic Code and the Public Safety Code by amending provisions relating to certain driver license suspension periods.

**Highlighted Provisions:**

This bill:

- amends the driver license suspension periods for a person who is under 19 years of age and is convicted of certain alcohol and drug related offenses;

- amends the amount of time that a court may shorten a person's driver license suspension for certain alcohol or drug related offenses prior to the completion of the suspension period if the person is under 19 years of age and completes certain requirements;

- amends the administrative suspension periods for persons under 19 years of age who have violated certain alcohol or drug related offenses; and

- makes technical corrections.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



- 28           **41-6a-509**, as last amended by Laws of Utah 2011, Chapter 312
- 29           **41-6a-517**, as last amended by Laws of Utah 2011, Chapters 12 and 312
- 30           **53-3-223**, as last amended by Laws of Utah 2011, Third Special Session, Chapter 1
- 31           **53-3-231**, as last amended by Laws of Utah 2011, Chapter 312



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

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

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

37           (1) The Driver License Division shall, if the person is 21 years of age or older at the  
38 time of arrest:

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

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

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

43           (ii) the current driving under the influence violation under Section 41-6a-502 is  
44 committed:

45           (A) within a period of 10 years from the date of the prior violation; and

46           (B) on or after July 1, 2009.

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

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

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

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

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

58           (c) revoke the person's driver license until the person is 21 years of age or for a period

59 of two years, whichever is longer, if:

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

61 (ii) the current driving under the influence violation under Section 41-6a-502 is

62 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior

63 violation; or

64 (d) deny the person's application for a license or learner's permit until the person is 21

65 years of age or for a period of two years, whichever is longer, if:

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

67 (ii) the current driving under the influence violation under Section 41-6a-502 is

68 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior

69 violation; and

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

71 (3) The Driver License Division shall, if the person is under 19 years of age at the time

72 of arrest:

73 (a) suspend the person's driver license until the person is 21 years of age if the person

74 is convicted for the first time of a driving under the influence violation under Section

75 41-6a-502 of an offense that was committed on or after July 1, 2009;

76 (b) deny the person's application for a license or learner's permit until the person is 21

77 years of age if the person:

78 (i) is convicted for the first time of a driving under the influence violation under

79 Section 41-6a-502 of an offense committed on or after July 1, 2009; and

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

81 (c) revoke the person's driver license until the person is 21 years of age if:

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

83 (ii) the current driving under the influence violation under Section 41-6a-502 is

84 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior

85 violation; or

86 (d) deny the person's application for a license or learner's permit until the person is 21

87 years of age if:

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

89 (ii) the current driving under the influence violation under Section 41-6a-502 is

90 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior  
91 violation; and

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

93 (4) The Driver License Division shall suspend or revoke the license of a person as  
94 ordered by the court under Subsection (10).

95 (5) The Driver License Division shall:

96 (a) deny, suspend, or revoke the operator's license of a person convicted under Section  
97 41-6a-502 of an offense that was committed prior to July 1, 2009, for the denial, suspension, or  
98 revocation periods in effect prior to July 1, 2009; or

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

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

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

105 (6) The Driver License Division shall subtract from any suspension or revocation  
106 period the number of days for which a license was previously suspended under Section  
107 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
108 which the record of conviction is based.

109 (7) If a conviction recorded as impaired driving is amended to a driving under the  
110 influence conviction under Section 41-6a-502 in accordance with Subsection  
111 41-6a-502.5(3)(a)(ii), the Driver License Division:

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

114 (b) shall start the suspension or revocation time under Subsection (1) on the date of the  
115 amended conviction.

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

120 (a) ~~[(i) for a suspension imposed under Subsection (2)(a) or (b),]~~ completes at least six

- 121 months of the license suspension; ~~[or]~~  
122 ~~[(ii) for a license suspension imposed under Subsection (3)(a) or (b), completes at least~~  
123 ~~two years of the license suspension;]~~  
124 (b) completes a screening;  
125 (c) completes an assessment, if it is found appropriate by a screening under Subsection  
126 (8)(b);  
127 (d) completes substance abuse treatment if it is found appropriate by the assessment  
128 under Subsection (8)(c);  
129 (e) completes an educational series if substance abuse treatment is not required by an  
130 assessment under Subsection (8)(c) or the court does not order substance abuse treatment;  
131 (f) has not been convicted of a violation of any motor vehicle law in which the person  
132 was involved as the operator of the vehicle during the suspension period imposed under  
133 Subsection (2)(a) or (b) or Subsection (3)(a) or (b);  
134 (g) has complied with all the terms of the person's probation or all orders of the court if  
135 not ordered to probation; and  
136 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the  
137 person has not unlawfully consumed alcohol during the suspension period imposed under  
138 Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or  
139 (ii) is under 18 years of age and has the person's parent or legal guardian provide an  
140 affidavit or sworn statement to the court certifying that to the parent or legal guardian's  
141 knowledge the person has not unlawfully consumed alcohol during the suspension period  
142 imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).  
143 (9) If the court shortens a person's license suspension period in accordance with the  
144 requirements of Subsection (8), the court shall forward the order shortening the person's  
145 suspension period prior to the completion of the suspension period imposed under Subsection  
146 (2)(a) or (b) or Subsection (3)(a) or (b) to the Driver License Division.  
147 (10) (a) (i) In addition to any other penalties provided in this section, a court may order  
148 the operator's license of a person who is convicted of a violation of Section 41-6a-502 to be  
149 suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two  
150 years to remove from the highways those persons who have shown they are safety hazards.  
151 (ii) The additional suspension or revocation period provided in this Subsection (10)

152 shall begin the date on which the individual would be eligible to reinstate the individual's  
153 driving privilege for a violation of Section 41-6a-502.

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

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

158 (i) complete all court ordered:

159 (A) screening;

160 (B) assessment;

161 (C) educational series;

162 (D) substance abuse treatment; and

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

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

165 (b) Upon receiving the notification described in Subsection (11)(a), the division shall  
166 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

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

168 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**  
169 **body -- Penalties -- Arrest without warrant.**

170 (1) As used in this section:

171 (a) "Controlled substance" has the same meaning as in Section 58-37-2.

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

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

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

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

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

180 (a) involuntarily ingested by the accused;

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

182 (c) otherwise legally ingested.

183 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B  
184 misdemeanor.

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

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

191 (6) The Driver License Division shall, if the person is 21 years of age or older on the  
192 date of arrest:

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

195 (b) revoke, for a period of two years, the driver license of a person if:

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

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

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

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

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

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

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

209 (8) The Driver License Division shall, if the person is under 19 years of age on the date  
210 of arrest:

211 (a) suspend, until the person is 21 years of age, the driver license of a person convicted  
212 under Subsection (2) of an offense committed on or after July 1, 2009; or

213 (b) revoke, until the person is 21 years of age, the driver license of a person if:

214 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and  
215 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
216 and within a period of 10 years after the date of the prior violation.

217 (9) The Driver License Division shall subtract from any suspension or revocation  
218 period the number of days for which a license was previously suspended under Section  
219 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
220 which the record of conviction is based.

221 (10) The Driver License Division shall:

222 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in  
223 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was  
224 committed prior to July 1, 2009; or

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

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

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

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

235 (a) ~~[(i) for a license suspension imposed under Subsection (7)(a);]~~ completes at least  
236 six months of the license suspension; ~~[or]~~

237 ~~[(ii) for a license suspension imposed under Subsection (8)(a), completes at least two~~  
238 ~~years of the license suspension;]~~

239 (b) completes a screening;

240 (c) completes an assessment, if it is found appropriate by a screening under Subsection  
241 (11)(b);

242 (d) completes substance abuse treatment if it is found appropriate by the assessment  
243 under Subsection (11)(c);

244 (e) completes an educational series if substance abuse treatment is not required by the



245 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

246 (f) has not been convicted of a violation of any motor vehicle law in which the person  
247 was involved as the operator of the vehicle during the suspension period imposed under  
248 Subsection (7)(a) or (8)(a);

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

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

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

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

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

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

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

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

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

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

273 **53-3-223. Chemical test for driving under the influence -- Temporary license --**  
274 **Hearing and decision -- Suspension and fee -- Judicial review.**

275 (1) (a) If a peace officer has reasonable grounds to believe that a person may be

276 violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a  
277 certain blood or breath alcohol concentration and driving under the influence of any drug,  
278 alcohol, or combination of a drug and alcohol or while having any measurable controlled  
279 substance or metabolite of a controlled substance in the person's body in violation of Section  
280 41-6a-517, the peace officer may, in connection with arresting the person, request that the  
281 person submit to a chemical test or tests to be administered in compliance with the standards  
282 under Section 41-6a-520.

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

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

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

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

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

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

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

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

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

- 307 (a) the person's license certificate;
- 308 (b) a copy of the citation issued for the offense;
- 309 (c) a signed report in a manner specified by the division indicating the chemical test
- 310 results, if any; and
- 311 (d) any other basis for the peace officer's determination that the person has violated
- 312 Section 41-6a-502 or 41-6a-517.
- 313 (6) (a) Upon request in a manner specified by the division, the division shall grant to
- 314 the person an opportunity to be heard within 29 days after the date of arrest. The request to be
- 315 heard shall be made within 10 calendar days of the day on which notice is provided under
- 316 Subsection (5).
- 317 (b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the
- 318 division in:
  - 319 (A) the county in which the arrest occurred; or
  - 320 (B) a county that is adjacent to the county in which the arrest occurred.
- 321 (ii) The division may hold a hearing in some other county if the division and the person
- 322 both agree.
- 323 (c) The hearing shall be documented and shall cover the issues of:
  - 324 (i) whether a peace officer had reasonable grounds to believe the person was driving a
  - 325 motor vehicle in violation of Section 41-6a-502 or 41-6a-517;
  - 326 (ii) whether the person refused to submit to the test; and
  - 327 (iii) the test results, if any.
- 328 (d) (i) In connection with a hearing the division or its authorized agent:
  - 329 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and
  - 330 the production of relevant books and papers; or
  - 331 (B) may issue subpoenas for the attendance of necessary peace officers.
- 332 (ii) The division shall pay witness fees and mileage from the Transportation Fund in
- 333 accordance with the rates established in Section 78B-1-119.
- 334 (e) The division may designate one or more employees to conduct the hearing.
- 335 (f) Any decision made after a hearing before any designated employee is as valid as if
- 336 made by the division.
- 337 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable

338 grounds to believe that the person was driving a motor vehicle in violation of Section  
339 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the  
340 notice, or if a hearing is not requested under this section, the division shall:

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

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

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

346 subsequent suspension for an offense that occurred within the previous 10 years; or

347 (ii) if the person is [~~19 years of age or older but~~] under 21 years of age at the time of  
348 arrest and the arrest was made on or after July 1, [~~2009~~] 2013:

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

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

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

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

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

358 (II) until the person is 21 years of age or for a period of two years, whichever is longer,  
359 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an  
360 offense that occurred within the previous 10 years[~~; or~~].

361 [~~(iii) if the person is under 19 years of age at the time of arrest and the arrest was made  
362 on or after July 1, 2009:~~]

363 [~~(A) suspend the person's license or permit to operate a motor vehicle:~~]

364 [~~(I) for a period of two years beginning on the 30th day after the date of arrest for a first  
365 suspension; or~~]

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

369 ~~[(B) deny the person's application for a license or learner's permit:]~~

370 ~~[(F) for a period of two years for a first suspension, if the person has not been issued an~~  
371 ~~operator license; or]~~

372 ~~[(H) until the person is 21 years of age or for a period of two years, whichever is~~  
373 ~~longer, beginning on the 30th day after the date of arrest for a second or subsequent suspension~~  
374 ~~for an offense that occurred within the previous 10 years.]~~

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

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

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

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

381 (B) the conviction under Subsection (2) is for an offense that was committed on or  
382 after July 1, 2009, and prior to July 1, 2011[-]; or

383 (iii) prior to July 1, 2013, for an offense that was committed prior to July 1, 2013.

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

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

390 (B) no sooner than 60 days beginning on the 30th day after the date of arrest upon  
391 receiving written verification of the person's reduction of a charge for a violation of Section  
392 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the  
393 suspension period.

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

398 (A) the written verification is received prior to completion of the suspension period;

399 and

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

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

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

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

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

415 Section 4. Section **53-3-231** is amended to read:

416 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**  
417 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**  
418 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**  
419 **Referral to local substance abuse authority or program.**

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

421 (i) "Local substance abuse authority" has the same meaning as provided in Section  
422 62A-15-102.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

461 (d) any other basis for a peace officer's determination that the person has violated

462 Subsection (2).

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

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

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

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

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

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

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

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

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

478 (iii) the test results, if any.

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

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

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

485 (8) If, after a hearing, the division determines that a peace officer had reasonable  
486 grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a),  
487 if the person fails to appear before the division as required in the notice, or if the person does  
488 not request a hearing under this section, the division shall ~~[-(a)]~~ for a person ~~[19 years of age or~~  
489 ~~older but]~~ under 21 years of age on the date of arrest:

490 ~~[(†)]~~ (a) deny the person's license until the person complies with Subsection (11)(b)(i)  
491 but for a period of not less than six months beginning on the 30th day after the date of arrest for  
492 a first offense under Subsection (2)(a) committed on or after July 1, ~~[2009]~~ 2013;



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

498           ~~[(iii)]~~ (c) deny the person's application for a license or learner's permit until the person  
499 complies with Subsection (11)(b)(i) but for a period of not less than six months if:

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

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

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

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

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

509           ~~[(v)]~~ (e) deny or suspend a person's license for the denial and suspension periods in  
510 effect:

511           ~~[(A)]~~ (i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was  
512 committed prior to July 1, 2009; ~~[or]~~

513           ~~[(B)]~~ (ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6  
514 months of age or older but under 21 years of age at the time of arrest and the conviction under  
515 Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1,  
516 2011; ~~[and] or~~

517           ~~[(b) for a person under 19 years of age on the date of arrest:]~~

518           ~~[(i) deny the person's license until the person complies with Subsection (11)(b)(i) but~~  
519 ~~for a period of not less than one year beginning on the 30th day after the date of arrest for a first~~  
520 ~~offense under Subsection (2)(a) committed on or after July 1, 2009;]~~

521           ~~[(ii) suspend the person's license until the person complies with Subsection (11)(b)(i)~~  
522 ~~and until the person is 21 years of age or for a period of two years, whichever is longer,~~  
523 ~~beginning on the 30th day after the date of arrest for a second or subsequent offense under~~

524 Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or  
525 suspension;]

526 [~~(iii) deny the person's application for a license or learner's permit until the person~~  
527 ~~complies with Subsection (11)(b)(i) but for a period of not less than one year if:]~~

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

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

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

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

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

537 [~~(v) deny or suspend a person's license for the denial and suspension periods in effect~~  
538 ~~prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed prior to July 1,~~  
539 ~~2009;]~~

540 (iii) prior to July 1, 2013, for a violation under Subsection (2)(a) that was committed  
541 prior to July 1, 2013.

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

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

548 (b) A person whose operator license has been denied, suspended, or postponed by the  
549 division under this section following an administrative hearing may file a petition within 30  
550 days after the suspension for a hearing on the matter which, if held, is governed by Section  
551 53-3-224.

552 (10) After reinstatement of an operator license for a first offense under this section, a  
553 report authorized under Section 53-3-104 may not contain evidence of the denial or suspension  
554 of the person's operator license under this section if the person has not been convicted of any

555 other offense for which the denial or suspension may be extended.

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

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

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

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

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

569 (A) a targeted education and prevention program;

570 (B) an early intervention program; or

571 (C) a substance abuse treatment program.

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

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

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

579 (i) conducting the assessments;

580 (ii) making appropriate recommendations for action; and

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

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

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

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

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

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

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

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**Legislative Review Note**  
**as of 2-7-13 2:20 PM**

**Office of Legislative Research and General Counsel**