

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53-3-223**, as last amended by Laws of Utah 2013, Chapter 333

33 **53-3-231**, as last amended by Laws of Utah 2013, Chapter 333



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

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

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

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

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

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

54 (3) If the person submits to a chemical test and the test results indicate a blood or
55 breath alcohol content in violation of Section **41-6a-502** or **41-6a-517**, or if a peace officer
56 makes a determination, based on reasonable grounds, that the person is otherwise in violation
57 of Section **41-6a-502**, a peace officer shall, on behalf of the division and within 24 hours of

58 arrest, give notice of the division's intention to suspend the person's license to drive a motor
59 vehicle.

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

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

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

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

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

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

71 (a) the person's license certificate;

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

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

75 (d) any other basis for the peace officer's determination that the person has violated
76 Section [41-6a-502](#) or [41-6a-517](#).

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

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

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

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

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

86 both agree.

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

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

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

91 (iii) the test results, if any.

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

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

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

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

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

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

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

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

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

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

111 (ii) if the person is under 21 years of age at the time of arrest and the arrest was made
112 on or after May 14, 2013:

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

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

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

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

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

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

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

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

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

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

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

133 (iii) prior to May 14, 2013, for an offense that was committed prior to May 14, 2013.

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

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

140 (B) no sooner than 60 days beginning on the 30th day after the date of arrest upon
141 receiving written verification of the person's reduction of a charge for a violation of Section

142 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the
143 suspension period.

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

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

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

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

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

157 (8) (a) Notwithstanding the provisions in Subsection (7)(b)(iii), the division shall
158 shorten a person's two-year license suspension period that is currently in effect to a six-month
159 suspension period if:

160 (i) the driver was under the age of 19 at the time of arrest;

161 (ii) the offense was a first offense that was committed prior to May 14, 2013; and

162 (iii) the suspension under Subsection (7)(b)(iii) was based on the same occurrence
163 upon which the following written verifications are based:

164 (A) a court order shortening the driver license suspension for a violation of Section
165 41-6a-502 pursuant to Subsection 41-6a-509(8);

166 (B) a court order shortening the driver license suspension for a violation of Section
167 41-6a-517 pursuant to Subsection 41-6a-517(11);

168 (C) a court order shortening the driver license suspension for a violation of Section
169 32B-4-409;

170 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section
 171 32B-4-409;

172 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section
 173 41-6a-517, or Section 32B-4-409;

174 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section
 175 32B-4-409; or

176 (G) other written documentation acceptable to the division.

177 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 178 division may make rules establishing requirements for acceptable written documentation to
 179 shorten a person's driver license suspension period under Subsection (8)(a)(iii)(G).

180 (c) If a person's license sanction is shortened under this Subsection (8), the person is
 181 required to pay the license reinstatement fees under Subsections 53-3-105(23) and (24).

182 ~~[(8)]~~ (9) (a) The division shall assess against a person, in addition to any fee imposed
 183 under Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to
 184 cover administrative costs, which shall be paid before the person's driving privilege is
 185 reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or
 186 court decision that the suspension was not proper.

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

190 Section 2. Section 53-3-231 is amended to read:

191 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**
 192 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**
 193 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**
 194 **Referral to local substance abuse authority or program.**

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

196 (i) "Local substance abuse authority" has the same meaning as provided in Section
 197 62A-15-102.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

253 (iii) the test results, if any.

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

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

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

260 (8) If, after a hearing, the division determines that a peace officer had reasonable
261 grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a),
262 if the person fails to appear before the division as required in the notice, or if the person does
263 not request a hearing under this section, the division shall for a person under 21 years of age on
264 the date of arrest:

265 (a) deny the person's license until the person complies with Subsection [~~(11)~~] (12)(b)(i)
266 but for a period of not less than six months beginning on the 30th day after the date of arrest for
267 a first offense under Subsection (2)(a) committed on or after May 14, 2013;

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

273 (c) deny the person's application for a license or learner's permit until the person
274 complies with Subsection [~~(11)~~] (12)(b)(i) but for a period of not less than six months if:

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

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

278 (d) deny the person's application for a license or learner's permit until the person
279 complies with Subsection [~~(11)~~] (12)(b)(i) and until the person is 21 years of age or for a period
280 of two years, whichever is longer, if:

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

282 (ii) the suspension is for a second or subsequent offense under Subsection (2)(a)
283 committed on or after July 1, 2009, and within 10 years of a prior denial or suspension; or
284 (e) deny or suspend a person's license for the denial and suspension periods in effect:
285 (i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed
286 prior to July 1, 2009;
287 (ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of
288 age or older but under 21 years of age at the time of arrest and the conviction under Subsection
289 (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or
290 (iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed
291 prior to May 14, 2013.

292 (9) (a) Notwithstanding the provisions in Subsection (8)(e)(iii), the division shall
293 shorten a person's one-year license suspension or denial period that is currently in effect to a
294 six-month suspension or denial period if:

295 (i) the driver was under the age of 19 at the time of arrest;
296 (ii) the offense was a first offense that was committed prior to May 14, 2013; and
297 (iii) the suspension or denial under Subsection (8)(e)(iii) was based on the same
298 occurrence upon which the following written verifications are based:

299 (A) a court order shortening the driver license suspension for a violation of Section
300 41-6a-502 pursuant to Subsection 41-6a-509(8);

301 (B) a court order shortening the driver license suspension for a violation of Section
302 41-6a-517 pursuant to Subsection 41-6a-517(11);

303 (C) a court order shortening the driver license suspension for a violation of Section
304 32B-4-409;

305 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section
306 32B-4-409;

307 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section
308 41-6a-517, or Section 32B-4-409;

309 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section

310 [32B-4-409](#); or

311 (G) other written documentation acceptable to the division.

312 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
313 division may make rules establishing requirements for acceptable documentation to shorten a
314 person's driver license suspension or denial period under this Subsection (9).

315 (c) If a person's license sanction is shortened under this Subsection (9), the person is
316 required to pay the license reinstatement fees under Subsections [53-3-105](#)(23) and (24).

317 [~~(9)~~] (10) (a) (i) Following denial or suspension the division shall assess against a
318 person, in addition to any fee imposed under Subsection [53-3-205](#)(12), a fee under Section
319 [53-3-105](#), which shall be paid before the person's driving privilege is reinstated, to cover
320 administrative costs.

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

323 (b) A person whose operator license has been denied, suspended, or postponed by the
324 division under this section following an administrative hearing may file a petition within 30
325 days after the suspension for a hearing on the matter which, if held, is governed by Section
326 [53-3-224](#).

327 [~~(10)~~] (11) After reinstatement of an operator license for a first offense under this
328 section, a report authorized under Section [53-3-104](#) may not contain evidence of the denial or
329 suspension of the person's operator license under this section if the person has not been
330 convicted of any other offense for which the denial or suspension may be extended.

331 [~~(11)~~] (12) (a) In addition to the penalties in Subsection (8), a person who violates
332 Subsection (2)(a) shall:

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

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

337 (b) (i) Reinstatement of the person's operator license or the right to obtain an operator

338 license within five years of the effective date of the license sanction under Subsection (8) is
339 contingent upon successful completion of the action recommended by the local substance
340 abuse authority or the substance abuse program.

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

344 (A) a targeted education and prevention program;

345 (B) an early intervention program; or

346 (C) a substance abuse treatment program.

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

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

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

354 (i) conducting the assessments;

355 (ii) making appropriate recommendations for action; and

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

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

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

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

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

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

368 (B) The costs and fees under Subsection [~~(11)~~] (12)(e)(iii)(A) shall be based on a
369 sliding scale consistent with the local substance abuse authority's policies and practices
370 regarding fees for services or determined by the substance abuse program.

371 Section 3. **Effective date.**

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