

# HB0137S01 compared with HB0137

~~{deleted text}~~ shows text that was in HB0137 but was deleted in HB0137S01.

inserted text shows text that was not in HB0137 but was inserted into HB0137S01.

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Representative John Knotwell proposes the following substitute bill:

## AMENDMENTS TO DRIVER LICENSE SANCTIONS FOR ALCOHOL ~~{OR DRUG}~~ RELATED OFFENSES

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John Knotwell**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill modifies provisions relating to driver license suspension requirements for certain alcohol related offenses.

#### Highlighted Provisions:

This bill:

- ~~{~~ → reduces the driver license suspension periods for a violation of certain alcohol or drug related offenses;
- ‡ ▶ authorizes a court to reduce the driver license suspension period for certain alcohol ~~{or drug}~~ related offenses ~~{if the driver license sanction was imposed prior to the effective date of this bill}~~ in certain circumstances; and

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- ▶ makes conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides ~~{revisor instructions}~~ an immediate effective date.

### Utah Code Sections Affected:

AMENDS:

**32B-4-409**, as enacted by Laws of Utah 2010, Chapter 276

**32B-4-410**, as enacted by Laws of Utah 2010, Chapter 276

**53-3-219**, as last amended by Laws of Utah 2010, Chapter 276

~~{~~ ~~**53-3-221**, as last amended by Laws of Utah 2013, Chapter 411~~

~~————~~ ~~**76-9-701**, as last amended by Laws of Utah 2009, Chapter 390~~

~~————~~ ~~**78A-6-606**, as last amended by Laws of Utah 2010, Chapter 276~~

### Utah Code Sections Affected by Revisor Instructions:

~~————~~ ~~**32B-4-409**, as enacted by Laws of Utah 2010, Chapter 276~~

~~————~~ ~~**32B-4-410**, as enacted by Laws of Utah 2010, Chapter 276~~

~~————~~ ~~**53-3-219**, as last amended by Laws of Utah 2010, Chapter 276~~

~~‡~~ ~~**76-9-701**, as last amended by Laws of Utah 2009, Chapter 390~~

~~**78A-6-606**, as last amended by Laws of Utah 2010, Chapter 276~~

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

Section 1. Section **32B-4-409** is amended to read:

**32B-4-409. Unlawful purchase, possession, consumption by minor -- Measurable amounts in body.**

- (1) Unless specifically authorized by this title, it is unlawful for a minor to:
  - (a) purchase an alcoholic product;
  - (b) attempt to purchase an alcoholic product;
  - (c) solicit another person to purchase an alcoholic product;
  - (d) possess an alcoholic product;
  - (e) consume an alcoholic product; or
  - (f) have measurable blood, breath, or urine alcohol concentration in the minor's body.

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(2) It is unlawful for the purpose of purchasing or otherwise obtaining an alcoholic product for a minor for:

- (a) a minor to misrepresent the minor's age; or
- (b) any other person to misrepresent the age of a minor.

(3) It is unlawful for a minor to possess or consume an alcoholic product while riding in a limousine or chartered bus.

(4) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court:

(a) shall order the minor to participate in an educational series as defined in Section 41-6a-501; and

(b) may order the minor to participate in a screening as defined in Section 41-6a-501.

(5) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, except as provided in Section 32B-4-411, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the provision in Subsection (5)(a), the court may reduce the suspension period required under Section 53-3-219 if:

- (i) the violation is the minor's first violation of this section; and
- (ii) the minor completes an educational series as defined in Section 41-6a-501.

(c) Notwithstanding the requirement in Subsection (5)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of this section; and

(ii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol for at least a one year consecutive period during the suspension period imposed under Subsection (5)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol for at least a one year consecutive period during the suspension period imposed under Subsection (5)(a).

(6) When a minor who is at least 13 years old, but younger than 18 years old, is found

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by the court to have violated this section, Section 78A-6-606 applies to the violation.

(7) When a court issues an order suspending a person's driving privileges for a violation of this section, the Driver License Division shall suspend the person's license under Section 53-3-219.

(8) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended pursuant to this section, the Department of Public Safety shall extend the suspension for an additional like period of time.

(9) This section does not apply to a minor's consumption of an alcoholic product in accordance with this title:

(a) for medicinal purposes if:

(i) the minor is at least 18 years old; or

(ii) the alcoholic product is furnished by:

(A) the parent or guardian of the minor; or

(B) the minor's health care practitioner, if the health care practitioner is authorized by law to write a prescription; or

(b) as part of a religious organization's religious services.

Section 2. Section **32B-4-410** is amended to read:

**32B-4-410. Unlawful admittance or attempt to gain admittance by minor.**

(1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the premises of:

(a) a tavern; or

(b) a social club licensee, except to the extent authorized by Section 32B-6-406.1.

(2) A minor who violates this section is guilty of a class C misdemeanor.

(3) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court:

(a) shall order the minor to participate in an educational series as defined in Section 41-6a-501; and

(b) may order the minor to participate in a screening as defined in Section 41-6a-501.

(4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, except as provided in Section 32B-4-411, the

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court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the provision in Subsection (4)(a), the court may reduce the suspension period required under Section 53-3-219 if:

- (i) the violation is the minor's first violation of this section; and
- (ii) the minor completes an educational series as defined in Section 41-6a-501.

(c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if ~~the driver license sanction was imposed prior to the effective date of this bill for a~~:

(i) the violation is the minor's second or subsequent violation of this section; and

(ii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol for at least a one year consecutive period during the suspension period imposed under Subsection (4)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol for at least a one year consecutive period during the suspension period imposed under Subsection (4)(a).

(5) When a minor who is at least 13 years old, but younger than 18 years old, is found by a court to have violated this section, Section 78A-6-606 applies to the violation.

(6) When a court issues an order suspending a person's driving privileges for a violation of this section, the Driver License Division shall suspend the person's license under Section 53-3-219.

(7) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended pursuant to this section, the Department of Public Safety shall extend the suspension for an additional like period of time.

Section 3. Section **53-3-219** is amended to read:

### **53-3-219. Suspension of minor's driving privileges.**

(1) The division shall immediately suspend all driving privileges of any person upon receipt of an order suspending driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606.

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(2) (a) (i) [~~Except as provided in Subsection (2)(a)(ii), upon~~] Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606 [~~for a violation that was committed on or after July 1, 2009~~], the division shall:

(A) impose a suspension for ~~{}~~ a period of one year ~~{}~~ six months;

(B) if the person has not been issued an operator license, deny the person's application for a license or learner's permit for ~~{}~~ a period of one year ~~{}~~ six months; or

(C) if the person is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit beginning on the date of conviction and continuing for ~~{}~~ one year ~~{}~~ six months beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the first order suspending a person's driving privileges under this section, the division shall reduce the suspension period under Subsection (2)(a)(i)(A), (B), or (C) if ordered by the court in accordance with Subsection 32B-4-409(5)(b), 32B-4-410(4)(b), 76-9-701(4)(b), or 78A-6-606(3)(b).

~~{~~ ~~— (iii) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606, the division shall reduce the suspension period for a driver license sanction imposed prior to the effective date of this bill to a suspension for a period of six months if ordered by the court in accordance with Subsection 32B-4-409(5)(c), 32B-4-410(4)(c), 76-9-701(4)(c), or 78A-6-606(3)(c).~~

~~†~~ (b) (i) Upon receipt of a second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606 [~~for a violation that was committed on or after July 1, 2009~~], the division shall:

~~(i)~~ (A) impose a suspension for a period of ~~{}~~ two years ~~{}~~ one year; [~~or~~]

~~(ii)~~ (B) if the person has not been issued an operator license or is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit for a period of ~~{}~~ two years ~~{}~~ one year; or

~~(c) The Driver License Division shall impose a suspension for the suspension period in effect prior to July 1, 2009, if the order suspending driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606 is for a violation committed prior to July 1, 2009.]~~

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(C) if the person is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit beginning on the date of conviction and continuing for ~~one year~~ two years beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606, the division shall reduce the suspension period ~~for a driver license sanction imposed prior to the effective date of this bill to a suspension for a period of one year~~ if ordered by the court in accordance with Subsection 32B-4-409(5)(c), 32B-4-410(4)(c), 76-9-701(4)(c), or 78A-6-606(3)(c).

(3) The Driver License Division shall subtract from any suspension or revocation period for a conviction of a violation of Section 32B-4-409 the number of days for which a license was previously suspended under Section 53-3-231, if the previous sanction was based on the same occurrence upon which the record of conviction is based.

(4) After reinstatement of the license described in Subsection (1), a report authorized under Section 53-3-104 may not contain evidence of the suspension of a minor's license under this section if the minor has not been convicted of any other offense for which the suspension under Subsection (1) may be extended.

Section 4. Section ~~53-3-221~~ **76-9-701** is amended to read:

~~53-3-221. Offenses which may result in denial, suspension, disqualification, or revocation of license without hearing -- Additional grounds for suspension -- Point system for traffic violations -- Notice and hearing -- Reporting of traffic violation procedures.~~

~~(1) By following the emergency procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may immediately deny, suspend, disqualify, or revoke the license of any person without hearing and without receiving a record of the person's conviction of crime when the division has been notified or has reason to believe the person:~~

~~(a) has committed any offenses for which mandatory suspension or revocation of a license is required upon conviction under Section 53-3-220;~~

~~(b) has, by reckless or unlawful driving of a motor vehicle, caused or contributed to an accident resulting in death or injury to any other person, or serious property damage;~~

~~(c) is incompetent to drive a motor vehicle or is afflicted with mental or physical infirmities or disabilities rendering it unsafe for the person to drive a motor vehicle upon the~~

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highways;

~~—— (d) has committed a serious violation of the motor vehicle laws of this state;~~

~~—— (e) has knowingly committed a violation of Section 53-3-229; or~~

~~—— (f) has been convicted of serious offenses against traffic laws governing the movement of motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard for the safety of other persons on the highways:~~

~~—— (2) (a) The division may suspend the license of a person under Subsection (1) when the person has failed to comply with the terms stated on a traffic citation issued in this state, except this Subsection (2) does not apply to highway weight limit violations or violations of law governing the transportation of hazardous materials:~~

~~—— (b) This Subsection (2) applies to parking and standing violations only if a court has issued a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy the terms of the citation:~~

~~—— (c) (i) This Subsection (2) may not be exercised unless notice of the pending suspension of the driving privilege has been sent at least 10 days previously to the person at the address provided to the division:~~

~~—— (ii) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of a suspension that occurred as a result of failure to comply with the terms stated on a traffic citation:~~

~~—— (3) (a) The division may suspend the license of a person under Subsection (1) when the division has been notified by a court that the person has an outstanding unpaid fine, an outstanding incomplete restitution requirement, or an outstanding warrant levied by order of a court:~~

~~—— (b) The suspension remains in effect until the division is notified by the court that the order has been satisfied:~~

~~—— (c) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of the suspension:~~

~~—— (4) (a) The division shall make rules establishing a point system as provided for in this Subsection (4):~~

~~—— (b) (i) The division shall assign a number of points to each type of moving traffic violation as a measure of its seriousness:~~



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- ~~—— (ii) The points shall be based upon actual relationships between types of traffic violations and motor vehicle traffic accidents.~~
- ~~—— (iii) Except as provided in Subsection (4)(b)(iv), the division may not assess points against a person's driving record for a conviction of a traffic violation:~~
  - ~~—— (A) that occurred in another state; and~~
  - ~~—— (B) that was committed on or after July 1, 2011.~~
- ~~—— (iv) The provisions of Subsection (4)(b)(iii) do not apply to:~~
  - ~~—— (A) a reckless or impaired driving violation or a speeding violation for exceeding the posted speed limit by 21 or more miles per hour; or~~
  - ~~—— (B) an offense committed in another state which, if committed within Utah, would result in the mandatory suspension or revocation of a license upon conviction under Section 53-3-220.~~
- ~~—— (c) Every person convicted of a traffic violation shall have assessed against the person's driving record the number of points that the division has assigned to the type of violation of which the person has been convicted, except that the number of points assessed shall be decreased by 10% if on the abstract of the court record of the conviction the court has graded the severity of violation as minimum, and shall be increased by 10% if on the abstract the court has graded the severity of violation as maximum.~~
- ~~—— (d) (i) A separate procedure for assessing points for speeding offenses shall be established by the division based upon the severity of the offense.~~
- ~~—— (ii) The severity of a speeding violation shall be graded as:~~
  - ~~—— (A) "minimum" for exceeding the posted speed limit by up to 10 miles per hour;~~
  - ~~—— (B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per hour; and~~
  - ~~—— (C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.~~
- ~~—— (iii) Consideration shall be made for assessment of no points on minimum speeding violations, except for speeding violations in school zones.~~
- ~~—— (e) (i) Points assessed against a person's driving record shall be deleted for violations occurring before a time limit set by the division.~~
- ~~—— (ii) The time limit may not exceed three years.~~
- ~~—— (iii) The division may also delete points to reward violation-free driving for periods of~~

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~~time set by the division:~~

~~—— (f) (i) By publication in two newspapers having general circulation throughout the state, the division shall give notice of the number of points it has assigned to each type of traffic violation, the time limit set by the division for the deletion of points, and the point level at which the division will generally take action to deny or suspend under this section:~~

~~—— (ii) The division may not change any of the information provided above regarding points without first giving new notice in the same manner:~~

~~—— (5) (a) (i) Upon denying or suspending the license of a person under this section, the division shall immediately notify the licensee in a manner specified by the division and afford him an opportunity for a hearing in the county where the licensee resides:~~

~~—— (ii) The hearing shall be documented, and the division or its authorized agent may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee:~~

~~—— (iii) One or more members of the division may conduct the hearing, and any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division:~~

~~—— (iv) After the hearing the division shall either rescind its order of denial or suspension, extend the denial or suspension of the license, or revoke the license:~~

~~—— (b) The denial or suspension of the license remains in effect pending qualifications determined by the division regarding a person:~~

~~—— (i) whose license has been denied or suspended following reexamination;~~

~~—— (ii) who is incompetent to drive a motor vehicle;~~

~~—— (iii) who is afflicted with mental or physical infirmities that might make him dangerous on the highways; or~~

~~—— (iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely:~~

~~—— (6) (a) Subject to Subsection (6)(d), the division shall suspend a person's license when the division receives notice from the Office of Recovery Services that the Office of Recovery Services has ordered the suspension of the person's license:~~

~~—— (b) A suspension under Subsection (6)(a) shall remain in effect until the division receives notice from the Office of Recovery Services that the Office of Recovery Services has rescinded the order of suspension:~~

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~~—— (c) After an order of suspension is rescinded under Subsection (6)(b), a report authorized by Section 53-3-104 may not contain any evidence of the suspension.~~

~~—— (d) (i) If the division suspends a person's license under this Subsection (6), the division shall, upon application, issue a temporary limited driver license to the person if that person needs a driver license for employment, education, or child visitation.~~

~~—— (ii) The temporary limited driver license described in this section:~~

~~—— (A) shall provide that the person may operate a motor vehicle only for the purpose of driving to or from the person's place of employment, education, or child visitation;~~

~~—— (B) shall prohibit the person from driving a motor vehicle for any purpose other than a purpose described in Subsection (6)(d)(ii)(A); and~~

~~—— (C) shall expire 90 days after the day on which the temporary limited driver license is issued.~~

~~—— (iii) (A) During the period beginning on the day on which a temporary limited driver license is issued under this Subsection (6), and ending on the day that the temporary limited driver license expires, the suspension described in this Subsection (6) only applies if the person who is suspended operates a motor vehicle for a purpose other than employment, education, or child visitation.~~

~~—— (B) Upon expiration of a temporary limited driver license described in this Subsection (6)(d):~~

~~—— (I) a suspension described in Subsection (6)(a) shall be in full effect until the division receives notice, under Subsection (6)(b), that the order of suspension is rescinded; and~~

~~—— (II) a person suspended under Subsection (6)(a) may not drive a motor vehicle for any reason.~~

~~—— (iv) The division is not required to issue a limited driver license to a person under this Subsection (6)(d) if there are other legal grounds for the suspension of the person's driver license.~~

~~—— (v) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this part.~~

~~—— (7) (a) The division may suspend or revoke the license of any resident of this state upon receiving notice of the conviction of that person in another state of an offense committed there that, if committed in this state, would be grounds for the suspension or revocation of a~~

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license:

~~—— (b) The division may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws of this state, forward a certified copy of the record to the motor vehicle administrator in the state where the person convicted is a resident.~~

~~—— (8) (a) The division may suspend or revoke the license of any nonresident to drive a motor vehicle in this state for any cause for which the license of a resident driver may be suspended or revoked:~~

~~—— (b) Any nonresident who drives a motor vehicle upon a highway when the person's license has been suspended or revoked by the division is guilty of a class C misdemeanor:~~

~~—— (9) (a) The division may not deny or suspend the license of any person for a period of more than one year except:~~

~~—— (i) for failure to comply with the terms of a traffic citation under Subsection (2);~~

~~—— [(ii) upon receipt of a second or subsequent order suspending juvenile driving privileges under Section 53-3-219;]~~

~~—— [(iii) (ii) when extending a denial or suspension upon receiving certain records or reports under Subsection 53-3-220(2);~~

~~—— [(iv) (iii) for failure to give and maintain owner's or operator's security under Section 41-12a-411;~~

~~—— [(v) (iv) when the division suspends the license under Subsection (6); or~~

~~—— [(vi) (v) when the division denies the license under Subsection (14).~~

~~—— (b) The division may suspend the license of a person under Subsection (2) until the person shows satisfactory evidence of compliance with the terms of the traffic citation:~~

~~—— (10) (a) By following the emergency procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may immediately suspend the license of any person without hearing and without receiving a record of the person's conviction for a crime when the division has reason to believe that the person's license was granted by the division through error or fraud or that the necessary consent for the license has been withdrawn or is terminated:~~

~~—— (b) The procedure upon suspension is the same as under Subsection (5), except that after the hearing the division shall either rescind its order of suspension or cancel the license:~~

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~~—— (11) (a) The division, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified by the division of at least five days to the licensee require him to submit to an examination.~~

~~—— (b) Upon the conclusion of the examination the division may suspend or revoke the person's license, permit him to retain the license, or grant a license subject to a restriction imposed in accordance with Section 53-3-208.~~

~~—— (c) Refusal or neglect of the licensee to submit to an examination is grounds for suspension or revocation of the licensee's license.~~

~~—— (12) (a) Except as provided in Subsection (12)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for speeding on an interstate system in this state if the conviction was for a speed of 10 miles per hour or less, above the posted speed limit and did not result in an accident, unless authorized in a manner specified by the division by the individual whose report is being requested.~~

~~—— (b) The provisions of Subsection (12)(a) do not apply for:~~

~~—— (i) a CDL license holder; or~~

~~—— (ii) a violation that occurred in a commercial motor vehicle.~~

~~—— (13) (a) By following the emergency procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may immediately suspend the license of a person if it has reason to believe that the person is the owner of a motor vehicle for which security is required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act, and has driven the motor vehicle or permitted it to be driven within this state without the security being in effect.~~

~~—— (b) The division may immediately suspend a driving privilege card holder's driving privilege card if the division receives notification from the Motor Vehicle Division that:~~

~~—— (i) the driving privilege card holder is the registered owner of a vehicle; and~~

~~—— (ii) the driving privilege card holder's vehicle registration has been revoked under Subsection 41-1a-110(2)(a)(ii)(A).~~

~~—— (c) Section 41-12a-411 regarding the requirement of proof of owner's or operator's security applies to persons whose driving privileges are suspended under this Subsection (13).~~

~~—— (d) If the division exercises the right of immediate suspension granted under this Subsection (13), the notice and hearing provisions of Subsection (5) apply.~~

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~~— (e) A person whose license suspension has been sustained or whose license has been revoked by the division under this Subsection (13) may file a request for agency action requesting a hearing.~~

~~— (14) The division may deny an individual's license if the person fails to comply with the requirement to downgrade the person's CDL to a class D license under Section 53-3-410.1.~~

~~— (15) The division may deny a person's class A, B, C, or D license if the person fails to comply with the requirement to have a K restriction removed from the person's license.~~

~~— (16) Any suspension or revocation of a person's license under this section also disqualifies any license issued to that person under Part 4, Uniform Commercial Driver License Act.~~

~~— Section 5. Section 76-9-701 is amended to read:~~

‡ **76-9-701. Intoxication -- Release of arrested person or placement in detoxification center.**

(1) A person is guilty of intoxication if the person is under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may endanger the person or another, in a public place or in a private place where the person unreasonably disturbs other persons.

(2) (a) A peace officer or a magistrate may release from custody a person arrested under this section if the peace officer or magistrate believes imprisonment is unnecessary for the protection of the person or another.

(b) A peace officer may take the arrested person to a detoxification center or other special facility as an alternative to incarceration or release from custody.

(3) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court:

(a) shall order the minor to participate in an educational series as defined in Section 41-6a-501; and

(b) may order the minor to participate in a screening as defined in Section 41-6a-501.

(4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the requirement in Subsection (4)(a), the court may reduce the

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suspension period required under Section 53-3-219 if:

- (i) the violation is the minor's first violation of this section; and
- (ii) the minor completes an educational series as defined in Section 41-6a-501.

(c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if; ~~the driver license sanction was imposed prior to the effective date of this bill for a};~~

(i) the violation is the minor's second or subsequent violation of this section; and

(ii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol for at least a one year consecutive period during the suspension period imposed under Subsection (4)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol for at least a one year consecutive period during the suspension period imposed under Subsection (4)(a).

(5) When a person who is at least 13 years old, but younger than 18 years old, is found by a court to have violated this section, the provisions regarding suspension of the driver's license under Section 78A-6-606 apply to the violation.

(6) When the court issues an order suspending a person's driving privileges for a violation of this section, the person's driver license shall be suspended under Section 53-3-219.

(7) An offense under this section is a class C misdemeanor.

Section ~~6}5~~. Section **78A-6-606** is amended to read:

### **78A-6-606. Suspension of license for certain offenses.**

(1) This section applies to a minor who is at least 13 years of age when found by the court to be within its jurisdiction by the commission of an offense under:

- (a) Section 32B-4-409;
- (b) Section 32B-4-410;
- (c) Section 32B-4-411;
- (d) Section 58-37-8;
- (e) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- (f) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

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(g) Subsection 76-9-701(1).

(2) If the court hearing the case determines that the minor committed an offense under Section 58-37-8 or Title 58, Chapter 37a or 37b, the court shall prepare and send to the Driver License Division of the Department of Public Safety an order to suspend that minor's driving privileges.

(3) (a) The court hearing the case shall suspend the minor's driving privileges if:

(i) the minor violated Section 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1); and

(ii) the violation described in Subsection (3)(a)(i) was committed on or after July 1, 2009.

(b) Notwithstanding the requirement in Subsection (3)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of Section 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1); and

(ii) the minor completes an educational series as defined in Section 41-6a-501.

~~[(c) The suspension periods and requirements that were in effect prior to July 1, 2009, apply.]~~

~~[(f) to a minor that violated Section 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1); and]~~

~~[(ii) for a violation that was committed prior to July 1, 2009.]~~

(c) Notwithstanding the requirement in Subsection (3)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if ~~the driver license sanction was imposed prior to the effective date of this bill for a~~:

(i) the violation is the minor's second or subsequent violation of Section 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1); or the offenses described in Subsections ~~(1)(d), (e), and (f); and~~

(ii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol for at least a one year consecutive period during the suspension period imposed under Subsection (3)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian



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provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol for at least a one year consecutive period during the suspension period imposed under Subsection (3)(a).

(d) If a minor commits a proof of age violation, as defined in Section 32B-4-411:

(i) the court shall forward a record of adjudication to the Department of Public Safety for a first or subsequent violation; and

(ii) the minor's driving privileges will be suspended:

(A) for a period of at least one year under Section 53-3-220 for a first conviction for a violation of Section 32B-4-411; or

(B) for a period of two years for a second or subsequent conviction for a violation of Section 32B-4-411.

(4) A minor's license shall be suspended under Section 53-3-219 when a court issues an order suspending the minor's driving privileges for a violation of:

(a) Section 32B-4-409;

(b) Section 32B-4-410;

(c) Section 58-37-8;

(d) Title 58, Chapter 37a or 37b; or

(e) Subsection 76-9-701(1).

(5) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended under this section, the Department of Public Safety shall extend the suspension for a like period of time.

Section ~~7.~~ **Revisor instructions:**

~~\_\_\_\_\_ The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the phrase "the effective date of this bill" in Sections 32B-4-409, 32B-4-410, 53-3-219, 76-9-701, and 78B-6-606 in this bill with the actual effective date of this bill.~~

**Legislative Review Note**

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~~as of 2-11-14 8:38 AM~~

~~Office of Legislative Research and General Counsel~~; 6. Effective date.

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