

DRIVING UNDER THE INFLUENCE PROGRAM

AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Justin L. Fawson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to driving under the influence.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ establishes a sobriety program;
- ▶ authorizes a court to order a person convicted of certain driving under the influence violations to participate in a sobriety program;
- ▶ requires the Driver License Division to shorten certain driver license suspension periods if the division receives notice from a court that a person is participating in a sobriety program;
- ▶ requires the Division of Substance Abuse and Mental Health to establish and administer a sobriety program;
- ▶ specifies procedures and requirements for a sobriety program;
- ▶ grants the Division of Substance Abuse and Mental Health rulemaking authority to make rules to administer the sobriety program; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **41-6a-505**, as last amended by Laws of Utah 2016, Chapter 148

33 **41-6a-509**, as last amended by Laws of Utah 2013, Chapter 333

34 **53-3-223**, as last amended by Laws of Utah 2014, Chapter 7

35 ENACTS:

36 **62A-15-505**, Utah Code Annotated 1953



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

39 Section 1. Section **41-6a-505** is amended to read:

40 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
41 **drugs, or a combination of both violations.**

42 (1) As part of any sentence for a first conviction of Section **41-6a-502**:

43 (a) the court shall:

44 (i) (A) impose a jail sentence of not less than 48 consecutive hours;

45 (B) require the person to work in a compensatory-service work program for not less
46 than 48 hours; or

47 (C) require the person to participate in home confinement of not fewer than 48
48 consecutive hours through the use of electronic monitoring in accordance with Section
49 **41-6a-506**;

50 (ii) order the person to participate in a screening;

51 (iii) order the person to participate in an assessment, if it is found appropriate by a
52 screening under Subsection (1)(a)(ii);

53 (iv) order the person to participate in an educational series if the court does not order
54 substance abuse treatment as described under Subsection (1)(b);

55 (v) impose a fine of not less than \$700;

56 (vi) order probation for the person in accordance with Section **41-6a-507**, if there is
57 admissible evidence that the person had a blood alcohol level of .16 or higher;

58 (vii) (A) order the person to pay the administrative impound fee described in Section

59 41-6a-1406; or

60 (B) if the administrative impound fee was paid by a party described in Subsection
61 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the
62 party; or

63 (viii) (A) order the person to pay the towing and storage fees described in Section
64 72-9-603; or

65 (B) if the towing and storage fees were paid by a party described in Subsection
66 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the
67 party; and

68 (b) the court may:

69 (i) order the person to obtain substance abuse treatment if the substance abuse
70 treatment program determines that substance abuse treatment is appropriate; ~~or~~

71 (ii) order probation for the person in accordance with Section 41-6a-507~~[-];~~ or

72 (iii) order the person to participate in a sobriety program as defined in Section
73 62A-15-505.

74 (2) If a person has a prior conviction as defined in Subsection 41-6a-501(2) that is
75 within 10 years of the current conviction under Section 41-6a-502 or the commission of the
76 offense upon which the current conviction is based:

77 (a) the court shall:

78 (i) (A) impose a jail sentence of not less than 240 consecutive hours;

79 (B) require the person to work in a compensatory-service work program for not less
80 than 240 hours; or

81 (C) require the person to participate in home confinement of not fewer than 240
82 consecutive hours through the use of electronic monitoring in accordance with Section
83 41-6a-506;

84 (ii) order the person to participate in a screening;

85 (iii) order the person to participate in an assessment, if it is found appropriate by a
86 screening under Subsection (2)(a)(ii);

87 (iv) order the person to participate in an educational series if the court does not order
88 substance abuse treatment as described under Subsection (2)(b);

89 (v) impose a fine of not less than \$800;

90 (vi) order probation for the person in accordance with Section [41-6a-507](#);

91 (vii) (A) order the person to pay the administrative impound fee described in Section

92 [41-6a-1406](#); or

93 (B) if the administrative impound fee was paid by a party described in Subsection

94 [41-6a-1406\(5\)\(a\)](#), other than the person sentenced, order the person sentenced to reimburse the

95 party; or

96 (viii) (A) order the person to pay the towing and storage fees described in Section

97 [72-9-603](#); or

98 (B) if the towing and storage fees were paid by a party described in Subsection

99 [41-6a-1406\(5\)\(a\)](#), other than the person sentenced, order the person sentenced to reimburse the

100 party; and

101 (b) the court may:

102 (i) order the person to obtain substance abuse treatment if the substance abuse

103 treatment program determines that substance abuse treatment is appropriate~~[-]~~; or

104 (ii) order the person to participate in a sobriety program as defined in Section

105 [62A-15-505](#).

106 (3) Under Subsection [41-6a-503\(2\)](#), if the court suspends the execution of a prison

107 sentence and places the defendant on probation:

108 (a) the court shall impose:

109 (i) a fine of not less than \$1,500;

110 (ii) a jail sentence of not less than 1,500 hours; and

111 (iii) supervised probation; and

112 (b) in lieu of Subsection (3)(a)(ii), the court may require the person to participate in

113 home confinement of not fewer than 1,500 hours through the use of electronic monitoring in

114 accordance with Section [41-6a-506](#).

115 (4) For Subsection (3)(a) or Subsection [41-6a-503\(2\)\(b\)](#), the court:

116 (a) shall impose an order requiring the person to obtain a screening and assessment for

117 alcohol and substance abuse, and treatment as appropriate~~[-]~~; and

118 (b) may impose an order requiring the person to participate in a sobriety program as

119 defined in Section [62A-15-505](#).

120 (5) (a) The requirements of Subsections (1)(a), (2)(a), (3)(a), and (4) may not be

121 suspended.

122 (b) Probation or parole resulting from a conviction for a violation under this section
123 may not be terminated.

124 (6) If a person is convicted of a violation of Section 41-6a-502 and there is admissible
125 evidence that the person had a blood alcohol level of .16 or higher, the court shall order the
126 following, or describe on record why the order or orders are not appropriate:

127 (a) treatment as described under Subsection (1)(b), (2)(b), or (4); and

128 (b) one or more of the following:

129 (i) the installation of an ignition interlock system as a condition of probation for the
130 person in accordance with Section 41-6a-518;

131 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
132 device as a condition of probation for the person; or

133 (iii) the imposition of home confinement through the use of electronic monitoring in
134 accordance with Section 41-6a-506.

135 Section 2. Section 41-6a-509 is amended to read:

136 **41-6a-509. Driver license suspension or revocation for a driving under the**
137 **influence violation.**

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

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

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

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

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

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

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

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

150 (a) suspend the person's driver license until the person is 21 years of age or for a period
151 of one year, whichever is longer, if the person is convicted for the first time of a driving under

152 the influence violation under Section 41-6a-502 of an offense that was committed on or after
153 July 1, 2011;

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

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

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

159 (c) revoke the person's driver license until the person is 21 years of age or for a period
160 of two years, whichever is longer, if:

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

162 (ii) the current driving under the influence violation under Section 41-6a-502 is
163 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior
164 violation; or

165 (d) deny the person's application for a license or learner's permit until the person is 21
166 years of age or for a period of two years, whichever is longer, if:

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

168 (ii) the current driving under the influence violation under Section 41-6a-502 is
169 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior
170 violation; and

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

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

174 (a) suspend the person's driver license until the person is 21 years of age if the person
175 is convicted for the first time of a driving under the influence violation under Section
176 41-6a-502 of an offense that was committed on or after July 1, 2009;

177 (b) deny the person's application for a license or learner's permit until the person is 21
178 years of age if the person:

179 (i) is convicted for the first time of a driving under the influence violation under
180 Section 41-6a-502 of an offense committed on or after July 1, 2009; and

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

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

183 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
184 (ii) the current driving under the influence violation under Section 41-6a-502 is
185 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior
186 violation; or

187 (d) deny the person's application for a license or learner's permit until the person is 21
188 years of age if:

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

190 (ii) the current driving under the influence violation under Section 41-6a-502 is
191 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior
192 violation; and

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

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

196 (5) The Driver License Division shall:

197 (a) deny, suspend, or revoke the operator's license of a person convicted under Section
198 41-6a-502 of an offense that was committed prior to July 1, 2009, for the denial, suspension, or
199 revocation periods in effect prior to July 1, 2009; or

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

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

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

206 (6) The Driver License Division shall subtract from any suspension or revocation
207 period the number of days for which a license was previously suspended under Section
208 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
209 which the record of conviction is based.

210 (7) If a conviction recorded as impaired driving is amended to a driving under the
211 influence conviction under Section 41-6a-502 in accordance with Subsection
212 41-6a-502.5(3)(a)(ii), the Driver License Division:

213 (a) may not subtract from any suspension or revocation any time for which a license

214 was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

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

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

221 (a) completes at least six months of the license suspension;

222 (b) completes a screening;

223 (c) completes an assessment, if it is found appropriate by a screening under Subsection
224 (8)(b);

225 (d) completes substance abuse treatment if it is found appropriate by the assessment
226 under Subsection (8)(c);

227 (e) completes an educational series if substance abuse treatment is not required by an
228 assessment under Subsection (8)(c) or the court does not order substance abuse treatment;

229 (f) has not been convicted of a violation of any motor vehicle law in which the person
230 was involved as the operator of the vehicle during the suspension period imposed under
231 Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

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

234 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
235 person has not unlawfully consumed alcohol during the suspension period imposed under
236 Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

237 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
238 affidavit or sworn statement to the court certifying that to the parent or legal guardian's
239 knowledge the person has not unlawfully consumed alcohol during the suspension period
240 imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

241 (9) If the court shortens a person's license suspension period in accordance with the
242 requirements of Subsection (8), the court shall forward the order shortening the person's
243 suspension period prior to the completion of the suspension period imposed under Subsection
244 (2)(a) or (b) or Subsection (3)(a) or (b) to the Driver License Division.

245 (10) (a) (i) In addition to any other penalties provided in this section, a court may order
246 the operator's license of a person who is convicted of a violation of Section 41-6a-502 to be
247 suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two
248 years to remove from the highways those persons who have shown they are safety hazards.

249 (ii) The additional suspension or revocation period provided in this Subsection (10)
250 shall begin the date on which the individual would be eligible to reinstate the individual's
251 driving privilege for a violation of Section 41-6a-502.

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

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

256 (i) complete all court ordered:

257 (A) screening;

258 (B) assessment;

259 (C) educational series;

260 (D) substance abuse treatment; and

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

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

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

265 (12) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the
266 Driver License Division may shorten the suspension period imposed under this section before
267 completion of the suspension period if the person is participating in or has successfully
268 completed a sobriety program as defined in Section 62A-15-505.

269 (b) If the court shortens a person's license suspension period in accordance with the
270 requirements of this Subsection (12), the court shall forward to the Driver License Division the
271 order shortening the person's suspension period.

272 (c) The court shall notify the Driver License Division if a person fails to complete all
273 requirements of a sobriety program.

274 (d) Upon receiving the notification described in Subsection (12)(c), the division shall
275 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

276 Section 3. Section 53-3-223 is amended to read:

277 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
278 **Hearing and decision -- Suspension and fee -- Judicial review.**

279 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
280 violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a
281 certain blood or breath alcohol concentration and driving under the influence of any drug,
282 alcohol, or combination of a drug and alcohol or while having any measurable controlled
283 substance or metabolite of a controlled substance in the person's body in violation of Section
284 41-6a-517, the peace officer may, in connection with arresting the person, request that the
285 person submit to a chemical test or tests to be administered in compliance with the standards
286 under Section 41-6a-520.

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

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

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

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

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

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

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

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

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

311 (a) the person's license certificate;

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

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

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

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

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

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

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

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

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

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

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

331 (iii) the test results, if any.

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

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

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

336 (ii) The division shall pay witness fees and mileage from the Transportation Fund in
337 accordance with the rates established in Section [78B-1-119](#).

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

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

341 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
342 grounds to believe that the person was driving a motor vehicle in violation of Section
343 [41-6a-502](#) or [41-6a-517](#), if the person failed to appear before the division as required in the
344 notice, or if a hearing is not requested under this section, the division shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

380 (B) no sooner than 60 days beginning on the 30th day after the date of arrest upon
381 receiving written verification of the person's reduction of a charge for a violation of Section
382 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the
383 suspension period.

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

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

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

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

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

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

- 400 (i) the driver was under the age of 19 at the time of arrest;
- 401 (ii) the offense was a first offense that was committed prior to May 14, 2013; and
- 402 (iii) the suspension under Subsection (7)(b)(iii) was based on the same occurrence
- 403 upon which the following written verifications are based:
- 404 (A) a court order shortening the driver license suspension for a violation of Section
- 405 [41-6a-502](#) pursuant to Subsection [41-6a-509](#)(8);
- 406 (B) a court order shortening the driver license suspension for a violation of Section
- 407 [41-6a-517](#) pursuant to Subsection [41-6a-517](#)(11);
- 408 (C) a court order shortening the driver license suspension for a violation of Section
- 409 [32B-4-409](#);
- 410 (D) a dismissal for a violation of Section [41-6a-502](#), Section [41-6a-517](#), or Section
- 411 [32B-4-409](#);
- 412 (E) a notice of declination to prosecute for a charge under Section [41-6a-502](#), Section
- 413 [41-6a-517](#), or Section [32B-4-409](#);
- 414 (F) a reduction of a charge under Section [41-6a-502](#), Section [41-6a-517](#), or Section
- 415 [32B-4-409](#); or
- 416 (G) other written documentation acceptable to the division.
- 417 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 418 division may make rules establishing requirements for acceptable written documentation to
- 419 shorten a person's driver license suspension period under Subsection (8)(a)(iii)(G).
- 420 (c) If a person's license sanction is shortened under this Subsection (8), the person is
- 421 required to pay the license reinstatement fees under Subsections [53-3-105](#)(23) and (24).
- 422 (9) (a) The division shall assess against a person, in addition to any fee imposed under
- 423 Subsection [53-3-205](#)(12) for driving under the influence, a fee under Section [53-3-105](#) to cover
- 424 administrative costs, which shall be paid before the person's driving privilege is reinstated.
- 425 This fee shall be cancelled if the person obtains an unappealed division hearing or court
- 426 decision that the suspension was not proper.
- 427 (b) A person whose license has been suspended by the division under this section
- 428 following an administrative hearing may file a petition within 30 days after the suspension for a
- 429 hearing on the matter which, if held, is governed by Section [53-3-224](#).
- 430 (10) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall

431 reinstate a person's license prior to completion of the suspension period imposed under
432 Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the
433 defendant is participating in or has successfully completed a sobriety program as defined in
434 Section 62A-15-505.

435 (b) If a person's license is reinstated under Subsection (10)(a), the person is required to
436 pay the license reinstatement fees under Subsections 53-3-105(23) and (24).

437 (c) (i) The court shall notify the Driver License Division if a person fails to complete
438 all requirements of a sobriety program.

439 (ii) Upon receiving the notification described in this Subsection (10)(c), the division
440 shall reinstate the driver license suspension imposed under this section.

441 Section 4. Section 62A-15-505 is enacted to read:

442 **62A-15-505. Sobriety program for DUI.**

443 (1) As used in this section:

444 (a) "Sobriety program" means a 24 hours a day, seven days a week sobriety and drug
445 monitoring program that:

446 (i) requires an individual to abstain from alcohol or drugs for a period of time; and

447 (ii) requires the individual to be subject to testing to determine the presence of alcohol
448 or drugs:

449 (A) twice a day at a central location where immediate sanctions may be applied;

450 (B) when testing twice a day is impractical, by continuous, remote sensing, or
451 transdermal alcohol monitoring by means of an electronic monitoring device that allows timely
452 sanctions to be applied; or

453 (C) by an alternate method that is approved by the division.

454 (b) (i) "Testing" means a procedure for determining the presence and level of alcohol
455 or a drug in an individual's breath or body fluid, including blood, urine, saliva, or perspiration.

456 (ii) "Testing" includes any combination of the use of:

457 (A) breath testing;

458 (B) drug patch testing;

459 (C) urinalysis testing;

460 (D) saliva testing;

461 (E) continuous remote sensing;

- 462 (F) transdermal alcohol monitoring; or
463 (G) alternate body fluids approved for testing by the division.
464 (2) The division shall establish and administer a sobriety program.
465 (3) (a) The sobriety program shall include use of a primary testing methodology for the
466 presence of alcohol or drugs that:
467 (i) best facilitates the ability to apply immediate sanctions for noncompliance; and
468 (ii) is available at an affordable cost.
469 (b) In cases of hardship or when a sobriety program participant is subject to
470 less-stringent testing requirements, testing methodologies with timely sanctions for
471 noncompliance may be utilized.
472 (4) The sobriety program shall be supported by evidence of effectiveness and satisfy at
473 least two of the following categories:
474 (a) the program is included in the federal registry of evidence-based programs and
475 practices;
476 (b) the program has been reported in a peer-reviewed journal as having positive effects
477 on the primary targeted outcome; or
478 (c) the program has been documented as effective by informed experts and other
479 sources.
480 (5) If a law enforcement agency chooses to participate in the sobriety program, the
481 division shall assist in the creation and administration of the program in the manner provided in
482 this section.
483 (6) (a) If a law enforcement agency participates in the program, the law enforcement
484 agency may designate an entity to provide the testing services or to take any other action
485 required or authorized to be provided by the law enforcement agency pursuant to this section,
486 except that the law enforcement agency's designee may not determine whether an individual is
487 required to participate in the sobriety program.
488 (b) Subject to the requirement in Subsection (6)(c), the law enforcement agency shall
489 establish the testing locations and times for the county.
490 (c) A sobriety program shall have at least one testing location and two daily testing
491 times approximately 12 hours apart.
492 (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

493 the division shall make rules to implement this section.

494 (b) The rules under Subsection (7)(a) shall:

495 (i) provide for the nature and manner of testing and the procedures and apparatus to be
496 used for testing;

497 (ii) establish reasonable participation and testing fees for the program, including the
498 collection of fees to pay the cost of installation, monitoring, and deactivation of any testing
499 device; and

500 (iii) require and provide for the approval of a sobriety program data management
501 technology plan that shall be used by the department and participating law enforcement
502 agencies to manage testing, data access, fees and fee payments, and any required reports.

Legislative Review Note
Office of Legislative Research and General Counsel