

1 **DRIVER LICENSE AND IMPLIED CONSENT**

2 **MODIFICATIONS**

3 2019 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Karen Mayne**

6 House Sponsor: Norman K. Thurston

7

8 **LONG TITLE**

9 **Committee Note:**

10 The Administrative Rules Review Committee recommended this bill.

11 Legislative Vote: 8 voting for 0 voting against 2 absent

12 **General Description:**

13 This bill amends provisions related to a driver license, implied consent to a chemical
14 test, and driving under the influence.

15 **Highlighted Provisions:**

16 This bill:

17 ▶ amends provisions related to procedures involving law enforcement when an
18 individual suspected of driving under the influence refuses to submit to a chemical
19 test;

20 ▶ amends provisions related to a temporary driver license and the notice given
21 regarding a temporary driver license and related hearings involving an individual
22 who refuses to submit to a chemical test;

23 ▶ extends the time from 30 days to 45 days in which a driver license sanction may be
24 applied; and

25 ▶ makes technical changes.

26 **Money Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **41-6a-520**, as last amended by Laws of Utah 2018, Chapter 35

33 **41-6a-521**, as last amended by Laws of Utah 2017, Chapter 181

34 **53-3-223**, as last amended by Laws of Utah 2018, Chapter 417

35 **53-3-231**, as last amended by Laws of Utah 2018, Chapter 417

36 **53-3-418**, as last amended by Laws of Utah 2018, Chapter 35



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

39 Section 1. Section **41-6a-520** is amended to read:

40 **41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of**
41 **tests -- Refusal -- Warning, report.**

42 (1) (a) A person operating a motor vehicle in this state is considered to have given the
43 person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for
44 the purpose of determining whether the person was operating or in actual physical control of a
45 motor vehicle while:

46 (i) having a blood or breath alcohol content statutorily prohibited under Section
47 **41-6a-502**, **41-6a-530**, or **53-3-231**;

48 (ii) under the influence of alcohol, any drug, or combination of alcohol and any drug
49 under Section **41-6a-502**; or

50 (iii) having any measurable controlled substance or metabolite of a controlled
51 substance in the person's body in violation of Section **41-6a-517**.

52 (b) A test or tests authorized under this Subsection (1) must be administered at the
53 direction of a peace officer having grounds to believe that person to have been operating or in
54 actual physical control of a motor vehicle while in violation of any provision under Subsections
55 (1)(a)(i) through (iii).

56 (c) (i) The peace officer determines which of the tests are administered and how many
57 of them are administered.

58 (ii) If a peace officer requests more than one test, refusal by a person to take one or

59 more requested tests, even though the person does submit to any other requested test or tests, is
60 a refusal under this section.

61 (d) (i) A person who has been requested under this section to submit to a chemical test
62 or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be
63 administered.

64 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is
65 not a defense to taking a test requested by a peace officer, and it is not a defense in any
66 criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the
67 requested test or tests.

68 (2) (a) A peace officer requesting a test or tests shall warn a person that refusal to
69 submit to the test or tests may result in revocation of the person's license to operate a motor
70 vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of
71 alcohol in the person's body depending on the person's prior driving history, and a three-year
72 prohibition of driving without an ignition interlock device if the person:

73 (i) has been placed under arrest;

74 (ii) has then been requested by a peace officer to submit to any one or more of the
75 chemical tests under Subsection (1); and

76 (iii) refuses to submit to any chemical test requested.

77 (b) (i) Following the warning under Subsection (2)(a), if the person does not
78 immediately request that the chemical test or tests as offered by a peace officer be
79 administered, a peace officer shall, on behalf of the Driver License Division and within 24
80 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's
81 privilege or license to operate a motor vehicle.

82 (ii) When a peace officer gives the notice on behalf of the Driver License Division, the
83 peace officer shall [~~(A) take the Utah license certificate or permit, if any, of the operator; (B)~~
84 ~~issue a temporary license certificate effective for only 29 days from the date of arrest; and (C)]
85 supply to the operator, in a manner specified by the Driver License Division, basic information
86 regarding how to obtain a hearing before the Driver License Division.~~

87 [~~(c) A citation issued by a peace officer may, if provided in a manner specified by the
88 Driver License Division, also serve as the temporary license certificate.]~~

89 [~~(d)~~] (c) As a matter of procedure, the peace officer shall submit a signed report, within

90 10 calendar days after the day on which notice is provided under Subsection (2)(b), that:

91 (i) the peace officer had grounds to believe the arrested person was in violation of any
92 provision under Subsections (1)(a)(i) through (iii); and

93 (ii) the person had refused to submit to a chemical test or tests under Subsection (1).

94 (3) Upon the request of the person who was tested, the results of the test or tests shall
95 be made available to the person.

96 (4) (a) The person to be tested may, at the person's own expense, have a physician of
97 the person's own choice administer a chemical test in addition to the test or tests administered
98 at the direction of a peace officer.

99 (b) The failure or inability to obtain the additional test does not affect admissibility of
100 the results of the test or tests taken at the direction of a peace officer, or preclude or delay the
101 test or tests to be taken at the direction of a peace officer.

102 (c) The additional test shall be subsequent to the test or tests administered at the
103 direction of a peace officer.

104 (5) For the purpose of determining whether to submit to a chemical test or tests, the
105 person to be tested does not have the right to consult an attorney or have an attorney, physician,
106 or other person present as a condition for the taking of any test.

107 (6) Notwithstanding the provisions in this section, a blood test taken under this section
108 is subject to Section [77-23-213](#).

109 Section 2. Section **41-6a-521** is amended to read:

110 **41-6a-521. Revocation hearing for refusal -- Appeal.**

111 (1) (a) A person who has been notified of the Driver License Division's intention to
112 revoke the person's license under Section [41-6a-520](#) is entitled to a hearing.

113 (b) A request for the hearing shall be made in writing within 10 calendar days after the
114 day on which notice is provided.

115 (c) Upon request in a manner specified by the Driver License Division, the Driver
116 License Division shall grant to the person an opportunity to be heard within 29 days after the
117 date of arrest.

118 (d) If the person does not make a request for a hearing before the Driver License
119 Division under this Subsection (1), the person's privilege to operate a motor vehicle in the state
120 is revoked beginning on the ~~[30th]~~ 45th day after the date of arrest:

121 (i) for a person 21 years of age or older on the date of arrest, for a period of:
122 (A) 18 months, unless Subsection (1)(d)(i)(B) applies; or
123 (B) 36 months, if the arrest was made on or after July 1, 2009, and the person has had a
124 previous:

125 (I) license sanction for an offense that occurred within the previous 10 years from the
126 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or

127 (II) conviction for an offense that occurred within the previous 10 years from the date
128 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
129 constitute a violation of Section 41-6a-502;

130 (ii) for a person under 21 years of age on the date of arrest:

131 (A) until the person is 21 years of age or for a period of two years, whichever is longer,
132 if the arrest was made on or after July 1, 2011, unless Subsection (1)(d)(ii)(B) applies; or

133 (B) until the person is 21 years of age or for a period of 36 months, whichever is
134 longer, if the arrest was made on or after July 1, 2009, and the person has had a previous:

135 (I) license sanction for an offense that occurred within the previous 10 years from the
136 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or

137 (II) conviction for an offense that occurred within the previous 10 years from the date
138 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
139 constitute a violation of Section 41-6a-502; or

140 (iii) for a person that was arrested prior to July 1, 2009, for the suspension periods in
141 effect prior to July 1, 2009.

142 (2) (a) Except as provided in Subsection (2)(b), if a hearing is requested by the person,
143 the hearing shall be conducted by the Driver License Division in:

144 (i) the county in which the offense occurred; or

145 (ii) a county which is adjacent to the county in which the offense occurred.

146 (b) The Driver License Division may hold a hearing in some other county if the Driver
147 License Division and the person both agree.

148 (3) The hearing shall be documented and shall cover the issues of:

149 (a) whether a peace officer had reasonable grounds to believe that a person was
150 operating a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 41-6a-530, or
151 53-3-231; and

152 (b) whether the person refused to submit to the test or tests under Section 41-6a-520.

153 (4) (a) In connection with the hearing, the division or its authorized agent:

154 (i) may administer oaths and may issue subpoenas for the attendance of witnesses and
155 the production of relevant books and papers; and

156 (ii) shall issue subpoenas for the attendance of necessary peace officers.

157 (b) The Driver License Division shall pay witness fees and mileage from the
158 Transportation Fund in accordance with the rates established in Section 78B-1-119.

159 (5) (a) If after a hearing, the Driver License Division determines that the person was
160 requested to submit to a chemical test or tests and refused to submit to the test or tests, or if the
161 person fails to appear before the Driver License Division as required in the notice, the Driver
162 License Division shall revoke the person's license or permit to operate a motor vehicle in Utah
163 beginning on the date the hearing is held:

164 (i) for a person 21 years of age or older on the date of arrest, for a period of:

165 (A) 18 months unless Subsection (5)(a)(i)(B) applies; or

166 (B) 36 months, if the arrest was made on or after July 1, 2009, and the person has had a
167 previous:

168 (I) license sanction for an offense that occurred within the previous 10 years from the
169 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or

170 (II) conviction for an offense that occurred within the previous 10 years from the date
171 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
172 constitute a violation of Section 41-6a-502;

173 (ii) for a person under 21 years of age on the date of arrest:

174 (A) until the person is 21 years of age or for a period of two years, whichever is longer,
175 for an arrest that was made on or after July 1, 2011, and unless Subsection (5)(a)(ii)(B) applies;
176 or

177 (B) until the person is 21 years of age or for a period of 36 months, whichever is
178 longer, if the arrest was made on or after July 1, 2009, and the person has had a previous:

179 (I) license sanction for an offense that occurred within the previous 10 years from the
180 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or

181 (II) conviction for an offense that occurred within the previous 10 years from the date
182 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would

183 constitute a violation of Section 41-6a-502; or

184 (iii) for a person that was arrested prior to July 1, 2009, for the revocation periods in
185 effect prior to July 1, 2009.

186 (b) The Driver License Division shall also assess against the person, in addition to any
187 fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid
188 before the person's driving privilege is reinstated, to cover administrative costs.

189 (c) The fee shall be cancelled if the person obtains an unappealed court decision
190 following a proceeding allowed under Subsection (2) that the revocation was improper.

191 (6) (a) Any person whose license has been revoked by the Driver License Division
192 under this section following an administrative hearing may seek judicial review.

193 (b) Judicial review of an informal adjudicative proceeding is a trial.

194 (c) Venue is in the district court in the county in which the offense occurred.

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

196 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
197 **Hearing and decision -- Suspension and fee -- Judicial review.**

198 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
199 violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a
200 certain blood or breath alcohol concentration and driving under the influence of any drug,
201 alcohol, or combination of a drug and alcohol or while having any measurable controlled
202 substance or metabolite of a controlled substance in the person's body in violation of Section
203 41-6a-517, the peace officer may, in connection with arresting the person, request that the
204 person submit to a chemical test or tests to be administered in compliance with the standards
205 under Section 41-6a-520.

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

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

213 (3) If the person submits to a chemical test and the test results indicate a blood or

214 breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer
215 makes a determination, based on reasonable grounds, that the person is otherwise in violation
216 of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of
217 arrest, give notice of the division's intention to suspend the person's license to drive a motor
218 vehicle.

219 (4) ~~[(a)]~~ When a peace officer gives notice on behalf of the division, the peace officer
220 shall~~[(i) take the Utah license certificate or permit, if any, of the driver; (ii) issue a temporary~~
221 ~~license certificate effective for only 29 days from the date of arrest; and (iii)]~~ supply to the
222 driver, in a manner specified by the division, basic information regarding how to obtain a
223 prompt hearing before the division.

224 ~~[(b) A citation issued by a peace officer may, if provided in a manner specified by the~~
225 ~~division, also serve as the temporary license certificate.]~~

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

228 (a) the person's license certificate;

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

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

232 (d) any other basis for the peace officer's determination that the person has violated
233 Section 41-6a-502 or 41-6a-517.

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

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

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

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

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

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

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

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

248 (iii) the test results, if any.

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

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

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

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

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

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

258 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
259 grounds to believe that the person was driving a motor vehicle in violation of Section
260 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the
261 notice, or if a hearing is not requested under this section, the division shall:

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

265 (A) 120 days beginning on the ~~[30th]~~ 45th day after the date of arrest for a first
266 suspension; or

267 (B) two years beginning on the ~~[30th]~~ 45th day after the date of arrest for a second or
268 subsequent suspension for an offense that occurred within the previous 10 years; or

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

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

272 (I) for a period of six months, beginning on the ~~[30th]~~ 45th day after the date of arrest
273 for a first suspension; or

274 (II) until the person is 21 years of age or for a period of two years, whichever is longer,
275 beginning on the ~~[30th]~~ 45th day after the date of arrest for a second or subsequent suspension

276 for an offense that occurred within the previous 10 years; or

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

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

280 (II) until the person is 21 years of age or for a period of two years, whichever is longer,
281 beginning on the [~~30th~~] 45th day after the date of arrest for a second or subsequent suspension
282 for an offense that occurred within the previous 10 years.

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

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

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

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

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

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

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

295 (A) immediately upon receiving written verification of the person's dismissal of a
296 charge for a violation of Section [41-6a-502](#) or [41-6a-517](#), if the written verification is received
297 prior to completion of the suspension period; or

298 (B) no sooner than 60 days beginning on the [~~30th~~] 45th day after the date of arrest
299 upon receiving written verification of the person's reduction of a charge for a violation of
300 Section [41-6a-502](#) or [41-6a-517](#), if the written verification is received prior to completion of
301 the suspension period.

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

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

307 and

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

311 (iii) If a person's license is reinstated under this Subsection (7)(c), the person is
312 required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

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

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

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

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

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

322 (A) a court order shortening the driver license suspension for a violation of Section
323 41-6a-502 pursuant to Subsection 41-6a-509(8);

324 (B) a court order shortening the driver license suspension for a violation of Section
325 41-6a-517 pursuant to Subsection 41-6a-517(11);

326 (C) a court order shortening the driver license suspension for a violation of Section
327 32B-4-409;

328 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section
329 32B-4-409;

330 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section
331 41-6a-517, or Section 32B-4-409;

332 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section
333 32B-4-409; or

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

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

338 (c) If a person's license sanction is shortened under this Subsection (8), the person is
339 required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

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

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

348 (10) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall
349 reinstate a person's license before completion of the suspension period imposed under
350 Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the
351 defendant is participating in or has successfully completed a 24-7 sobriety program as defined
352 in Section 41-6a-515.5.

353 (b) If a person's license is reinstated under Subsection (10)(a), the person is required to
354 pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

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

356 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**
357 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**
358 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**
359 **Referral to local substance abuse authority or program.**

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

361 (i) "Local substance abuse authority" has the same meaning as provided in Section
362 62A-15-102.

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

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

368 (2) (a) A person younger than 21 years of age may not operate or be in actual physical

369 control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol
370 concentration in the person's body as shown by a chemical test.

371 (b) A person who violates Subsection (2)(a), in addition to any other applicable
372 penalties arising out of the incident, shall have the person's operator license denied or
373 suspended as provided in Subsection [~~(8)~~] (7).

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

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

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

387 (4) When a peace officer gives notice on behalf of the division, the peace officer shall[
388 ~~(a) take the Utah license certificate or permit, if any, of the operator; (b) issue a temporary~~
389 ~~license certificate effective for only 29 days from the date of arrest if the driver had a valid~~
390 ~~operator's license; and (c)] supply to the operator, in a manner specified by the division, basic
391 information regarding how to obtain a prompt hearing before the division.~~

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

394 [~~(6)~~] (5) As a matter of procedure, a peace officer shall send to the division within 10
395 calendar days after the day on which notice is provided:

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

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

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

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

402 [~~(7)~~] (6) (a) (i) Upon request in a manner specified by the division, the Driver License
403 Division shall grant to the person an opportunity to be heard within 29 days after the date of
404 arrest under Section [32B-4-409](#).

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

407 (b) (i) Except as provided in Subsection [~~(7)~~] (6)(b)(ii), a hearing, if held, shall be
408 before the division in:

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

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

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

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

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

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

417 (iii) the test results, if any.

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

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

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

424 [~~(8)~~] (7) If, after a hearing, the division determines that a peace officer had reasonable
425 grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a),
426 if the person fails to appear before the division as required in the notice, or if the person does
427 not request a hearing under this section, the division shall for a person under 21 years of age on
428 the date of arrest:

429 (a) deny the person's license until the person complies with Subsection [~~(12)~~] (11)(b)(i)
430 but for a period of not less than six months beginning on the [~~30th~~] 45th day after the date of

431 arrest for a first offense under Subsection (2)(a) committed on or after May 14, 2013;

432 (b) suspend the person's license until the person complies with Subsection [~~(12)~~

433 (11)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is

434 longer, beginning on the [~~30th~~ 45th] day after the date of arrest for a second or subsequent

435 offense under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a

436 prior denial or suspension;

437 (c) deny the person's application for a license or learner's permit until the person

438 complies with Subsection [~~(12)~~ (11)(b)(i) but for a period of not less than six months if:

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

440 (ii) the suspension is for a first offense under Subsection (2)(a) committed on or after

441 July 1, 2009;

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

443 complies with Subsection [~~(12)~~ (11)(b)(i) and until the person is 21 years of age or for a period

444 of two years, whichever is longer, if:

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

446 (ii) the suspension is for a second or subsequent offense under Subsection (2)(a)

447 committed on or after July 1, 2009, and within 10 years of a prior denial or suspension; or

448 (e) deny or suspend a person's license for the denial and suspension periods in effect:

449 (i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed

450 prior to July 1, 2009;

451 (ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of

452 age or older but under 21 years of age at the time of arrest and the conviction under Subsection

453 (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

454 (iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed

455 prior to May 14, 2013.

456 [~~(9)~~ (8)] (a) Notwithstanding the provisions in Subsection [~~(8)~~ (7)](e)(iii), the division

457 shall shorten a person's one-year license suspension or denial period that is currently in effect

458 to a six-month suspension or denial period if:

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

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

461 (iii) the suspension or denial under Subsection [~~(8)~~ (7)](e)(iii) was based on the same

462 occurrence upon which the following written verifications are based:

463 (A) a court order shortening the driver license suspension for a violation of Section
464 41-6a-502 pursuant to Subsection 41-6a-509(8);

465 (B) a court order shortening the driver license suspension for a violation of Section
466 41-6a-517 pursuant to Subsection 41-6a-517(11);

467 (C) a court order shortening the driver license suspension for a violation of Section
468 32B-4-409;

469 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section
470 32B-4-409;

471 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section
472 41-6a-517, or Section 32B-4-409;

473 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section
474 32B-4-409; or

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

476 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
477 division may make rules establishing requirements for acceptable documentation to shorten a
478 person's driver license suspension or denial period under this Subsection [~~(9)~~] (8).

479 (c) If a person's license sanction is shortened under this Subsection [~~(9)~~] (8), the person
480 is required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

481 [~~(10)~~] (9) (a) (i) Following denial or suspension the division shall assess against a
482 person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section
483 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover
484 administrative costs.

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

487 (b) A person whose operator license has been denied, suspended, or postponed by the
488 division under this section following an administrative hearing may file a petition within 30
489 days after the suspension for a hearing on the matter which, if held, is governed by Section
490 53-3-224.

491 [~~(11)~~] (10) After reinstatement of an operator license for a first offense under this
492 section, a report authorized under Section 53-3-104 may not contain evidence of the denial or

493 suspension of the person's operator license under this section if the person has not been
494 convicted of any other offense for which the denial or suspension may be extended.

495 ~~[(12)]~~ (11) (a) In addition to the penalties in Subsection ~~[(8)]~~ (9), a person who violates
496 Subsection (2)(a) shall:

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

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

501 (b) (i) Reinstatement of the person's operator license or the right to obtain an operator
502 license within five years of the effective date of the license sanction under Subsection ~~[(8)]~~ (7)
503 is contingent upon successful completion of the action recommended by the local substance
504 abuse authority or the substance abuse program.

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

508 (A) a targeted education and prevention program;

509 (B) an early intervention program; or

510 (C) a substance abuse treatment program.

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

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

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

518 (i) conducting the assessments;

519 (ii) making appropriate recommendations for action; and

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

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

524 authority.

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

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

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

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

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

535 Section 5. Section **53-3-418** is amended to read:

536 **53-3-418. Prohibited alcohol level for drivers -- Procedures, including hearing.**

537 (1) A person who holds or is required to hold a CDL may not drive a commercial
538 motor vehicle in this state if the person:

539 (a) has sufficient alcohol in the person's body that a subsequent chemical test shows
540 that the person has a blood or breath alcohol concentration of .04 grams or greater at the time
541 of the test after the alleged driving of the commercial motor vehicle;

542 (b) is under the influence of alcohol, any drug, or the combined influence of alcohol
543 and any drug to degree that renders the person incapable of safely driving a commercial motor
544 vehicle; or

545 (c) has a blood or breath alcohol concentration of .04 grams or greater at the time of
546 driving the commercial motor vehicle.

547 (2) A person who holds or is required to hold a CDL and who drives a commercial
548 motor vehicle in this state is considered to have given the person's consent to a test or tests of
549 the person's blood, breath, or urine to determine the concentration of alcohol or the presence of
550 other drugs in the person's physical system.

551 (3) If a peace officer or port-of-entry agent has reasonable cause to believe that a
552 person may be violating this section, the peace officer or port-of-entry agent may request the
553 person to submit to a chemical test to be administered in compliance with Section [41-6a-515](#).

554 (4) When a peace officer or port-of-entry agent requests a person to submit to a test

555 under this section, the peace officer or port-of-entry agent shall advise the person that test
556 results indicating a violation of Subsection (1) or refusal to submit to any test requested will
557 result in the person's disqualification under Section 53-3-414 from driving a commercial motor
558 vehicle.

559 (5) If test results under this section indicate a violation of Subsection (1) or the person
560 refuses to submit to any test requested under this section, a peace officer or port-of-entry agent
561 shall, on behalf of the division and within 24 hours of the arrest, give the person notice of the
562 division's intention to disqualify the person's privilege to drive a commercial motor vehicle.

563 (6) When a peace officer or port-of-entry agent gives notice under Subsection (5), the
564 peace officer or port-of-entry agent shall:

565 [~~(a)~~] ~~take any Utah license certificate or permit held by the driver;~~]

566 [~~(b)~~] ~~issue to the driver a temporary license certificate effective for 29 days from the~~
567 ~~date of arrest;~~]

568 [~~(c)~~] (a) provide the driver, in a manner specified by the division, basic information
569 regarding how to obtain a prompt hearing before the division; and

570 [~~(d)~~] (b) issue a 24-hour out-of-service order.

571 [~~(7)~~] ~~A notice of disqualification issued under Subsection (6) may serve also as the~~
572 ~~temporary license certificate under Subsection (6), if provided in a manner specified by the~~
573 ~~division.]~~

574 [~~(8)~~] (7) As a matter of procedure, a peace officer or port-of-entry agent shall, within
575 10 calendar days after the day on which notice is provided, send to the division the person's
576 license certificate, a copy of the notice, and a report signed by the peace officer or port-of-entry
577 agent that indicates the results of any chemical test administered or that the person refused a
578 test.

579 [~~(9)~~] (8) (a) A person disqualified under this section has the right to a hearing regarding
580 the disqualification.

581 (b) The request for the hearing shall be submitted to the division in a manner specified
582 by the division and shall be made within 10 calendar days of the date the notice was issued. If
583 requested, the hearing shall be conducted within 29 days after the date of arrest.

584 [~~(10)~~] (9) (a) (i) Except as provided in Subsection [~~(10)~~] (9)(a)(ii), a hearing held under
585 this section shall be held before the division and in:

586 (A) the county where the notice was issued; or
587 (B) a county that is adjacent to the county where the notice was issued.
588 (ii) The division may hold a hearing in some other county if the division and the person
589 both agree.
590 (b) The hearing shall be documented and shall determine:
591 (i) whether the peace officer or port-of-entry agent had reasonable grounds to believe
592 the person had been driving a motor vehicle in violation of this section;
593 (ii) whether the person refused to submit to any requested test; and
594 (iii) any test results obtained.
595 (c) In connection with a hearing the division or its authorized agent may administer
596 oaths and may issue subpoenas for the attendance of witnesses and the production of relevant
597 books and documents.
598 (d) One or more members of the division may conduct the hearing.
599 (e) A decision made after a hearing before any number of members of the division is as
600 valid as if the hearing were held before the full membership of the division.
601 (f) After a hearing under this section the division shall indicate by order if the person's
602 CDL is disqualified.
603 (g) If the person for whom the hearing is held fails to appear before the division as
604 required in the notice, the division shall indicate by order if the person's CDL is disqualified.
605 ~~[(11)]~~ (10) (a) If the division disqualifies a person under this section following an
606 administrative hearing, the person may petition for a hearing under Section 53-3-224.
607 (b) The petition shall be filed within 30 days after the division issues the
608 disqualification.
609 ~~[(12)]~~ (11) (a) A person who violates this section shall be punished in accordance with
610 Section 53-3-414.
611 (b) (i) In accordance with Section 53-3-414, the first disqualification under this section
612 shall be for one year, and a second disqualification shall be for life.
613 (ii) A disqualification under Section 53-3-414 begins on the ~~[30th]~~ 45th day after the
614 date of arrest.
615 ~~[(13)]~~ (12) (a) In addition to the fees imposed under Section 53-3-205 for reinstatement
616 of a CDL, a fee under Section 53-3-105 to cover administrative costs shall be paid before the

617 driving privilege is reinstated.

618 (b) The fees under Sections 53-3-105 and 53-3-205 shall be canceled if an unappealed
619 hearing at the division or court level determines the disqualification was not proper.

620 [~~14~~] (13) Notwithstanding the provisions of this section, a blood test taken under this
621 section is subject to Section 77-23-213.