

Representative Steve Eliason proposes the following substitute bill:

DUI LIABILITY AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends various provisions related to driving under the influence.

Highlighted Provisions:

This bill:

- ▶ criminalizes a person's refusal to submit to a chemical test for alcohol or drugs related to suspicion of driving under the influence of alcohol or drugs in certain circumstances;
- ▶ provides penalties for a person's refusal to submit to a chemical test for alcohol or drugs related to suspicion of driving under the influence of alcohol or drugs;
- ▶ clarifies that driving under the influence is a strict liability offense;
- ▶ clarifies provisions related to driving in the wrong direction while driving under the influence; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:



26 AMENDS:

- 27 **41-6a-501**, as last amended by Laws of Utah 2018, Chapter 52
- 28 **41-6a-502**, as last amended by Laws of Utah 2017, Chapter 283
- 29 **41-6a-503**, as last amended by Laws of Utah 2018, Chapter 138
- 30 **41-6a-509**, as last amended by Laws of Utah 2017, Chapter 446
- 31 **41-6a-518.2**, as last amended by Laws of Utah 2019, Chapter 271
- 32 **41-6a-520**, as last amended by Laws of Utah 2019, Chapters 77 and 349
- 33 **41-6a-529**, as last amended by Laws of Utah 2018, Chapter 52
- 34 **53-3-220**, as last amended by Laws of Utah 2018, Chapters 121 and 133
- 35 **53-3-223**, as last amended by Laws of Utah 2019, Chapter 77
- 36 **53-3-231**, as last amended by Laws of Utah 2019, Chapter 77
- 37 **77-40-105 (Effective 05/01/20)**, as last amended by Laws of Utah 2019, Chapter 448

38 ENACTS:

39 **41-6a-521.1**, Utah Code Annotated 1953



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

42 Section 1. Section **41-6a-501** is amended to read:

43 **41-6a-501. Definitions.**

44 (1) As used in this part:

45 (a) "Actual physical control" does not include a circumstance in which:

- 46 (i) the person is asleep inside the vehicle;
- 47 (ii) the person is not in the driver's seat of the vehicle;
- 48 (iii) the engine of the vehicle is not running;
- 49 (iv) the vehicle is lawfully parked; and
- 50 (v) under the facts presented, it is evident that the person could not have driven the

51 vehicle to the location while under the influence of alcohol, a drug, or the combined influence
52 of alcohol and any drug.

53 ~~(a)~~ (b) "Assessment" means an in-depth clinical interview with a licensed mental
54 health therapist:

- 55 (i) used to determine if a person is in need of:
- 56 (A) substance abuse treatment that is obtained at a substance abuse program;

57 (B) an educational series; or

58 (C) a combination of Subsections ~~[(1)(a)(i)(A)]~~ (1)(b)(i)(A) and (B); and

59 (ii) that is approved by the Division of Substance Abuse and Mental Health in
60 accordance with Section [62A-15-105](#).

61 ~~[(b)]~~ (c) "Driving under the influence court" means a court that is approved as a driving
62 under the influence court by the Utah Judicial Council according to standards established by
63 the Judicial Council.

64 ~~[(c)]~~ (d) "Drug" or "drugs" means:

65 (i) a controlled substance as defined in Section [58-37-2](#);

66 (ii) a drug as defined in Section [58-17b-102](#); or

67 (iii) any substance that, when knowingly, intentionally, or recklessly taken into the
68 human body, can impair the ability of a person to safely operate a motor vehicle.

69 ~~[(d)]~~ (e) "Educational series" means an educational series obtained at a substance abuse
70 program that is approved by the Division of Substance Abuse and Mental Health in accordance
71 with Section [62A-15-105](#).

72 ~~[(e)]~~ (f) "Negligence" means simple negligence, the failure to exercise that degree of
73 care that an ordinarily reasonable and prudent person exercises under like or similar
74 circumstances.

75 ~~[(f)]~~ (g) "Novice learner driver" means an individual who:

76 (i) has applied for a Utah driver license;

77 (ii) has not previously held a driver license in this state or another state; and

78 (iii) has not completed the requirements for issuance of a Utah driver license.

79 ~~[(g)]~~ (h) "Screening" means a preliminary appraisal of a person:

80 (i) used to determine if the person is in need of:

81 (A) an assessment; or

82 (B) an educational series; and

83 (ii) that is approved by the Division of Substance Abuse and Mental Health in
84 accordance with Section [62A-15-105](#).

85 ~~[(h)]~~ (i) "Serious bodily injury" means bodily injury that creates or causes:

86 (i) serious permanent disfigurement;

87 (ii) protracted loss or impairment of the function of any bodily member or organ; or

88 (iii) a substantial risk of death.

89 ~~[(†)]~~ (j) "Substance abuse treatment" means treatment obtained at a substance abuse
90 program that is approved by the Division of Substance Abuse and Mental Health in accordance
91 with Section [62A-15-105](#).

92 ~~[(†)]~~ (k) "Substance abuse treatment program" means a state licensed substance abuse
93 program.

94 ~~[(†)]~~ (l) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in
95 Section [41-6a-102](#); and

96 (ii) "Vehicle" or "motor vehicle" includes:

97 (A) an off-highway vehicle as defined under Section [41-22-2](#); and

98 (B) a motorboat as defined in Section [73-18-2](#).

99 (2) As used in Section [41-6a-503](#):

100 (a) "Conviction" means any conviction arising from a separate episode of driving for a
101 violation of:

102 (i) driving under the influence under Section [41-6a-502](#);

103 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a
104 combination of both-related reckless driving under:

105 (I) Section [41-6a-512](#); and

106 (II) Section [41-6a-528](#); or

107 (B) for an offense committed on or after July 1, 2008, impaired driving under Section
108 [41-6a-502.5](#);

109 (iii) driving with any measurable controlled substance that is taken illegally in the body
110 under Section [41-6a-517](#);

111 (iv) local ordinances similar to Section [41-6a-502](#), alcohol, any drug, or a combination
112 of both-related reckless driving, or impaired driving under Section [41-6a-502.5](#) adopted in
113 compliance with Section [41-6a-510](#);

114 (v) automobile homicide under Section [76-5-207](#);

115 (vi) Subsection [58-37-8\(2\)\(g\)](#);

116 (vii) a violation described in Subsections (2)(a)(i) through (vi), which judgment of
117 conviction is reduced under Section [76-3-402](#); ~~[or]~~

118 (viii) refusal of a chemical test under Subsection [41-6a-520\(7\)](#); or

119 [~~viii~~] (ix) statutes or ordinances previously in effect in this state or in effect in any
120 other state, the United States, or any district, possession, or territory of the United States which
121 would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of
122 both-related reckless driving if committed in this state, including punishments administered
123 under 10 U.S.C. Sec. 815.

124 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i)
125 through [~~viii~~] (ix) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in
126 Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been
127 subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for
128 purposes of:

129 (i) enhancement of penalties under:

130 (A) this Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

131 (B) automobile homicide under Section 76-5-207; and

132 (ii) expungement under Title 77, Chapter 40, Utah Expungement Act.

133 (c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent
134 of a conviction even if the charge has been subsequently dismissed in accordance with the Utah
135 Rules of Juvenile Procedure for the purposes of enhancement of penalties under:

136 (i) this part; and

137 (ii) automobile homicide under Section 76-5-207.

138 Section 2. Section 41-6a-502 is amended to read:

139 **41-6a-502. Driving under the influence of alcohol, drugs, or a combination of**
140 **both or with specified or unsafe blood alcohol concentration -- Reporting of convictions.**

141 (1) A person may not operate or be in actual physical control of a vehicle within this
142 state if the person:

143 (a) has sufficient alcohol in the person's body that a subsequent chemical test shows
144 that the person has a blood or breath alcohol concentration of .05 grams or greater at the time
145 of the test;

146 (b) is under the influence of alcohol, any drug, or the combined influence of alcohol
147 and any drug to a degree that renders the person incapable of safely operating a vehicle; or

148 (c) has a blood or breath alcohol concentration of .05 grams or greater at the time of
149 operation or actual physical control.

150 (2) Alcohol concentration in the blood shall be based upon grams of alcohol per 100
151 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of
152 alcohol per 210 liters of breath.

153 (3) A violation of this section includes a violation under a local ordinance similar to
154 this section adopted in compliance with Section [41-6a-510](#).

155 (4) Beginning on July 1, 2012, a court shall, monthly, send to the Division of
156 Occupational and Professional Licensing, created in Section [58-1-103](#), a report containing the
157 name, case number, and, if known, the date of birth of each person convicted during the
158 preceding month of a violation of this section for whom there is evidence that the person was
159 driving under the influence, in whole or in part, of a prescribed controlled substance.

160 (5) An offense described in this section is a strict liability offense.

161 (6) A guilty or no contest plea to an offense described in this section may not be held in
162 abeyance.

163 Section 3. Section **41-6a-503** is amended to read:

164 **41-6a-503. Penalties for driving under the influence violations.**

165 (1) A person who violates for the first or second time Section [41-6a-502](#) is guilty of a:

166 (a) class B misdemeanor; or

167 (b) class A misdemeanor if the person:

168 (i) has also inflicted bodily injury upon another as a proximate result of having
169 operated the vehicle in a negligent manner;

170 (ii) had a passenger under 16 years of age in the vehicle at the time of the offense;

171 (iii) was 21 years of age or older and had a passenger under 18 years of age in the
172 vehicle at the time of the offense; or

173 (iv) at the time of the violation of Section [41-6a-502](#), also violated Section [41-6a-712](#)
174 or 41-6a-714.

175 (2) A person who violates Section [41-6a-502](#) is guilty of a third degree felony if:

176 (a) the person has also inflicted serious bodily injury upon another as a proximate
177 result of having operated the vehicle in a negligent manner;

178 (b) the person has two or more prior convictions as defined in Subsection
179 [41-6a-501\(2\)](#), each of which is within 10 years of:

180 (i) the current conviction under Section [41-6a-502](#); or

181 (ii) the commission of the offense upon which the current conviction is based; or
 182 (c) the conviction under Section 41-6a-502 is at any time after a conviction of:
 183 (i) automobile homicide under Section 76-5-207 that is committed after July 1, 2001;
 184 (ii) a felony violation of Section 41-6a-502 or a statute previously in effect in this state
 185 that would constitute a violation of Section 41-6a-502 that is committed after July 1, 2001; or
 186 (iii) any conviction described in Subsection (2)(c)(i) or (ii) which judgment of
 187 conviction is reduced under Section 76-3-402.

188 (3) A person is guilty of a separate offense for each victim suffering bodily injury or
 189 serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a
 190 result of the person's violation of Section 76-5-207 whether or not the injuries arise from the
 191 same episode of driving.

192 Section 4. Section 41-6a-509 is amended to read:

193 **41-6a-509. Driver license suspension or revocation for a driving under the**
 194 **influence violation.**

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

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

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

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

201 (ii) the current [~~driving under the influence~~] violation under Section 41-6a-502 is
 202 committed[~~-(A)~~] within a period of 10 years from the date of the prior violation[~~;-and~~].

203 [~~(B) on or after July 1, 2009~~].

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

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

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

212 (i) is convicted for the first time of a ~~[driving under the influence]~~ violation under
213 Section 41-6a-502 of an offense committed on or after July 1, 2011; and
214 (ii) has not been issued an operator license;
215 (c) revoke the person's driver license until the person is 21 years of age or for a period
216 of two years, whichever is longer, if:
217 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
218 (ii) the current ~~[driving under the influence]~~ violation under Section 41-6a-502 is
219 committed ~~[on or after July 1, 2009, and]~~ within a period of 10 years from the date of the prior
220 violation; or
221 (d) deny the person's application for a license or learner's permit until the person is 21
222 years of age or for a period of two years, whichever is longer, if:
223 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);
224 (ii) the current ~~[driving under the influence]~~ violation under Section 41-6a-502 is
225 committed ~~[on or after July 1, 2009, and]~~ within a period of 10 years from the date of the prior
226 violation; and
227 (iii) the person has not been issued an operator license.
228 (3) The Driver License Division shall, if the person is under 19 years of age at the time
229 of arrest:
230 (a) suspend the person's driver license until the person is 21 years of age if the person
231 is convicted for the first time of a ~~[driving under the influence]~~ violation under Section
232 41-6a-502 ~~[of an offense that was committed on or after July 1, 2009];~~
233 (b) deny the person's application for a license or learner's permit until the person is 21
234 years of age if the person:
235 (i) is convicted for the first time of a ~~[driving under the influence]~~ violation under
236 Section 41-6a-502 ~~[of an offense committed on or after July 1, 2009];~~ and
237 (ii) has not been issued an operator license;
238 (c) revoke the person's driver license until the person is 21 years of age if:
239 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
240 (ii) the current ~~[driving under the influence]~~ violation under Section 41-6a-502 is
241 committed ~~[on or after July 1, 2009, and]~~ within a period of 10 years from the date of the prior
242 violation; or

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

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

246 (ii) the current ~~[driving under the influence]~~ violation under Section 41-6a-502 is
247 committed ~~[on or after July 1, 2009, and]~~ within a period of 10 years from the date of the prior
248 violation; and

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

250 (4) The Driver License Division shall suspend or revoke the license of a person as
251 ordered by the court under Subsection ~~[(10)]~~ (9).

252 ~~[(5) The Driver License Division shall:]~~

253 ~~[(a) deny, suspend, or revoke the operator's license of a person convicted under Section~~
254 ~~41-6a-502 of an offense that was committed prior to July 1, 2009, for the denial, suspension, or~~
255 ~~revocation periods in effect prior to July 1, 2009; or]~~

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

258 ~~[(i) the person was 20 years of age or older but under 21 years of age at the time of~~
259 ~~arrest; and]~~

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

262 ~~[(6)]~~ (5) The Driver License Division shall subtract from any suspension or revocation
263 period the number of days for which a license was previously suspended under Section
264 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
265 which the record of conviction is based.

266 ~~[(7)]~~ (6) If a conviction recorded as impaired driving is amended to a driving under the
267 influence conviction under Section 41-6a-502 in accordance with Subsection
268 41-6a-502.5(3)(a)(ii), the Driver License Division:

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

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

273 ~~[(8)]~~ (7) A court that reported a conviction of a violation of Section 41-6a-502 for a

274 violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the
275 suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to
276 completion of the suspension period if the person:

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

278 (b) completes a screening;

279 (c) completes an assessment, if it is found appropriate by a screening under Subsection
280 ~~[(8)]~~ (7)(b);

281 (d) completes substance abuse treatment if it is found appropriate by the assessment
282 under Subsection ~~[(8)]~~ (7)(c);

283 (e) completes an educational series if substance abuse treatment is not required by an
284 assessment under Subsection ~~[(8)]~~ (7)(c) or the court does not order substance abuse treatment;

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

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

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

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

297 ~~[(9)]~~ (8) If the court shortens a person's license suspension period in accordance with
298 the requirements of Subsection ~~[(8)]~~ (7), the court shall forward the order shortening the
299 person's suspension period prior to the completion of the suspension period imposed under
300 Subsection (2)(a) or (b) or Subsection (3)(a) or (b) to the Driver License Division.

301 ~~[(10)]~~ (9) (a) (i) In addition to any other penalties provided in this section, a court may
302 order the operator's license of a person who is convicted of a violation of Section [41-6a-502](#) to
303 be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or
304 two years to remove from the highways those persons who have shown they are safety hazards.

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

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

311 [~~(11)~~] (10) (a) The court shall notify the Driver License Division if a person fails to:

312 (i) complete all court ordered:

313 (A) screening;

314 (B) assessment;

315 (C) educational series;

316 (D) substance abuse treatment; and

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

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

319 (b) Upon receiving the notification described in Subsection [~~(11)~~] (10)(a), the division
320 shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and
321 (3).

322 [~~(12)~~] (11) (a) A court that reported a conviction of a violation of Section 41-6a-502 to
323 the Driver License Division may shorten the suspension period imposed under Subsection (1)
324 before completion of the suspension period if the person is participating in or has successfully
325 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

326 (b) If the court shortens a person's license suspension period in accordance with the
327 requirements of this Subsection [~~(12)~~] (11), the court shall forward to the Driver License
328 Division the order shortening the person's suspension period.

329 (c) The court shall notify the Driver License Division if a person fails to complete all
330 requirements of a 24-7 sobriety program.

331 (d) Upon receiving the notification described in Subsection [~~(12)~~] (11)(c), the division
332 shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and
333 (3).

334 Section 5. Section 41-6a-518.2 is amended to read:

335 **41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition**

336 **interlock system.**

337 (1) As used in this section:

338 (a) "Ignition interlock system" means a constant monitoring device or any similar
339 device that:

340 (i) is in working order at the time of operation or actual physical control; and

341 (ii) is certified by the Commissioner of Public Safety in accordance with Subsection
342 [41-6a-518\(8\)](#).

343 (b) (i) "Interlock restricted driver" means a person who:

344 (A) has been ordered by a court or the Board of Pardons and Parole as a condition of
345 probation or parole not to operate a motor vehicle without an ignition interlock system;

346 (B) within the last 18 months has been convicted of a [~~driving under the influence~~]
347 violation under Section [41-6a-502](#) [~~that was committed on or after July 1, 2009~~] or Subsection
348 [41-6a-520\(7\)](#);

349 (C) (I) within the last three years has been convicted of an offense [~~that occurred after~~
350 ~~May 1, 2006~~] which would be a conviction as defined under Section [41-6a-501](#); and

351 (II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years
352 from the date that one or more prior offenses was committed if the prior offense resulted in a
353 conviction as defined in Subsection [41-6a-501\(2\)](#);

354 (D) within the last three years has been convicted of a violation of this section;

355 (E) within the last three years has had the person's driving privilege revoked through an
356 administrative action for refusal to submit to a chemical test under Section [41-6a-520](#) [~~which~~
357 ~~refusal occurred after May 1, 2006~~];

358 (F) within the last three years has been convicted of a violation of Section [41-6a-502](#) or
359 Subsection 41-6a-520(7) and was under the age of 21 at the time the offense was committed;

360 (G) within the last six years has been convicted of a felony violation of Section
361 [41-6a-502](#) or Subsection 41-6a-520(7) for an offense that occurred after May 1, 2006; or

362 (H) within the last 10 years has been convicted of automobile homicide under Section
363 [76-5-207](#) for an offense that occurred after May 1, 2006.

364 (ii) "Interlock restricted driver" does not include a person:

365 (A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under
366 Section [41-6a-502](#) that does not involve alcohol or a conviction under Section [41-6a-517](#) and

367 whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under
368 Section [41-6a-502](#) that did not involve alcohol or convictions under Section [41-6a-517](#);

369 (B) whose conviction described in Subsection (1)(b)(i)(B) or (F) is a conviction under
370 Section [41-6a-502](#) that does not involve alcohol and the convicting court notifies the Driver
371 License Division at the time of sentencing that the conviction does not involve alcohol; or

372 (C) whose conviction described in Subsection (1)(b)(i)(B), (C), or (F) is a conviction
373 under Section [41-6a-502](#) that does not involve alcohol and the ignition interlock restriction is
374 removed as described in Subsection (7).

375 (2) The division shall post the ignition interlock restriction on a person's electronic
376 record that is available to law enforcement.

377 (3) For purposes of this section, a plea of guilty or no contest to a violation of Section
378 [41-6a-502](#) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,
379 prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently
380 reduced or dismissed in accordance with the plea in abeyance agreement.

381 (4) An interlock restricted driver who operates or is in actual physical control of a
382 vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

383 (5) It is an affirmative defense to a charge of a violation of Subsection (4) if:

384 (a) the interlock restricted driver operated or was in actual physical control of a vehicle
385 owned by the interlock restricted driver's employer;

386 (b) the interlock restricted driver had given written notice to the employer of the
387 interlock restricted driver's interlock restricted status prior to the operation or actual physical
388 control under Subsection (5)(a);

389 (c) the interlock restricted driver had on the interlock restricted driver's person, or in
390 the vehicle, at the time of operation or physical control employer verification, as defined in
391 Subsection [41-6a-518](#)(1); and

392 (d) the operation or actual physical control described in Subsection (5)(a) was in the
393 scope of the interlock restricted driver's employment.

394 (6) The affirmative defense described in Subsection (5) does not apply to:

395 (a) an employer-owned motor vehicle that is made available to an interlock restricted
396 driver for personal use; or

397 (b) a motor vehicle owned by a business entity that is entirely or partly owned or

398 controlled by the interlock restricted driver.

399 (7) (a) An individual with an ignition interlock restriction may petition the division for
400 removal of the restriction if the individual's offense did not involve alcohol.

401 (b) If the division is able to establish that an individual's offense did not involve
402 alcohol, the division may remove the ignition interlock restriction.

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

404 **41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of**
405 **tests -- Refusal -- Warning, report.**

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

410 (i) having a blood or breath alcohol content statutorily prohibited under Section
411 [41-6a-502](#), [41-6a-530](#), or [53-3-231](#);

412 (ii) under the influence of alcohol, any drug, or combination of alcohol and any drug
413 under Section [41-6a-502](#); or

414 (iii) having any measurable controlled substance or metabolite of a controlled
415 substance in the person's body in violation of Section [41-6a-517](#).

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

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

422 (ii) If a peace officer requests more than one test, refusal by a person to take one or
423 more requested tests, even though the person does submit to any other requested test or tests, is
424 a refusal under this section.

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

428 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is

429 not a defense to taking a test requested by a peace officer, and it is not a defense in any
430 criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the
431 requested test or tests.

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

438 (i) has been placed under arrest;

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

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

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

447 (ii) When a peace officer gives the notice on behalf of the Driver License Division, the
448 peace officer shall supply to the operator, in a manner specified by the Driver License Division,
449 basic information regarding how to obtain a hearing before the Driver License Division.

450 (c) As a matter of procedure, the peace officer shall submit a signed report, within 10
451 calendar days after the day on which notice is provided under Subsection (2)(b), that:

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

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

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

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

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

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

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

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

470 (7) A person is guilty of refusing a chemical test if the person refuses to submit to a test
471 of the person's blood under Subsection (1) after a court has issued a warrant to draw and test
472 the blood.

473 (8) A person who violates Subsection (7) is guilty of:

474 (a) a third degree felony if:

475 (i) the person has two or more prior convictions as defined in Subsection [41-6a-501\(2\)](#),
476 each of which is within 10 years of:

477 (A) the current conviction; or

478 (B) the commission of the offense upon which the current conviction is based; or

479 (ii) the conviction is at any time after a conviction of:

480 (A) automobile homicide under Section [76-5-207](#);

481 (B) a felony violation of this section or Section [41-6a-502](#); or

482 (C) any conviction described in Subsection (8)(a)(ii) which judgment of conviction is
483 reduced under Section [76-3-402](#); or

484 (b) a class B misdemeanor if none of the circumstances in Subsection (8)(a) applies.

485 (9) As part of any sentence for a conviction of violating this section, the court shall
486 impose the same sentencing as outlined for driving under the influence violations in Section
487 [41-6a-505](#), based on whether this is a first, second, or subsequent conviction as defined by
488 Subsection [41-6a-501\(2\)](#), with the following modifications:

489 (a) any jail sentence shall be 24 consecutive hours more than would be required under
490 Section [41-6a-505](#);

491 (b) any fine imposed shall be \$100 more than would be required under Section
492 41-6a-505; and

493 (c) the court shall order one or more of the following:

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

496 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
497 device as a condition of probation for the individual; or

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

500 (10) (a) The offense of refusal to submit to a chemical test under this section does not
501 merge with any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.

502 (b) A guilty or no contest plea to an offense of refusal to submit to a chemical test
503 under this section may not be held in abeyance.

504 Section 7. Section **41-6a-521.1** is enacted to read:

505 **41-6a-521.1. Driver license denial or revocation for a criminal conviction for a**
506 **refusal to submit to a chemical test violation.**

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

509 (a) revoke for a period of 18 months the operator's license of a person convicted for the
510 first time under Subsection 41-6a-520(7); or

511 (b) revoke for a period of 36 months the license of a person if:

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

513 (ii) the current refusal to submit to a chemical test violation under Subsection
514 41-6a-520(7) is committed within a period of 10 years from the date of the prior violation.

515 (2) The Driver License Division shall, if the person is under 21 years of age at the time
516 of arrest:

517 (a) revoke the person's driver license until the person is 21 years of age or for a period
518 of two years, whichever is longer; or

519 (b) revoke the person's driver license until the person is 21 years of age or for a period
520 of 36 months, whichever is longer, if:

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

522 (ii) the current refusal to submit to a chemical test violation under Subsection
523 41-6a-520(7) is committed within a period of 10 years from the date of the prior violation; or

524 (c) if the person has not been issued an operator license:

525 (i) deny the person's application for a license or learner's permit until the person is 21
526 years of age or for a period of two years, whichever is longer; or

527 (ii) deny the person's application for a license or learner's permit until the person is 21
528 years of age or for a period of 36 months, whichever is longer, if:

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

530 (B) the current refusal to submit to a chemical test violation under Subsection

531 41-6a-520(7) is committed within a period of 10 years from the date of the prior violation.

532 (3) The Driver License Division shall suspend or revoke the license of a person as
533 ordered by the court under Subsection (5).

534 (4) The Driver License Division shall subtract from any revocation period the number
535 of days for which a license was previously revoked under Section 53-3-221 if the previous
536 revocation was based on the same occurrence upon which the record of conviction under
537 Subsection 41-6a-520(7) is based.

538 (5) (a) (i) In addition to any other penalties provided in this section, a court may order
539 the driver license of a person who is convicted of a violation of Subsection 41-6a-520(7) to be
540 revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to
541 remove from the highways those persons who have shown they are safety hazards.

542 (ii) The additional revocation period provided in this Subsection (5) shall begin the
543 date on which the individual would be eligible to reinstate the individual's driving privilege for
544 a violation of Subsection 41-6a-520(7).

545 (b) If the court suspends or revokes the person's license under this Subsection (5), the
546 court shall prepare and send to the Driver License Division an order to suspend or revoke that
547 person's driving privileges for a specified period of time.

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

549 (i) complete all court ordered:

550 (A) screening;

551 (B) assessment;

552 (C) educational series;

553 (D) substance abuse treatment; and
554 (E) hours of work in a compensatory-service work program; or
555 (ii) pay all fines and fees, including fees for restitution and treatment costs.
556 (b) Upon receiving the notification described in Subsection (6)(a), the Driver License
557 Division shall suspend the person's driving privilege in accordance with Subsections
558 53-3-221(2) and (3).

559 Section 8. Section **41-6a-529** is amended to read:

560 **41-6a-529. Definitions -- Alcohol restricted drivers.**

561 (1) As used in this section and Section 41-6a-530, "alcohol restricted driver" means a
562 person who:

563 (a) within the last two years:

564 (i) has been convicted of:

565 (A) a misdemeanor violation of Section 41-6a-502;

566 (B) alcohol, any drug, or a combination of both-related reckless driving under Section
567 41-6a-512;

568 (C) impaired driving under Section 41-6a-502.5;

569 (D) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination
570 of both-related reckless driving, or impaired driving adopted in compliance with Section
571 41-6a-510;

572 (E) a violation described in Subsections (1)(a)(i)(A) through (D), which judgment of
573 conviction is reduced under Section 76-3-402; or

574 (F) statutes or ordinances previously in effect in this state or in effect in any other state,
575 the United States, or any district, possession, or territory of the United States which would
576 constitute a violation of Section 41-6a-502, alcohol, any drug, or a combination of both-related
577 reckless driving, or impaired driving if committed in this state, including punishments
578 administered under 10 U.S.C. Sec. 815; or

579 (ii) has had the person's driving privilege suspended under Section 53-3-223 for an
580 alcohol-related offense based on an arrest which occurred on or after July 1, 2005;

581 (b) within the last three years has been convicted of a violation of this section or
582 Section 41-6a-518.2;

583 (c) within the last five years:

584 (i) has had the person's driving privilege revoked through an administrative action for
585 refusal to submit to a chemical test under Section [41-6a-520](#), which refusal occurred on or after
586 July 1, 2005; [or]

587 (ii) has been convicted of a misdemeanor conviction for refusal to submit to a chemical
588 test under Subsection [41-6a-520\(7\)](#); or

589 [~~(ii)~~] (iii) has been convicted of a class A misdemeanor violation of Section [41-6a-502](#)
590 committed on or after July 1, 2008;

591 (d) within the last 10 years:

592 (i) has been convicted of an offense described in Subsection (1)(a)(i) which offense
593 was committed within 10 years of the commission of a prior offense described in Subsection
594 (1)(a)(i) for which the person was convicted; [or]

595 (ii) has been convicted of a felony violation of refusal to submit to a chemical test
596 under Subsection [41-6a-520\(7\)](#); or

597 [~~(ii)~~] (iii) has had the person's driving privilege revoked for refusal to submit to a
598 chemical test and the refusal is within 10 years after:

599 (A) a prior refusal to submit to a chemical test under Section [41-6a-520](#); or

600 (B) a prior conviction for an offense described in Subsection (1)(a)(i) which is not
601 based on the same arrest as the refusal;

602 (e) at any time has been convicted of:

603 (i) automobile homicide under Section [76-5-207](#) for an offense that occurred on or
604 after July 1, 2005; or

605 (ii) a felony violation of Section [41-6a-502](#) for an offense that occurred on or after July
606 1, 2005;

607 (f) at the time of operation of a vehicle is under 21 years of age; or

608 (g) is a novice learner driver.

609 (2) For purposes of this section and Section [41-6a-530](#), a plea of guilty or no contest to
610 a violation described in Subsection (1)(a)(i) which plea was held in abeyance under Title 77,
611 Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if
612 the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance
613 agreement.

614 Section 9. Section [53-3-220](#) is amended to read:

615 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
616 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
617 **Limited driving privileges.**

618 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter
619 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or
620 disqualification, the division shall deny, suspend, or disqualify the license of a person upon
621 receiving a record of the person's conviction for:

622 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, or
623 automobile homicide under Section 76-5-207 or 76-5-207.5;

624 (ii) driving or being in actual physical control of a motor vehicle while under the
625 influence of alcohol, any drug, or combination of them to a degree that renders the person
626 incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited
627 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

628 (iii) driving or being in actual physical control of a motor vehicle while having a blood
629 or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance
630 that complies with the requirements of Subsection 41-6a-510(1);

631 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
632 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
633 regulating driving on highways;

634 (v) any felony under the motor vehicle laws of this state;

635 (vi) any other felony in which a motor vehicle is used to facilitate the offense;

636 (vii) failure to stop and render aid as required under the laws of this state if a motor
637 vehicle accident results in the death or personal injury of another;

638 (viii) two charges of reckless driving, impaired driving, or any combination of reckless
639 driving and impaired driving committed within a period of 12 months; but if upon a first
640 conviction of reckless driving or impaired driving the judge or justice recommends suspension
641 of the convicted person's license, the division may after a hearing suspend the license for a
642 period of three months;

643 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement
644 officer as required in Section 41-6a-210;

645 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that

646 requires disqualification;

647 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
648 allowing the discharge of a firearm from a vehicle;

649 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
650 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

651 (xiii) operating or being in actual physical control of a motor vehicle while having any
652 measurable controlled substance or metabolite of a controlled substance in the person's body in
653 violation of Section 41-6a-517;

654 (xiv) operating or being in actual physical control of a motor vehicle while having any
655 measurable or detectable amount of alcohol in the person's body in violation of Section
656 41-6a-530;

657 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
658 violation of Section 41-6a-606;

659 (xvi) operating or being in actual physical control of a motor vehicle in this state
660 without an ignition interlock system in violation of Section 41-6a-518.2; [or]

661 (xvii) custodial interference, under:

662 (A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless
663 the court provides the division with an order of suspension for a shorter period of time;

664 (B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless
665 the court provides the division with an order of suspension for a shorter period of time; or

666 (C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless
667 the court provides the division with an order of suspension for a shorter period of time[-]; or

668 (xviii) refusal of a chemical test under Subsection 41-6a-520(7).

669 (b) The division shall immediately revoke the license of a person upon receiving a
670 record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for:

671 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
672 allowing the discharge of a firearm from a vehicle; or

673 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
674 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

675 (c) Except when action is taken under Section 53-3-219 for the same offense, upon
676 receiving a record of conviction, the division shall immediately suspend for six months the

677 license of the convicted person if the person was convicted of one of the following offenses
678 while the person was an operator of a motor vehicle:

679 (i) any violation of:

680 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

681 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

682 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

683 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

684 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

685 (ii) any criminal offense that prohibits:

686 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance

687 that is prohibited under the acts described in Subsection (1)(c)(i); or

688 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or

689 transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

690 (d) (i) The division shall immediately suspend a person's driver license for conviction

691 of the offense of theft of motor vehicle fuel under Section [76-6-404.7](#) if the division receives:

692 (A) an order from the sentencing court requiring that the person's driver license be

693 suspended; and

694 (B) a record of the conviction.

695 (ii) An order of suspension under this section is at the discretion of the sentencing

696 court, and may not be for more than 90 days for each offense.

697 (e) (i) The division shall immediately suspend for one year the license of a person upon

698 receiving a record of:

699 (A) conviction for the first time for a violation under Section [32B-4-411](#); or

700 (B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for a violation

701 under Section [32B-4-411](#).

702 (ii) The division shall immediately suspend for a period of two years the license of a

703 person upon receiving a record of:

704 (A) (I) conviction for a second or subsequent violation under Section [32B-4-411](#); and

705 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior

706 conviction for a violation under Section [32B-4-411](#); or

707 (B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court

708 Act of 1996, for a violation under Section 32B-4-411; and

709 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior
710 adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under
711 Section 32B-4-411.

712 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

713 (A) for a conviction or adjudication described in Subsection (1)(e)(i):

714 (I) impose a suspension for one year beginning on the date of conviction; or

715 (II) if the person is under the age of eligibility for a driver license, impose a suspension
716 that begins on the date of conviction and continues for one year beginning on the date of
717 eligibility for a driver license; or

718 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):

719 (I) impose a suspension for a period of two years; or

720 (II) if the person is under the age of eligibility for a driver license, impose a suspension
721 that begins on the date of conviction and continues for two years beginning on the date of
722 eligibility for a driver license.

723 (iv) Upon receipt of the first order suspending a person's driving privileges under
724 Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if
725 ordered by the court in accordance with Subsection 32B-4-411(3)(a).

726 (v) Upon receipt of the second or subsequent order suspending a person's driving
727 privileges under Section 32B-4-411, the division shall reduce the suspension period under
728 Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

729 (2) The division shall extend the period of the first denial, suspension, revocation, or
730 disqualification for an additional like period, to a maximum of one year for each subsequent
731 occurrence, upon receiving:

732 (a) a record of the conviction of any person on a charge of driving a motor vehicle
733 while the person's license is denied, suspended, revoked, or disqualified;

734 (b) a record of a conviction of the person for any violation of the motor vehicle law in
735 which the person was involved as a driver;

736 (c) a report of an arrest of the person for any violation of the motor vehicle law in
737 which the person was involved as a driver; or

738 (d) a report of an accident in which the person was involved as a driver.

739 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
740 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
741 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,
742 or revocation originally imposed under Section 53-3-221.

743 (4) (a) The division may extend to a person the limited privilege of driving a motor
744 vehicle to and from the person's place of employment or within other specified limits on
745 recommendation of the judge in any case where a person is convicted of any of the offenses
746 referred to in Subsections (1) and (2) except:

747 (i) automobile homicide under Subsection (1)(a)(i);

748 (ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), (xiii), (1)(b), and
749 (1)(c); and

750 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
751 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
752 41-6a-517, a local ordinance which complies with the requirements of Subsection
753 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person
754 was charged with violating as a result of a plea bargain after having been originally charged
755 with violating one or more of these sections or ordinances, unless:

756 (A) the person has had the period of the first denial, suspension, revocation, or
757 disqualification extended for a period of at least three years;

758 (B) the division receives written verification from the person's primary care physician
759 that:

760 (I) to the physician's knowledge the person has not used any narcotic drug or other
761 controlled substance except as prescribed by a licensed medical practitioner within the last
762 three years; and

763 (II) the physician is not aware of any physical, emotional, or mental impairment that
764 would affect the person's ability to operate a motor vehicle safely; and

765 (C) for a period of one year prior to the date of the request for a limited driving
766 privilege:

767 (I) the person has not been convicted of a violation of any motor vehicle law in which
768 the person was involved as the operator of the vehicle;

769 (II) the division has not received a report of an arrest for a violation of any motor

770 vehicle law in which the person was involved as the operator of the vehicle; and

771 (III) the division has not received a report of an accident in which the person was
772 involved as an operator of a vehicle.

773 (b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege
774 authorized in this Subsection (4):

775 (A) is limited to when undue hardship would result from a failure to grant the
776 privilege; and

777 (B) may be granted only once to any person during any single period of denial,
778 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,
779 or disqualification.

780 (ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

781 (A) is limited to when the limited privilege is necessary for the person to commute to
782 school or work; and

783 (B) may be granted only once to any person during any single period of denial,
784 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,
785 or disqualification.

786 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform
787 Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or
788 denied under this chapter.

789 Section 10. Section **53-3-223** is amended to read:

790 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
791 **Hearing and decision -- Suspension and fee -- Judicial review.**

792 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
793 violating or has violated Section [41-6a-502](#), prohibiting the operation of a vehicle with a
794 certain blood or breath alcohol concentration and driving under the influence of any drug,
795 alcohol, or combination of a drug and alcohol or while having any measurable controlled
796 substance or metabolite of a controlled substance in the person's body in violation of Section
797 [41-6a-517](#), the peace officer may, in connection with arresting the person, request that the
798 person submit to a chemical test or tests to be administered in compliance with the standards
799 under Section [41-6a-520](#).

800 (b) In this section, a reference to Section [41-6a-502](#) includes any similar local

801 ordinance adopted in compliance with Subsection 41-6a-510(1).

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

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

813 (4) When a peace officer gives notice on behalf of the division, the peace officer shall
814 supply to the driver, in a manner specified by the division, basic information regarding how to
815 obtain a prompt hearing before the division.

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

818 (a) a copy of the citation issued for the offense;

819 (b) a signed report in a manner specified by the division indicating the chemical test
820 results, if any; and

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

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

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

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

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

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

832 both agree.

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

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

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

837 (iii) the test results, if any.

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

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

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

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

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

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

847 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
848 grounds to believe that the person was driving a motor vehicle in violation of Section
849 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the
850 notice, or if a hearing is not requested under this section, the division shall:

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

854 (A) 120 days beginning on the 45th day after the date of arrest for a first suspension; or

855 (B) two years beginning on the 45th day after the date of arrest for a second or
856 subsequent suspension for an offense that occurred within the previous 10 years; or

857 (ii) if the person is under 21 years of age at the time of arrest [~~and the arrest was made~~
858 ~~on or after May 14, 2013~~]:

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

860 (I) for a period of six months, beginning on the 45th day after the date of arrest for a
861 first suspension; or

862 (II) until the person is 21 years of age or for a period of two years, whichever is longer,

863 beginning on the 45th day after the date of arrest for a second or subsequent suspension for an
864 offense that occurred within the previous 10 years; or

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

866 (I) for a period of six months beginning on the 45th day after the date of the arrest for a
867 first suspension, if the person has not been issued an operator license; or

868 (II) until the person is 21 years of age or for a period of two years, whichever is longer,
869 beginning on the 45th day after the date of arrest for a second or subsequent suspension for an
870 offense that occurred within the previous 10 years.

871 ~~[(b) The division shall deny or suspend a person's license for the denial and suspension~~
872 ~~periods in effect:]~~

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

874 ~~[(ii) from July 1, 2009, through June 30, 2011, if:]~~

875 ~~[(A) the person was 20 years 6 months of age or older but under 21 years of age at the~~
876 ~~time of arrest; and]~~

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

879 ~~[(iii) prior to May 14, 2013, for an offense that was committed prior to May 14, 2013.]~~

880 ~~[(c)]~~ (b) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division
881 shall reinstate a person's license prior to completion of the 120 day suspension period imposed
882 under Subsection (7)(a)(i)(A):

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

886 (B) no sooner than 60 days beginning on the 45th day after the date of arrest upon
887 receiving written verification of the person's reduction of a charge for a violation of Section
888 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the
889 suspension period.

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

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

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

899 (iii) If a person's license is reinstated under this Subsection (7)(~~e~~)(b), the person is
900 required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

901 (iv) The driver license reinstatements authorized under this Subsection (7)(~~e~~)(b) only
902 apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

903 [~~(8) (a) Notwithstanding the provisions in Subsection (7)(b)(iii), the division shall~~
904 ~~shorten a person's two-year license suspension period that is currently in effect to a six-month~~
905 ~~suspension period if:]~~

906 [~~(i) the driver was under the age of 19 at the time of arrest;]~~

907 [~~(ii) the offense was a first offense that was committed prior to May 14, 2013; and]~~

908 [~~(iii) the suspension under Subsection (7)(b)(iii) was based on the same occurrence~~
909 ~~upon which the following written verifications are based:]~~

910 [~~(A) a court order shortening the driver license suspension for a violation of Section~~
911 ~~41-6a-502 pursuant to Subsection 41-6a-509(8);]~~

912 [~~(B) a court order shortening the driver license suspension for a violation of Section~~
913 ~~41-6a-517 pursuant to Subsection 41-6a-517(11);]~~

914 [~~(C) a court order shortening the driver license suspension for a violation of Section~~
915 ~~32B-4-409;]~~

916 [~~(D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section~~
917 ~~32B-4-409;]~~

918 [~~(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section~~
919 ~~41-6a-517, or Section 32B-4-409;]~~

920 [~~(F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section~~
921 ~~32B-4-409; or]~~

922 [~~(G) other written documentation acceptable to the division.]~~

923 [~~(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
924 ~~the division may make rules establishing requirements for acceptable written documentation to~~

925 shorten a person's driver license suspension period under Subsection (8)(a)(iii)(G).]

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

928 [~~(9)~~] (8) (a) The division shall assess against a person, in addition to any fee imposed
929 under Subsection ~~53-3-205~~(12) for driving under the influence, a fee under Section ~~53-3-105~~ to
930 cover administrative costs, which shall be paid before the person's driving privilege is
931 reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or
932 court decision that the suspension was not proper.

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

936 [~~(10)~~] (9) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division
937 shall reinstate a person's license before completion of the suspension period imposed under
938 Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the
939 defendant is participating in or has successfully completed a 24-7 sobriety program as defined
940 in Section ~~41-6a-515.5~~.

941 (b) If a person's license is reinstated under Subsection [~~(10)~~] (9)(a), the person is
942 required to pay the license reinstatement fees under Subsections ~~53-3-105~~(24) and (25).

943 Section 11. Section ~~53-3-231~~ is amended to read:

944 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**
945 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**
946 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**
947 **Referral to local substance abuse authority or program.**

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

949 (i) "Local substance abuse authority" has the same meaning as provided in Section
950 ~~62A-15-102~~.

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

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

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

959 (b) A person who violates Subsection (2)(a), in addition to any other applicable
960 penalties arising out of the incident, shall have the person's operator license denied or
961 suspended as provided in Subsection (7).

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

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

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

975 (4) When a peace officer gives notice on behalf of the division, the peace officer shall
976 supply to the operator, in a manner specified by the division, basic information regarding how
977 to obtain a prompt hearing before the division.

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

980 (a) a copy of the citation issued for the offense;

981 (b) a signed report in a manner specified by the Driver License Division indicating the
982 chemical test results, if any; and

983 (c) any other basis for a peace officer's determination that the person has violated
984 Subsection (2).

985 (6) (a) (i) Upon request in a manner specified by the division, the Driver License
986 Division shall grant to the person an opportunity to be heard within 29 days after the date of

987 arrest under Section [32B-4-409](#).

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

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

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

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

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

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

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

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

1000 (iii) the test results, if any.

1001 (d) In connection with a hearing, the division or its authorized agent may administer
1002 oaths and may issue subpoenas for the attendance of witnesses and the production of relevant
1003 books and papers and records as defined in Section [46-4-102](#).

1004 (e) One or more members of the division may conduct the hearing.

1005 (f) Any decision made after a hearing before any number of the members of the
1006 division is as valid as if made after a hearing before the full membership of the division.

1007 (7) If, after a hearing, the division determines that a peace officer had reasonable
1008 grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a),
1009 if the person fails to appear before the division as required in the notice, or if the person does
1010 not request a hearing under this section, the division shall for a person under 21 years of age on
1011 the date of arrest:

1012 (a) deny the person's license until the person complies with Subsection ~~[(11)]~~ (10)(b)(i)
1013 but for a period of not less than six months beginning on the 45th day after the date of arrest for
1014 a first offense under Subsection (2)(a) ~~[committed on or after May 14, 2013]~~;

1015 (b) suspend the person's license until the person complies with Subsection ~~[(11)]~~
1016 (10)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is
1017 longer, beginning on the 45th day after the date of arrest for a second or subsequent offense

1018 under Subsection (2)(a) [~~committed on or after July 1, 2009, and~~] within 10 years of a prior
1019 denial or suspension;

1020 (c) deny the person's application for a license or learner's permit until the person
1021 complies with Subsection [~~(10)~~] (10)(b)(i) but for a period of not less than six months
1022 beginning on the 45th day after the date of the arrest, if:

1023 (i) the person has not been issued an operator license; and

1024 (ii) the suspension is for a first offense under Subsection (2)(a) [~~committed on or after~~
1025 ~~July 1, 2009~~];

1026 (d) deny the person's application for a license or learner's permit until the person
1027 complies with Subsection [~~(10)~~] (10)(b)(i) and until the person is 21 years of age or for a period
1028 of two years, whichever is longer, beginning on the 45th day after the date of the arrest, if:

1029 (i) the person has not been issued an operator license; and

1030 (ii) the suspension is for a second or subsequent offense under Subsection (2)(a)
1031 committed [~~on or after July 1, 2009, and~~] within 10 years of a prior denial or suspension[~~; or~~].
1032 [~~(e) deny or suspend a person's license for the denial and suspension periods in effect:~~
1033 [~~(i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed~~
1034 ~~prior to July 1, 2009;~~]

1035 [~~(ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of~~
1036 ~~age or older but under 21 years of age at the time of arrest and the conviction under Subsection~~
1037 ~~(2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or]~~

1038 [~~(iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed~~
1039 ~~prior to May 14, 2013.~~]

1040 [(8)(a) ~~Notwithstanding the provisions in Subsection (7)(e)(iii), the division shall~~
1041 ~~shorten a person's one-year license suspension or denial period that is currently in effect to a~~
1042 ~~six-month suspension or denial period if:~~]

1043 [(i) ~~the driver was under the age of 19 at the time of arrest;~~]

1044 [(ii) ~~the offense was a first offense that was committed prior to May 14, 2013; and]~~

1045 [(iii) ~~the suspension or denial under Subsection (7)(e)(iii) was based on the same~~
1046 ~~occurrence upon which the following written verifications are based:~~]

1047 [(A) ~~a court order shortening the driver license suspension for a violation of Section~~
1048 ~~41-6a-502 pursuant to Subsection 41-6a-509(8);]~~

1049 ~~[(B) a court order shortening the driver license suspension for a violation of Section~~
1050 ~~41-6a-517 pursuant to Subsection 41-6a-517(11);]~~

1051 ~~[(C) a court order shortening the driver license suspension for a violation of Section~~
1052 ~~32B-4-409;]~~

1053 ~~[(D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section~~
1054 ~~32B-4-409;]~~

1055 ~~[(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section~~
1056 ~~41-6a-517, or Section 32B-4-409;]~~

1057 ~~[(F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section~~
1058 ~~32B-4-409; or]~~

1059 ~~[(G) other written documentation acceptable to the division.]~~

1060 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1061 ~~the division may make rules establishing requirements for acceptable documentation to shorten~~
1062 ~~a person's driver license suspension or denial period under this Subsection (8).]~~

1063 ~~[(c) If a person's license sanction is shortened under this Subsection (8), the person is~~
1064 ~~required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).]~~

1065 ~~[(9)]~~ (8) (a) (i) Following denial or suspension the division shall assess against a
1066 person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section
1067 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover
1068 administrative costs.

1069 (ii) This fee shall be canceled if the person obtains an unappealed division hearing or
1070 court decision that the suspension was not proper.

1071 (b) A person whose operator license has been denied, suspended, or postponed by the
1072 division under this section following an administrative hearing may file a petition within 30
1073 days after the suspension for a hearing on the matter which, if held, is governed by Section
1074 53-3-224.

1075 ~~[(10)]~~ (9) After reinstatement of an operator license for a first offense under this
1076 section, a report authorized under Section 53-3-104 may not contain evidence of the denial or
1077 suspension of the person's operator license under this section if the person has not been
1078 convicted of any other offense for which the denial or suspension may be extended.

1079 ~~[(11)]~~ (10) (a) In addition to the penalties in Subsection ~~[(9)]~~ (8), a person who violates

1080 Subsection (2)(a) shall:

1081 (i) obtain an assessment and recommendation for appropriate action from a substance
1082 abuse program, but any associated costs shall be the person's responsibility; or

1083 (ii) be referred by the division to the local substance abuse authority for an assessment
1084 and recommendation for appropriate action.

1085 (b) (i) Reinstatement of the person's operator license or the right to obtain an operator
1086 license within five years of the effective date of the license sanction under Subsection (7) is
1087 contingent upon successful completion of the action recommended by the local substance
1088 abuse authority or the substance abuse program.

1089 (ii) The local substance abuse authority's or the substance abuse program's
1090 recommended action shall be determined by an assessment of the person's alcohol abuse and
1091 may include:

1092 (A) a targeted education and prevention program;

1093 (B) an early intervention program; or

1094 (C) a substance abuse treatment program.

1095 (iii) Successful completion of the recommended action shall be determined by
1096 standards established by the Division of Substance Abuse and Mental Health.

1097 (c) At the conclusion of the penalty period imposed under Subsection (2), the local
1098 substance abuse authority or the substance abuse program shall notify the division of the
1099 person's status regarding completion of the recommended action.

1100 (d) The local substance abuse authorities and the substance abuse programs shall
1101 cooperate with the division in:

1102 (i) conducting the assessments;

1103 (ii) making appropriate recommendations for action; and

1104 (iii) notifying the division about the person's status regarding completion of the
1105 recommended action.

1106 (e) (i) The local substance abuse authority is responsible for the cost of the assessment
1107 of the person's alcohol abuse, if the assessment is conducted by the local substance abuse
1108 authority.

1109 (ii) The local substance abuse authority or a substance abuse program selected by a
1110 person is responsible for:

1111 (A) conducting an assessment of the person's alcohol abuse; and
1112 (B) for making a referral to an appropriate program on the basis of the findings of the
1113 assessment.

1114 (iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees
1115 associated with the recommended program to which the person selected or is referred.

1116 (B) The costs and fees under Subsection ~~[(+)]~~ (10)(e)(iii)(A) shall be based on a
1117 sliding scale consistent with the local substance abuse authority's policies and practices
1118 regarding fees for services or determined by the substance abuse program.

1119 Section 12. Section **77-40-105 (Effective 05/01/20)** is amended to read:

1120 **77-40-105 (Effective 05/01/20). Requirements to apply for a certificate of**
1121 **eligibility to expunge conviction.**

1122 (1) An individual convicted of an offense may apply to the bureau for a certificate of
1123 eligibility to expunge the record of conviction as provided in this section.

1124 (2) An individual is not eligible to receive a certificate of eligibility from the bureau if:

1125 (a) the conviction for which expungement is sought is:

1126 (i) a capital felony;

1127 (ii) a first degree felony;

1128 (iii) a violent felony as defined in Subsection [76-3-203.5\(1\)\(c\)\(i\)](#);

1129 (iv) felony automobile homicide;

1130 (v) a felony ~~[violation of]~~ conviction described in Subsection [41-6a-501\(2\)](#);

1131 (vi) a registerable sex offense as defined in Subsection [77-41-102\(17\)](#); or

1132 (vii) a registerable child abuse offense as defined in Subsection [77-43-102\(2\)](#);

1133 (b) a criminal proceeding is pending against the petitioner; or

1134 (c) the petitioner intentionally or knowingly provides false or misleading information

1135 on the application for a certificate of eligibility.

1136 (3) A petitioner seeking to obtain expungement for a record of conviction is not
1137 eligible to receive a certificate of eligibility from the bureau until all of the following have
1138 occurred:

1139 (a) the petitioner has paid in full all fines and interest ordered by the court related to the
1140 conviction for which expungement is sought;

1141 (b) the petitioner has paid in full all restitution ordered by the court pursuant to Section

1142 77-38a-302, or by the Board of Pardons and Parole pursuant to Section 77-27-6; and
1143 (c) the following time periods have elapsed from the date the petitioner was convicted
1144 or released from incarceration, parole, or probation, whichever occurred last, for each
1145 conviction the petitioner seeks to expunge:
1146 (i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a
1147 felony conviction of Subsection 58-37-8(2)(g);
1148 (ii) seven years in the case of a felony;
1149 (iii) five years in the case of any class A misdemeanor or a felony drug possession
1150 offense;
1151 (iv) four years in the case of a class B misdemeanor; or
1152 (v) three years in the case of any other misdemeanor or infraction.
1153 (4) The bureau may not count pending or previous infractions, traffic offenses, or
1154 minor regulatory offenses, or fines or fees arising from the infractions, traffic offenses, or
1155 minor regulatory offenses, when determining expungement eligibility.
1156 (5) The bureau may not issue a certificate of eligibility if, at the time the petitioner
1157 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,
1158 including previously expunged convictions, contains any of the following, except as provided
1159 in Subsection (8):
1160 (a) two or more felony convictions other than for drug possession offenses, each of
1161 which is contained in a separate criminal episode;
1162 (b) any combination of three or more convictions other than for drug possession
1163 offenses that include two class A misdemeanor convictions, each of which is contained in a
1164 separate criminal episode;
1165 (c) any combination of four or more convictions other than for drug possession
1166 offenses that include three class B misdemeanor convictions, each of which is contained in a
1167 separate criminal episode; or
1168 (d) five or more convictions other than for drug possession offenses of any degree
1169 whether misdemeanor or felony, each of which is contained in a separate criminal episode.
1170 (6) The bureau may not issue a certificate of eligibility if, at the time the petitioner
1171 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,
1172 including previously expunged convictions, contains any of the following:

1173 (a) three or more felony convictions for drug possession offenses, each of which is
1174 contained in a separate criminal episode; or

1175 (b) any combination of five or more convictions for drug possession offenses, each of
1176 which is contained in a separate criminal episode.

1177 (7) If the petitioner's criminal history contains convictions for both a drug possession
1178 offense and a non drug possession offense arising from the same criminal episode, that criminal
1179 episode shall be counted as provided in Subsection (5) if any non drug possession offense in
1180 that episode:

1181 (a) is a felony or class A misdemeanor; or

1182 (b) has the same or a longer waiting period under Subsection (3) than any drug
1183 possession offense in that episode.

1184 (8) If at least 10 years have elapsed from the date the petitioner was convicted or
1185 released from incarceration, parole, or probation, whichever occurred last, for all convictions,
1186 then each eligibility limit defined in Subsection (5) shall be increased by one.

1187 (9) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board
1188 of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned
1189 crimes pursuant to Section [77-27-5.1](#).

1190 Section 13. **Effective date.**

1191 This bill takes effect on July 1, 2020.