

IMPAIRED DRIVING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions and penalties related to a person's operation of a motor vehicle with a measurable controlled substance in the person's body.

Highlighted Provisions:

This bill:

- ▶ provides that the offense of a person's operation of a vehicle with a measurable controlled substance in the person's body does not include the presence of only inactive cannabis metabolite in the person's body;
- ▶ amends provisions associated with a person's operation of a motor vehicle with a measurable controlled substance in the person's body by making the offense a third degree felony if the person has two or more related convictions within 10 years;
- ▶ amends penalties associated with the conviction of a person's operation of a motor vehicle with a measurable controlled substance in the person's body; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 [41-6a-517](#), as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
 29 [53-3-223](#), as last amended by Laws of Utah 2019, Chapter 77
 30 [53-3-231](#), as last amended by Laws of Utah 2019, Chapter 77



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section [41-6a-517](#) is amended to read:

34 **[41-6a-517](#). Definitions -- Driving with any measurable controlled substance in the**
 35 **body -- Penalties -- Arrest without warrant.**

36 (1) As used in this section:

- 37 (a) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).
- 38 (b) "Practitioner" means the same as that term is defined in Section [58-37-2](#).
- 39 (c) "Prescribe" means the same as that term is defined in Section [58-37-2](#).
- 40 (d) "Prescription" means the same as that term is defined in Section [58-37-2](#).

41 (2) (a) ~~It~~ Except as provided in Subsection (2)(b), in cases not amounting to a
 42 violation of Section [41-6a-502](#), a person may not operate or be in actual physical control of a
 43 motor vehicle within this state if the person has any measurable controlled substance or
 44 metabolite of a controlled substance in the person's body.

45 (b) Subsection (2)(a) does not apply to a person that has
 46 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's
 47 body.

48 (3) It is an affirmative defense to prosecution under this section that the controlled
49 substance was:

- 50 (a) involuntarily ingested by the accused;
- 51 (b) prescribed by a practitioner for use by the accused;
- 52 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
53 form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical
54 Cannabis Act; or
- 55 (d) otherwise legally ingested.

56 (4) (a) A person ~~convicted of a violation of~~ who violates Subsection (2) for the first
 57 or second time is guilty of a class B misdemeanor.

58 (b) A person who violates this section is subject to conviction and sentencing under

59 both this section and any applicable offense under Section [58-37-8](#).

60 (5) A person who violates Subsection (2) is guilty of a third degree felony if:

61 (a) the person has two or more prior convictions as defined in Subsection

62 [41-6a-501\(2\)](#), each of which is within 10 years of:

63 (i) the current conviction under Subsection (2); or

64 (ii) the commission of the offense upon which the current conviction is based; or

65 (b) the conviction under Section [41-6a-502](#) is at any time after a conviction of:

66 (i) automobile homicide under Section [76-5-207](#) that is committed after July 1, 2001;

67 (ii) a felony violation of Section [41-6a-502](#), Subsection (2), or a statute previously in

68 effect in this state that would constitute a violation of Section [41-6a-502](#) or Subsection (2) that

69 is committed after July 1, 2001; or

70 (iii) any conviction described in Subsection (2) for which judgment of conviction is

71 reduced under Section [76-3-402](#).

72 [~~5~~] (6) A peace officer may, without a warrant, arrest a person for a violation of this

73 section when the officer has probable cause to believe the violation has occurred, although not

74 in the officer's presence, and if the officer has probable cause to believe that the violation was

75 committed by the person.

76 [~~6~~] (7) The Driver License Division shall, if the person is 21 years of age or older on
77 the date of arrest:

78 (a) suspend, for a period of 120 days, the driver license of a person convicted under
79 Subsection (2) of an offense committed on or after July 1, 2009; or

80 (b) revoke, for a period of two years, the driver license of a person if:

81 (i) the person has a prior conviction as defined under Subsection [41-6a-501\(2\)](#); and

82 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

83 and within a period of 10 years after the date of the prior violation.

84 [~~7~~] (8) The Driver License Division shall, if the person is 19 years of age or older but
85 under 21 years of age on the date of arrest:

86 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is
87 longer, the driver license of a person convicted under Subsection (2) of an offense committed
88 on or after July 1, 2011; or

89 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is

90 longer, the driver license of a person if:

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

92 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

93 and within a period of 10 years after the date of the prior violation.

94 ~~[(8)]~~ (9) The Driver License Division shall, if the person is under 19 years of age on
95 the date of arrest:

96 (a) suspend, until the person is 21 years of age, the driver license of a person convicted
97 under Subsection (2) of an offense committed on or after July 1, 2009; or

98 (b) revoke, until the person is 21 years of age, the driver license of a person if:

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

100 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
101 and within a period of 10 years after the date of the prior violation.

102 ~~[(9)]~~ (10) The Driver License Division shall subtract from any suspension or
103 revocation period the number of days for which a license was previously suspended under
104 Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence
105 upon which the record of conviction is based.

106 ~~[(10)]~~ (11) The Driver License Division shall:

107 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in
108 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was
109 committed prior to July 1, 2009; or

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

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

114 (ii) the conviction under Subsection (2) is for an offense that was committed on or after
115 July 1, 2009, and prior to July 1, 2011.

116 ~~[(11)]~~ (12) A court that reported a conviction of a violation of this section for a
117 violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the
118 suspension period imposed under Subsection ~~[(7)]~~ (8)(a) or ~~[(8)]~~ (9)(a) prior to completion of
119 the suspension period if the person:

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

- 121 (b) completes a screening;
- 122 (c) completes an assessment, if it is found appropriate by a screening under Subsection
123 [~~(11)~~] (12)(b);
- 124 (d) completes substance abuse treatment if it is found appropriate by the assessment
125 under Subsection [~~(11)~~] (12)(c);
- 126 (e) completes an educational series if substance abuse treatment is not required by the
127 assessment under Subsection [~~(11)~~] (12)(c) or the court does not order substance abuse
128 treatment;
- 129 (f) has not been convicted of a violation of any motor vehicle law in which the person
130 was involved as the operator of the vehicle during the suspension period imposed under
131 Subsection [~~(7)~~] (8)(a) or [~~(8)~~] (9)(a);
- 132 (g) has complied with all the terms of the person's probation or all orders of the court if
133 not ordered to probation; and
- 134 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
135 person has not consumed a controlled substance not prescribed by a practitioner for use by the
136 person or unlawfully consumed alcohol during the suspension period imposed under
137 Subsection [~~(7)~~] (8)(a) or [~~(8)~~] (9)(a); or
- 138 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
139 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
140 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
141 for use by the person or unlawfully consumed alcohol during the suspension period imposed
142 under Subsection [~~(7)~~] (8)(a) or [~~(8)~~] (9)(a).
- 143 [~~(12)~~] (13) If the court shortens a person's license suspension period in accordance with
144 the requirements of Subsection [~~(11)~~] (12), the court shall forward the order shortening the
145 person's license suspension period prior to the completion of the suspension period imposed
146 under Subsection [~~(7)~~] (8)(a) or [~~(8)~~] (9)(a) to the Driver License Division.
- 147 [~~(13)~~] (14) (a) The court shall notify the Driver License Division if a person fails to:
- 148 (i) complete all court ordered screening and assessment, educational series, and
149 substance abuse treatment; or
- 150 (ii) pay all fines and fees, including fees for restitution and treatment costs.
- 151 (b) Upon receiving the notification, the division shall suspend the person's driving

152 privilege in accordance with Subsections [53-3-221](#)(2) and (3).

153 ~~[(14)]~~ (15) (a) The court:

154 ~~[(a)]~~ (i) shall order supervised probation in accordance with Section [41-6a-507](#) for a
155 person convicted under Subsection (2); and

156 ~~[(b)]~~ (ii) may order a person convicted under Subsection (2) to participate in a 24-7
157 sobriety program as defined in Section [41-6a-515.5](#) if the person is 21 years of age or older.

158 (b) The court shall:

159 (i) impose a jail sentence of not less than 48 consecutive hours; or

160 (ii) require the individual to work in a compensatory-service work program for not less
161 than 48 hours.

162 (16) If an individual has a prior conviction as defined in Subsection [41-6a-501](#)(2) that
163 is within 10 years of the current conviction under Section [41-6a-502](#) or the commission of the
164 offense upon which the current conviction is based, the court shall:

165 (a) impose a jail sentence of not less than 240 hours; or

166 (b) impose a jail sentence of not less than 120 hours in addition to home confinement
167 of not fewer than 720 consecutive hours through the use of electronic monitoring that includes
168 a substance abuse testing instrument in accordance with Section [41-6a-506](#).

169 (17) Under Subsection (15), if the court suspends the execution of a prison sentence
170 and places the defendant on probation, the court shall impose:

171 (a) a fine of not less than \$1,500; and

172 (b) a jail sentence of not less than 1,500 hours.

173 ~~[(15)]~~ (18) (a) A court that reported a conviction of a violation of this section to the
174 Driver License Division may shorten the suspension period imposed under Subsection ~~[(6)]~~ (7)
175 before completion of the suspension period if the person is participating in or has successfully
176 completed a 24-7 sobriety program as defined in Section [41-6a-515.5](#).

177 (b) If the court shortens a person's license suspension period in accordance with the
178 requirements of this Subsection ~~[(15)]~~ (18), the court shall forward to the Driver License
179 Division the order shortening the person's suspension period.

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

182 (d) Upon receiving the notification described in Subsection ~~[(15)]~~ (18)(c), the division

183 shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and
184 (3).

185 Section 2. Section 53-3-223 is amended to read:

186 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
187 **Hearing and decision -- Suspension and fee -- Judicial review.**

188 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
189 violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a
190 certain blood or breath alcohol concentration and driving under the influence of any drug,
191 alcohol, or combination of a drug and alcohol or while having any measurable controlled
192 substance or metabolite of a controlled substance in the person's body in violation of Section
193 41-6a-517, the peace officer may, in connection with arresting the person, request that the
194 person submit to a chemical test or tests to be administered in compliance with the standards
195 under Section 41-6a-520.

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

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

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

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

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

- 214 (a) a copy of the citation issued for the offense;
- 215 (b) a signed report in a manner specified by the division indicating the chemical test
216 results, if any; and
- 217 (c) any other basis for the peace officer's determination that the person has violated
218 Section [41-6a-502](#) or [41-6a-517](#).
- 219 (6) (a) Upon request in a manner specified by the division, the division shall grant to
220 the person an opportunity to be heard within 29 days after the date of arrest. The request to be
221 heard shall be made within 10 calendar days of the day on which notice is provided under
222 Subsection (5).
- 223 (b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the
224 division in:
 - 225 (A) the county in which the arrest occurred; or
 - 226 (B) a county that is adjacent to the county in which the arrest occurred.
- 227 (ii) The division may hold a hearing in some other county if the division and the person
228 both agree.
- 229 (c) The hearing shall be documented and shall cover the issues of:
 - 230 (i) whether a peace officer had reasonable grounds to believe the person was driving a
231 motor vehicle in violation of Section [41-6a-502](#) or [41-6a-517](#);
 - 232 (ii) whether the person refused to submit to the test; and
 - 233 (iii) the test results, if any.
- 234 (d) (i) In connection with a hearing the division or its authorized agent:
 - 235 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and
236 the production of relevant books and papers; or
 - 237 (B) may issue subpoenas for the attendance of necessary peace officers.
- 238 (ii) The division shall pay witness fees and mileage from the Transportation Fund in
239 accordance with the rates established in Section [78B-1-119](#).
- 240 (e) The division may designate one or more employees to conduct the hearing.
- 241 (f) Any decision made after a hearing before any designated employee is as valid as if
242 made by the division.
- 243 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
244 grounds to believe that the person was driving a motor vehicle in violation of Section

245 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the
246 notice, or if a hearing is not requested under this section, the division shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

282 (B) no sooner than 60 days beginning on the 45th day after the date of arrest upon
283 receiving written verification of the person's reduction of a charge for a violation of Section
284 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the
285 suspension period.

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

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

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

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

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

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

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

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

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

306 (A) a court order shortening the driver license suspension for a violation of Section

- 307 41-6a-502 pursuant to Subsection 41-6a-509(8);
- 308 (B) a court order shortening the driver license suspension for a violation of Section
- 309 41-6a-517 pursuant to Subsection 41-6a-517~~[(11)]~~(12);
- 310 (C) a court order shortening the driver license suspension for a violation of Section
- 311 32B-4-409;
- 312 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section
- 313 32B-4-409;
- 314 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section
- 315 41-6a-517, or Section 32B-4-409;
- 316 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section
- 317 32B-4-409; or
- 318 (G) other written documentation acceptable to the division.
- 319 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 320 division may make rules establishing requirements for acceptable written documentation to
- 321 shorten a person's driver license suspension period under Subsection (8)(a)(iii)(G).
- 322 (c) If a person's license sanction is shortened under this Subsection (8), the person is
- 323 required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).
- 324 (9) (a) The division shall assess against a person, in addition to any fee imposed under
- 325 Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover
- 326 administrative costs, which shall be paid before the person's driving privilege is reinstated.
- 327 This fee shall be cancelled if the person obtains an unappealed division hearing or court
- 328 decision that the suspension was not proper.
- 329 (b) A person whose license has been suspended by the division under this section
- 330 following an administrative hearing may file a petition within 30 days after the suspension for a
- 331 hearing on the matter which, if held, is governed by Section 53-3-224.
- 332 (10) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall
- 333 reinstate a person's license before completion of the suspension period imposed under
- 334 Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the
- 335 defendant is participating in or has successfully completed a 24-7 sobriety program as defined
- 336 in Section 41-6a-515.5.
- 337 (b) If a person's license is reinstated under Subsection (10)(a), the person is required to

338 pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

339 Section 3. Section 53-3-231 is amended to read:

340 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**
341 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**
342 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**
343 **Referral to local substance abuse authority or program.**

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

345 (i) "Local substance abuse authority" has the same meaning as provided in Section
346 62A-15-102.

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

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

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

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

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

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

365 (c) If the person submits to a chemical test and the test results indicate a blood, breath,
366 or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a
367 determination, based on reasonable grounds, that the person is otherwise in violation of
368 Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the

369 arrest, give notice of the division's intention to deny or suspend the person's license to operate a
370 vehicle or refusal to issue a license under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

396 (iii) the test results, if any.

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

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

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

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

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

411 (b) suspend the person's license until the person complies with Subsection (11)(b)(i)
412 and until the person is 21 years of age or for a period of two years, whichever is longer,
413 beginning on the 45th day after the date of arrest for a second or subsequent offense under
414 Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or
415 suspension;

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

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

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

421 (d) deny the person's application for a license or learner's permit until the person
422 complies with Subsection (11)(b)(i) and until the person is 21 years of age or for a period of
423 two years, whichever is longer, if:

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

425 (ii) the suspension is for a second or subsequent offense under Subsection (2)(a)
426 committed on or after July 1, 2009, and within 10 years of a prior denial or suspension; or

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

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

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

431 age or older but under 21 years of age at the time of arrest and the conviction under Subsection
432 (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or
433 (iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed
434 prior to May 14, 2013.

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

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

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

440 (iii) the suspension or denial under Subsection (7)(e)(iii) was based on the same

441 occurrence upon which the following written verifications are based:

442 (A) a court order shortening the driver license suspension for a violation of Section
443 41-6a-502 pursuant to Subsection 41-6a-509(8);

444 (B) a court order shortening the driver license suspension for a violation of Section
445 41-6a-517 pursuant to Subsection 41-6a-517~~(11)~~(12);

446 (C) a court order shortening the driver license suspension for a violation of Section
447 32B-4-409;

448 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section
449 32B-4-409;

450 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section
451 41-6a-517, or Section 32B-4-409;

452 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section
453 32B-4-409; or

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

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

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

460 (9) (a) (i) Following denial or suspension the division shall assess against a person, in
461 addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105,

462 which shall be paid before the person's driving privilege is reinstated, to cover administrative
463 costs.

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

466 (b) A person whose operator license has been denied, suspended, or postponed by the
467 division under this section following an administrative hearing may file a petition within 30
468 days after the suspension for a hearing on the matter which, if held, is governed by Section
469 [53-3-224](#).

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

474 (11) (a) In addition to the penalties in Subsection (9), a person who violates Subsection
475 (2)(a) shall:

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

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

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

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

487 (A) a targeted education and prevention program;

488 (B) an early intervention program; or

489 (C) a substance abuse treatment program.

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

492 (c) At the conclusion of the penalty period imposed under Subsection (2), the local

493 substance abuse authority or the substance abuse program shall notify the division of the
494 person's status regarding completion of the recommended action.

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

497 (i) conducting the assessments;

498 (ii) making appropriate recommendations for action; and

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

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

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

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

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

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

511 (B) The costs and fees under Subsection (11)(e)(iii)(A) shall be based on a sliding scale
512 consistent with the local substance abuse authority's policies and practices regarding fees for
513 services or determined by the substance abuse program.