

SB0211S01 compared with SB0211

~~{deleted text}~~ shows text that was in SB0211 but was deleted in SB0211S01.

inserted text shows text that was not in SB0211 but was inserted into SB0211S01.

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Representative Andrew Stoddard proposes the following substitute bill:

DUI MODIFICATIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: ~~{_____}~~ Andrew Stoddard

LONG TITLE

General Description:

This bill amends provisions related to ~~{the requirement of an}~~ ignition interlock ~~{device for a person convicted of driving under the influence or similar offense}~~ systems and driver license suspensions.

Highlighted Provisions:

This bill:

- ▶ ~~{requires a court to order the installation of}~~ defines terms;
- ▶ provides increased penalties for a violation of tampering or removing an ignition interlock system ~~{in certain circumstances, or state on the record that an ignition interlock system is not necessary}~~;
- ▶ allows ~~{a person convicted of a first offense of driving under the influence}~~ certain individuals to elect to become an ignition interlock restricted driver in lieu of a

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driver license suspension; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{None}~~ This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

~~{41-6a-505}~~ 41-6a-518.2, as last amended by Laws of Utah 2019, Chapter ~~{136}~~

~~41-6a-518}~~ 271

53-3-102, as last amended by Laws of Utah 2019, Chapters 426 and 459

53-3-220, as last amended by Laws of Utah 2018, ~~{Chapter 41}~~

~~}~~ Chapters 121 and 133

53-3-223, as last amended by Laws of Utah 2019, Chapter 77

ENACTS:

53-3-1007.1, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

53-3-223, as last amended by Laws of Utah 2019, Chapter 77

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

Section 1. Section ~~{41-6a-505}~~ 41-6a-518.2 is amended to read:

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

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

~~———— (a) the court shall:~~

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

~~———— (B) require the individual to work in a compensatory-service work program for not less than 48 hours;~~

~~———— (ii) order the individual to participate in a screening;~~

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

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- ~~—— (iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);~~
- ~~—— (v) impose a fine of not less than \$700;~~
- ~~—— (vi) order probation for the individual in accordance with Section 41-6a-507, if there is admissible evidence that the individual had a blood alcohol level of .16 or higher;~~
- ~~—— (vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or~~
- ~~—— (B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; [or]~~
- ~~—— (viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or~~
- ~~—— (B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; [and] or~~
- ~~—— (ix) unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, order the installation of an ignition interlock system as described in Section 41-6a-518; and~~
- ~~—— (b) the court may:~~
 - ~~—— (i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;~~
 - ~~—— (ii) order probation for the individual in accordance with Section 41-6a-507;~~
 - ~~—— (iii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older; or~~
 - ~~—— (iv) order a combination of Subsections (1)(b)(i) through (iii).~~
- ~~—— (2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based:~~
 - ~~—— (a) the court shall:~~
 - ~~—— (i) (A) impose a jail sentence of not less than 240 hours; or~~
 - ~~—— (B) impose a jail sentence of not less than 120 hours in addition to home confinement~~

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~~of not fewer than 720 consecutive hours through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;~~

~~—— (ii) order the individual to participate in a screening;~~

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

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

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

~~—— (vi) order probation for the individual in accordance with Section 41-6a-507;~~

~~—— (vii) unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, order the installation of an ignition interlock system as described in Section 41-6a-518;~~

~~—— [(vii)] (viii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or~~

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

~~—— [(viii)] (ix) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or~~

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

~~—— (b) the court may:~~

~~—— (i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;~~

~~—— (ii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older; or~~

~~—— (iii) order a combination of Subsections (2)(b)(i) and (ii).~~

~~—— (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation, the court shall impose:~~

~~—— (a) a fine of not less than \$1,500;~~

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- ~~—— (b) a jail sentence of not less than 1,500 hours; and~~
- ~~—— (c) supervised probation.~~
- ~~—— (4) For Subsection (3) or Subsection 41-6a-503(2)(b), the court:~~
 - ~~—— (a) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and~~
 - ~~—— (b) may impose an order requiring the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older.~~
- ~~—— (5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.~~
- ~~—— (6) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:~~
 - ~~—— (a) treatment as described under Subsection (1)(b), (2)(b), or (4); and~~
 - ~~—— (b) one or more of the following:~~
 - ~~—— (i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;~~
 - ~~—— (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or~~
 - ~~—— (iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.~~
- ~~—— Section 2. Section 41-6a-518 is amended to read:~~
- ~~—— **41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost -- Impecuniosity -- Fee:**~~
 - ~~—— (1) As used in this section:~~
 - ~~—— (a) "Commissioner" means the commissioner of the Department of Public Safety.~~
 - ~~—— (b) "Employer verification" means written verification from the employer that:~~
 - ~~—— (i) the employer is aware that the employee is an interlock restricted driver;~~
 - ~~—— (ii) the vehicle the employee is operating for employment purposes is not made available to the employee for personal use;~~
 - ~~—— (iii) the business entity that employs the employee is not entirely or partly owned or controlled by the employee;~~
 - ~~—— (iv) the employer's auto insurance company is aware that the employee is an interlock~~

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~~restricted driver; and~~

~~—— (v) the employee has been added to the employer's auto insurance policy as an operator of the vehicle.~~

~~—— (c) "Ignition interlock system" or "system" means a constant monitoring device or any similar device certified by the commissioner that prevents a motor vehicle from being started or continuously operated without first determining the driver's breath alcohol concentration.~~

~~—— (d) "Probation provider" means the supervisor and monitor of the ignition interlock system required as a condition of probation who contracts with the court in accordance with Subsections 41-6a-507(2) and (3).~~

~~—— (2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and 41-6a-505, and in addition to any requirements imposed as a condition of probation, unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, the court [may] ~~shall~~ require that any person who is convicted of violating Section 41-6a-502 and who is granted probation may not operate a motor vehicle during the period of probation unless that motor vehicle is equipped with a functioning, certified ignition interlock system installed and calibrated so that the motor vehicle will not start or continuously operate if the operator's blood alcohol concentration exceeds a level ordered by the court.~~

~~—— (b) If a person convicted of violating Section 41-6a-502 was under the age of 21 when the violation occurred, the court shall order the installation of the ignition interlock system as a condition of probation.~~

~~—— (c) (i) If a person is convicted of a violation of Section 41-6a-502 within 10 years of a prior conviction as defined in Subsection 41-6a-501(2), unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, the court shall order the installation of the interlock ignition system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person.~~

~~—— (ii) A person who operates a motor vehicle without an ignition interlock device as required under this Subsection (2)(c) is in violation of Section 41-6a-518.2.~~

~~—— (d) The division shall post the ignition interlock restriction on the electronic record available to law enforcement.~~

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~~—— (e) This section does not apply to a person convicted of a violation of Section 41-6a-502 whose violation does not involve alcohol.~~

~~—— (3) If the court imposes the use of an ignition interlock system as a condition of probation, the court shall:~~

~~—— (a) stipulate on the record the requirement for and the period of the use of an ignition interlock system;~~

~~—— (b) order that an ignition interlock system be installed on each motor vehicle owned or operated by the probationer, at the probationer's expense;~~

~~—— (c) immediately notify the Driver License Division and the person's probation provider of the order; and~~

~~—— (d) require the probationer to provide proof of compliance with the court's order to the probation provider within 30 days of the order.~~

~~—— (4) (a) The probationer shall provide timely proof of installation within 30 days of an order imposing the use of a system or show cause why the order was not complied with to the court or to the probationer's probation provider.~~

~~—— (b) The probation provider shall notify the court of failure to comply under Subsection (4)(a).~~

~~—— (c) For failure to comply under Subsection (4)(a) or upon receiving the notification under Subsection (4)(b), the court shall order the Driver License Division to suspend the probationer's driving privileges for the remaining period during which the compliance was imposed.~~

~~—— (d) Cause for failure to comply means any reason the court finds sufficiently justifiable to excuse the probationer's failure to comply with the court's order.~~

~~—— (5) (a) Any probationer required to install an ignition interlock system shall have the system monitored by the manufacturer or dealer of the system for proper use and accuracy at least semiannually and more frequently as the court may order.~~

~~—— (b) (i) A report of the monitoring shall be issued by the manufacturer or dealer to the court or the person's probation provider.~~

~~—— (ii) The report shall be issued within 14 days following each monitoring.~~

~~—— (6) (a) If an ignition interlock system is ordered installed, the probationer shall pay the reasonable costs of leasing or buying and installing and maintaining the system.~~

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~~—— (b) A probationer may not be excluded from this section for inability to pay the costs, unless:~~

~~—— (i) the probationer files an affidavit of impecuniosity; and~~

~~—— (ii) the court enters a finding that the probationer is impecunious.~~

~~—— (c) In lieu of waiver of the entire amount of the cost, the court may direct the probationer to make partial or installment payments of costs when appropriate.~~

~~—— (d) The ignition interlock provider shall cover the costs of waivers by the court under this Subsection (6).~~

~~—— (7) (a) If a probationer is required in the course and scope of employment to operate a motor vehicle owned by the probationer's employer, the probationer may operate that motor vehicle without installation of an ignition interlock system only if:~~

~~—— (i) the motor vehicle is used in the course and scope of employment;~~

~~—— (ii) the employer has been notified that the employee is restricted; and~~

~~—— (iii) the employee has employer verification in the employee's possession while operating the employer's motor vehicle.~~

~~—— (b) (i) To the extent that an employer-owned motor vehicle is made available to a probationer subject to this section for personal use, no exemption under this section shall apply.~~

~~—— (ii) A probationer intending to operate an employer-owned motor vehicle for personal use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock system shall notify the employer and obtain consent in writing from the employer to install a system in the employer-owned motor vehicle.~~

~~—— (c) A motor vehicle owned by a business entity that is all or partly owned or controlled by a probationer subject to this section is not a motor vehicle owned by the employer and does not qualify for an exemption under this Subsection (7):~~

~~—— (8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules setting standards for the certification of ignition interlock systems:~~

~~—— (b) The standards under Subsection (8)(a) shall require that the system:~~

~~—— (i) not impede the safe operation of the motor vehicle;~~

~~—— (ii) have features that make circumventing difficult and that do not interfere with the normal use of the motor vehicle;~~

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- ~~—— (iii) require a deep lung breath sample as a measure of breath alcohol concentration;~~
- ~~—— (iv) prevent the motor vehicle from being started if the driver's breath alcohol concentration exceeds a specified level;~~
- ~~—— (v) work accurately and reliably in an unsupervised environment;~~
- ~~—— (vi) resist tampering and give evidence if tampering is attempted;~~
- ~~—— (vii) operate reliably over the range of motor vehicle environments; and~~
- ~~—— (viii) be manufactured by a party who will provide liability insurance.~~
- ~~—— (c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or independent laboratory tests relied upon in certification of ignition interlock systems by other states.~~
- ~~—— (d) A list of certified systems shall be published by the commissioner and the cost of certification shall be borne by the manufacturers or dealers of ignition interlock systems seeking to sell, offer for sale, or lease the systems.~~
- ~~—— (e) (i) In accordance with Section 63J-1-504, the commissioner may establish an annual dollar assessment against the manufacturers of ignition interlock systems distributed in the state for the costs incurred in certifying.~~
- ~~—— (ii) The assessment under Subsection (8)(c)(i) shall be apportioned among the manufacturers on a fair and reasonable basis.~~
- ~~—— (f) The commissioner shall require a provider of an ignition interlock system certified in accordance with this section to comply with the requirements of Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.~~
- ~~—— (9) A violation of this section is a class C misdemeanor.~~
- ~~—— (10) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state or its employees in connection with the installation, use, operation, maintenance, or supervision of an interlock ignition system as required under this section.~~

‡ **41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition interlock system.**

- (1) As used in this section:
 - (a) "Ignition interlock system" means a constant monitoring device or any similar device that:
 - (i) is in working order at the time of operation or actual physical control; and

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(ii) is certified by the Commissioner of Public Safety in accordance with Subsection 41-6a-518(8).

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

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

(B) within the last 18 months has been convicted of a driving under the influence violation under Section 41-6a-502 that was committed on or after July 1, 2009;

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

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

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

(E) within the last three years has had the person's driving privilege revoked for refusal to submit to a chemical test under Section 41-6a-520, which refusal occurred after May 1, 2006;

(F) within the last three years has been convicted of a violation of Section 41-6a-502 and was under the age of 21 at the time the offense was committed;

(G) within the last six years has been convicted of a felony violation of Section 41-6a-502 for an offense that occurred after May 1, 2006; ~~or~~

(H) within the last 10 years has been convicted of automobile homicide under Section 76-5-207 for an offense that occurred after May 1, 2006~~;~~ or

(I) has elected to become an interlock restricted driver in lieu of a driver license suspension pursuant to Section 53-3-1007.1.

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

(A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under Section 41-6a-502 that does not involve alcohol or a conviction under Section 41-6a-517 and whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under Section 41-6a-502 that did not involve alcohol or convictions under Section 41-6a-517;

(B) whose conviction described in Subsection (1)(b)(i)(B) or (F) does not involve alcohol and the convicting court notifies the Driver License Division at the time of sentencing

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that the conviction does not involve alcohol; or

(C) whose conviction described in Subsection (1)(b)(i)(B), (C), or (F) does not involve alcohol and the ignition interlock restriction is removed as described in Subsection (7).

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

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

(4) (a) An interlock restricted driver who **does either of the following during the ignition interlock restriction period is guilty of a class B misdemeanor:**

(i) operates or is in actual physical control of a vehicle in the state without an ignition interlock system **[is guilty of a class B misdemeanor.]; or**

(ii) **intentionally or knowingly tampers with or removes an ignition interlock system.**

(b) **An interlock restricted driver who commits a second violation described in Subsection (4)(a) is guilty of a class B misdemeanor and the court shall impose:**

(i) **a jail sentence of not less than 24 consecutive hours; and**

(ii) **a fine not less than \$700.**

(c) **An interlock restricted driver who commits a third or subsequent violation described in Subsection (4)(a) is guilty of a class A misdemeanor and the court shall impose:**

(i) **a jail sentence of not less than 120 hours; and**

(ii) **a fine not less than \$1,400.**

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

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

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

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

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

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

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

(b) a motor vehicle owned by a business entity that is entirely or partly owned or controlled by the interlock restricted driver.

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

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

Section 2. Section 53-3-102 is amended to read:

53-3-102. Definitions.

As used in this chapter:

(1) "Autocycle" means a motor vehicle that:

(a) is designed to travel with three or fewer wheels in contact with the ground;

(b) is equipped with a steering wheel; and

(c) is equipped with seating that does not require the operator to straddle or sit astride the vehicle.

(2) "Cancellation" means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

(3) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(4) "Commercial driver instruction permit" or "CDIP" means a commercial learner permit:

(a) issued under Section 53-3-408; or

(b) issued by a state or other jurisdiction of domicile in compliance with the standards contained in 49 C.F.R. Part 383.

(5) "Commercial driver license" or "CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4,

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Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(i).

(6) (a) "Commercial driver license motor vehicle record" or "CDL MVR" means a driving record that:

(i) applies to a person who holds or is required to hold a commercial driver instruction permit or a CDL license; and

(ii) contains the following:

(A) information contained in the driver history, including convictions, pleas held in abeyance, disqualifications, and other licensing actions for violations of any state or local law relating to motor vehicle traffic control, committed in any type of vehicle;

(B) driver self-certification status information under Section 53-3-410.1; and

(C) information from medical certification record keeping in accordance with 49 C.F.R. Sec. 383.73(o).

(b) "Commercial driver license motor vehicle record" or "CDL MVR" does not mean a motor vehicle record described in Subsection ~~[(30)]~~ [(31)].

(7) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

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(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles;

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes; and

(v) vehicles used to provide transportation network services, as defined in Section 13-51-102.

(8) "Conviction" means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(9) "Denial" or "denied" means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security, do not apply.

(10) "Director" means the division director appointed under Section 53-3-103.

(11) "Disqualification" means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person's privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

(12) "Division" means the Driver License Division of the department created in Section 53-3-103.

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(13) "Downgrade" means to obtain a lower license class than what was originally issued during an existing license cycle.

(14) "Drive" means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

(15) (a) "Driver" means an individual who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who is required to hold a CDL under Part 4, Uniform Commercial Driver License Act, or federal law.

(16) "Driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

(17) "Electronic license certificate" means the evidence, in an electronic format as described in Section 53-3-235, of a privilege granted under this chapter to drive a motor vehicle.

(18) "Extension" means a renewal completed in a manner specified by the division.

(19) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(20) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

(21) "Human driver" means the same as that term is defined in Section 41-26-102.1.

(22) "Identification card" means a card issued under Part 8, Identification Card Act, to a person for identification purposes.

(23) "Indigent" means that a person's income falls below the federal poverty guideline issued annually by the U.S. Department of Health and Human Services in the Federal Register.

(24) "Ignition interlock system provider" means the same as that term is defined in Section 53-3-1002.

[(24)] (25) "License" means the privilege to drive a motor vehicle.

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~~[(25)]~~[(26)] (a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes:

- (i) a regular license certificate;
- (ii) a limited-term license certificate;
- (iii) a driving privilege card;
- (iv) a CDL license certificate;
- (v) a limited-term CDL license certificate;
- (vi) a temporary regular license certificate;
- (vii) a temporary limited-term license certificate; and
- (viii) an electronic license certificate created in Section 53-3-235.

~~[(26)]~~[(27)] "Limited-term commercial driver license" or "limited-term CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. No. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

~~[(27)]~~[(28)] "Limited-term identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

~~[(28)]~~[(29)] "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

~~[(29)]~~[(30)] "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

~~[(30)]~~[(31)] "Motor vehicle record" or "MVR" means a driving record under Subsection 53-3-109(6)(a).

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~~[(31)]~~ [(32)] "Motorboat" means the same as that term is defined in Section 73-18-2.

~~[(32)]~~ [(33)] "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

~~[(33)]~~ [(34)] "Office of Recovery Services" means the Office of Recovery Services, created in Section 62A-11-102.

~~[(34)]~~ [(35)] "Operate" means the same as that term is defined in Section 41-1a-102.

~~[(35)]~~ [(36)] (a) "Owner" means a person other than a lien holder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

~~[(36)]~~ [(37)] (a) "Private passenger carrier" means any motor vehicle for hire that is:

- (i) designed to transport 15 or fewer passengers, including the driver; and
- (ii) operated to transport an employee of the person that hires the motor vehicle.

(b) "Private passenger carrier" does not include:

- (i) a taxicab;
- (ii) a motor vehicle driven by a transportation network driver as defined in Section 13-51-102;

(iii) a motor vehicle driven for transportation network services as defined in Section 13-51-102; and

(iv) a motor vehicle driven for a transportation network company as defined in Section 13-51-102 and registered with the Division of Consumer Protection as described in Section 13-51-104.

~~[(37)]~~ [(38)] "Regular identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

~~[(38)]~~ [(39)] "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

~~[(39)]~~ [(40)] "Renewal" means to validate a license certificate so that it expires at a later

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date.

~~[(40)]~~ [(41)] "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

~~[(41)]~~ [(42)] (a) "Resident" means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) "Resident" does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections ~~[(41)(b)(i)]~~ [(42)(b)(i)] through (iii).

~~[(42)]~~ [(43)] "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

~~[(43)]~~ [(44)] (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

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~~[(44)]~~ (45) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

~~[(45)]~~ (46) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 3. Section 53-3-220 is amended to read:

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

(1) (a) ~~[The]~~ Except as provided in Subsection (5), the division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

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

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

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

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

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

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

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

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first

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conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

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

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

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

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

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

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

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

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

(xvii) custodial interference, under:

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

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

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

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

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or

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allowing the discharge of a firearm from a vehicle; or

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

(c) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of one of the following offenses while the person was an operator of a motor vehicle:

(i) any violation of:

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

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

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

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

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

(ii) any criminal offense that prohibits:

(A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsection (1)(c)(i); or

(B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

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

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

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

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

(B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for a violation under Section 32B-4-411.

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

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person upon receiving a record of:

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

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

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

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

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

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

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

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

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

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

(5) Notwithstanding Subsection (1), for an individual's first offense under Section 41-6a-502, if the individual satisfies the requirements and elects to become an interlock restricted driver in lieu of license suspension as described in Section 53-3-1007.1, the division shall reinstate a person's license before completion of the suspension period imposed under Subsection (1)(a)(ii) or (iii) and designate the individual as an interlock restricted driver.

Section ~~3~~4. Section 53-3-223 is amended to read:

53-3-223. Chemical test for driving under the influence -- Temporary license --

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Hearing and decision -- Suspension and fee -- Judicial review.

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

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

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

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

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

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

- (a) a copy of the citation issued for the offense;
- (b) a signed report in a manner specified by the division indicating the chemical test results, if any; and
- (c) any other basis for the peace officer's determination that the person has violated

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Section 41-6a-502 or 41-6a-517.

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

(ii) A person may file a request to be heard with the division within 10 calendar days after the day on which the notice is provided under Subsection (4) in the manner specified by the division.

(iii) If a person requests a hearing as described in Subsection (6)(a)(ii), the division shall grant the person opportunity to be heard within 29 days after the date of the arrest.

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

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

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

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

(c) The ~~[hearing shall be documented and shall cover the issues of:]~~ division shall:

(i) document the hearing; and

(ii) determine:

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

~~[(+)]~~ (B) whether the person refused to submit to the test; and

~~[(+)]~~ (C) the test results, if any.

(C) the result of any chemical test.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) the person was 20 years 6 months of age or older but under 21 years of age at the

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time of arrest; and

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

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

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

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

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

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

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

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

(iii) If a person's license is reinstated under this Subsection (7)(c), the person is required to pay the license reinstatement fees under Subsections ~~[53-3-105(24) and (25)]~~ 53-3-105(26) and (27).

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

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

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- (i) the driver was under the age of 19 at the time of arrest;
- (ii) the offense was a first offense that was committed prior to May 14, 2013; and
- (iii) the suspension under Subsection (7)(b)(iii) was based on the same occurrence

upon which the following written verifications are based:

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

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

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

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

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

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

(G) other written documentation acceptable to the division.

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

(c) If a person's license sanction is shortened under this Subsection (8), the person is required to pay the license reinstatement fees under Subsections ~~[53-3-105(24) and (25)]~~ 53-3-105(26) and (27).

(9) (a) ~~¶ The division shall assess against a person, in~~ In addition to any fee imposed under Subsection 53-3-205(12) for driving under the influence, the division shall:

(i) assess a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the person's driving privilege is reinstated~~¶. This fee shall be cancelled~~; and

(ii) cancel the fee if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose license has been suspended by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a

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hearing on the matter which, if held, is governed by Section 53-3-224.

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

(b) If a person's license is reinstated under Subsection (10)(a), the person is required to pay the license reinstatement fees under Subsections [~~53-3-105(24) and (25)~~] 53-3-105(26) and (27).

Section 5. Section 53-3-1007.1 is enacted to read:

53-3-1007.1. Ignition interlock system election in lieu of license suspension.

~~(~~111~~1)~~ (a) If the division suspends a person's license for an ~~alcohol related offense~~, ~~and if the~~ offense ~~is the person's first offense~~ in accordance with Section 53-3-220 or 53-3-223, the person may elect to become an interlock restricted driver ~~and install an ignition interlock device in each vehicle driven by the person in lieu of receiving the~~ under Section 41-6a-518.2 in lieu of the driver license suspension~~.~~

~~(b) To qualify as an interlock restricted driver in lieu of suspension, the person shall:~~

~~(i) install~~ if:

(i) the offense is the person's first offense;

(ii) the offense is an offense that includes only alcohol and not any other substance; and

(iii) there is no other basis for the division to suspend the driver license.

(b) The election described in this section does not apply to a person under the age of 21.

(2) For a person that meets the requirements described in Subsection (1), the division shall reinstate the person's driver license if:

(a) the person arranges for installation of an ignition interlock ~~device~~ system in any vehicle driven by the person, and ~~keep~~ keeps the ignition interlock ~~device~~ system installed in any vehicle driven by the person for the ~~same~~ duration of the time period ~~as~~ of the ~~prescribed~~ driver license suspension;

~~(~~ii~~) provide proof of installation to the division;~~

~~(~~iii~~) pay~~ (b) an ignition interlock system provider provides proof that an ignition

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interlock system or systems described in Subsection (2)(a)(i) have been installed;

(c) the person pays the costs of leasing or buying and installing and maintaining the ignition interlock ~~device~~ system; and

(~~five~~d) ~~pay~~ the person pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27).

(3) An ignition interlock system provider shall immediately notify the division of any tampering or removal of an installed ignition interlock device associated with the interlock restricted driver.

(4) If the division determines that an ignition interlock system described in this section has been intentionally or knowingly tampered with or removed, the division shall reinstate the license suspension and restart the time period of the suspension.

Section 6. Coordinating S.B. 211 with H.B. 139 -- Substantive and technical amendments.

If this S.B. 211 and H.B. 139, DUI Liability Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Section 53-3-223 to read:

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

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

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

(2) [~~The peace officer shall advise a person prior to the~~] Before a person's submission to a chemical test, the peace officer shall advise the person that a test result indicating a violation of Section 41-6a-502 or 41-6a-517 shall, and the existence of a blood alcohol content

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sufficient to render the person incapable of safely driving a motor vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

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

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

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

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

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

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

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

(ii) A person may file a request to be heard with the division within 10 calendar days after the day on which the notice is provided under Subsection (4) in the manner specified by the division.

(iii) If a person requests a hearing as described in Subsection (6)(a)(ii), the division shall grant the person opportunity to be heard within 29 days after the date of the arrest.

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

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

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

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

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

[(†)] (c) The division shall:

(i) document the hearing; and

(ii) determine:

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

[(ii)] (B) whether the person refused to submit to the test; and

[(iii) the test results, if any.]

(C) the result of any chemical test.

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

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

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

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

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

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

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

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

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

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

(ii) if the person is under 21 years [of age] old at the time of arrest [and the arrest was

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made on or after May 14, 2013]:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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the suspension period.

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

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

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

(iii) If a person's license is reinstated under this Subsection (7)[(c)](b), the person is required to pay the license reinstatement fees under Subsections 53-3-105[(24) and (25)] (26) and (27).

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

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

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

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

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

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

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

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

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

[(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section

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~~41-6a-517, or Section 32B-4-409;~~

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

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

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

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

~~[(9)] (8) (a) [The division shall assess against a person, in] In addition to any fee imposed under Subsection 53-3-205(12) for driving under the influence, the division shall:~~

~~(i) assess a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the person's driving privilege is reinstated. [This fee shall be cancelled]; and~~

~~(ii) cancel the fee if the person obtains an unappealed division hearing or court decision that the suspension was not proper.~~

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

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

~~(b) If a person's license is reinstated under Subsection [(10)] (9)(a), the person is required to pay the license reinstatement fees under Subsections 53-3-105[(24) and (25)] (26) and (27)."~~