

24-7 SOBRIETY PROGRAM EXPANSION

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

Committee Note:

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

Legislative Vote: 13 voting for 0 voting against 3 absent

General Description:

This bill expands the 24-7 sobriety program statewide.

Highlighted Provisions:

This bill:

- ▶ removes language limiting the 24-7 sobriety program to a pilot program;
- ▶ allows an individual participating in a drug court to avoid suspension of the individual's driver license;
- ▶ allows expansion of the program statewide; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-509, as last amended by Laws of Utah 2020, Chapter 177

41-6a-515.5, as last amended by Laws of Utah 2018, Chapter 135



28 [41-6a-517](#), as last amended by Laws of Utah 2020, Chapter 12
29 [53-3-220](#), as last amended by Laws of Utah 2020, Chapter 177
30 [53-3-223](#), as last amended by Laws of Utah 2020, Chapter 177

31

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

33 Section 1. Section **41-6a-509** is amended to read:

34 **41-6a-509. Driver license suspension or revocation for a driving under the**
35 **influence violation.**

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

38 (a) suspend for a period of 120 days the operator's license of a person convicted for the
39 first time under Section [41-6a-502](#); or

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

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

42 (ii) the current violation under Section [41-6a-502](#) is committed within a period of 10
43 years from the date of the prior violation.

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

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

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

51 (i) is convicted for the first time of a violation under Section [41-6a-502](#) of an offense
52 committed on or after July 1, 2011; and

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

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

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

57 (ii) the current violation under Section [41-6a-502](#) is committed within a period of 10
58 years from the date of the prior violation; or

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

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

62 (ii) the current violation under Section 41-6a-502 is committed within a period of 10
63 years from the date of the prior violation; and

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

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

67 (a) suspend the person's driver license until the person is 21 years of age if the person
68 is convicted for the first time of a violation under Section 41-6a-502;

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

71 (i) is convicted for the first time of a violation under Section 41-6a-502; and

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

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

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

75 (ii) the current violation under Section 41-6a-502 is committed within a period of 10
76 years from the date of the prior violation; or

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

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

80 (ii) the current violation under Section 41-6a-502 is committed within a period of 10
81 years from the date of the prior violation; and

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

83 (4) The Driver License Division shall suspend or revoke the license of a person as
84 ordered by the court under Subsection (9).

85 (5) The Driver License Division shall subtract from any suspension or revocation
86 period the number of days for which a license was previously suspended under Section
87 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
88 which the record of conviction is based.

89 (6) If a conviction recorded as impaired driving is amended to a driving under the

90 influence conviction under Section 41-6a-502 in accordance with Subsection
91 41-6a-502.5(3)(a)(ii), the Driver License Division:

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

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

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

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

101 (b) completes a screening;

102 (c) completes an assessment, if it is found appropriate by a screening under Subsection
103 (7)(b);

104 (d) completes substance abuse treatment if it is found appropriate by the assessment
105 under Subsection (7)(c);

106 (e) completes an educational series if substance abuse treatment is not required by an
107 assessment under Subsection (7)(c) or the court does not order substance abuse treatment;

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

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

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

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

120 (8) If the court shortens a person's license suspension period in accordance with the

121 requirements of Subsection (7), the court shall forward the order shortening the person's
122 suspension period to the Driver License Division in a manner specified by the division prior to
123 the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection
124 (3)(a) or (b) [~~to the Driver License Division~~].

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

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

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

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

136 (i) complete all court ordered:

137 (A) screening;

138 (B) assessment;

139 (C) educational series;

140 (D) substance abuse treatment; and

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

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

143 (b) Upon receiving the notification described in Subsection (10)(a), the division shall
144 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

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

149 (b) If the court shortens a person's license suspension period in accordance with the
150 requirements of this Subsection (11), the court shall forward [~~to the Driver License Division~~]
151 the order shortening the person's suspension period to the Driver License Division in a manner

152 specified by the division.

153 (c) The court shall notify the Driver License Division, in a manner specified by the
154 Driver License Division, if a person fails to complete all requirements of a 24-7 sobriety
155 program.

156 (d) (i) (A) Upon receiving the notification described in Subsection (11)(c), for a first
157 offense, the division shall suspend the person's driving privilege [~~in accordance with~~
158 ~~Subsections 53-3-221(2) and (3);]~~ for a period of 120 days from the date of notice.

159 (B) For a suspension described under Subsection (11)(d)(i)(A), no days shall be
160 subtracted from the 120-day suspension period for which a driving privilege was previously
161 suspended under this section or Section 53-3-223, if the previous suspension was based on the
162 same occurrence upon which the conviction under Section 41-6a-502 is based.

163 (ii) (A) Upon receiving the notification described in Subsection (11)(c), for a second or
164 subsequent offense, the division shall revoke the person's driving privilege for a period of two
165 years from the date of notice.

166 (B) For a license revocation described in Subsection (11)(d)(ii)(A), no days shall be
167 subtracted from the two-year revocation period for which a driving privilege was previously
168 revoked under this section or Section 53-3-223, if the previous revocation was based on the
169 same occurrence upon which the conviction under Section 41-6a-502 is based.

170 Section 2. Section **41-6a-515.5** is amended to read:

171 **41-6a-515.5. Sobriety program for DUI.**

172 (1) As used in this section:

173 (a) "24-7 sobriety program" means a 24 hours a day, seven days a week sobriety and
174 drug monitoring program that:

- 175 (i) requires an individual to abstain from alcohol or drugs for a period of time;
- 176 (ii) requires an individual to submit to random drug testing; and
- 177 (iii) requires the individual to be subject to testing to determine the presence of
- 178 alcohol:

179 (A) twice a day at a central location where timely sanctions may be applied;

180 (B) by continuous remote sensing or transdermal alcohol monitoring by means of an
181 electronic monitoring device that allows timely sanctions to be applied; or

182 (C) by an alternate method that is approved by the National Highway Traffic Safety

183 Administration.

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

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

187 (A) remote and in-person breath testing;

188 (B) drug patch testing;

189 (C) urinalysis testing;

190 (D) saliva testing;

191 (E) continuous remote sensing;

192 (F) transdermal alcohol monitoring; or

193 (G) alternate body fluids approved for testing by the commissioner of the department.

194 ~~[(2)(a) The department shall establish and administer a 24-7 sobriety program as a~~
195 ~~pilot program.]~~

196 ~~[(b)]~~ (2) The department ~~[shall establish one pilot]~~ may establish a 24-7 sobriety
197 program with a law enforcement agency that is able to meet the 24-7 sobriety program
198 qualifications and requirements under this section.

199 (3) (a) The 24-7 sobriety program shall include use of multiple testing methodologies
200 for the presence of alcohol or drugs that:

201 (i) best facilitates the ability to apply timely sanctions for noncompliance;

202 (ii) is available at an affordable cost; and

203 (iii) provides for positive, behavioral reinforcement for program compliance.

204 (b) The commissioner shall consider the following factors to determine which testing
205 methodologies are best suited for each participant:

206 (i) whether a device is available;

207 (ii) whether the participant is capable of paying the fees and costs associated with each
208 testing methodology;

209 (iii) travel requirements based on each testing methodology and the participant's
210 circumstances;

211 (iv) the substance or substances for which testing will be required; and

212 (v) other factors the commissioner considers relevant.

213 (4) (a) The 24-7 sobriety program shall be supported by evidence of effectiveness and

214 satisfy at least two of the following categories:

215 (i) the program is included in the federal registry of evidence-based programs and
216 practices;

217 (ii) the program has been reported in a peer-reviewed journal as having positive effects
218 on the primary targeted outcome; or

219 (iii) the program has been documented as effective by informed experts and other
220 sources.

221 (b) If a law enforcement agency participates in a 24-7 sobriety program, the department
222 shall assist in the creation and administration of the program in the manner provided in this
223 section.

224 (c) A 24-7 sobriety program shall have at least one testing location and two daily
225 testing times approximately 12 hours apart.

226 (d) A person who is ordered by a judge to participate in the 24-7 sobriety program for a
227 first conviction as defined in Subsection 41-6a-501(2) shall be required to participate in a 24-7
228 sobriety program for at least 30 days.

229 [~~(d)~~] (e) If a person who is ordered by a judge to participate in the 24-7 sobriety
230 program has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of
231 the current conviction under Section 41-6a-502 or the commission of the offense upon which
232 the current conviction is based, the person shall be required to participate in a 24-7 sobriety
233 program for at least one year.

234 (5) (a) If a law enforcement agency participates in a 24-7 sobriety program, the law
235 enforcement agency may designate an entity to provide the testing services or to take any other
236 action required or authorized to be provided by the law enforcement agency pursuant to this
237 section, except that the law enforcement agency's designee may not determine whether an
238 individual is required to participate in the 24-7 sobriety program.

239 (b) Subject to the requirement in Subsection (4)(c), the law enforcement agency shall
240 establish the testing locations and times for the county.

241 (6) (a) The commissioner of the department shall establish a data management
242 technology plan for data collection on 24-7 sobriety program participants.

243 (b) All required data related to participants in the 24-7 sobriety program shall be
244 received into the data management technology plan.

245 (c) The data collected under this Subsection (6) is owned by the state.

246 (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
247 the department shall make rules to implement this section.

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

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

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

254 (iii) require and provide for the approval of a 24-7 sobriety program data management
255 technology plan that shall be used by the department and participating law enforcement
256 agencies to manage testing, data access, fees and fee payments, and any required reports; and

257 (iv) establish a model sanctioning schedule for program noncompliance[; and].

258 [~~(v) establish a process for piloting alternate components of the 24-7 sobriety
259 program.~~]

260 Section 3. Section **41-6a-517** is amended to read:

261 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the
262 body -- Penalties -- Arrest without warrant.**

263 (1) As used in this section:

264 (a) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

265 (b) "Practitioner" means the same as that term is defined in Section [58-37-2](#).

266 (c) "Prescribe" means the same as that term is defined in Section [58-37-2](#).

267 (d) "Prescription" means the same as that term is defined in Section [58-37-2](#).

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

272 (b) Subsection (2)(a) does not apply to a person that has
273 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's
274 body.

275 (3) It is an affirmative defense to prosecution under this section that the controlled

276 substance was:

- 277 (a) involuntarily ingested by the accused;
- 278 (b) prescribed by a practitioner for use by the accused;
- 279 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
- 280 form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical
- 281 Cannabis Act; or
- 282 (d) otherwise legally ingested.

283 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B

284 misdemeanor.

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

286 both this section and any applicable offense under Section 58-37-8.

287 (5) A peace officer may, without a warrant, arrest a person for a violation of this

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

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

290 committed by the person.

291 (6) The Driver License Division shall, if the person is 21 years of age or older on the

292 date of arrest:

293 (a) suspend, for a period of 120 days, the driver license of a person convicted under

294 Subsection (2) of an offense committed on or after July 1, 2009; or

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

- 296 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
- 297 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
- 298 and within a period of 10 years after the date of the prior violation.

299 (7) The Driver License Division shall, if the person is 19 years of age or older but

300 under 21 years of age on the date of arrest:

301 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is

302 longer, the driver license of a person convicted under Subsection (2) of an offense committed

303 on or after July 1, 2011; or

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

305 longer, the driver license of a person if:

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

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

309 (8) The Driver License Division shall, if the person is under 19 years of age on the date
310 of arrest:

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

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

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

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

317 (9) The Driver License Division shall subtract from any suspension or revocation
318 period the number of days for which a license was previously suspended under Section
319 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
320 which the record of conviction is based.

321 (10) The Driver License Division shall:

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

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

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

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

331 (11) A court that reported a conviction of a violation of this section for a violation that
332 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension
333 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period
334 if the person:

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

336 (b) completes a screening;

337 (c) completes an assessment, if it is found appropriate by a screening under Subsection

338 (11)(b);

339 (d) completes substance abuse treatment if it is found appropriate by the assessment
340 under Subsection (11)(c);

341 (e) completes an educational series if substance abuse treatment is not required by the
342 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

343 (f) has not been convicted of a violation of any motor vehicle law in which the person
344 was involved as the operator of the vehicle during the suspension period imposed under
345 Subsection (7)(a) or (8)(a);

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

348 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
349 person has not consumed a controlled substance not prescribed by a practitioner for use by the
350 person or unlawfully consumed alcohol during the suspension period imposed under
351 Subsection (7)(a) or (8)(a); or

352 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
353 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
354 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
355 for use by the person or unlawfully consumed alcohol during the suspension period imposed
356 under Subsection (7)(a) or (8)(a).

357 (12) If the court shortens a person's license suspension period in accordance with the
358 requirements of Subsection (11), the court shall forward the order shortening the person's
359 license suspension period to the Driver License Division in a manner specified by the division
360 prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a) [~~to~~
361 ~~the Driver License Division~~].

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

363 (i) complete all court ordered screening and assessment, educational series, and
364 substance abuse treatment; or

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

366 (b) Upon receiving the notification, the division shall suspend the person's driving
367 privilege in accordance with Subsections 53-3-221(2) and (3).

368 (14) The court:

369 (a) shall order supervised probation in accordance with Section 41-6a-507 for a person
370 convicted under Subsection (2); and

371 (b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety
372 program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

373 (15) (a) A court that reported a conviction of a violation of this section to the Driver
374 License Division may shorten the suspension period imposed under Subsection (6) before
375 completion of the suspension period if the person is participating in or has successfully
376 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

377 (b) If the court shortens a person's license suspension period in accordance with the
378 requirements of this Subsection (15), the court shall forward to the Driver License Division, in
379 a manner specified by the division, the order shortening the person's suspension period.

380 (c) The court shall notify the Driver License Division, in a manner specified by the
381 division, if a person fails to complete all requirements of a 24-7 sobriety program.

382 ~~[(d) Upon receiving the notification described in Subsection (15)(c), the division shall~~
383 ~~suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).]~~

384 (d) (i) (A) Upon receiving the notification described in Subsection (15)(c), for a first
385 offense, the division shall suspend the person's driving privilege for a period of 120 days from
386 the date of notice.

387 (B) For a suspension described in Subsection (15)(d)(i)(A), no days shall be subtracted
388 from the 120-day suspension period for which a driving privilege was suspended under this
389 section or under Section 53-3-223, if the previous suspension was based on the same
390 occurrence upon which the conviction under this section is based.

391 (ii) (A) Upon receiving the notification described in Subsection (15)(c), for a second or
392 subsequent offense, the division shall revoke the person's driving privilege for a period of two
393 years from the date of notice.

394 (B) For a revocation described in Subsection (15)(d)(ii)(A), no days shall be subtracted
395 from the two-year revocation period for which a driving privilege was previously revoked
396 under this section or under Section 53-3-223, if the previous revocation was based on the same
397 occurrence upon which the conviction under this section is based.

398 Section 4. Section 53-3-220 is amended to read:

399 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**

400 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
401 **Limited driving privileges.**

402 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter
403 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or
404 disqualification, the division shall deny, suspend, or disqualify the license of a person upon
405 receiving a record of the person's conviction for:

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

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

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

415 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
416 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
417 regulating driving on highways;

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

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

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

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

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

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

- 431 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
432 allowing the discharge of a firearm from a vehicle;
- 433 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
434 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);
- 435 (xiii) operating or being in actual physical control of a motor vehicle while having any
436 measurable controlled substance or metabolite of a controlled substance in the person's body in
437 violation of Section 41-6a-517;
- 438 (xiv) operating or being in actual physical control of a motor vehicle while having any
439 measurable or detectable amount of alcohol in the person's body in violation of Section
440 41-6a-530;
- 441 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
442 violation of Section 41-6a-606;
- 443 (xvi) operating or being in actual physical control of a motor vehicle in this state
444 without an ignition interlock system in violation of Section 41-6a-518.2;
- 445 (xvii) custodial interference, under:
- 446 (A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless
447 the court provides the division with an order of suspension for a shorter period of time;
- 448 (B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless
449 the court provides the division with an order of suspension for a shorter period of time; or
- 450 (C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless
451 the court provides the division with an order of suspension for a shorter period of time; or
- 452 (xviii) refusal of a chemical test under Subsection 41-6a-520(7).
- 453 (b) The division shall immediately revoke the license of a person upon receiving a
454 record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for:
- 455 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
456 allowing the discharge of a firearm from a vehicle; or
- 457 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
458 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).
- 459 (c) Except when action is taken under Section 53-3-219 for the same offense, upon
460 receiving a record of conviction, the division shall immediately suspend for six months the
461 license of the convicted person if the person was convicted of one of the following offenses

462 while the person was an operator of a motor vehicle:

463 (i) any violation of:

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

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

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

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

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

469 (ii) any criminal offense that prohibits:

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

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

474 (iii) Notwithstanding the provisions in this Subsection (1)(c), the division shall
475 reinstate a person's driving privilege before completion of the suspension period imposed under
476 this Subsection (1)(c) if the reporting court notifies the Driver License Division, in a manner
477 specified by the division, that the defendant is participating in or has successfully completed a
478 drug court program as defined in Section [78A-5-201](#).

479 (iv) If a person's driving privilege is reinstated under Subsection (1)(c)(iii), the person
480 is required to pay the license reinstatement fees under Subsection [53-3-105\(26\)](#).

481 (v) The court shall notify the division, in a manner specified by the division, if a person
482 fails to complete all requirements of the drug court program.

483 (vi) Upon receiving the notification described in Subsection (1)(c)(v), the division shall
484 suspend the person's driving privilege for a period of six months from the date of the notice,
485 and no days shall be subtracted from the six-month suspension period for which a driving
486 privilege was previously suspended under this Subsection (1)(c).

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

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

491 (B) a record of the conviction.

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

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

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

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

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

499 (ii) The division shall immediately suspend for a period of two years the license of a
500 person upon receiving a record of:

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

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

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

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

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

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

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

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

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

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

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

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

523 (v) Upon receipt of the second or subsequent order suspending a person's driving

524 privileges under Section 32B-4-411, the division shall reduce the suspension period under
525 Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

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

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

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

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

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

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

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

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

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

547 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
548 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
549 41-6a-517, a local ordinance which complies with the requirements of Subsection
550 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person
551 was charged with violating as a result of a plea bargain after having been originally charged
552 with violating one or more of these sections or ordinances, unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

586 Section 5. Section 53-3-223 is amended to read:

587 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
588 **Hearing and decision -- Suspension and fee -- Judicial review.**

589 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
590 violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a
591 certain blood or breath alcohol concentration and driving under the influence of any drug,
592 alcohol, or combination of a drug and alcohol or while having any measurable controlled
593 substance or metabolite of a controlled substance in the person's body in violation of Section
594 41-6a-517, the peace officer may, in connection with arresting the person, request that the
595 person submit to a chemical test or tests to be administered in compliance with the standards
596 under Section 41-6a-520.

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

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

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

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

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

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

616 (b) a signed report in a manner specified by the division indicating the chemical test

617 results, if any; and

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

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

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

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

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

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

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

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

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

634 (iii) the test results, if any.

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

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

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

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

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

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

644 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
645 grounds to believe that the person was driving a motor vehicle in violation of Section
646 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the
647 notice, or if a hearing is not requested under this section, the division shall:

648 (i) if the person is 21 years of age or older at the time of arrest, suspend the person's
649 license or permit to operate a motor vehicle for a period of:

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

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

653 (ii) if the person is under 21 years of age at the time of arrest:

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

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

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

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

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

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

666 (b) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall
667 reinstate a person's license prior to completion of the 120 day suspension period imposed under
668 Subsection (7)(a)(i)(A):

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

672 (B) no sooner than 60 days beginning on the 45th day after the date of arrest upon
673 receiving written verification of the person's reduction of a charge for a violation of Section
674 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the
675 suspension period.

676 (ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall
677 reinstate a person's license prior to completion of the 120-day suspension period imposed under
678 Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's

679 conviction of impaired driving under Section 41-6a-502.5 if:

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

681 and

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

685 (iii) If a person's license is reinstated under this Subsection (7)(b), the person is
686 required to pay the license reinstatement fees under Subsections 53-3-105[(24)](26) and [(25)]
687 (27).

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

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

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

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

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