

Senator Jerry W. Stevenson proposes the following substitute bill:

**24-7 SOBRIETY PROGRAM EXPANSION**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephanie Pitcher**

Senate Sponsor: Jerry W. Stevenson

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**LONG TITLE**

**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-505**, as last amended by Laws of Utah 2019, Chapter 136

**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



26 [41-6a-517](#), as last amended by Laws of Utah 2020, Chapter 12  
27 [41-6a-518](#), as last amended by Laws of Utah 2018, Chapter 41  
28 [53-3-220](#), as last amended by Laws of Utah 2020, Chapter 177  
29 [53-3-223](#), as last amended by Laws of Utah 2020, Chapter 177

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

32 Section 1. Section [41-6a-505](#) is amended to read:

33 **[41-6a-505](#). Sentencing requirements for driving under the influence of alcohol,**  
34 **drugs, or a combination of both violations.**

35 (1) As part of any sentence for a first conviction of Section [41-6a-502](#):

36 (a) the court shall:

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

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

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

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

43 (iv) order the individual to participate in an educational series if the court does not  
44 order substance abuse treatment as described under Subsection (1)(b);

45 (v) impose a fine of not less than \$700;

46 (vi) order probation for the individual in accordance with Section [41-6a-507](#), if there is  
47 admissible evidence that the individual had a blood alcohol level of .16 or higher;

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

50 (B) if the administrative impound fee was paid by a party described in Subsection  
51 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to  
52 reimburse the party; [or]

53 (viii) (A) order the individual to pay the towing and storage fees described in Section  
54 [72-9-603](#); or

55 (B) if the towing and storage fees were paid by a party described in Subsection  
56 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to

57 reimburse the party; [~~and~~] or  
58 (ix) unless the court determines and states on the record that an ignition interlock  
59 system is not necessary for the safety of the community and in the best interest of justice, order  
60 the installation of an ignition interlock system as described in Section 41-6a-518; and  
61 (b) the court may:  
62 (i) order the individual to obtain substance abuse treatment if the substance abuse  
63 treatment program determines that substance abuse treatment is appropriate;  
64 (ii) order probation for the individual in accordance with Section 41-6a-507;  
65 (iii) order the individual to participate in a 24-7 sobriety program as defined in Section  
66 41-6a-515.5 if the individual is 21 years of age or older; or  
67 (iv) order a combination of Subsections (1)(b)(i) through (iii).  
68 (2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is  
69 within 10 years of the current conviction under Section 41-6a-502 or the commission of the  
70 offense upon which the current conviction is based:  
71 (a) the court shall:  
72 (i) (A) impose a jail sentence of not less than 240 hours; or  
73 (B) impose a jail sentence of not less than 120 hours in addition to home confinement  
74 of not fewer than 720 consecutive hours through the use of electronic monitoring that includes  
75 a substance abuse testing instrument in accordance with Section 41-6a-506;  
76 (ii) order the individual to participate in a screening;  
77 (iii) order the individual to participate in an assessment, if it is found appropriate by a  
78 screening under Subsection (2)(a)(ii);  
79 (iv) order the individual to participate in an educational series if the court does not  
80 order substance abuse treatment as described under Subsection (2)(b);  
81 (v) impose a fine of not less than \$800;  
82 (vi) order probation for the individual in accordance with Section 41-6a-507;  
83 (vii) order the installation of an ignition interlock system as described in Section  
84 41-6a-518;  
85 [~~vii~~] (viii) (A) order the individual to pay the administrative impound fee described in  
86 Section 41-6a-1406; or  
87 (B) if the administrative impound fee was paid by a party described in Subsection

88 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
89 reimburse the party; or  
90 [~~viii~~] (ix) (A) order the individual to pay the towing and storage fees described in  
91 Section 72-9-603; or  
92 (B) if the towing and storage fees were paid by a party described in Subsection  
93 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
94 reimburse the party; and  
95 (b) the court may:  
96 (i) order the individual to obtain substance abuse treatment if the substance abuse  
97 treatment program determines that substance abuse treatment is appropriate;  
98 (ii) order the individual to participate in a 24-7 sobriety program as defined in Section  
99 41-6a-515.5 if the individual is 21 years of age or older; or  
100 (iii) order a combination of Subsections (2)(b)(i) and (ii).  
101 (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison  
102 sentence and places the defendant on probation, the court shall impose:  
103 (a) a fine of not less than \$1,500;  
104 (b) a jail sentence of not less than 1,500 hours; and  
105 (c) supervised probation.  
106 (4) For Subsection (3) or Subsection 41-6a-503(2)(b), the court:  
107 (a) shall impose an order requiring the individual to obtain a screening and assessment  
108 for alcohol and substance abuse, and treatment as appropriate; and  
109 (b) may impose an order requiring the individual to participate in a 24-7 sobriety  
110 program as defined in Section 41-6a-515.5 if the individual is 21 years [~~of age~~] old or older.  
111 (5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.  
112 (6) If an individual is convicted of a violation of Section 41-6a-502 and there is  
113 admissible evidence that the individual had a blood alcohol level of .16 or higher, the court  
114 shall order the following, or describe on record why the order or orders are not appropriate:  
115 (a) treatment as described under Subsection (1)(b), (2)(b), or (4); and  
116 (b) one or more of the following:  
117 (i) the installation of an ignition interlock system as a condition of probation for the  
118 individual in accordance with Section 41-6a-518;

119 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring  
120 device or remote alcohol monitor as a condition of probation for the individual; or

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

123 Section 2. Section 41-6a-509 is amended to read:

124 **41-6a-509. Driver license suspension or revocation for a driving under the**  
125 **influence violation.**

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

128 (a) suspend for a period of 120 days the operator's license of a person convicted for the  
129 first time under Section 41-6a-502; or

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

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

132 (ii) the current violation under Section 41-6a-502 is committed within a period of 10  
133 years from the date of the prior violation.

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

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

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

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

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

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

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

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

149 (d) deny the person's application for a license or learner's permit until the person is 21

150 years of age or for a period of two years, whichever is longer, if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

175 (5) The Driver License Division shall subtract from any suspension or revocation  
176 period the number of days for which a license was previously suspended under Section  
177 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
178 which the record of conviction is based.

179 (6) If a conviction recorded as impaired driving is amended to a driving under the  
180 influence conviction under Section 41-6a-502 in accordance with Subsection

181 41-6a-502.5(3)(a)(ii), the Driver License Division:

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

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

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

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

191 (b) completes a screening;

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

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

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

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

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

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

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

210 (8) If the court shortens a person's license suspension period in accordance with the  
211 requirements of Subsection (7), the court shall forward the order shortening the person's

212 suspension period to the Driver License Division in a manner specified by the division prior to  
213 the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection  
214 (3)(a) or (b) [~~to the Driver License Division~~].

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

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

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

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

226 (i) complete all court ordered:

227 (A) screening;

228 (B) assessment;

229 (C) educational series;

230 (D) substance abuse treatment; and

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

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

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

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

239 (b) If the court shortens a person's license suspension period in accordance with the  
240 requirements of this Subsection (11), the court shall forward [~~to the Driver License Division~~]  
241 the order shortening the person's suspension period to the Driver License Division in a manner  
242 specified by the division.

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

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

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

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

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

260 Section 3. Section **41-6a-515.5** is amended to read:

261 **41-6a-515.5. Sobriety program for DUI.**

262 (1) As used in this section:

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

265 (i) requires an individual to abstain from alcohol or drugs for a period of time;

266 (ii) requires an individual to submit to random drug testing; and

267 (iii) requires the individual to be subject to testing to determine the presence of  
268 alcohol:

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

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

272 (C) by an alternate method that is approved by the National Highway Traffic Safety  
273 Administration.

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

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

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

278 (B) drug patch testing;

279 (C) urinalysis testing;

280 (D) saliva testing;

281 (E) continuous remote sensing;

282 (F) transdermal alcohol monitoring; or

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

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

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

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

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

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

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

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

296 (i) whether a device is available;

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

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

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

302 (v) other factors the commissioner considers relevant.

303 (4) (a) The 24-7 sobriety program shall be supported by evidence of effectiveness and  
304 satisfy at least two of the following categories:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

347 (iv) establish a model sanctioning schedule for program noncompliance~~[-and]~~.

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

350 Section 4. Section **41-6a-517** is amended to read:

351 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**  
352 **body -- Penalties -- Arrest without warrant.**

353 (1) As used in this section:

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

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

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

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

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

362 (b) Subsection (2)(a) does not apply to a person that has  
363 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's  
364 body.

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

367 (a) involuntarily ingested by the accused;  
368 (b) prescribed by a practitioner for use by the accused;  
369 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage  
370 form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical  
371 Cannabis Act; or

372 (d) otherwise legally ingested.

373 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B  
374 misdemeanor.

375 (b) A person who violates this section is subject to conviction and sentencing under  
376 both this section and any applicable offense under Section 58-37-8.

377 (5) A peace officer may, without a warrant, arrest a person for a violation of this  
378 section when the officer has probable cause to believe the violation has occurred, although not  
379 in the officer's presence, and if the officer has probable cause to believe that the violation was  
380 committed by the person.

381 (6) The Driver License Division shall, if the person is 21 years of age or older on the  
382 date of arrest:

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

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

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

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

389 (7) The Driver License Division shall, if the person is 19 years of age or older but  
390 under 21 years of age on the date of arrest:

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

394 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is  
395 longer, the driver license of a person if:

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

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

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

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

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

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

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

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

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

407 (9) The Driver License Division shall subtract from any suspension or revocation  
408 period the number of days for which a license was previously suspended under Section  
409 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
410 which the record of conviction is based.

411 (10) The Driver License Division shall:

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

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

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

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

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

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

426 (b) completes a screening;

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

428 (11)(b);

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

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

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

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

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

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

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

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

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

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

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

458 (14) The court:

459 (a) shall order supervised probation in accordance with Section 41-6a-507 for a person

460 convicted under Subsection (2); and

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

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

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

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

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

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

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

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

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

488 Section 5. Section [41-6a-518](#) is amended to read:

489 **41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost --**  
490 **Impecuniosity -- Fee.**

491 (1) As used in this section:

492 (a) "Commissioner" means the commissioner of the Department of Public Safety.

493 (b) "Employer verification" means written verification from the employer that:

494 (i) the employer is aware that the employee is an interlock restricted driver;

495 (ii) the vehicle the employee is operating for employment purposes is not made  
496 available to the employee for personal use;

497 (iii) the business entity that employs the employee is not entirely or partly owned or  
498 controlled by the employee;

499 (iv) the employer's auto insurance company is aware that the employee is an interlock  
500 restricted driver; and

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

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

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

509 (2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and  
510 41-6a-505, and in addition to any requirements imposed as a condition of probation, unless the  
511 court determines and states on the record that an ignition interlock system is not necessary for  
512 the safety of the community and in the best interest of justice, the court [~~may~~] shall require that  
513 any person who is convicted of violating Section 41-6a-502 and who is granted probation may  
514 not operate a motor vehicle during the period of probation unless that motor vehicle is  
515 equipped with a functioning, certified ignition interlock system installed and calibrated so that  
516 the motor vehicle will not start or continuously operate if the operator's blood alcohol  
517 concentration exceeds [~~a level ordered by the court~~] .02 grams or greater.

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

521 (c) (i) If a person is convicted of a violation of Section 41-6a-502 within 10 years of a

522 prior conviction as defined in Subsection 41-6a-501(2), the court shall order the installation of  
523 the interlock ignition system, at the person's expense, for all motor vehicles registered to that  
524 person and all motor vehicles operated by that person.

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

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

529 (e) This section does not apply to a person convicted of a violation of Section  
530 41-6a-502 whose violation does not involve alcohol.

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

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

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

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

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

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

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

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

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

552 (5) (a) Any probationer required to install an ignition interlock system shall have the

553 system monitored by the manufacturer or dealer of the system for proper use and accuracy at  
554 least semiannually and more frequently as the court may order.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

591 (iii) require a deep lung breath sample as a measure of breath alcohol concentration;

592 (iv) prevent the motor vehicle from being started if the driver's breath alcohol  
593 concentration exceeds [~~a specified level~~] .02 grams or greater;

594 (v) work accurately and reliably in an unsupervised environment;

595 (vi) resist tampering and give evidence if tampering is attempted;

596 (vii) operate reliably over the range of motor vehicle environments; and

597 (viii) be manufactured by a party who will provide liability insurance.

598 (c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or  
599 independent laboratory tests relied upon in certification of ignition interlock systems by other  
600 states.

601 (d) A list of certified systems shall be published by the commissioner and the cost of  
602 certification shall be borne by the manufacturers or dealers of ignition interlock systems  
603 seeking to sell, offer for sale, or lease the systems.

604 (e) (i) In accordance with Section [63J-1-504](#), the commissioner may establish an  
605 annual dollar assessment against the manufacturers of ignition interlock systems distributed in  
606 the state for the costs incurred in certifying.

607 (ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the  
608 manufacturers on a fair and reasonable basis.

609 (f) The commissioner shall require a provider of an ignition interlock system certified  
610 in accordance with this section to comply with the requirements of Title 53, Chapter 3, Part 10,  
611 Ignition Interlock System Program Act.

612 (9) A violation of this section is a class C misdemeanor.

613 (10) There shall be no liability on the part of, and no cause of action of any nature shall  
614 arise against, the state or its employees in connection with the installation, use, operation,

615 maintenance, or supervision of an interlock ignition system as required under this section.

616 Section 6. Section **53-3-220** is amended to read:

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

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

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

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

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

633 (iv) perjury or the making of a false affidavit to the division under this chapter, Title  
634 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or  
635 regulating driving on highways;

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

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

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

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

645 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement

646 officer as required in Section 41-6a-210;

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

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

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

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

656 (xiv) operating or being in actual physical control of a motor vehicle while having any  
657 measurable or detectable amount of alcohol in the person's body in violation of Section  
658 41-6a-530;

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

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

663 (xvii) custodial interference, under:

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

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

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

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

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

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

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

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

681 (i) any violation of:

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

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

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

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

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

687 (ii) any criminal offense that prohibits:

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

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

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

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

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

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

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

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

708 suspended; and

709 (B) a record of the conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

738 (iv) Upon receipt of the first order suspending a person's driving privileges under

739 Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if  
740 ordered by the court in accordance with Subsection 32B-4-411(3)(a).

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

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

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

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

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

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

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

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

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

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

765 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,  
766 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,  
767 41-6a-517, a local ordinance which complies with the requirements of Subsection  
768 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person  
769 was charged with violating as a result of a plea bargain after having been originally charged

770 with violating one or more of these sections or ordinances, unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

804 Section 7. Section **53-3-223** is amended to read:

805 **53-3-223. Chemical test for driving under the influence -- Temporary license --**  
806 **Hearing and decision -- Suspension and fee -- Judicial review.**

807 (1) (a) If a peace officer has reasonable grounds to believe that a person may be  
808 violating or has violated Section [41-6a-502](#), prohibiting the operation of a vehicle with a  
809 certain blood or breath alcohol concentration and driving under the influence of any drug,  
810 alcohol, or combination of a drug and alcohol or while having any measurable controlled  
811 substance or metabolite of a controlled substance in the person's body in violation of Section  
812 [41-6a-517](#), the peace officer may, in connection with arresting the person, request that the  
813 person submit to a chemical test or tests to be administered in compliance with the standards  
814 under Section [41-6a-520](#).

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

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

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

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

831 (5) As a matter of procedure, a peace officer shall send to the division within 10

832 calendar days after the day on which notice is provided:

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

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

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

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

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

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

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

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

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

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

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

852 (iii) the test results, if any.

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

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

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

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

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

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

862 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable

863 grounds to believe that the person was driving a motor vehicle in violation of Section  
864 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the  
865 notice, or if a hearing is not requested under this section, the division shall:

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

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

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

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

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

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

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

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

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

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

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

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

890 (B) no sooner than 60 days beginning on the 45th day after the date of arrest upon  
891 receiving written verification of the person's reduction of a charge for a violation of Section  
892 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the  
893 suspension period.

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

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

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

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

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

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

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

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

921 (b) If a person's license is reinstated under Subsection (9)(a), the person is required to  
922 pay the license reinstatement application fees under Subsections [53-3-105](#)[(24)](26) and [(25)]  
923 (27).

924 (10) (a) If the division suspends a person's license for an alcohol related offense under

925 Subsection (7)(a)(i)(A), the person may petition the division and elect to become an ignition  
926 interlock restricted driver if the person:

927 (i) has a valid driving privilege, with the exception of the suspension under Subsection  
928 (7)(a)(i)(A);

929 (ii) completes a risk assessment approved by the division that:

930 (A) is completed after the date of the arrest for which the person is suspended under  
931 Subsection (7)(a)(i)(A); and

932 (B) identifies the person as a low risk offender;

933 (iii) installs an ignition interlock device in any vehicle owned or driven by the person  
934 in accordance with Section 53-3-1007; and

935 (iv) pays the license reinstatement application fees described in Subsections  
936 53-3-105(26) and (27).

937 (b) The person shall remain an ignition interlock restricted driver for a period of 120

938 days from the original effective date of the suspension under Subsection (7)(a)(i)(A). If the

939 person removes an ignition interlock device from a vehicle owned or driven by the person prior  
940 to the expiration of the 120 day ignition interlock restriction period;

941 (i) the person's driver license shall be suspended under Subsection (7)(a)(i)(A) for the  
942 remainder of the 120 day ignition interlock restriction period;

943 (ii) the person is required to pay the license reinstatement application fee under  
944 Subsection 53-3-105(26); and

945 (iii) the person may not elect to become an ignition interlock restricted driver under  
946 this section.

947 (c) If a person elects to become an ignition interlock restricted driver under Subsection  
948 (10)(a), the provisions under Subsection (7)(b) do not apply.