

1 **DRIVER LICENSE SUSPENSION REVISIONS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Karen Mayne**

5 House Sponsor: Ryan D. Wilcox

7 **LONG TITLE**

8 **General Description:**

9 This bill limits suspension of an individual's driver license for certain offenses.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ amends driver license suspension for certain drug related offenses to offenses
13 involving the controlled substance or paraphernalia in the passenger compartment of
14 the vehicle;

15 ▶ removes driver license suspension requirements for certain offenses related to
16 custodial interference; and

17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **53-3-220**, as last amended by Laws of Utah 2020, Chapter 177

25 **76-5-303**, as last amended by Laws of Utah 2017, Chapter 181

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



28 Section 1. Section 53-3-220 is amended to read:

29 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
30 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
31 **Limited driving privileges.**

32 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter
33 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or
34 disqualification, the division shall deny, suspend, or disqualify the license of a person upon
35 receiving a record of the person's conviction for:

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

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

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

45 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
46 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
47 regulating driving on highways;

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

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

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

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

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

- 59 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
60 requires disqualification;
- 61 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
62 allowing the discharge of a firearm from a vehicle;
- 63 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
64 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);
- 65 (xiii) operating or being in actual physical control of a motor vehicle while having any
66 measurable controlled substance or metabolite of a controlled substance in the person's body in
67 violation of Section 41-6a-517;
- 68 (xiv) operating or being in actual physical control of a motor vehicle while having any
69 measurable or detectable amount of alcohol in the person's body in violation of Section
70 41-6a-530;
- 71 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
72 violation of Section 41-6a-606;
- 73 (xvi) operating or being in actual physical control of a motor vehicle in this state
74 without an ignition interlock system in violation of Section 41-6a-518.2; or
- 75 [~~(xvii) custodial interference, under:~~]
- 76 [~~(A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless~~
77 ~~the court provides the division with an order of suspension for a shorter period of time;]~~
- 78 [~~(B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless~~
79 ~~the court provides the division with an order of suspension for a shorter period of time; or]~~
- 80 [~~(C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days,~~
81 ~~unless the court provides the division with an order of suspension for a shorter period of time;~~
82 ~~or]~~
- 83 [~~(xviii)] (xvii) refusal of a chemical test under Subsection 41-6a-520(7).~~
- 84 (b) The division shall immediately revoke the license of a person upon receiving a
85 record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for:
- 86 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
87 allowing the discharge of a firearm from a vehicle; or
- 88 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
89 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

90 (c) Except when action is taken under Section 53-3-219 for the same offense, upon
91 receiving a record of conviction, the division shall immediately suspend for six months the
92 license of the convicted person if the person was convicted of one of the following offenses
93 while the person was an operator of a motor vehicle, and the court finds that the substance or
94 paraphernalia was found in the passenger compartment of the motor vehicle:

95 (i) any violation of:

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

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

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

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

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

101 (ii) any criminal offense that prohibits:

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

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

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

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

110 (B) a record of the conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

166 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
167 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
168 41-6a-517, a local ordinance which complies with the requirements of Subsection
169 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person
170 was charged with violating as a result of a plea bargain after having been originally charged
171 with violating one or more of these sections or ordinances, unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

205 Section 2. Section **76-5-303** is amended to read:

206 **76-5-303. Custodial interference.**

207 (1) As used in this section:

208 (a) "Child" means a person under the age of 18.

209 (b) "Custody" means court-ordered physical custody entered by a court of competent
210 jurisdiction.

211 (c) "Visitation" means court-ordered parent-time or visitation entered by a court of
212 competent jurisdiction.

213 (2) (a) A person who is entitled to custody of a child is guilty of custodial interference

214 if, during a period of time when another person is entitled to visitation of the child, the person
215 takes, entices, conceals, detains, or withholds the child from the person entitled to visitation of
216 the child, with the intent to interfere with the visitation of the child.

217 (b) A person who is entitled to visitation of a child is guilty of custodial interference if,
218 during a period of time when the person is not entitled to visitation of the child, the person
219 takes, entices, conceals, detains, or withholds the child from a person who is entitled to custody
220 of the child, with the intent to interfere with the custody of the child.

221 (3) Except as provided in Subsection (4) or (5), custodial interference is a class B
222 misdemeanor.

223 (4) Except as provided in Subsection (5), the actor described in Subsection (2) is guilty
224 of a class A misdemeanor if the actor:

225 (a) commits custodial interference; and

226 (b) has been convicted of custodial interference at least twice in the two-year period
227 immediately preceding the day on which the commission of custodial interference described in
228 Subsection (4)(a) occurs.

229 (5) Custodial interference is a felony of the third degree if, during the course of the
230 custodial interference, the actor described in Subsection (2) removes, causes the removal, or
231 directs the removal of the child from the state.

232 (6) In addition to the affirmative defenses described in Section 76-5-305, it is an
233 affirmative defense to the crime of custodial interference that:

234 (a) the action is consented to by the person whose custody or visitation of the child was
235 interfered with; or

236 (b) (i) the action is based on a reasonable belief that the action is necessary to protect a
237 child from abuse, including sexual abuse; and

238 (ii) before engaging in the action, the person reports the person's intention to engage in
239 the action, and the basis for the belief described in Subsection (6)(b)(i), to the Division of
240 Child and Family Services or law enforcement.

241 ~~[(7) In addition to the other penalties described in this section, a person who is~~
242 ~~convicted of custodial interference is subject to the driver license suspension provisions of~~
243 ~~Subsection 53-3-220(1)(a)(xvii).]~~