

DUI AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to driving under the influence and related penalties.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to driving under the influence to clarify that both blood and breath alcohol levels are relevant for certain offenses and penalty purposes;

- ▶ amends provisions regarding refusal of a chemical test and associated penalties based on the circumstances;

- ▶ amends provisions regarding penalties and the requirement for a court to order probation in certain circumstances;

- ▶ amends the definition of "human driver" to clarify that a person without a valid license is subject to traffic laws, including driving under the influence; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-502.5, as last amended by Laws of Utah 2021, Chapter 79



- 28 **41-6a-503**, as last amended by Laws of Utah 2021, Chapter 79
- 29 **41-6a-505**, as last amended by Laws of Utah 2021, Chapters 79 and 83
- 30 **41-6a-520**, as last amended by Laws of Utah 2020, Chapter 177
- 31 **41-26-102.1**, as enacted by Laws of Utah 2019, Chapter 459
- 32 **41-26-103**, as enacted by Laws of Utah 2019, Chapter 459

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

35 Section 1. Section **41-6a-502.5** is amended to read:

36 **41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing**
 37 **requirements.**

38 (1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of
 39 Section **41-6a-502** committed on or after July 1, 2008, may be entered as a conviction of
 40 impaired driving under this section if:

- 41 (a) the defendant completes court ordered probation requirements; or
- 42 (b) (i) the prosecutor agrees as part of a negotiated plea; and
- 43 (ii) the court finds the plea to be in the interest of justice.

44 (2) A conviction entered under this section is a class B misdemeanor.

45 (3) (a) (i) If the entry of an impaired driving plea is based on successful completion of
 46 probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

47 (ii) If the defendant fails to appear before the court and establish successful completion
 48 of the court ordered probation requirements under Subsection (1)(a), the court shall enter an
 49 amended conviction of Section **41-6a-502**.

50 (iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of
 51 conviction.

52 (b) The court may enter a conviction of impaired driving immediately under
 53 Subsection (1)(b).

54 (4) For purposes of Section **76-3-402**, the entry of a plea to a class B misdemeanor
 55 violation of Section **41-6a-502** as impaired driving under this section is a reduction of one
 56 degree.

57 (5) (a) The court shall notify the Driver License Division of each conviction entered
 58 under this section.

59 (b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of
60 Occupational and Professional Licensing, created in Section 58-1-103, a report containing the
61 name, case number, and, if known, the date of birth of each person convicted during the
62 preceding month of a violation of this section for whom there is evidence that the person was
63 driving while impaired, in whole or in part, by a prescribed controlled substance.

64 (6) (a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a
65 sentencing court to order a convicted person to participate in a screening, an assessment, or an
66 educational series, or obtain substance abuse treatment or do a combination of those things,
67 apply to a conviction entered under this section.

68 (b) The court shall render the same order regarding screening, assessment, an
69 educational series, or substance abuse treatment in connection with a first, second, or
70 subsequent conviction under this section as the court would render in connection with applying
71 respectively, the first, second, or subsequent conviction requirements of Subsections
72 41-6a-505(1), (3), (5), and (7).

73 (7) (a) Except as provided in Subsection (7)(b), a report authorized by Section
74 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the
75 reporting court notifies the Driver License Division that the defendant is participating in or has
76 successfully completed the program of a driving under the influence court.

77 (b) The provisions of Subsection (7)(a) do not apply to a report concerning:

- 78 (i) a CDL license holder; or
79 (ii) a violation that occurred in a commercial motor vehicle.

80 (8) The provisions of this section are not available:

81 (a) to a person who has a prior conviction as that term is defined in Subsection
82 41-6a-501(2); or

83 (b) where there is admissible evidence that the individual:

- 84 (i) had a blood or breath alcohol level of .16 or higher;
85 (ii) had a blood or breath alcohol level of .05 or higher in addition to any measurable
86 controlled substance; or

87 (iii) had a combination of two or more controlled substances in the person's body that
88 were not:

89 (A) prescribed by a licensed physician; or

90 (B) recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis
91 Act.

92 Section 2. Section **41-6a-503** is amended to read:

93 **41-6a-503. Penalties for driving under the influence violations.**

94 (1) A person who violates for the first or second time Section [41-6a-502](#) or [41-6a-520](#)
95 is guilty of an offense classified as a:

96 (a) class B misdemeanor; or

97 (b) class A misdemeanor if the person:

98 (i) has also inflicted bodily injury upon another as a proximate result of having
99 operated the vehicle in a negligent manner;

100 (ii) had a passenger under 16 years ~~[of age]~~ old in the vehicle at the time of the offense;

101 (iii) was 21 years ~~[of age]~~ old or older and had a passenger under 18 years ~~[of age]~~ old
102 in the vehicle at the time of the offense; or

103 (iv) at the time of the violation of Section [41-6a-502](#), also violated Section [41-6a-712](#)
104 or [41-6a-714](#).

105 (2) A person who violates Section [41-6a-502](#) or [41-6a-520](#) is guilty of an offense
106 classified as a third degree felony if:

107 (a) the person has also inflicted serious bodily injury upon another as a proximate
108 result of having operated the vehicle in a negligent manner;

109 (b) the person has two or more prior convictions as defined in Subsection
110 [41-6a-501\(2\)](#), each of which is within 10 years of:

111 (i) the current conviction [~~under Section [41-6a-502](#)];~~ or

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

113 (c) the current conviction [~~under Section [41-6a-502](#)]~~ is at any time after a conviction
114 of:

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

116 (ii) a felony violation of Section [41-6a-502](#) or a statute previously in effect in this state
117 that would constitute a violation of Section [41-6a-502](#) that is committed after July 1, 2001; or

118 (iii) any conviction described in Subsection (2)(c)(i) or (ii) which judgment of
119 conviction is reduced under Section [76-3-402](#).

120 (3) A person is guilty of a separate offense for each victim suffering bodily injury or

121 serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a
122 result of the person's violation of Section 76-5-207 whether or not the injuries arise from the
123 same episode of driving.

124 (4) A person is guilty of a separate offense under Subsection (1)(b)(ii) for each
125 passenger in the vehicle at the time of the offense that is under 16 years old.

126 Section 3. Section 41-6a-505 is amended to read:

127 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
128 **drugs, or a combination of both violations.**

129 (1) As part of any sentence for a first conviction of Section 41-6a-502 where there is
130 admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had
131 a blood or breath alcohol level of .05 or higher in addition to any measurable controlled
132 substance, or had a combination of two or more controlled substances in the individual's body
133 that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis
134 Act or prescribed:

135 (a) the court shall:

136 (i) (A) impose a jail sentence of not less than five days; or

137 (B) impose a jail sentence of not less than two days in addition to home confinement of
138 not fewer than 30 consecutive days through the use of electronic monitoring that includes a
139 substance abuse testing instrument in accordance with Section 41-6a-506;

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

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

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

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

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

147 (vii) (A) order the individual to pay the administrative impound fee described in
148 Section 41-6a-1406; or

149 (B) if the administrative impound fee was paid by a party described in Subsection
150 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
151 reimburse the party;

152 (viii) (A) order the individual to pay the towing and storage fees described in Section
153 72-9-603; or

154 (B) if the towing and storage fees were paid by a party described in Subsection
155 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
156 reimburse the party; or

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

160 (b) the court may:

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

163 ~~[(ii) order probation for the individual in accordance with Section 41-6a-507;]~~

164 ~~[(iii)]~~ (ii) order the individual to participate in a 24/7 sobriety program as defined in
165 Section 41-6a-515.5 if the individual is 21 years old or older; or

166 ~~[(iv)]~~ (iii) order a combination of Subsections (1)(b)(i) ~~[through (iii)]~~ and (ii).

167 (2) (a) If an individual described in Subsection (1) is participating in a 24/7 sobriety
168 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed
169 under Subsection (1)(a).

170 (b) If an individual described in Subsection (1) fails to successfully complete all of the
171 requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence
172 described in Subsection (2)(a).

173 (3) As part of any sentence for any first conviction of Section 41-6a-502 not described
174 in Subsection (1):

175 (a) the court shall:

176 (i) (A) impose a jail sentence of not less than 2 days; or

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

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

180 (iii) order the individual to participate in an assessment, if it is found appropriate by a
181 screening under Subsection (3)(a)(ii);

182 (iv) order the individual to participate in an educational series if the court does not

183 order substance abuse treatment as described under Subsection (3)(b);
184 (v) impose a fine of not less than \$700;
185 (vi) (A) order the individual to pay the administrative impound fee described in Section
186 41-6a-1406; or
187 (B) if the administrative impound fee was paid by a party described in Subsection
188 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
189 reimburse the party; or
190 (vii) (A) order the individual to pay the towing and storage fees described in Section
191 72-9-603; or
192 (B) if the towing and storage fees were paid by a party described in Subsection
193 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
194 reimburse the party; and
195 (b) the court may:
196 (i) order the individual to obtain substance abuse treatment if the substance abuse
197 treatment program determines that substance abuse treatment is appropriate;
198 (ii) order probation for the individual in accordance with Section 41-6a-507;
199 (iii) order the individual to participate in a 24/7 sobriety program as defined in Section
200 41-6a-515.5 if the individual is 21 years old or older; or
201 (iv) order a combination of Subsections (3)(b)(i) through (iii).
202 (4) (a) If an individual described in Subsection (3) is participating in a 24/7 sobriety
203 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed
204 under Subsection (3)(a).
205 (b) If an individual described in Subsection (4)(a) fails to successfully complete all of
206 the requirements of the 24/7 sobriety program, the court shall impose the suspended jail
207 sentence described in Subsection (4)(a).
208 (5) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is
209 within 10 years of the current conviction under Section 41-6a-502 or the commission of the
210 offense upon which the current conviction is based and where there is admissible evidence that
211 the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath
212 alcohol level of .05 or higher in addition to any measurable controlled substance, or had a
213 combination of two or more controlled substances in the individual's body that were not

214 recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or
215 prescribed:

216 (a) the court shall:

217 (i) (A) impose a jail sentence of not less than 20 days;

218 (B) impose a jail sentence of not less than 10 days in addition to home confinement of
219 not fewer than 60 consecutive days through the use of electronic monitoring that includes a
220 substance abuse testing instrument in accordance with Section 41-6a-506; or

221 (C) impose a jail sentence of not less than 10 days in addition to ordering the
222 individual to obtain substance abuse treatment, if the court finds that substance abuse treatment
223 is more likely to reduce recidivism and is in the interests of public safety;

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

225 (iii) order the individual to participate in an assessment, if it is found appropriate by a
226 screening under Subsection (5)(a)(ii);

227 (iv) order the individual to participate in an educational series if the court does not
228 order substance abuse treatment as described under Subsection (5)(b);

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

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

231 (vii) order the installation of an ignition interlock system as described in Section
232 41-6a-518;

233 (viii) (A) order the individual to pay the administrative impound fee described in
234 Section 41-6a-1406; or

235 (B) if the administrative impound fee was paid by a party described in Subsection
236 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
237 reimburse the party; or

238 (ix) (A) order the individual to pay the towing and storage fees described in Section
239 72-9-603; or

240 (B) if the towing and storage fees were paid by a party described in Subsection
241 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
242 reimburse the party; and

243 (b) the court may:

244 (i) order the individual to obtain substance abuse treatment if the substance abuse

245 treatment program determines that substance abuse treatment is appropriate;

246 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section

247 41-6a-515.5 if the individual is 21 years old or older; or

248 (iii) order a combination of Subsections (5)(b)(i) and (ii).

249 (6) (a) If an individual described in Subsection (5) is participating in a 24/7 sobriety

250 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed

251 under Subsection (5)(a) after the individual has served a minimum of:

252 (i) five days of the jail sentence for a second offense; or

253 (ii) 10 days of the jail sentence for a third or subsequent offense.

254 (b) If an individual described in Subsection (6)(a) fails to successfully complete all of

255 the requirements of the 24/7 sobriety program, the court shall impose the suspended jail

256 sentence described in Subsection (6)(a).

257 (7) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is

258 within 10 years of the current conviction under Section 41-6a-502 or the commission of the

259 offense upon which the current conviction is based and that does not qualify under Subsection

260 (5):

261 (a) the court shall:

262 (i) (A) impose a jail sentence of not less than 10 days; or

263 (B) impose a jail sentence of not less than 5 days in addition to home confinement of

264 not fewer than 30 consecutive days through the use of electronic monitoring that includes a

265 substance abuse testing instrument in accordance with Section 41-6a-506;

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

267 (iii) order the individual to participate in an assessment, if it is found appropriate by a

268 screening under Subsection (7)(a)(ii);

269 (iv) order the individual to participate in an educational series if the court does not

270 order substance abuse treatment as described under Subsection (7)(b);

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

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

273 (vii) (A) order the individual to pay the administrative impound fee described in

274 Section 41-6a-1406; or

275 (B) if the administrative impound fee was paid by a party described in Subsection

276 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
277 reimburse the party; or
278 (viii) (A) order the individual to pay the towing and storage fees described in Section
279 72-9-603; or
280 (B) if the towing and storage fees were paid by a party described in Subsection
281 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
282 reimburse the party; and
283 (b) the court may:
284 (i) order the individual to obtain substance abuse treatment if the substance abuse
285 treatment program determines that substance abuse treatment is appropriate;
286 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
287 41-6a-515.5 if the individual is 21 years old or older; or
288 (iii) order a combination of Subsections (7)(b)(i) and (ii).
289 (8) (a) If an individual described in Subsection (7) is participating in a 24/7 sobriety
290 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed
291 under Subsection (7)(a) after the individual has served a minimum of:
292 (i) five days of the jail sentence for a second offense; or
293 (ii) 10 days of the jail sentence for a third or subsequent offense.
294 (b) If an individual described in Subsection (8)(a) fails to successfully complete all of
295 the requirements of the 24/7 sobriety program, the court shall impose the suspended jail
296 sentence described in Subsection (8)(a).
297 (9) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison
298 sentence and places the defendant on probation where there is admissible evidence that the
299 individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol
300 level of .05 in addition to any measurable controlled substance, or had a combination of two or
301 more controlled substances in the person's body that were not recommended in accordance with
302 Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed, the court shall impose:
303 (a) a fine of not less than \$1,500;
304 (b) a jail sentence of not less than 120 days;
305 (c) home confinement of not fewer than 120 consecutive days through the use of
306 electronic monitoring that includes a substance abuse testing instrument in accordance with

307 Section 41-6a-506; and

308 (d) supervised probation.

309 (10) (a) For Subsection (9) or Subsection 41-6a-503(2)(b), the court:

310 (i) shall impose an order requiring the individual to obtain a screening and assessment
311 for alcohol and substance abuse, and treatment as appropriate; and

312 (ii) may impose an order requiring the individual to participate in a 24/7 sobriety
313 program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

314 (b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all
315 of the requirements of the 24/7 sobriety program, the court shall impose the suspended prison
316 sentence described in Subsection (9).

317 (11) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison
318 sentence and places the defendant on probation with a sentence not described in Subsection (9),
319 the court shall impose:

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

321 (b) a jail sentence of not less than 60 days;

322 (c) home confinement of not fewer than 60 consecutive days through the use of
323 electronic monitoring that includes a substance abuse testing instrument in accordance with
324 Section 41-6a-506; and

325 (d) supervised probation.

326 (12) (a) (i) Except as described in Subsection (12)(a)(ii), a court may not suspend the
327 requirements of this section.

328 (ii) A court may suspend requirements as described in Subsection (2), (4), (6), or (8);
329 ~~(10)(b), or (11)~~.

330 (b) A court, with stipulation of both parties and approval from the judge, may convert a
331 jail sentence required in this section to electronic home confinement.

332 (c) A court may order a jail sentence imposed as a condition of misdemeanor probation
333 under this section to be served in multiple two-day increments at weekly intervals if the court
334 determines that separate jail increments are necessary to ensure the defendant can serve the
335 statutorily required jail term and maintain employment.

336 (13) If an individual is convicted of a violation of Section 41-6a-502 and there is
337 admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, the

338 court shall order the following, or describe on record why the order or orders are not
339 appropriate:

340 (a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and

341 (b) one or more of the following:

342 (i) the installation of an ignition interlock system as a condition of probation for the
343 individual in accordance with Section 41-6a-518;

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

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

348 Section 4. Section 41-6a-520 is amended to read:

349 **41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of**
350 **tests -- Refusal -- Warning, report.**

351 (1) (a) A person operating a motor vehicle in this state is considered to have given the
352 person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for
353 the purpose of determining whether the person was operating or in actual physical control of a
354 motor vehicle while:

355 (i) having a blood or breath alcohol content statutorily prohibited under Section
356 41-6a-502, 41-6a-530, or 53-3-231;

357 (ii) under the influence of alcohol, any drug, or combination of alcohol and any drug
358 under Section 41-6a-502; or

359 (iii) having any measurable controlled substance or metabolite of a controlled
360 substance in the person's body in violation of Section 41-6a-517.

361 (b) A test or tests authorized under this Subsection (1) must be administered at the
362 direction of a peace officer having grounds to believe that person to have been operating or in
363 actual physical control of a motor vehicle while in violation of any provision under Subsections
364 (1)(a)(i) through (iii).

365 (c) (i) The peace officer determines which of the tests are administered and how many
366 of them are administered.

367 (ii) If a peace officer requests more than one test, refusal by a person to take one or
368 more requested tests, even though the person does submit to any other requested test or tests, is

369 a refusal under this section.

370 (d) (i) A person who has been requested under this section to submit to a chemical test
371 or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be
372 administered.

373 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is
374 not a defense to taking a test requested by a peace officer, and it is not a defense in any
375 criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the
376 requested test or tests.

377 (2) (a) A peace officer requesting a test or tests shall warn a person that refusal to
378 submit to the test or tests may result in criminal prosecution, revocation of the person's license
379 to operate a motor vehicle, a five or 10 year prohibition of driving with any measurable or
380 detectable amount of alcohol in the person's body depending on the person's prior driving
381 history, and a three-year prohibition of driving without an ignition interlock device if the
382 person:

383 (i) has been placed under arrest;

384 (ii) has then been requested by a peace officer to submit to any one or more of the
385 chemical tests under Subsection (1); and

386 (iii) refuses to submit to any chemical test requested.

387 (b) (i) Following the warning under Subsection (2)(a), if the person does not
388 immediately request that the chemical test or tests as offered by a peace officer be
389 administered, a peace officer shall, on behalf of the Driver License Division and within 24
390 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's
391 privilege or license to operate a motor vehicle.

392 (ii) When a peace officer gives the notice on behalf of the Driver License Division, the
393 peace officer shall supply to the operator, in a manner specified by the Driver License Division,
394 basic information regarding how to obtain a hearing before the Driver License Division.

395 (c) As a matter of procedure, the peace officer shall submit a signed report, within 10
396 calendar days after the day on which notice is provided under Subsection (2)(b), that:

397 (i) the peace officer had grounds to believe the arrested person was in violation of any
398 provision under Subsections (1)(a)(i) through (iii); and

399 (ii) the person had refused to submit to a chemical test or tests under Subsection (1).

400 (3) Upon the request of the person who was tested, the results of the test or tests shall
401 be made available to the person.

402 (4) (a) The person to be tested may, at the person's own expense, have a physician or a
403 physician assistant of the person's own choice administer a chemical test in addition to the test
404 or tests administered at the direction of a peace officer.

405 (b) The failure or inability to obtain the additional test does not affect admissibility of
406 the results of the test or tests taken at the direction of a peace officer, or preclude or delay the
407 test or tests to be taken at the direction of a peace officer.

408 (c) The additional test shall be subsequent to the test or tests administered at the
409 direction of a peace officer.

410 (5) For the purpose of determining whether to submit to a chemical test or tests, the
411 person to be tested does not have the right to consult an attorney or have an attorney, physician,
412 or other person present as a condition for the taking of any test.

413 (6) Notwithstanding the provisions in this section, a blood test taken under this section
414 is subject to Section [77-23-213](#).

415 (7) A person is guilty of refusing a chemical test if a peace officer has issued the
416 warning required in Subsection (2)(a) and the person refuses to submit to a test of the person's
417 blood under Subsection (1) after a court has issued a warrant to draw and test the blood.

418 [~~(8) A person who violates Subsection (7) is guilty of:~~]

419 [~~(a) a third degree felony if:~~]

420 [~~(i) the person has two or more prior convictions as defined in Subsection
421 [41-6a-501](#)(2), each of which is within 10 years of:~~]

422 [~~(A) the current conviction; or]~~]

423 [~~(B) the commission of the offense upon which the current conviction is based; or]~~]

424 [~~(ii) the conviction is at any time after a conviction of:~~]

425 [~~(A) automobile homicide under Section [76-5-207](#);~~]

426 [~~(B) a felony violation of this section or Section [41-6a-502](#); or]~~]

427 [~~(C) any conviction described in Subsection (8)(a)(ii) which judgment of conviction is
428 reduced under Section [76-3-402](#); or]~~]

429 [~~(b) a class B misdemeanor if none of the circumstances in Subsection (8)(a) applies.]~~]

430 (8) A person who violates Subsection (7) commits an offense classified as a

431 misdemeanor or felony in accordance with Subsections 41-6a-503(1) and (2).

432 (9) As part of any sentence for a conviction of violating this section, the court shall
433 impose the same sentencing as outlined for driving under the influence violations in Section
434 41-6a-505, based on whether this is a first, second, or subsequent conviction as defined by
435 Subsection 41-6a-501(2), with the following modifications:

436 (a) any jail sentence shall be 24 consecutive hours more than would be required under
437 Section 41-6a-505;

438 (b) any fine imposed shall be \$100 more than would be required under Section
439 41-6a-505; and

440 (c) the court shall order one or more of the following:

441 (i) the installation of an ignition interlock system as a condition of probation for the
442 individual in accordance with Section 41-6a-518;

443 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
444 device as a condition of probation for the individual; or

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

447 (10) (a) The offense of refusal to submit to a chemical test under this section does not
448 merge with any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.

449 (b) A guilty or no contest plea to an offense of refusal to submit to a chemical test
450 under this section may not be held in abeyance.

451 Section 5. Section 41-26-102.1 is amended to read:

452 **41-26-102.1. Definitions.**

453 (1) "ADS-dedicated vehicle" means a vehicle designed to be operated exclusively by a
454 level four or five ADS for all trips within the given operational design domain limitations of
455 the ADS, if any.

456 (2) (a) "Automated driving system" or "ADS" means the hardware and software that
457 are collectively capable of performing the entire dynamic driving task on a sustained basis,
458 regardless of whether the ADS is limited to a specific operational design domain, if any.

459 (b) "Automated driving system" or "ADS" is used specifically to describe a level three,
460 four, or five driving automation system.

461 (3) "Commission" means the State Tax Commission as defined in Section 59-1-101.

462 (4) "Conventional driver" means a human driver who is onboard the motor vehicle and
463 manually performs some or all of the following actions in order to operate a vehicle:

- 464 (a) braking;
- 465 (b) accelerating;
- 466 (c) steering; and
- 467 (d) transmission gear selection input devices.

468 (5) (a) "Dispatch" means to place an ADS-equipped vehicle into service in driverless
469 operation by engaging the ADS.

470 (b) "Dispatch" includes software-enabled dispatch of multiple ADS-equipped motor
471 vehicles in driverless operation that may complete multiple trips involving pick-up and
472 drop-off of passengers or goods throughout a day or other pre-defined periods of service, and
473 which may involve multiple agents performing various tasks related to the dispatch function.

474 (6) "Division" means the Motor Vehicle Division of the commission, created in
475 Section [41-1a-106](#).

476 (7) "Driverless operation" means the operation of an ADS-equipped vehicle in which:

- 477 (a) no on-board user is present; or
- 478 (b) no on-board user is a human driver with a valid driver license or fallback-ready
479 user.

480 (8) "Driverless operation dispatcher" means a user who dispatches an ADS-equipped
481 vehicle in driverless operation.

482 (9) "Driving automation system" means the hardware and software collectively capable
483 of performing part or all of the dynamic driving task on a sustained basis.

484 (10) "Driving automation system feature" means a specific function of a driving
485 automation system.

486 (11) (a) "Dynamic driving task" means all of the real-time operational and tactical
487 functions required to operate a motor vehicle in on-road traffic, including:

- 488 (i) lateral vehicle motion control through steering;
- 489 (ii) longitudinal motion control through acceleration and deceleration;
- 490 (iii) monitoring the driving environment through object and event detection,
491 recognition, classification, and response preparation;
- 492 (iv) object and event response execution;

- 493 (v) maneuver planning; and
- 494 (vi) enhancing conspicuity with lighting, signaling, and gesturing.
- 495 (b) "Dynamic driving task" does not include strategic functions such as trip scheduling
496 and selection of destinations and waypoints.
- 497 (12) "Engage" as it pertains to the operation of a vehicle by a driving automation
498 system means to cause a driving automation system feature to perform part or all of the
499 dynamic driving task on a sustained basis.
- 500 (13) "External event" is a situation in the driving environment that necessitates a
501 response by a human driver with a valid driver license or driving automation system.
- 502 (14) "Fallback-ready user" means the user of a vehicle equipped with an engaged level
503 three ADS who is:
- 504 (a) a human driver with a valid driver license; and
- 505 (b) ready to operate the vehicle if:
- 506 (i) a system failure occurs; or
- 507 (ii) the ADS issues a request to intervene.
- 508 (15) (a) "Human driver" means a natural person~~[(i) with a valid license to operate a
509 motor vehicle of the proper class for the motor vehicle being operated; and (ii)]~~ who performs
510 in real-time all or part of the dynamic driving task.
- 511 (b) "Human driver" includes a:
- 512 (i) conventional driver; and
- 513 (ii) remote driver.
- 514 (16) "Level five automated driving system" or "level five ADS" means an ADS feature
515 that has the capability to perform on a sustained basis the entire dynamic driving task under all
516 conditions that can reasonably be managed by a human driver, as well as any maneuvers
517 necessary to respond to a system failure, without any expectation that a human user will
518 respond to a request to intervene.
- 519 (17) "Level four automated driving system" or "level four ADS" means an ADS feature
520 that, without any expectation that a human user will respond to a request to intervene, has:
- 521 (a) the capability to perform on a sustained basis the entire dynamic driving task within
522 its operational design domain; and
- 523 (b) the capability to perform any maneuvers necessary to achieve a minimal risk

524 condition in response to:

525 (i) an exit from the operational design domain of the ADS; or

526 (ii) a system failure.

527 (18) "Level three automated driving system" or "level three ADS" means an ADS

528 feature that:

529 (a) has the capability to perform on a sustained basis the entire dynamic driving task

530 within its operational design domain; and

531 (b) requires a fallback-ready user to operate the vehicle after receiving a request to

532 intervene or in response to a system failure.

533 (19) "Minimal risk condition" means a condition to which a user or an ADS may bring

534 a motor vehicle in order to reduce the risk of a crash when a given trip cannot or should not be

535 completed.

536 (20) "Object and event detection and response" means the subtasks of the dynamic

537 driving task that include:

538 (a) monitoring the driving environment; and

539 (b) executing an appropriate response in order to perform the dynamic driving task.

540 (21) "On-demand autonomous vehicle network" means a transportation service

541 network that uses a software application or other digital means to dispatch or otherwise enable

542 the prearrangement of transportation with motor vehicles that have a level four or five ADS in

543 driverless operation for purposes of transporting persons, including for-hire transportation and

544 transportation for compensation.

545 (22) "Operate" means the same as that term is defined in Section [41-1a-102](#).

546 (23) "Operational design domain" means the operating conditions under which a given

547 ADS or feature thereof is specifically designed to function, including:

548 (a) speed range, environmental, geographical, and time-of-day restrictions; or

549 (b) the requisite presence or absence of certain traffic or roadway characteristics.

550 (24) "Operator" means the same as that term is defined in Section [41-6a-102](#).

551 (25) "Passenger" means a user on board a vehicle who has no role in the operation of

552 that vehicle.

553 (26) "Person" means the same as that term is defined in Section [41-6a-102](#).

554 (27) "Remote driver" means a human driver with a valid driver license who is not

555 located in a position to manually exercise in-vehicle braking, accelerating, steering, or
556 transmission gear selection input devices, but operates the vehicle.

557 (28) "Request to intervene" means the notification by an ADS to a fallback-ready user
558 indicating that the fallback-ready user should promptly begin or resume operation of the
559 vehicle.

560 (29) "Sustained operation of a motor vehicle" means the performance of part or all of
561 the dynamic driving task both between and across external events, including response to
562 external events and continued performance of part or all of the dynamic driving task in the
563 absence of external events.

564 (30) "System failure" means a malfunction in a driving automation system or other
565 vehicle system that prevents the ADS from reliably performing the portion of the dynamic
566 driving task on a sustained basis, including the complete dynamic driving task, that the ADS
567 would otherwise perform.

568 (31) "User" means a:

- 569 (a) human driver;
- 570 (b) passenger;
- 571 (c) fallback-ready user; or
- 572 (d) driverless operation dispatcher.

573 Section 6. Section **41-26-103** is amended to read:

574 **41-26-103. Operation of motor vehicles equipped with an automated driving**
575 **system.**

576 (1) A motor vehicle equipped with a level three ADS may operate on a highway in this
577 state if:

578 (a) the motor vehicle is operated, whether by the ADS or human driver with a valid
579 driver license, in compliance with the applicable traffic and motor vehicle safety laws and
580 regulations of this state, unless an exemption has been granted;

581 (b) when required by federal law, the motor vehicle:

582 (i) has been certified as being in compliance with all applicable motor vehicle safety
583 standards; and

584 (ii) bears the required certification label, including reference to any exemption granted
585 under federal law;

586 (c) when operated by an ADS, if a system failure occurs that renders the ADS unable to
587 perform the entire dynamic driving task relevant to the intended operational design domain of
588 the ADS, the ADS will achieve a minimal risk condition or make a request to intervene; and

589 (d) the motor vehicle is titled and registered in compliance with Section 41-26-107.

590 (2) A motor vehicle equipped with a level four or level five ADS may operate in
591 driverless operation on a highway in this state if:

592 (a) the ADS is capable of operating in compliance with applicable traffic and motor
593 vehicle laws and regulations of this state, unless an exemption has been granted;

594 (b) when required by federal law, the motor vehicle:

595 (i) has been certified as being in compliance with all applicable Federal Motor Vehicle
596 Safety Standards and regulations; and

597 (ii) bears the required certification label including reference to any exemption granted
598 under federal law;

599 (c) a system failure occurs that renders the ADS unable to perform the entire dynamic
600 driving task relevant to the intended operational design domain of the ADS, a minimal risk
601 condition will be achieved; and

602 (d) the motor vehicle is titled and registered in compliance with Section 41-26-107.

603 (3) A vehicle being operated by an ADS or a remote driver is not considered
604 unattended.

605 (4) The division may revoke the registration and privilege for a vehicle equipped with
606 an ADS to operate on a highway of the state if the Department of Transportation or the
607 Department of Public Safety determines and notifies the division that:

608 (a) the ADS is operating in an unsafe manner; or

609 (b) the vehicle's ADS is being engaged in an unsafe manner.

610 (5) Special mobile equipment, as defined in Section 41-1a-102, equipped with a level
611 three, four, or five ADS, may be moved or operated incidentally over a highway.

612 (6) Nothing in this chapter prohibits or restricts a human driver with a valid driver
613 license from operating a vehicle equipped with an ADS and equipped with controls that allow
614 for the human driver to perform all or part of the dynamic driving task.