

HB0421S01 compared with HB0421

~~{deleted text}~~ shows text that was in HB0421 but was deleted in HB0421S01.

inserted text shows text that was not in HB0421 but was inserted into HB0421S01.

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Senator Jerry W. Stevenson proposes the following substitute bill:

DRIVING UNDER THE INFLUENCE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: ~~{_____}~~ Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to ignition interlock restrictions and driving under the influence.

Highlighted Provisions:

This bill:

- ~~{—————>}~~ prohibits the Driver License Division from suspending a driver license unless the person fails to complete the required number of days as an interlock restricted driver;
- {—————>} for a person who elects to become an interlock restricted driver pre-conviction, provides for time served as an interlock restricted driver to count toward the time of a driver license suspension period;
- ~~{—————>}~~ for a person who is ordered to be an interlock

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restricted driver, requires that the court allow at least three options of ignition interlock ~~{device or service from a specific provider;~~

→ ~~removes the requirement for a person to complete a risk assessment in connection with ignition interlock requirements;~~ providers; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-509, as last amended by Laws of Utah 2021, Chapters 83, 120 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 83

41-6a-518, as last amended by Laws of Utah 2021, Chapter 83

~~{53-3-223}~~ **53-3-221**, as last amended by Laws of Utah 2021, Chapter 120 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 83

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

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

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

(1) ~~{(a)}~~ The Driver License Division shall, if the person is 21 years ~~[of age]~~ old or older at the time of arrest:

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

~~{(b)}~~ ~~{(ii)}~~ revoke for a period of two years the license of a person if:

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

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

~~{(b)}~~ If a person elects to become an interlock restricted driver under Subsection

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~~53-3-223(10)(a), the division may not suspend the operator's license as described in Subsection (1)(a)(i) unless the person fails to complete 120 days of the interlock restriction:~~

~~—— (c) If the person fails to complete the full 120 days of interlock restriction, the division shall reduce the 120-day suspension by one day for each day the person was an interlock restricted driver under Subsection 53-3-223(10)(a):~~

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

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

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

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

(ii) has not been issued an operator license;

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

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

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

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

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

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

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

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

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

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

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years ~~[of age]~~ old if the person:

- (i) is convicted for the first time of a violation under Section 41-6a-502; and
- (ii) has not been issued an operator license;
- (c) revoke the person's driver license until the person is 21 years ~~[of age]~~ old if:

- (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
- (ii) the current violation under Section 41-6a-502 is committed within a period of 10

years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years ~~[of age]~~ old if:

- (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);
- (ii) the current violation under Section 41-6a-502 is committed within a period of 10

years from the date of the prior violation; and

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

(4) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection ~~[(9)]~~[(10)].

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

(6) ~~[(a)]~~ If a conviction recorded as impaired driving is amended to a driving under the influence conviction under Section 41-6a-502 in accordance with Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:

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

~~[(b)]~~~~[(ii)]~~ shall start the suspension or revocation time under Subsection (1) on the date of the amended conviction.

~~[(b) Notwithstanding Subsections (6)(a)(i) and (ii), if a person elects to become an interlock restricted driver under Subsection 53-3-233(10)(a), the Driver License Division shall reduce the 120-day suspension period by one day for each day the person was an interlock restricted driver under Subsection 53-3-233(10).]~~

~~[(7)]~~ (7) A court that reported a conviction of a violation of Section 41-6a-502 for a

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violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to completion of the suspension period if the person:

- (a) completes at least six months of the license suspension;
- (b) completes a screening;
- (c) completes an assessment, if it is found appropriate by a screening under Subsection (7)(b);
- (d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (7)(c);
- (e) completes an educational series if substance abuse treatment is not required by an assessment under Subsection (7)(c) or the court does not order substance abuse treatment;
- (f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b);
- (g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and
- (h) (i) is 18 years [~~of age~~] old or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or
- (ii) is under 18 years [~~of age~~] old and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(8) (a) Except as provided in Subsection (8)(b), if a court reports to the Driver License Division a conviction of a violation of Section 41-6a-502 for a violation that occurred on or after July 1, 2021, unless the court determines reduction of the suspension period would be against the public interest in the circumstances, the court shall order the division to subtract from the suspension period imposed under Subsection (1)(a), the number of days for which an individual was an ignition interlock restricted driver if the person:

(i) elected to become an ignition interlock restricted driver under Subsection 53-3-223(10) and the election to become an ignition interlock restricted driver was based on

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the same occurrence upon which the record of conviction is based;

(ii) is compliant with the requirements under Subsection 53-3-223(10)(a);

(iii) has not had the ignition interlock system removed from a vehicle owned or driven by the person prior to the expiration of the 120 day ignition interlock restriction period; and

(iv) has not been reported by the ignition interlock system provider for improper or inaccurate use.

(b) A court may not order the division to subtract from the suspension period as described in Subsection (8)(a) if there is admissible evidence that the individual:

(i) has a prior conviction as that term is defined in Subsection 41-6a-501(2);

(ii) had a blood alcohol level of .05 or higher in addition to any measurable controlled substance; or

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

(A) prescribed by a licensed physician; or

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

(c) If the court orders the division to subtract from the suspension period as described in Subsection (8)(a), the court shall forward the order to subtract from the suspension period to the Driver License Division in a manner specified by the division before the completion of the suspension period imposed under Subsection (1)(a).

~~[(8)]~~ (9) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (7), the court shall forward the order shortening the person's suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

~~[(9)]~~ (10) (a) (i) In addition to any other penalties provided in this section, a court may order the operator's license of a person who is convicted of a violation of Section 41-6a-502 to be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional suspension or revocation period provided in this Subsection ~~[(9)]~~ (10) shall begin the date on which the individual would be eligible to reinstate the individual's

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driving privilege for a violation of Section 41-6a-502.

(b) If the court suspends or revokes the person's license under this Subsection ~~[(9)]~~ (10), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

~~[(10)]~~ (11) (a) The court shall notify the Driver License Division if a person fails to complete all court ordered:

- (i) screenings;
- (ii) assessments;
- (iii) educational series;
- (iv) substance abuse treatment; and
- (v) hours of work in a compensatory-service work program.

(b) Subject to Subsection 53-3-218(3), upon receiving the notification described in Subsection ~~[(10)]~~ (11)(a), the division shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).

~~[(11)]~~ (12) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the Driver License Division may shorten the suspension period imposed under Subsection (1) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection ~~[(11)]~~ (12), the court shall forward the order shortening the person's suspension period to the Driver License Division in a manner specified by the division.

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

(d) (i) (A) Upon receiving the notification described in Subsection ~~[(11)]~~ (12)(c), for a first offense, the division shall suspend the person's driving privilege for a period of 120 days from the date of notice.

(B) For a suspension described under Subsection ~~[(11)]~~ (12)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was previously suspended under this section or Section 53-3-223, if the previous suspension was based on the

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same occurrence upon which the conviction under Section 41-6a-502 is based.

(ii) (A) Upon receiving the notification described in Subsection ~~[(+)]~~ (12)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.

(B) For a license revocation described in Subsection ~~[(+)]~~ (12)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under Section 41-6a-502 is based.

Section 2. Section **41-6a-518** is amended to read:

41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost --

Impecuniosity -- Fee.

(1) As used in this section:

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

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

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

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

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

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

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

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

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

(2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and 41-6a-505, and in addition to any requirements imposed as a condition of probation, unless the

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court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, the court shall require that any person who is convicted of violating Section 41-6a-502 and who is granted probation may not operate a motor vehicle during the period of probation unless that motor vehicle is equipped with a functioning, certified ignition interlock system installed and calibrated so that the motor vehicle will not start or continuously operate if the operator's blood alcohol concentration exceeds .02 grams or greater.

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

(c) (i) If a person is convicted of a violation of Section 41-6a-502 within 10 years of a prior conviction as defined in Subsection 41-6a-501(2), the court shall order the installation of the interlock ignition system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person.

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

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

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

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

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

~~(b)~~ (ii) order that an ignition interlock system be:

(A) installed on each motor vehicle owned or operated by the probationer, at the probationer's expense; and

(B) monitored by an ignition interlock system provider licensed under Sections 53-3-1001 through 53-3-1008;

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

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~~[(d)] (iv)~~ require the probationer to provide proof of compliance with the court's order to the probation provider within 30 days of the order ~~{}, {}, and}~~

~~{ (v) order the probationer to have the ignition interlock device installed and monitored by any ignition interlock system provider licensed under Sections 53-3-1001 through 53-3-1008.~~

~~† (b) A court may not order a probationer to use a specific interlock system provider.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) the motor vehicle is used in the course and scope of employment;
- (ii) the employer has been notified that the employee is restricted; and
- (iii) the employee has employer verification in the employee's possession while operating the employer's motor vehicle.

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

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

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

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

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

- (i) not impede the safe operation of the motor vehicle;
- (ii) have features that make circumventing difficult and that do not interfere with the normal use of the motor vehicle;
- (iii) require a deep lung breath sample as a measure of breath alcohol concentration;
- (iv) prevent the motor vehicle from being started if the driver's breath alcohol concentration exceeds .02 grams or greater;
- (v) work accurately and reliably in an unsupervised environment;
- (vi) resist tampering and give evidence if tampering is attempted;
- (vii) operate reliably over the range of motor vehicle environments; and

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

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

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

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

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

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

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

(10) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state or its employees in connection with the installation, use, operation, maintenance, or supervision of an interlock ignition system as required under this section.

Section 3. Section 53-3-221 is amended to read:

53-3-221. Offenses that may result in denial, suspension, disqualification, or revocation of license -- Additional grounds for suspension -- Point system for traffic violations -- Notice and hearing -- Reporting of traffic violation procedures.

(1) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may deny, suspend, disqualify, or revoke the license or permit of any person without receiving a record of the person's conviction of crime when the division has been notified or has reason to believe the person:

(a) has committed any offenses for which mandatory suspension or revocation of a license is required upon conviction under Section 53-3-220;

(b) has, by reckless or unlawful driving of a motor vehicle, caused or contributed to an accident resulting in death or injury to any other person, or serious property damage;

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(c) is incompetent to drive a motor vehicle or mobility vehicle or has a mental or physical disability rendering it unsafe for the person to drive a motor vehicle or mobility vehicle upon the highways;

(d) has committed a serious violation of the motor vehicle laws of this state;

(e) has knowingly committed a violation of Section 53-3-229; or

(f) has been convicted of serious offenses against traffic laws governing the movement of motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard for the safety of other persons on the highways.

(2) (a) (i) Except as provided in Subsection 53-3-218(3), and subject to Subsection (2)(a)(ii), the division may suspend a license of a person under Subsection (1):

(A) when the person has failed to comply with the terms stated on a traffic citation issued in this state; or

(B) if the division receives a notification from a court as described in Subsection ~~41-6a-509(11)(d)~~ 41-6a-509(12)(d) or 41-6a-517(13)(b).

(ii) This Subsection (2) does not apply to highway weight limit violations or violations of law governing the transportation of hazardous materials.

(b) (i) This Subsection (2) may not be exercised unless notice of the pending suspension of the driving privilege has been sent at least 30 days previously to the person at the address provided to the division.

(ii) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of a suspension that occurred as a result of failure to comply with the terms stated on a traffic citation.

(3) Except as provided in Subsection 53-3-218(3), the division may not revoke, deny, suspend, or disqualify an individual's driver license based solely on:

(a) the individual's failure to appear;

(b) the individual's failure to pay an outstanding penalty accounts receivable; or

(c) the issuance of a bench warrant as a result of an event described in Subsection (3)(a) or (b).

(4) (a) The division shall make rules establishing a point system as provided for in this Subsection (4).

(b) (i) The division shall assign a number of points to each type of moving traffic

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violation as a measure of its seriousness.

(ii) The points shall be based upon actual relationships between types of traffic violations and motor vehicle traffic accidents.

(iii) Except as provided in Subsection (4)(b)(iv), the division may not assess points against a person's driving record for a conviction of a traffic violation:

(A) that occurred in another state; and

(B) that was committed on or after July 1, 2011.

(iv) The provisions of Subsection (4)(b)(iii) do not apply to:

(A) a reckless or impaired driving violation or a speeding violation for exceeding the posted speed limit by 21 or more miles per hour; or

(B) an offense committed in another state which, if committed within Utah, would result in the mandatory suspension or revocation of a license upon conviction under Section 53-3-220.

(c) Every person convicted of a traffic violation shall have assessed against the person's driving record the number of points that the division has assigned to the type of violation of which the person has been convicted, except that the number of points assessed shall be decreased by 10% if on the abstract of the court record of the conviction the court has graded the severity of violation as minimum, and shall be increased by 10% if on the abstract the court has graded the severity of violation as maximum.

(d) (i) A separate procedure for assessing points for speeding offenses shall be established by the division based upon the severity of the offense.

(ii) The severity of a speeding violation shall be graded as:

(A) "minimum" for exceeding the posted speed limit by up to 10 miles per hour;

(B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per hour; and

(C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.

(iii) Consideration shall be made for assessment of no points on minimum speeding violations, except for speeding violations in school zones.

(e) (i) Points assessed against a person's driving record shall be deleted for violations occurring before a time limit set by the division.

(ii) The time limit may not exceed three years.

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(iii) The division may also delete points to reward violation-free driving for periods of time set by the division.

(f) (i) By publication in two newspapers having general circulation throughout the state, the division shall give notice of the number of points it has assigned to each type of traffic violation, the time limit set by the division for the deletion of points, and the point level at which the division will generally take action to deny or suspend under this section.

(ii) The division may not change any of the information provided above regarding points without first giving new notice in the same manner.

(5) (a) (i) If the division finds that the license of a person should be denied, suspended, disqualified, or revoked under this section, the division shall immediately notify the licensee in a manner specified by the division and afford the person an opportunity for a hearing in the county where the licensee resides.

(ii) The hearing shall be documented, and the division or its authorized agent may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee.

(iii) One or more members of the division may conduct the hearing, and any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division.

(iv) After the hearing the division shall either rescind or affirm its decision to deny, suspend, disqualify, or revoke the license.

(b) The denial, suspension, disqualification, or revocation of the license remains in effect pending qualifications determined by the division regarding a person:

(i) whose license has been denied or suspended following reexamination;

(ii) who is incompetent to drive a motor vehicle;

(iii) who is afflicted with mental or physical infirmities that might make him dangerous on the highways; or

(iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

(6) (a) Subject to Subsection (6)(d), the division shall suspend a person's license when the division receives notice from the Office of Recovery Services that the Office of Recovery Services has ordered the suspension of the person's license.

(b) A suspension under Subsection (6)(a) shall remain in effect until the division

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receives notice from the Office of Recovery Services that the Office of Recovery Services has rescinded the order of suspension.

(c) After an order of suspension is rescinded under Subsection (6)(b), a report authorized by Section 53-3-104 may not contain any evidence of the suspension.

(d) (i) If the division suspends a person's license under this Subsection (6), the division shall, upon application, issue a temporary limited driver license to the person if that person needs a driver license for employment, education, or child visitation.

(ii) The temporary limited driver license described in this section:

(A) shall provide that the person may operate a motor vehicle only for the purpose of driving to or from the person's place of employment, education, or child visitation;

(B) shall prohibit the person from driving a motor vehicle for any purpose other than a purpose described in Subsection (6)(d)(ii)(A); and

(C) shall expire 90 days after the day on which the temporary limited driver license is issued.

(iii) (A) During the period beginning on the day on which a temporary limited driver license is issued under this Subsection (6), and ending on the day that the temporary limited driver license expires, the suspension described in this Subsection (6) only applies if the person who is suspended operates a motor vehicle for a purpose other than employment, education, or child visitation.

(B) Upon expiration of a temporary limited driver license described in this Subsection (6)(d):

(I) a suspension described in Subsection (6)(a) shall be in full effect until the division receives notice, under Subsection (6)(b), that the order of suspension is rescinded; and

(II) a person suspended under Subsection (6)(a) may not drive a motor vehicle for any reason.

(iv) The division is not required to issue a limited driver license to a person under this Subsection (6)(d) if there are other legal grounds for the suspension of the person's driver license.

(v) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this part.

(7) (a) The division may suspend or revoke the license of any resident of this state

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upon receiving notice of the conviction of that person in another state of an offense committed there that, if committed in this state, would be grounds for the suspension or revocation of a license.

(b) The division may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws of this state, forward a certified copy of the record to the motor vehicle administrator in the state where the person convicted is a resident.

(8) (a) The division may suspend or revoke the license of any nonresident to drive a motor vehicle in this state for any cause for which the license of a resident driver may be suspended or revoked.

(b) Any nonresident who drives a motor vehicle upon a highway when the person's license has been suspended or revoked by the division is guilty of a class C misdemeanor.

(9) (a) The division may not deny or suspend the license of any person for a period of more than one year except:

(i) for failure to comply with the terms of a traffic citation under Subsection (2);

(ii) upon receipt of a second or subsequent order suspending juvenile driving privileges under Section 53-3-219;

(iii) when extending a denial or suspension upon receiving certain records or reports under Subsection 53-3-220(2);

(iv) for failure to give and maintain owner's or operator's security under Section 41-12a-411;

(v) when the division suspends the license under Subsection (6); or

(vi) when the division denies the license under Subsection (14).

(b) The division may suspend the license of a person under Subsection (2) until the person shows satisfactory evidence of compliance with the terms of the traffic citation.

(10) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may suspend the license of any person without receiving a record of the person's conviction for a crime when the division has reason to believe that the person's license was granted by the division through error or fraud or that the necessary consent for the license has been withdrawn or is terminated.

(b) The procedure upon suspension is the same as under Subsection (5), except that

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after the hearing the division shall either rescind its order of suspension or cancel the license.

(11) (a) The division, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified by the division of at least five days to the licensee require him to submit to an examination.

(b) Upon the conclusion of the examination the division may suspend or revoke the person's license, permit him to retain the license, or grant a license subject to a restriction imposed in accordance with Section 53-3-208.

(c) Refusal or neglect of the licensee to submit to an examination is grounds for suspension or revocation of the licensee's license.

(12) (a) Except as provided in Subsection (12)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for speeding on an interstate system in this state if the conviction was for a speed of 10 miles per hour or less, above the posted speed limit and did not result in an accident, unless authorized in a manner specified by the division by the individual whose report is being requested.

(b) The provisions of Subsection (12)(a) do not apply for:

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

(13) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may suspend the license of a person if it has reason to believe that the person is the owner of a motor vehicle for which security is required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act, and has driven the motor vehicle or permitted it to be driven within this state without the security being in effect.

(b) The division may suspend a driving privilege card holder's driving privilege card if the division receives notification from the Motor Vehicle Division that:

- (i) the driving privilege card holder is the registered owner of a vehicle; and
- (ii) the driving privilege card holder's vehicle registration has been revoked under Subsection 41-1a-110(2)(a)(ii)(A).

(c) Section 41-12a-411 regarding the requirement of proof of owner's or operator's security applies to persons whose driving privileges are suspended under this Subsection (13).

(14) The division may deny an individual's license if the person fails to comply with

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the requirement to downgrade the person's CDL to a class D license under Section 53-3-410.1.

(15) The division may deny a person's class A, B, C, or D license if the person fails to comply with the requirement to have a K restriction removed from the person's license.

(16) Any suspension or revocation of a person's license under this section also disqualifies any license issued to that person under Part 4, Uniform Commercial Driver License Act.

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

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

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

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

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

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

~~(4) When a peace officer gives notice on behalf of the division, the peace officer shall~~

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supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division:

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (iii) the test results, if any.~~

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

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

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

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

~~—— (c) The division may designate one or more employees to conduct the hearing.~~

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

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

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

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

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

~~—— (ii) if the person is under 21 years [of age] old at the time of arrest:~~

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

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

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

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

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

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

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

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

~~—— (B) no sooner than 60 days beginning on the 45th day after the date of arrest upon~~

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~~receiving written verification of the person's reduction of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period:~~

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

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

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

~~—— (iii) If a person's license is reinstated under this Subsection (7)(b), the person is required to pay the license reinstatement application fees under Subsections 53-3-105(26) and (27):~~

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

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

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

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

~~—— (b) If a person's license is reinstated under Subsection (9)(a), the person is required to~~

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~~pay the license reinstatement application fees under Subsections 53-3-105(26) and (27):~~

~~—— (10) (a) If the division suspends a person's license for an alcohol related offense under Subsection (7)(a)(i)(A), or revokes a person's license for a first-time refusal under Subsection 41-6a-521(1)(d)(i)(A) or (1)(d)(ii)(A), or Subsection 41-6a-521(5)(a)(i)(A) or (5)(a)(ii)(A), the person may petition the division and elect to become an ignition interlock restricted driver if the person:~~

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

~~—— [(ii) completes a risk assessment approved by the division that:]~~

~~—— [(A) is completed after the date of the arrest for which the person is suspended under Subsection (7)(a)(i)(A); and]~~

~~—— [(B) identifies the person as a low risk offender;]~~

~~—— [(iii)] (ii) installs an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007; and~~

~~—— [(iv)] (iii) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27):~~

~~—— (b) The person shall remain an ignition interlock restricted driver for a period of 120 days from the original effective date of the suspension under Subsection (7)(a)(i)(A). If the person removes an ignition interlock device from a vehicle owned or driven by the person prior to the expiration of the 120 day ignition interlock restriction period:~~

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

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

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

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

~~‡~~