

# HB0062S01 compared with HB0062

~~{deleted text}~~ shows text that was in HB0062 but was deleted in HB0062S01.

inserted text shows text that was not in HB0062 but was inserted into HB0062S01.

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Representative Ryan D. Wilcox proposes the following substitute bill:

## DRIVING UNDER THE INFLUENCE MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ryan D. Wilcox**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### ~~{Committee Note:~~

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

~~\_\_\_\_\_ Legislative Vote: 12 voting for 0 voting against \_\_\_\_\_ 5 absent~~

#### ~~{General Description:~~

~~This bill amends provisions related to an ignition interlock system 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 certain requirements as an ignition interlock restricted driver;
- ▶ ~~{for a person who elects to become an ignition interlock restricted driver, provides~~

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~~for time served as an ignition interlock restricted driver to count toward the time of a driver license suspension period in certain circumstances;~~ amends offenses eligible for the 24-7 sobriety program;

- ▶ prohibits a court from ordering an ignition interlock system from a specific provider;
- ▶ imposes certain monitoring requirements for an ignition interlock system;
- ▶ amends administrative rule requirements regarding ignition interlock system providers;
- ▶ provides procedures for a person to petition to remove an ignition interlock restriction due to a medical condition;
- ▶ amends the revocation period for a refusal to submit to a chemical test under certain circumstances;
- ▶ provides in some circumstances that a person may elect to become an ignition interlock restricted driver after:
  - a refusal of a chemical test; or
  - a criminal conviction based on a refusal to submit to a chemical test;
- ▶ provides in some circumstances that a license revocation period may be shortened based on participation in a 24-7 sobriety program;
- ▶ amends individuals who are eligible for the 24-7 sobriety program;
- ▶ removes the requirement for a person to complete a risk assessment in connection with certain ignition interlock requirements;
- ▶ amends provisions relating to ignition interlock system providers; and
- ▶ makes technical and conforming 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 2022, Chapter 116

**41-6a-518**, as last amended by Laws of Utah 2022, Chapter 272

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41-6a-518.2, as last amended by Laws of Utah 2022, Chapter 116

41-6a-521, as last amended by Laws of Utah 2019, Chapter 77

41-6a-521.1, as enacted by Laws of Utah 2020, Chapter 177

53-3-223, as last amended by Laws of Utah 2022, Chapter 116

53-3-1007, as last amended by Laws of Utah 2016, Chapter 149

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*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 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 76-5-102.1; 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, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation.

(b) (i) If a person elects to become an interlock restricted driver under Subsection 53-3-223(10)(a), the Driver License Division may not suspend the operator's license for a violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to complete 120 days of the interlock restriction.

(ii) If a person elects to become an interlock restricted driver under Subsection 53-3-223(10)(a), and the person fails to complete the full 120 days of interlock restriction, the Driver License Division ~~shall~~:

(A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a period of 120 days from the date the ignition interlock system was removed from the vehicle; and

(B) may not reduce the 120-day suspension for any days the person was compliant with the interlock restriction under Subsection 53-3-223(10)(a).

(c) (i) If a person elects to become an interlock restricted driver under Subsection

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41-6a-521(7), the Driver License Division may not suspend the operator's license for a violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to complete three years of the interlock restriction under Subsection 41-6a-521(7).

(ii) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7), and the person fails to complete the full three years of interlock restriction, the Driver License Division:

(A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a period of 120 days from the date the ignition interlock system was removed from the vehicle; and

(B) may not reduce the 120-day suspension ~~by one day for each day~~ for any days the person was compliant with the interlock restriction under Subsection ~~53-3-223~~ 41-6a-521(~~10~~)(a)7).

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

(a) suspend the person's driver license until the person is 21 years 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, 76-5-102.1, or 76-5-207 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 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, 76-5-102.1, or 76-5-207 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 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, 76-5-102.1, or 76-5-207 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 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, 76-5-102.1, or 76-5-207 is

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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 old at the time of arrest:

(a) suspend the person's driver license until the person is 21 years old if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207;

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

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years 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, 76-5-102.1, or 76-5-207 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 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, 76-5-102.1, or 76-5-207 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).

(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, 76-5-102.1, or 76-5-207 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

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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 (6)(a)(ii), the Driver License Division shall reduce the 120-day suspension period for a conviction under Section 41-6a-502 by one day for each day the person was compliant with the interlock restriction under Subsection 53-3-223(10)(a).~~

‡ (7) A court that reported a conviction of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 for a 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 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 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).

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(8) 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) (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, 76-5-102.1, or 76-5-207 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) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207.

(b) If the court suspends or revokes the person's license under this Subsection (9), 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) (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)(a), the division shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).

(11) (a) A court that reported a conviction of a violation of Section 41-6a-502~~;~~ 76-5-102.1, or 76-5-207~~]~~ to the Driver License Division may shorten the suspension or revocation period imposed under Subsection (1) before completion of the suspension or revocation period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

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(b) If the court shortens a person's license suspension or revocation period in accordance with the requirements of this Subsection (11), the court shall forward the order shortening the person's suspension or revocation 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)(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)(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 same occurrence upon which the conviction under Section 41-6a-502~~;~~ ~~76-5-102.1~~, or ~~76-5-207~~ is based.

(ii) (A) Upon receiving the notification described in Subsection (11)(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 (11)(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~~;~~ ~~76-5-102.1~~, or ~~76-5-207~~ is based.

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

**41-6a-518. Ignition interlock devices -- Use and monitoring -- Probationer to pay cost -- Indigency -- 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



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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 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~~] younger than 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.

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

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

~~[(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 system installed and regularly monitored by an ignition interlock system provider licensed under Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.

(b) A court may not order a probationer to use a specific ignition 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, every

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~~30~~60 days or more frequently as the court may order, have the system monitored by the manufacturer or dealer of the system or the manufacturer's or dealer's authorized agent:

(i) ~~[for] to determine the ignition interlock system's proper use and accuracy [at least semiannually and more frequently as the court may order.]; and~~

(ii) to collect information on all attempts to start the motor vehicle ~~with a measurable breath alcohol concentration~~ that were prevented by the ignition interlock system, including the date and time of each attempt.

(b) (i) A report of the monitoring described in Subsection (5)(a) shall be issued by the manufacturer or dealer or the manufacturer's or dealer's authorized agent 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, and monitoring~~ 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 indigency in accordance with Section 78A-2-302; and

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

(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.

(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

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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;

(viii) collect information on all attempts to start a motor vehicle that were prevented by an ignition interlock system, including the date and time of each attempt; and

~~(viii)~~ (ix) 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

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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 **41-6a-518.2** is amended to read:

**41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition interlock system -- Exemptions.**

(1) As used in this section:

(a) "Ignition interlock system" means a constant monitoring device or any similar device that:

(i) is in working order at the time of operation or actual physical control; and

(ii) is certified by the Commissioner of Public Safety in accordance with Subsection 41-6a-518(8).

(b) (i) "Interlock restricted driver" means a person who:

(A) has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system;

(B) within the last 18 months has been convicted of a violation under Section 41-6a-502, Subsection 41-6a-520(7), or Section 76-5-102.1;

(C) (I) within the last three years has been convicted of an offense which would be a conviction as defined under Section 41-6a-501; and

(II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years from the date that one or more prior offenses was committed if the prior offense resulted in a conviction as defined in Subsection 41-6a-501(2);

(D) within the last three years has been convicted of a violation of this section;

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(E) within the last three years has had the person's driving privilege revoked through an administrative action for refusal to submit to a chemical test under Section 41-6a-520;

(F) within the last three years has been convicted of a violation of Section 41-6a-502, Subsection 41-6a-520(7), or Section 76-5-102.1 and was under [~~the age of~~] 21 years old at the time the offense was committed;

(G) within the last six years has been convicted of a felony violation of Section 41-6a-502, Subsection 41-6a-520(7), or Section 76-5-102.1 for an offense that occurred after May 1, 2006; or

(H) within the last 10 years has been convicted of a violation of Section 76-5-207 for an offense that occurred after May 1, 2006.

(ii) "Interlock restricted driver" does not include a person:

(A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under Section 41-6a-502 that does not involve alcohol or a conviction under Section 41-6a-517 and whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under Section 41-6a-502 that did not involve alcohol or convictions under Section 41-6a-517;

(B) whose conviction described in Subsection (1)(b)(i)(B) or (F) is a conviction under Section 41-6a-502 that does not involve alcohol and the convicting court notifies the Driver License Division at the time of sentencing that the conviction does not involve alcohol; or

(C) whose conviction described in Subsection (1)(b)(i)(B), (C), or (F) is a conviction under Section 41-6a-502 that does not involve alcohol and the ignition interlock restriction is removed as described in Subsection (7).

(2) The division shall post the ignition interlock restriction on a person's electronic record that is available to law enforcement.

(3) For purposes of this section, a plea of guilty or no contest to a violation of Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(4) An interlock restricted driver who operates or is in actual physical control of a vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

(5) It is an affirmative defense to a charge of a violation of Subsection (4) if:

(a) the interlock restricted driver operated or was in actual physical control of a vehicle

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owned by the interlock restricted driver's employer;

(b) the interlock restricted driver had given written notice to the employer of the interlock restricted driver's interlock restricted status prior to the operation or actual physical control under Subsection (5)(a);

(c) the interlock restricted driver had on the interlock restricted driver's person, or in the vehicle, at the time of operation or physical control employer verification, as defined in Subsection 41-6a-518(1); and

(d) the operation or actual physical control described in Subsection (5)(a) was in the scope of the interlock restricted driver's employment.

(6) The affirmative defense described in Subsection (5) does not apply to:

(a) an employer-owned motor vehicle that is made available to an interlock restricted driver for personal use; or

(b) a motor vehicle owned by a business entity that is entirely or partly owned or controlled by the interlock restricted driver.

(7) (a) An individual with an ignition interlock restriction may petition the division for removal of the restriction if the individual's offense did not involve alcohol.

(b) If the division is able to establish that an individual's offense did not involve alcohol, the division may remove the ignition interlock restriction.

(8) (a) (i) An individual with an ignition interlock restriction may petition the division for removal of the restriction if the individual has a medical condition that prohibits the individual from ~~properly using an ignition interlock system~~ providing a deep lung breath sample.

(ii) In support of a petition under Subsection (8)(a)(i), the individual shall provide documentation from a physician that describes the individual's medical condition and whether the individual's medical condition would prohibit the individual from being able to ~~properly use an ignition interlock system~~ provide a deep breath lung sample.

(b) If the division is able to establish that an individual is unable to ~~properly use an ignition interlock system for~~ provide a deep breath lung sample as a result of a medical condition, the division may remove the ignition interlock restriction.

Section 4. Section **41-6a-521** is amended to read:

**41-6a-521. Revocation hearing for refusal -- Appeal.**

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(1) (a) A person who has been notified of the Driver License Division's intention to revoke the person's license under Section 41-6a-520 is entitled to a hearing.

(b) A request for the hearing shall be made in writing within 10 calendar days after the day on which notice is provided.

(c) Upon request in a manner specified by the Driver License Division, the Driver License Division shall grant to the person an opportunity to be heard within 29 days after the date of arrest.

(d) If the person does not make a request for a hearing before the Driver License Division under this Subsection (1), the person's privilege to operate a motor vehicle in the state is revoked beginning on the 45th day after the date of arrest:

(i) for a person 21 years [~~of age~~] old or older on the date of arrest, for a period of:

(A) except as provided in Subsection (1)(d)(i)(B) or (9), 18 months[~~, unless Subsection (1)(d)(i)(B) applies~~]; or

(B) 36 months[~~, if the arrest was made on or after July 1, 2009, and the person has had a previous~~] if the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:

(I) license sanction [~~for an offense that occurred within the previous 10 years from the date of arrest~~] under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; [~~or~~]

(II) conviction [~~for an offense that occurred within the previous 10 years from the date of arrest~~] under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;

(III) conviction for an offense under Section 76-5-102.1; or

(IV) conviction for an offense under Section 76-6-207; or

(ii) for a person under 21 years [~~of age~~] old on the date of arrest:

(A) except as provided in Subsection (1)(d)(ii)(B), until the person is 21 years [~~of age~~] old or for a period of two years, whichever is longer[~~, if the arrest was made on or after July 1, 2011, unless Subsection (1)(d)(ii)(B) applies~~]; or

(B) until the person is 21 years [~~of age~~] old or for a period of 36 months, whichever is longer, [~~if the arrest was made on or after July 1, 2009, and the person has had a previous~~] if the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:



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(I) license sanction [~~for an offense that occurred within the previous 10 years from the date of arrest~~] under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or

(II) conviction for an offense [~~that occurred within the previous 10 years from the date of arrest~~] under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502; [~~or~~]

(III) conviction for an offense under Section 76-5-102.1; or

(IV) conviction for an offense under Section 76-5-207.

~~[(iii) for a person that was arrested prior to July 1, 2009, for the suspension periods in effect prior to July 1, 2009.]~~

(2) (a) Except as provided in Subsection (2)(b), if a hearing is requested by the person, the hearing shall be conducted by the Driver License Division in:

(i) the county in which the offense occurred; or

(ii) a county which is adjacent to the county in which the offense occurred.

(b) The Driver License Division may hold a hearing in some other county if the Driver License Division and the person both agree.

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

(a) whether a peace officer had reasonable grounds to believe that a person was operating a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 41-6a-530, or 53-3-231; and

(b) whether the person refused to submit to the test or tests under Section 41-6a-520.

(4) (a) In connection with the hearing, the division or its authorized agent:

(i) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; and

(ii) shall issue subpoenas for the attendance of necessary peace officers.

(b) The Driver License Division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.

(5) (a) If after a hearing, the Driver License Division determines that the person was requested to submit to a chemical test or tests and refused to submit to the test or tests, or if the person fails to appear before the Driver License Division as required in the notice, the Driver License Division shall revoke the person's license or permit to operate a motor vehicle in Utah beginning on the date the hearing is held:

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(i) for a person 21 years ~~[of age]~~ old or older on the date of arrest, for a period of:

(A) except as provided in Subsection (5)(a)(i)(B) ~~or (9)~~, 18 months ~~[unless Subsection (5)(a)(i)(B) applies]~~; or

(B) 36 months~~[, if the arrest was made on or after July 1, 2009, and the person has had a previous]~~ if the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:

(I) license sanction ~~[for an offense that occurred within the previous 10 years from the date of arrest]~~ under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; ~~[or]~~

(II) conviction ~~[for an offense that occurred within the previous 10 years from the date of arrest]~~ under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;

(III) conviction for an offense under Section 76-5-102.1; or

(IV) conviction for an offense under Section 76-5-207; or

(ii) for a person under 21 years of age on the date of arrest:

(A) except as provided in Subsection (5)(a)(ii)(B), until the person is 21 years ~~[of age]~~ old or for a period of two years, whichever is longer~~[, for an arrest that was made on or after July 1, 2011, and unless Subsection (5)(a)(ii)(B) applies]~~; or

(B) until the person is 21 years [of age] old or for a period of 36 months, whichever is longer, if ~~[the arrest was made on or after July 1, 2009, and the person has had a previous]~~ the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:

(I) license sanction ~~[for an offense that occurred within the previous 10 years from the date of arrest]~~ under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; ~~[or]~~

(II) conviction ~~[for an offense that occurred within the previous 10 years from the date of arrest]~~ under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502; ~~[or]~~

(III) conviction for an offense under Section 76-5-102.1; or

(IV) conviction for an offense under Section 76-5-207.

~~[(iii) for a person that was arrested prior to July 1, 2009, for the revocation periods in effect prior to July 1, 2009;]~~

(b) The Driver License Division shall also assess against the person, in addition to any

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fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs.

(c) The fee shall be cancelled if the person obtains an unappealed court decision following a proceeding allowed under Subsection (2) that the revocation was improper.

(6) (a) Any person whose license has been revoked by the Driver License Division under this section following an administrative hearing may seek judicial review.

(b) Judicial review of an informal adjudicative proceeding is a trial.

(c) Venue is in the district court in the county in which the offense occurred.

(7) If the Driver License Division revokes a person's ~~license~~ driving privilege under Subsection (1)(d)(i)(A) or (5)(a)(i)(A), the person may petition the division and elect to become an ignition interlock restricted driver after the driver serves at least 90 days of the revocation if the person:

(a) has a valid driving privilege, with the exception of the revocation under Subsection (1)(d)(i)(A) or (5)(a)(i)(A);

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

(c) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27);

(d) pays the appropriate original license fees under Section 53-3-105; and

(e) completes the license application process including successful completion of required testing.

(8) (a) A person who elects to become an ignition interlock restricted driver under Subsection (7) shall remain an ignition interlock restricted driver for a period of three years.

(b) If the person described under Subsection (8)(a) removes an ignition interlock device from a vehicle owned or driven by the person prior to the expiration of the three-year ignition interlock restriction period and does not install a new ignition interlock device from the same or a different ignition interlock provider within 24 hours:

(i) the person's ~~driver license~~ driving privilege shall be revoked under Subsection (1)(d)(i)(A) or (5)(a)(i)(A) ~~from the original effective date of the revocation;~~

~~(ii)~~ for a period of 18 months from the date the ignition interlock device was removed from the vehicle;

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(ii) no days may be subtracted from the 18-month revocation period under Subsection (8)(b)(i) for any days the person was in compliance with the interlock restriction under Subsection (7);

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

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

‡

(9) (a) Notwithstanding the provisions in Subsection (1)(d)(i)(A) or (5)(a)(i)(A), the division shall reinstate a person's driving privilege before completion of the revocation period imposed under Subsection (1)(d)(i)(A) or (5)(a)(i)(A) if:

(i) the reporting court notifies the Driver License Division that the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5;

(ii) the person has served at least 90 days of the revocation under Subsection (1)(d)(i)(A) or (5)(a)(i)(A); and

(iii) the person has a valid driving privilege, with the exception of the revocation under Subsection (1)(d)(i)(A) or (5)(a)(i)(A).

(b) If a person's driving privilege is reinstated under Subsection (9)(a), the person is required to:

(i) install an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007;

(ii) pay the license reinstatement application fees described in Subsections 53-3-105(26) and (27);

(iii) pay the appropriate original license fees under Section 53-3-105; and

(iv) complete the license application process including successful completion of required testing.

(c) If the reporting court notifies the Driver License Division that a person has failed to complete all requirements of the 24-7 sobriety program, the division:

(i) shall revoke the person's driving privilege under Subsection (1)(d)(i)(A) or (5)(a)(i)(A) for a period of 18 months from the date of the notice; and

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(ii) may not subtract any days from the 18-month revocation period for:

(A) days during which the person's driving privilege previously was revoked; or

(B) days during which the person was compliant with the 24-7 sobriety program.

Section 5. Section 41-6a-521.1 is amended to read:

**41-6a-521.1. Driver license denial or revocation for a criminal conviction for a refusal to submit to a chemical test violation.**

(1) ~~The~~ Except as provided in Subsection (7) or (8), the Driver License Division shall, if the person is 21 years ~~of age~~ old or older at the time of arrest:

(a) revoke for a period of 18 months the operator's license of a person convicted for the first time under Subsection 41-6a-520(7); or

(b) revoke for a period of 36 months the license of a person if:

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

(ii) the current refusal to submit to a chemical test violation under Subsection 41-6a-520(7) is committed within a period of 10 years from the date of the prior violation.

(2) The Driver License Division shall, if the person is under 21 years of age at the time of arrest:

(a) revoke the person's driver license until the person is 21 years of age or for a period of two years, whichever is longer; ~~or~~

(b) revoke the person's driver license until the person is 21 years of age or for a period of 36 months, whichever is longer, if:

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

(ii) the current refusal to submit to a chemical test violation under Subsection 41-6a-520(7) is committed within a period of 10 years from the date of the prior violation; or

(c) if the person has not been issued an operator license:

(i) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of two years, whichever is longer; or

(ii) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of 36 months, whichever is longer, if:

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

(B) the current refusal to submit to a chemical test violation under Subsection 41-6a-520(7) is committed within a period of 10 years from the date of the prior violation.

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(3) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (5).

(4) The Driver License Division shall subtract from any revocation period the number of days for which a license was previously revoked under Section ~~[53-3-221]~~ 41-6a-521 if the previous revocation was based on the same occurrence upon which the record of conviction under Subsection 41-6a-520(7) is based.

(5) (a) (i) In addition to any other penalties provided in this section, a court may order the driver license of a person who is convicted of a violation of Subsection 41-6a-520(7) to be 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 revocation period provided in this Subsection (5) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Subsection 41-6a-520(7).

(b) If the court suspends or revokes the person's license under this Subsection (5), 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.

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

(i) complete all court ordered:

(A) screening;

(B) assessment;

(C) educational series;

(D) substance abuse treatment; and

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

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

(b) Upon receiving the notification described in Subsection (6)(a), the Driver License Division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(7) (a) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7), the Driver License Division may not revoke the operator's license as described in Subsection (1)(a) unless the person fails to complete three years of the interlock restriction under Subsection 41-6a-521(7).

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(b) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7) and the person fails to complete the full three years of interlock restriction, the Driver License Division:

(i) shall revoke the operator's license as described in Subsection (1)(a), effective on the date the ignition interlock was removed from the vehicle; and

(ii) may not subtract any days from the revocation period under Subsection (7)(b)(i) for days during which the person was compliant with the interlock restriction under Subsection 41-6a-521(7).

(8) (a) The Driver License Division may shorten a person's revocation period imposed under Subsection (1) before the completion of the person's revocation period if:

(i) the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5; and

(ii) the reporting court:

(A) shortens the person's operator's license revocation period due to the person's participation in or successful completion of a 24-7 sobriety program; and

(B) forwards the order shortening the person's operator's license revocation period to the Driver License Division in the manner specified by the Driver License Division.

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

(c) Upon receiving a notification described in Subsection (8)(b), for a first offense, the Driver License Division:

(i) shall revoke the person's operator's license for a period of 18 months from the date of the notice; and

(ii) may not subtract any days from the revocation period under Subsection (8)(c)(i) for which the operator's license was previously revoked under this section or Section 41-6a-521, or suspended under Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under this section is based.

(d) Upon receiving a notification described in Subsection (8)(b), for a second or subsequent offense, the Driver License Division:

(i) shall revoke the person's operator's license for a period of three years from the date

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of the notice; and

(ii) may not subtract any days from the revocation period under Subsection (8)(d)(i) for which the operator's license was previously revoked under this section or Section 41-6a-521, or suspended under Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under this section is based.

Section ~~5~~6. 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, 41-6a-517, 76-5-102.1, or 76-5-207, 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, 41-6a-517, 76-5-102.1, or 76-5-207 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, 41-6a-517, 76-5-102.1, or 76-5-207, or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6a-502, 76-5-102.1, or 76-5-207, 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 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:



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- (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, 41-6a-517, 76-5-102.1, or 76-5-207.
- (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, 41-6a-517, 76-5-102.1, or 76-5-207;
    - (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.
  - (e) The division may designate one or more employees to conduct the hearing.
  - (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

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41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, 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 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 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 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 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, 41-6a-517, 76-5-102.1, or 76-5-207, 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 receiving written verification of the person's reduction of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period.

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(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)]~~ [(7)(a)(i)], the division shall reinstate a person's license before completion of the suspension period imposed under Subsection ~~[(7)(a)(i) or (ii)]~~ [(7)(a)(i)] if:

(i) 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; and

(ii) the person has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i).

(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), 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) (i) 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).

(ii) 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 and does not install a new ignition interlock device from the same or a different provider within 24 hours:

~~[(i) (A) 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) (B) the person is required to pay the license reinstatement application fee under Subsection 53-3-105(26); and]~~

~~[(iii) (C) 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.

Section ~~67~~7. Section **53-3-1007** is amended to read:

**53-3-1007. Ignition interlock system provider -- Notification to the division upon installation or removal of an ignition interlock system -- Monitoring and reporting**

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### requirements -- Penalties.

(1) An ignition interlock system provider who installs an ignition interlock system on ~~[a person's]~~ an individual's vehicle shall:

(a) provide proof of installation to the ~~[person]~~ individual; and

(b) electronically notify the division of installation of an ignition interlock system on the ~~[person's]~~ individual's vehicle.

(2) An ignition interlock system provider shall electronically notify the division if ~~[a person]~~ an individual has:

(a) ~~+~~ removed an ignition interlock system from the ~~[person's]~~ individual's vehicle~~[-]~~;

(b) attempted to start the motor vehicle with a measurable breath alcohol concentration, and the attempt to start the motor vehicle was prevented by the ignition interlock system, including the date and time of each attempt; or

(c) failed to report to the ignition interlock provider for the purpose of monitoring the device every ~~30~~60 days, or more frequently if ordered by the court as described in Subsection 41-62-518(5)(a).

(3) If an individual is an interlock restricted driver and the individual removes an ignition interlock system as described in Subsection (2)(a), the division shall:

(a) suspend the ~~[person's]~~ individual's driving privilege for the duration of the restriction period as defined in Section 41-6a-518.2; and

(b) notify the ~~[person]~~ individual of the suspension period in place and the requirements for reinstatement of the driving privilege with respect to the ignition interlock restriction suspension.

(4) The division shall clear a suspension described in Subsection (3) upon:

(a) receipt of payment of the fee or fees required under Section 53-3-105; and

(b) (i) receipt of electronic notification from an ignition interlock system provider showing proof of the installation of an ignition interlock system on the ~~[person's]~~ individual's vehicle or the vehicle the ~~[person]~~ individual will be operating;

(ii) if the ~~[person]~~ individual does not own a vehicle or will not be operating a vehicle owned by another individual:

(A) electronic verification that the ~~[person]~~ individual does not have a vehicle registered in the ~~[person's]~~ individual's name in the state; and

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(B) receipt of employer verification, as defined in Subsection 41-6a-518(1); or

(iii) if the [person] individual is not a resident of Utah, electronic verification that the [person] individual is licensed in the [person's] individual's state of residence or is in the process of obtaining a license in the [person's] individual's state of residence.

(5) If Subsection (4)(b)(ii) applies, the division shall every six months:

(a) electronically verify the [person] individual does not have a vehicle registered in the [person's] individual's name in the state; and

(b) require the [person] individual to provide updated documentation described in Subsection (4)(b)(ii).

(6) If the [person] individual described in Subsection (5) does not provide the required documentation described in Subsection (4)(b)(ii), the division shall suspend the [person's] individual's driving privilege until:

(a) the division receives payment of the fee or fees required under Section 53-3-105; and

(b) (i) the division:

(A) receives electronic notification from an ignition interlock system provider showing proof of the installation of an ignition interlock system on the [person's] individual's vehicle or the vehicle the [person] individual will be operating; or

(B) if the [person] individual does not own a vehicle or will not be operating a vehicle owned by another individual, receives electronic verification that the [person] individual does not have a vehicle registered in the [person's] individual's name in the state, and receives employer verification, as defined in Subsection 41-6a-518(1); or

(ii) if the [person] individual is not a resident of Utah, electronic verification that the [person] individual is licensed in the [person's] individual's state of residence or is in the process of obtaining a license in the [person's] individual's state of residence.

(7) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division shall suspend the license of any [person] individual without receiving a record of the [person's] individual's conviction of crime seven days after receiving electronic notification from an ignition interlock system provider that [a person] an individual has removed an ignition interlock system from the [person's] individual's vehicle or a vehicle owned by another individual and operated by the [person] individual if the [person] individual

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is an interlock restricted driver until:

(a) the division receives payment of the fee or fees specified in Section 53-3-105; and

(b) (i) (A) the division receives electronic notification from an ignition interlock system provider showing new proof of the installation of an ignition interlock system on the [person's] individual's vehicle or the vehicle the [person] individual will be operating; or

(B) if the [person] individual does not own a vehicle or will not be operating a vehicle owned by another individual, the division receives electronic verification that the [person] individual does not have a vehicle registered in the [person's] individual's name in the state, and receives employer verification, as defined in Subsection 41-6a-518(1);

(ii) if the [person] individual is not a resident of Utah, the division receives electronic verification that the [person] individual is licensed in the [person's] individual's state of residence or is in the process of obtaining a license in the [person's] individual's state of residence; or

(iii) the [person's] individual's interlock restricted period has expired.

(8) (a) Upon receipt of a notice described in Subsection (2)(b) or (2)(c), the division shall extend the individual's ignition interlock restriction period by 60 days.

(b) The division shall notify the individual of the modified ignition interlock restriction period described in Subsection (8)(a).

~~[(8)]~~ (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

(a) procedures for certification and regulation of ignition interlock system providers;

(b) acceptable documentation for proof of the installation of an ignition interlock device;

(c) procedures for an ignition interlock system provider to electronically notify the division;

(d) procedures for an ignition interlock system provider to provide monitoring of an ignition interlock system and reporting the results of monitoring;

(e) procedures for the removal of an ignition interlock restriction if the individual ~~has~~ is unable to provide a deep lung breath sample as a result of a medical condition ~~that prohibits the individual from~~ and is unable to properly ~~using~~ use an ignition interlock system as described in Subsection 41-6a-518.2(8); and

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~~(d)~~ (f) policies and procedures for the administration of the ignition interlock system program created under this section.