

Senator Wayne A. Harper proposes the following substitute bill:

DUI TESTING AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to testing of bodily fluids for purposes of an investigation of driving under the influence.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health and Human Services to:
 - test blood and urine samples for both drugs and alcohol;
 - provide the testing results in a timely manner; and
 - provide test results through a secure medium to the Driver License Division and relevant law enforcement agencies;
- ▶ amends a provision allowing the use of a blood and urine test in certain administrative proceedings;
- ▶ enacts provisions regarding permissible uses of a blood and urine test by the Driver License Division;
- ▶ amends provisions related to shortening a driver license suspension, in certain circumstances, for a person not participating in a 24-7 sobriety program;
- ▶ requires the Department of Public Safety to make rules to establish standards for proper usage and administration of oral fluid and portable breath tests as part of a



- 26 field sobriety test;
- 27 ▶ amends provisions related to driver license revocation for a subsequent offense
- 28 related to driving under the influence;
- 29 ▶ requires law enforcement agencies to provide training on the use of oral fluid and
- 30 portable breath tests as part of a field sobriety test; and
- 31 ▶ makes technical changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

- 38 **26B-1-216**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 39 **26B-8-406**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 40 **26B-8-407**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 41 **41-6a-509**, as last amended by Laws of Utah 2023, Chapters 239, 384
- 42 **41-6a-515.6**, as enacted by Laws of Utah 2017, Chapter 283
- 43 **53-3-104**, as last amended by Laws of Utah 2021, Chapter 284
- 44 **53-3-223**, as last amended by Laws of Utah 2023, Chapters 239, 384

45 ENACTS:

- 46 **53-3-111**, Utah Code Annotated 1953
- 47 **53-25-102**, Utah Code Annotated 1953



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

50 Section 1. Section **26B-1-216** is amended to read:

51 **26B-1-216. Powers and duties of the department -- Quality and design.**

52 The department shall:

- 53 (1) monitor and evaluate the quality of services provided by the department including:
- 54 (a) in accordance with Part 5, Fatality Review, monitoring, reviewing, and making
- 55 recommendations relating to a fatality review;
- 56 (b) overseeing the duties of the child protection ombudsman appointed under Section

57 80-2-1104; and

58 (c) conducting internal evaluations of the quality of services provided by the
59 department and service providers contracted with the department;

60 (2) conduct investigations described in Section 80-2-703; [~~and~~]

61 (3) develop an integrated human services system and implement a system of care by:

62 (a) designing and implementing a comprehensive continuum of services for individuals
63 who receive services from the department or a service provider contracted with the department;

64 (b) establishing and maintaining department contracts with public and private service
65 providers;

66 (c) establishing standards for the use of service providers who contract with the
67 department;

68 (d) coordinating a service provider network to be used within the department to ensure
69 individuals receive the appropriate type of services;

70 (e) centralizing the department's administrative operations; and

71 (f) integrating, analyzing, and applying department-wide data and research to monitor
72 the quality, effectiveness, and outcomes of services provided by the department[.]; and

73 (4) (a) coordinate with the Driver License Division, the Department of Public Safety,
74 and any other law enforcement agency to test and provide results of blood or urine samples
75 submitted to the department as part of an investigation for a driving offense that may have
76 occurred and there is reason to believe the individual's blood or urine may contain:

77 (i) alcohol; or

78 (ii) other drugs or substances that the department reasonably determines could impair
79 an individual or that is illegal for the individual to possess or consume; and

80 (b) ensure that the results of the test described in Subsection (4)(a) are provided
81 through a secure medium and in a timely manner.

82 Section 2. Section 26B-8-406 is amended to read:

83 **26B-8-406. Disclosure of health data -- Limitations.**

84 The department may not make a disclosure of any identifiable health data unless:

85 (1) one of the following persons has consented to the disclosure:

86 (a) the individual;

87 (b) the next-of-kin if the individual is deceased;

88 (c) the parent or legal guardian if the individual is a minor or mentally incompetent; or
89 (d) a person holding a power of attorney covering such matters on behalf of the
90 individual;

91 (2) the disclosure is to a governmental entity in this or another state or the federal
92 government, provided that:

93 (a) the data will be used for a purpose for which they were collected by the department;
94 and

95 (b) the recipient enters into a written agreement satisfactory to the department agreeing
96 to protect such data in accordance with the requirements of this part and department rule and
97 not permit further disclosure without prior approval of the department;

98 (3) the disclosure is to an individual or organization, for a specified period, solely for
99 bona fide research and statistical purposes, determined in accordance with department rules,
100 and the department determines that the data are required for the research and statistical
101 purposes proposed and the requesting individual or organization enters into a written
102 agreement satisfactory to the department to protect the data in accordance with this part and
103 department rule and not permit further disclosure without prior approval of the department;

104 (4) the disclosure is to a governmental entity for the purpose of conducting an audit,
105 evaluation, or investigation of the department and such governmental entity agrees not to use
106 those data for making any determination affecting the rights, benefits, or entitlements of any
107 individual to whom the health data relates;

108 (5) the disclosure is of specific medical or epidemiological information to authorized
109 personnel within the department, local health departments, public health authorities, official
110 health agencies in other states, the United States Public Health Service, the Centers for Disease
111 Control and Prevention (CDC), or agencies responsible to enforce quarantine, when necessary
112 to continue patient services or to undertake public health efforts to control communicable,
113 infectious, acute, chronic, or any other disease or health hazard that the department considers to
114 be dangerous or important or that may affect the public health;

115 (6) (a) the disclosure is of specific medical or epidemiological information to a "health
116 care provider" as defined in Section [78B-3-403](#), health care personnel, or public health
117 personnel who has a legitimate need to have access to the information in order to assist the
118 patient or to protect the health of others closely associated with the patient; and

- 119 (b) this Subsection (6) does not create a duty to warn third parties;
- 120 (7) the disclosure is necessary to obtain payment from an insurer or other third-party
- 121 payor in order for the department to obtain payment or to coordinate benefits for a patient; [~~or~~]
- 122 (8) the disclosure is to the subject of the identifiable health data~~[-]; or~~
- 123 (9) the disclosure is limited to the results of a blood or urine test and the disclosure is:
- 124 (a) to the Driver License Division, as authorized by Section 53-3-111; or
- 125 (b) to the requesting law enforcement agency as part of an investigation, as authorized
- 126 by Subsection 26B-1-216(4).

127 Section 3. Section 26B-8-407 is amended to read:

128 **26B-8-407. Disclosure of health data -- Discretion of department -- Exception.**

129 (1) Any disclosure provided for in Section 26B-8-406 shall be made at the discretion of

130 the department.

131 (2) Notwithstanding Subsection (1), the disclosure provided for in:

132 (a) Subsection 26B-8-406(4) shall be made when the requirements of that paragraph

133 are met~~[-]; and~~

134 (b) Subsection 26B-8-406(9) is not discretionary.

135 Section 4. Section 41-6a-509 is amended to read:

136 **41-6a-509. Driver license suspension or revocation for a driving under the**

137 **influence violation.**

138 (1) (a) The Driver License Division shall, if the person is 21 years old or older at the

139 time of arrest:

140 (i) suspend for a period of 120 days the operator's license of a person convicted for the

141 first time under Section 41-6a-502 or 76-5-102.1; or

142 (ii) revoke for a period of two years the license of a person if:

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

144 (B) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is

145 committed within a period of 10 years from the date of the prior violation.

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

147 53-3-223(10)(a), the Driver License Division may not suspend the operator's license for a

148 violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to

149 complete 120 days of the interlock restriction.

150 (ii) If a person elects to become an interlock restricted driver under Subsection
151 53-3-223(10)(a), and the person fails to complete the full 120 days of interlock restriction, the
152 Driver License Division:

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

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

157 (c) (i) If a person elects to become an interlock restricted driver under Subsection
158 41-6a-521(7), the Driver License Division may not suspend the operator's license for a
159 violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to
160 complete three years of the interlock restriction under Subsection 41-6a-521(7).

161 (ii) If a person elects to become an interlock restricted driver under Subsection
162 41-6a-521(7), and the person fails to complete the full three years of interlock restriction, the
163 Driver License Division:

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

166 (B) may not reduce the 120-day suspension for any days the person was compliant with
167 the interlock restriction under Subsection 41-6a-521(7).

168 (2) The Driver License Division shall, if the person is 19 years old or older but under
169 21 years old at the time of arrest:

170 (a) suspend the person's driver license until the person is 21 years old or for a period of
171 one year, whichever is longer, if the person is convicted for the first time of a violation under
172 Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense that was committed on or after July
173 1, 2011;

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

176 (i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or
177 76-5-207 of an offense committed on or after July 1, 2011; and

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

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

- 181 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
182 (ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is
183 committed within a period of 10 years from the date of the prior violation; or
184 (d) deny the person's application for a license or learner's permit until the person is 21
185 years old or for a period of two years, whichever is longer, if:
186 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);
187 (ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is
188 committed within a period of 10 years from the date of the prior violation; and
189 (iii) the person has not been issued an operator license.
- 190 (3) The Driver License Division shall, if the person is under 19 years old at the time of
191 arrest:
192 (a) suspend the person's driver license until the person is 21 years old if the person is
193 convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207;
194 (b) deny the person's application for a license or learner's permit until the person is 21
195 years old if the person:
196 (i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or
197 76-5-207; and
198 (ii) has not been issued an operator license;
199 (c) revoke the person's driver license until the person is 21 years old if:
200 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
201 (ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is
202 committed within a period of 10 years from the date of the prior violation; or
203 (d) deny the person's application for a license or learner's permit until the person is 21
204 years old if:
205 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);
206 (ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is
207 committed within a period of 10 years from the date of the prior violation; and
208 (iii) the person has not been issued an operator license.
- 209 (4) The Driver License Division shall suspend or revoke the license of a person as
210 ordered by the court under Subsection (9).
- 211 (5) The Driver License Division shall subtract from any suspension or revocation

212 period the number of days for which a license was previously suspended under Section
213 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
214 which the record of conviction is based.

215 (6) If a conviction recorded as impaired driving is amended to a driving under the
216 influence conviction under Section 41-6a-502, 76-5-102.1, or 76-5-207 in accordance with
217 Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:

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

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

222 (7) A court that reported a conviction of a violation of Section 41-6a-502, 76-5-102.1,
223 or 76-5-207 for a violation that occurred on or after July 1, 2009, to the Driver License
224 Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or
225 Subsection (3)(a) or (b) prior to completion of the suspension period if the person:

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

227 (b) completes a screening;

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

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

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

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

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

239 (h) (i) is 18 years old or older and provides a sworn statement to the court that the
240 person has not unlawfully consumed alcohol during the suspension period imposed under
241 Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

242 (ii) is under 18 years old and has the person's parent or legal guardian provide an

243 affidavit or sworn statement to the court certifying that to the parent or legal guardian's
244 knowledge the person has not unlawfully consumed alcohol during the suspension period
245 imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

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

251 (9) (a) (i) In addition to any other penalties provided in this section, a court may order
252 the operator's license of a person who is convicted of a violation of Section 41-6a-502,
253 76-5-102.1, or 76-5-207 to be suspended or revoked for an additional period of 90 days, 120
254 days, 180 days, one year, or two years to remove from the highways those persons who have
255 shown they are safety hazards.

256 (ii) The additional suspension or revocation period provided in this Subsection (9) shall
257 begin the date on which the individual would be eligible to reinstate the individual's driving
258 privilege for a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207.

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

262 (10) (a) The court shall notify the Driver License Division if a person fails to complete
263 all court ordered:

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

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

272 (11) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the
273 Driver License Division may shorten the suspension or revocation period imposed under

274 Subsection (1) before completion of the suspension or revocation period if the person:

275 (i) is participating in or has successfully completed a 24-7 sobriety program as defined
276 in Section [41-6a-515.5](#); ~~[or]~~

277 (ii) (A) is participating in or has successfully completed a problem solving court
278 program approved by the Judicial Council, including a driving under the influence court
279 program or a drug court program; and

280 (B) has elected to become an interlock restricted driver as a condition of probation
281 during the remainder of the person's suspension or revocation period in accordance with
282 Section [41-6a-518](#)~~[-]; or~~

283 (iii) has had their operator license suspended under Subsection (1)(a)(i), and the court
284 does not have a problem solving court program approved by the Judicial Council or access to a
285 24-7 sobriety program as defined in Section [41-6a-515.5](#), if the person:

286 (A) has installed an ignition interlock device in any vehicle owned or driven by the
287 person in accordance with Section [53-3-1007](#); and

288 (B) did not inflict bodily injury upon another as a proximate result of having operated
289 the vehicle in a negligent manner.

290 (b) If a court shortens a person's license suspension or revocation period in accordance
291 with the requirements of this Subsection (11), the court shall forward the order shortening the
292 person's suspension or revocation period to the Driver License Division in a manner specified
293 by the division.

294 (c) The court shall notify the Driver License Division, in a manner specified by the
295 Driver License Division, if a person fails to complete or comply with a condition that allowed
296 the court to shorten the person's license suspension or revocation period under Subsection
297 (11)(a).

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

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

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

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

312 Section 5. Section [41-6a-515.6](#) is amended to read:

313 **[41-6a-515.6. Field sobriety test training.](#)**

314 Each law enforcement agency shall ensure that each peace officer receives training on
315 the current standard field sobriety testing guidelines established by the National Highway
316 Traffic Safety Administration and in accordance with Section [53-25-102](#).

317 Section 6. Section [53-3-104](#) is amended to read:

318 **[53-3-104. Division duties.](#)**

319 The division shall:

320 (1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
321 make rules:

322 (a) for examining applicants for a license, as necessary for the safety and welfare of the
323 traveling public;

324 (b) for acceptable documentation of an applicant's identity, Social Security number,
325 Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the
326 United States, honorable or general discharge from the United States military, and other proof
327 or documentation required under this chapter;

328 (c) for acceptable documentation to verify that an individual is homeless as verified by
329 the Department of Workforce Services, for purposes of residency, address verification, and
330 obtaining a fee waiver;

331 (d) regarding the restrictions to be imposed on an individual driving a motor vehicle
332 with a temporary learner permit or learner permit;

333 (e) for exemptions from licensing requirements as authorized in this chapter;

334 (f) establishing procedures for the storage and maintenance of applicant information
335 provided in accordance with Section [53-3-205](#), [53-3-410](#), or [53-3-804](#); and

- 336 (g) to provide educational information to each applicant for a license, which
337 information shall be based on data provided by the Division of Air Quality, including:
- 338 (i) ways drivers can improve air quality; and
 - 339 (ii) the harmful effects of vehicle emissions;
- 340 (2) examine each applicant according to the class of license applied for;
- 341 (3) license motor vehicle drivers;
- 342 (4) file every application for a license received by the division and shall maintain
343 indices containing:
- 344 (a) all applications denied and the reason each was denied;
 - 345 (b) all applications granted; and
 - 346 (c) the name of every licensee whose license has been suspended, disqualified, or
347 revoked by the division and the reasons for the action;
- 348 (5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with
349 this chapter;
- 350 (6) file all accident reports and abstracts of court records of convictions received by the
351 division under state law;
- 352 (7) maintain a record of each licensee showing the licensee's convictions and the traffic
353 accidents in which the licensee has been involved where a conviction has resulted;
- 354 (8) consider the record of a licensee upon an application for renewal of a license and at
355 other appropriate times;
- 356 (9) search the license files, compile, and furnish a report on the driving record of any
357 individual licensed in the state in accordance with Section 53-3-109;
- 358 (10) develop and implement a record system as required by Section 41-6a-604;
- 359 (11) in accordance with Section 53G-10-507, establish:
- 360 (a) procedures and standards to certify teachers of driver education classes to
361 administer knowledge and skills tests;
 - 362 (b) minimal standards for the tests; and
 - 363 (c) procedures to enable school districts to administer or process any tests for students
364 to receive a class D operator's license;
- 365 (12) in accordance with Section 53-3-510, establish:
- 366 (a) procedures and standards to certify licensed instructors of commercial driver

367 training school courses to administer the skills test;

368 (b) minimal standards for the test; and

369 (c) procedures to enable licensed commercial driver training schools to administer or
370 process skills tests for students to receive a class D operator's license;

371 (13) provide administrative support to the Driver License Medical Advisory Board
372 created in Section [53-3-303](#);

373 (14) upon request by the lieutenant governor, provide the lieutenant governor with a
374 digital copy of the driver license or identification card signature of an individual who is an
375 applicant for voter registration under Section [20A-2-206](#); ~~and~~

376 (15) in accordance with Section [53-3-407.1](#), establish:

377 (a) procedures and standards to license a commercial driver license third party tester or
378 commercial driver license third party examiner to administer the commercial driver license
379 skills tests;

380 (b) minimum standards for the commercial driver license skills test; and

381 (c) procedures to enable a licensed commercial driver license third party tester or
382 commercial driver license third party examiner to administer a commercial driver license skills
383 test for an applicant to receive a commercial driver license~~[-];~~ and

384 (16) receive from the Department of Health and Human Services a result from a blood
385 or urine test of an individual arrested for driving under the influence and use the blood or urine
386 test result in an administrative hearing or agency review involving the individual who is the
387 subject of the blood or urine test as described in Section [53-3-111](#).

388 Section 7. Section [53-3-111](#) is enacted to read:

389 **[53-3-111](#). Blood and urine test reports -- Permissible uses and restrictions.**

390 (1) The division shall receive a result of a blood or urine test report in accordance with
391 Title 26B, Chapter 8, Part 4, Health Statistics.

392 (2) (a) The division may only use an individual's personally identifiable health data
393 from a blood and urine test in connection with:

394 (i) an administrative hearing involving that individual;

395 (ii) in accordance Title 63G, Chapter 4, Part 3, Agency Review, an agency review of
396 the administrative hearing described in Subsection (2)(a)(i); or

397 (iii) in accordance Title 63G, Chapter 4, Part 4, Judicial Review, a judicial review of

398 the administrative hearing described in Subsection (2)(a)(i).

399 (b) (i) The division shall aggregate and anonymize data from a blood and urine test.

400 (ii) The division may only use the anonymized and aggregated data from blood and
401 urine tests:

402 (A) to create a report required or requested by the Legislature; or

403 (B) to create statistical reports for criminal justice agencies.

404 (3) The division shall securely retain each blood and urine test as a private record as
405 provided in Title 63G, Chapter 2, Government Records Access and Management Act.

406 (4) The division may provide the information from a blood and urine test received
407 under this section:

408 (a) to the individual who is the subject of the blood and urine test;

409 (b) to the individual's attorney in connection with an administrative proceeding before
410 the division; or

411 (c) as otherwise required by law.

412 Section 8. Section **53-3-223** is amended to read:

413 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
414 **Hearing and decision -- Suspension and fee -- Judicial review.**

415 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
416 violating or has violated Section [41-6a-502](#), [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#), the peace
417 officer may, in connection with arresting the person, request that the person submit to a
418 chemical test or tests to be administered in compliance with the standards under Section
419 [41-6a-520](#).

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

422 (2) The peace officer shall advise a person prior to the person's submission to a
423 chemical test that a test result indicating a violation of Section [41-6a-502](#), [41-6a-517](#),
424 [76-5-102.1](#), or [76-5-207](#) shall, and the existence of a blood alcohol content sufficient to render
425 the person incapable of safely driving a motor vehicle may, result in suspension or revocation
426 of the person's license to drive a motor vehicle.

427 (3) If the person submits to a chemical test and the test results indicate a blood or
428 breath alcohol content in violation of Section [41-6a-502](#), [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#),

429 or if a peace officer makes a determination, based on reasonable grounds, that the person is
430 otherwise in violation of Section 41-6a-502, 76-5-102.1, or 76-5-207, a peace officer shall, on
431 behalf of the division and within 24 hours of arrest, give notice of the division's intention to
432 suspend the person's license to drive a motor vehicle.

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

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

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

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

441 (c) any other basis for the peace officer's determination that the person has violated
442 Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207.

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

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

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

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

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

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

454 (i) whether a peace officer had reasonable grounds to believe the person was driving a
455 motor vehicle in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207;

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

457 (iii) the test results, if any.

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

459 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and

460 the production of relevant books and papers; or

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

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

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

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

467 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
468 grounds to believe that the person was driving a motor vehicle in violation of Section
469 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the person failed to appear before the
470 division as required in the notice, or if a hearing is not requested under this section, the division
471 shall:

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

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

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

477 (ii) if the person is under 21 years old at the time of arrest:

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

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

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

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

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

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

490 (b) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall

491 reinstate a person's license prior to completion of the 120 day suspension period imposed under
492 Subsection (7)(a)(i)(A):

493 (A) immediately upon receiving written verification of the person's dismissal of a
494 charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written
495 verification is received prior to completion of the suspension period; or

496 (B) no sooner than 60 days beginning on the 45th day after the date of arrest upon
497 receiving written verification of the person's reduction of a charge for a violation of Section
498 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to
499 completion of the suspension period.

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

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

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

509 (iii) If a person's license is reinstated under this Subsection (7)(b), the person is
510 required to pay the license reinstatement application fees under Subsections 53-3-105(26) and
511 (27).

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

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

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

522 (9) (a) Notwithstanding the provisions in Subsection (7)(a)(i), the division shall
523 reinstate a person's license before completion of the suspension period imposed under
524 Subsection (7)(a)(i) if:

525 (i) (A) the reporting court notifies the Driver License Division that the person is
526 participating in or has successfully completed a 24-7 sobriety program as defined in Section
527 [41-6a-515.5](#); or

528 (B) the reporting court notifies the Driver License Division that the person is
529 participating in or has successfully completed a problem solving court program approved by
530 the Judicial Council, including a driving under the influence court program or a drug court
531 program, and has elected to become an interlock restricted driver as a condition of probation
532 during the remainder of the person's suspension period in accordance with Section [41-6a-518](#);
533 and

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

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

538 (10) (a) If the division suspends a person's license for an alcohol related offense under
539 Subsection (7)(a)(i)(A), the person may petition the division and elect to become an ignition
540 interlock restricted driver if the person:

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

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

545 (iii) pays the license reinstatement application fees described in Subsections
546 [53-3-105](#)(26) and (27).

547 (b) (i) The person shall remain an ignition interlock restricted driver for a period of 120
548 days from the original effective date of the suspension under Subsection (7)(a)(i)(A).

549 (ii) If the person removes an ignition interlock device from a vehicle owned or driven
550 by the person prior to the expiration of the 120-day ignition interlock restriction period and
551 does not install a new ignition interlock device from the same or a different provider within 24
552 hours:

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

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

557 (C) the person may not elect to become an ignition interlock restricted driver under this
558 section.

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

561 (11) (a) If the division revokes a person's license for an alcohol related offense under
562 Subsection (7)(a)(i)(B), the person may petition the division and elect to become an ignition
563 interlock restricted driver after the driver serves at least 90 days of the revocation if the person:

564 (i) has a valid driving privilege, with the exception of the revocation under Subsection
565 (7)(a)(i)(B);

566 (ii) installs an ignition interlock device in any vehicle owned or driven by the person in
567 accordance with Section [53-3-1007](#);

568 (iii) pays the license reinstatement application fees described in Subsections
569 [53-3-105](#)(26) and (27);

570 (iv) pays the appropriate original license fees under section [53-3-105](#); and

571 (v) completes the license application process including successful completion of
572 required testing.

573 (b) (i) The person shall remain an ignition interlock restricted driver for a period of
574 three years from the original effective date of the revocation under Subsection (7)(a)(i)(B).

575 (ii) If the person removes an ignition interlock device from a vehicle owned or driven
576 by the person prior to the expiration of the three-year ignition interlock restriction period and
577 does not install a new ignition interlock device from the same or a different provider within 24
578 hours:

579 (A) the person's driver license shall be revoked under Subsection (7)(a)(i)(B) for the
580 remainder of the three-year ignition interlock restriction period;

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

583 (C) the person may not elect to become an ignition interlock restricted driver under this

584 section.

585 (c) Notwithstanding Subsections (11)(a) and (b), if the person is subsequently
586 convicted of the violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207 that gave
587 rise to the revocation under Subsection (7)(a)(i)(B), the division shall revoke the person's
588 license under Subsection 41-6a-509(1)(a)(ii), and the person is no longer an ignition interlock
589 restricted driver under this Subsection (11).

590 (12) (a) Notwithstanding the provisions in Subsection (7)(a)(i)(B) the division shall
591 reinstate a person's license prior to completion of the two-year revocation period imposed
592 under Subsection (7)(a)(i)(B) immediately upon receiving written verification of the person's
593 dismissal of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207,
594 if the written verification is received prior to completion of the revocation period.

595 (b) If the person elected to become an ignition interlock restricted driver under
596 Subsection (11), and the division receives written verification of the person's dismissal of a
597 charge for violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, the driver is no
598 longer an ignition restricted driver under Subsection (11)(b)(i), and the division shall reinstate
599 the person's license prior to the completion of the three-year ignition interlock restriction period
600 under Subsection (11)(b)(i).

601 Section 9. Section **53-25-102** is enacted to read:

602 **53-25-102. Standards for oral fluid and portable breath tests -- Rulemaking.**

603 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
604 department shall make rules to establish standards for the proper use of oral fluid and portable
605 breath testing as part of a field sobriety test.

606 (2) Each law enforcement agency shall provide training to ensure that:

607 (a) oral fluid and portable breath testing techniques and practices comply with the rules
608 described in Subsection (1); and

609 (b) oral fluid and portable breath testing equipment is used in a manner consistent with
610 manufacturer and industry standards.

611 Section 10. **Effective date.**

612 This bill takes effect on May 1, 2024.

613