

**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

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**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;
- ▶ requires an administrative testing fee to be charged as part of an administrative impound fee for an individual whose vehicle is impounded related to an arrest for driving under the influence;
- ▶ 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



- 26 circumstances, for a person not participating in a 24-7 sobriety program;
- 27       ▶ requires the Department of Public Safety to make rules to establish standards for
- 28 proper usage and administration of oral fluid and portable breath tests as part of a
- 29 field sobriety test;
- 30       ▶ amends provisions related to driver license revocation for a subsequent offense
- 31 related to driving under the influence;
- 32       ▶ requires law enforcement agencies to provide training on the use of oral fluid and
- 33 portable breath tests as part of a field sobriety test; and
- 34       ▶ makes technical changes.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

- 41 **26B-1-216**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 42 **26B-1-304**, as renumbered and amended by Laws of Utah 2022, Chapter 255
- 43 **26B-8-406**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 44 **26B-8-407**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 45 **41-6a-509**, as last amended by Laws of Utah 2023, Chapters 239, 384
- 46 **41-6a-515.6**, as enacted by Laws of Utah 2017, Chapter 283
- 47 **41-6a-1406**, as last amended by Laws of Utah 2023, Chapter 335
- 48 **53-3-104**, as last amended by Laws of Utah 2021, Chapter 284
- 49 **53-3-223**, as last amended by Laws of Utah 2023, Chapters 239, 384

50 ENACTS:

- 51 **53-3-111**, Utah Code Annotated 1953
- 52 **53-25-102**, Utah Code Annotated 1953



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

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

56 **26B-1-216. Powers and duties of the department -- Quality and design.**

57 The department shall:

58 (1) monitor and evaluate the quality of services provided by the department including:

59 (a) in accordance with Part 5, Fatality Review, monitoring, reviewing, and making  
60 recommendations relating to a fatality review;

61 (b) overseeing the duties of the child protection ombudsman appointed under Section  
62 [80-2-1104](#); and

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

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

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

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

69 (b) establishing and maintaining department contracts with public and private service  
70 providers;

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

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

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

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

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

82 (i) alcohol; or

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

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

87 Section 2. Section **26B-1-304** is amended to read:

88           **26B-1-304. Restricted account created to fund drug testing for law enforcement**  
89 **agencies.**

90           (1) There is created within the General Fund a restricted account known as the State  
91 Laboratory Drug Testing Account.

92           (2) The account consists of:

93           (a) a specified portion of fees generated under Subsection [53-3-106\(5\)](#) from the  
94 reinstatement of certain licenses, which shall be deposited in this account[-]; and

95           (b) the deposits described in Subsection [41-6a-1406\(6\)\(b\)\(v\)](#) from the administrative  
96 testing fee related to vehicles impounded under Section [41-6a-527](#).

97           (3) The department shall use funds in this account solely for the costs of performing  
98 drug and alcohol analysis tests for state and local law enforcement agencies, and may not  
99 assess any charge or fee to the law enforcement agencies for whom the analysis tests are  
100 performed.

101           Section 3. Section **26B-8-406** is amended to read:

102           **26B-8-406. Disclosure of health data -- Limitations.**

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

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

105           (a) the individual;

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

107           (c) the parent or legal guardian if the individual is a minor or mentally incompetent; or

108           (d) a person holding a power of attorney covering such matters on behalf of the  
109 individual;

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

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

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

117           (3) the disclosure is to an individual or organization, for a specified period, solely for  
118 bona fide research and statistical purposes, determined in accordance with department rules,

119 and the department determines that the data are required for the research and statistical  
 120 purposes proposed and the requesting individual or organization enters into a written  
 121 agreement satisfactory to the department to protect the data in accordance with this part and  
 122 department rule and not permit further disclosure without prior approval of the department;

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

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

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

138 (b) this Subsection (6) does not create a duty to warn third parties;

139 (7) the disclosure is necessary to obtain payment from an insurer or other third-party  
 140 payor in order for the department to obtain payment or to coordinate benefits for a patient; ~~or~~

141 (8) the disclosure is to the subject of the identifiable health data~~[-];~~ or

142 (9) the disclosure is limited to the results of a blood or urine test and the disclosure is:

143 (a) to the Driver License Division, as authorized by Section [53-3-111](#); or

144 (b) to the requesting law enforcement agency as part of an investigation, as authorized  
 145 by Subsection [26B-1-216\(4\)](#).

146 Section 4. Section **26B-8-407** is amended to read:

147 **26B-8-407. Disclosure of health data -- Discretion of department -- Exception.**

148 (1) Any disclosure provided for in Section [26B-8-406](#) shall be made at the discretion of  
 149 the department.

150 (2) Notwithstanding Subsection (1), the disclosure provided for in:  
151 (a) Subsection 26B-8-406(4) shall be made when the requirements of that paragraph  
152 are met[-]; and

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

154 Section 5. Section 41-6a-509 is amended to read:

155 **41-6a-509. Driver license suspension or revocation for a driving under the**  
156 **influence violation.**

157 (1) (a) The Driver License Division shall, if the person is 21 years old or older at the  
158 time of arrest:

159 (i) suspend for a period of 120 days the operator's license of a person convicted for the  
160 first time under Section 41-6a-502 or 76-5-102.1; or

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

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

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

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

165 (b) (i) If a person elects to become an interlock restricted driver under Subsection  
166 53-3-223(10)(a), the Driver License Division may not suspend the operator's license for a  
167 violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to  
168 complete 120 days of the interlock restriction.

169 (ii) If a person elects to become an interlock restricted driver under Subsection  
170 53-3-223(10)(a), and the person fails to complete the full 120 days of interlock restriction, the  
171 Driver License Division:

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

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

176 (c) (i) If a person elects to become an interlock restricted driver under Subsection  
177 41-6a-521(7), the Driver License Division may not suspend the operator's license for a  
178 violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to  
179 complete three years of the interlock restriction under Subsection 41-6a-521(7).

180 (ii) If a person elects to become an interlock restricted driver under Subsection

181 41-6a-521(7), and the person fails to complete the full three years of interlock restriction, the  
182 Driver License Division:

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

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

187 (2) The Driver License Division shall, if the person is 19 years old or older but under  
188 21 years old at the time of arrest:

189 (a) suspend the person's driver license until the person is 21 years old or for a period of  
190 one year, whichever is longer, if the person is convicted for the first time of a violation under  
191 Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense that was committed on or after July  
192 1, 2011;

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

195 (i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or  
196 76-5-207 of an offense committed on or after July 1, 2011; and

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

198 (c) revoke the person's driver license until the person is 21 years old or for a period of  
199 two years, whichever is longer, 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 or for a period of two years, whichever is longer, 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 (3) The Driver License Division shall, if the person is under 19 years old at the time of  
210 arrest:

211 (a) suspend the person's driver license until the person is 21 years old if the person is

212 convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207;

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

215 (i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or  
216 76-5-207; and

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

218 (c) revoke the person's driver license until the person is 21 years old if:

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

220 (ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is  
221 committed within a period of 10 years from the date of the prior violation; or

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

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

225 (ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is  
226 committed within a period of 10 years from the date of the prior violation; and

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

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

230 (5) The Driver License Division shall subtract from any suspension or revocation  
231 period the number of days for which a license was previously suspended under Section  
232 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
233 which the record of conviction is based.

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

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

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

241 (7) A court that reported a conviction of a violation of Section 41-6a-502, 76-5-102.1,  
242 or 76-5-207 for a violation that occurred on or after July 1, 2009, to the Driver License



243 Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or  
244 Subsection (3)(a) or (b) prior to completion of the suspension period if the person:

- 245 (a) completes at least six months of the license suspension;
- 246 (b) completes a screening;
- 247 (c) completes an assessment, if it is found appropriate by a screening under Subsection  
248 (7)(b);
- 249 (d) completes substance abuse treatment if it is found appropriate by the assessment  
250 under Subsection (7)(c);
- 251 (e) completes an educational series if substance abuse treatment is not required by an  
252 assessment under Subsection (7)(c) or the court does not order substance abuse treatment;
- 253 (f) has not been convicted of a violation of any motor vehicle law in which the person  
254 was involved as the operator of the vehicle during the suspension period imposed under  
255 Subsection (2)(a) or (b) or Subsection (3)(a) or (b);
- 256 (g) has complied with all the terms of the person's probation or all orders of the court if  
257 not ordered to probation; and
- 258 (h) (i) is 18 years old or older and provides a sworn statement to the court that the  
259 person has not unlawfully consumed alcohol during the suspension period imposed under  
260 Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or
- 261 (ii) is under 18 years old and has the person's parent or legal guardian provide an  
262 affidavit or sworn statement to the court certifying that to the parent or legal guardian's  
263 knowledge the person has not unlawfully consumed alcohol during the suspension period  
264 imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).
- 265 (8) If the court shortens a person's license suspension period in accordance with the  
266 requirements of Subsection (7), the court shall forward the order shortening the person's  
267 suspension period to the Driver License Division in a manner specified by the division prior to  
268 the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection  
269 (3)(a) or (b).
- 270 (9) (a) (i) In addition to any other penalties provided in this section, a court may order  
271 the operator's license of a person who is convicted of a violation of Section [41-6a-502](#),  
272 [76-5-102.1](#), or [76-5-207](#) to be suspended or revoked for an additional period of 90 days, 120  
273 days, 180 days, one year, or two years to remove from the highways those persons who have

274 shown they are safety hazards.

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

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

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

283 (i) screenings;

284 (ii) assessments;

285 (iii) educational series;

286 (iv) substance abuse treatment; and

287 (v) hours of work in a compensatory-service work program.

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

291 (11) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the  
292 Driver License Division may shorten the suspension or revocation period imposed under  
293 Subsection (1) before completion of the suspension or revocation period if the person:

294 (i) is participating in or has successfully completed a 24-7 sobriety program as defined  
295 in Section 41-6a-515.5; ~~or~~

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

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

302 (iii) has had their operator license suspended under Subsection (1)(a)(i), and the court  
303 does not have a problem solving court program approved by the Judicial Council or access to a  
304 24-7 sobriety program as defined in Section 41-6a-515.5, if the person:

305 (A) has installed an ignition interlock device in any vehicle owned or driven by the  
306 person in accordance with Section 53-3-1007; and

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

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

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

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

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

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

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

331 Section 6. Section 41-6a-515.6 is amended to read:

332 **41-6a-515.6. Field sobriety test training.**

333 Each law enforcement agency shall ensure that each peace officer receives training on  
334 the current standard field sobriety testing guidelines established by the National Highway  
335 Traffic Safety Administration and in accordance with Section 53-25-102.

336 Section 7. Section **41-6a-1406** is amended to read:

337 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**  
338 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

339 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under  
340 Section [41-1a-1101](#), [41-6a-527](#), [41-6a-1405](#), [41-6a-1408](#), or [73-18-20.1](#) by an order of a peace  
341 officer or by an order of a person acting on behalf of a law enforcement agency or highway  
342 authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the  
343 expense of the owner.

344 (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or  
345 impounded to a state impound yard.

346 (3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be  
347 removed by a tow truck motor carrier that meets standards established:

348 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

349 (b) by the department under Subsection (10).

350 (4) (a) A report described in this Subsection (4) is required for a vehicle, vessel, or  
351 outboard motor that is:

352 (i) removed or impounded as described in Subsection (1); or

353 (ii) removed or impounded by any law enforcement or government entity.

354 (b) Before noon on the next business day after the date of the removal of the vehicle,  
355 vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division  
356 by:

357 (i) the peace officer or agency by whom the peace officer is employed; and

358 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck  
359 operator is employed.

360 (c) The report shall be in a form specified by the Motor Vehicle Division and shall  
361 include:

362 (i) the operator's name, if known;

363 (ii) a description of the vehicle, vessel, or outboard motor;

364 (iii) the vehicle identification number or vessel or outboard motor identification  
365 number;

366 (iv) the license number, temporary permit number, or other identification number

367 issued by a state agency;

368 (v) the date, time, and place of impoundment;

369 (vi) the reason for removal or impoundment;

370 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or

371 outboard motor; and

372 (viii) the place where the vehicle, vessel, or outboard motor is stored.

373 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

374 State Tax Commission shall make rules to establish proper format and information required on

375 the form described in this Subsection (4).

376 (e) Until the tow truck operator or tow truck motor carrier reports the removal as

377 required under this Subsection (4), a tow truck motor carrier or impound yard may not:

378 (i) collect any fee associated with the removal; and

379 (ii) begin charging storage fees.

380 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the

381 Motor Vehicle Division shall give notice, in the manner described in Section [41-1a-114](#), to the

382 following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

383 (i) the registered owner;

384 (ii) any lien holder; or

385 (iii) a dealer, as defined in Section [41-1a-102](#), if the vehicle, vessel, or outboard motor

386 is currently operating under a temporary permit issued by the dealer, as described in Section

387 [41-3-302](#).

388 (b) The notice shall:

389 (i) state the date, time, and place of removal, the name, if applicable, of the person

390 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,

391 and the place where the vehicle, vessel, or outboard motor is stored;

392 (ii) state that the registered owner is responsible for payment of towing, impound, and

393 storage fees charged against the vehicle, vessel, or outboard motor;

394 (iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard

395 motor is released; and

396 (iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the

397 vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or

398 impoundment under this section, one of the parties fails to make a claim for release of the  
399 vehicle, vessel, or outboard motor.

400 (c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard  
401 motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort  
402 to notify the parties described in Subsection (5)(a) of the removal and the place where the  
403 vehicle, vessel, or outboard motor is stored.

404 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where  
405 the vehicle, vessel, or outboard motor is stored.

406 (e) The Motor Vehicle Division is not required to give notice under this Subsection (5)  
407 if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck  
408 service in accordance with Subsection 72-9-603(1)(a)(i).

409 (6) (a) The vehicle, vessel, or outboard motor shall be released after a party described  
410 in Subsection (5)(a):

411 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of  
412 the State Tax Commission;

413 (ii) presents identification sufficient to prove ownership of the impounded vehicle,  
414 vessel, or outboard motor;

415 (iii) completes the registration, if needed, and pays the appropriate fees;

416 (iv) if the impoundment was made under Section 41-6a-527, pays:

417 (A) an administrative impound fee of \$400; and

418 (B) in addition to the administrative fee described in Subsection (6)(a)(iv)(A), a  
419 administrative testing fee of \$30; and

420 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard  
421 motor is stored.

422 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under  
423 Subsection (6)(a)(iv)(A) shall be dedicated credits to the Motor Vehicle Division[?].

424 (ii) [~~\$147~~] One-hundred and forty-seven dollars of the administrative impound fee  
425 assessed under Subsection (6)(a)(iv)(A) shall be deposited into the Department of Public Safety  
426 Restricted Account created in Section 53-3-106[?].

427 (iii) [~~\$20~~] Twenty dollars of the administrative impound fee assessed under Subsection  
428 (6)(a)(iv)(A) shall be deposited into the Neuro-Rehabilitation Fund created in Section

429 [26B-1-319](#)~~;~~ and].

430 (iv) ~~the~~ After the distributions described in Subsections (6)(b)(i) through (iii), the  
431 remainder of the administrative impound fee assessed under Subsection (6)(a)(iv)(A) shall be  
432 deposited into the General Fund.

433 (v) The administrative testing fee described in Subsection (6)(a)(iv)(B) shall be  
434 deposited into the State Laboratory Drug Testing Account created in Section [26B-1-304](#).

435 (c) The administrative impound fee and the administrative testing fee assessed under  
436 Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the  
437 registered owner, lien holder, or owner's agent presents written evidence to the State Tax  
438 Commission that:

439 (i) the Driver License Division determined that the arrested person's driver license  
440 should not be suspended or revoked under Section [53-3-223](#) or [41-6a-521](#) as shown by a letter  
441 or other report from the Driver License Division presented within 180 days after the day on  
442 which the Driver License Division mailed the final notification; or

443 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the  
444 stolen vehicle report presented within 180 days after the day of the impoundment.

445 (d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept  
446 payment by cash and debit or credit card for a removal or impoundment under Subsection (1)  
447 or any service rendered, performed, or supplied in connection with a removal or impoundment  
448 under Subsection (1).

449 (e) The owner of an impounded vehicle may not be charged a fee for the storage of the  
450 impounded vehicle, vessel, or outboard motor if:

451 (i) the vehicle, vessel, or outboard motor is being held as evidence; and

452 (ii) the vehicle, vessel, or outboard motor is not being released to a party described in  
453 Subsection (5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or  
454 outboard motor under this Subsection (6).

455 (7) (a) For an impounded vehicle, vessel, or outboard motor not claimed by a party  
456 described in Subsection (5)(a) within the time prescribed by Section [41-1a-1103](#), the Motor  
457 Vehicle Division shall issue a certificate of sale for the impounded vehicle, vessel, or outboard  
458 motor as described in Section [41-1a-1103](#).

459 (b) The date of impoundment is considered the date of seizure for computing the time

460 period provided under Section 41-1a-1103.

461 (8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the  
462 impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the  
463 fees and charges, together with damages, court costs, and attorney fees, against the operator of  
464 the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

465 (9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,  
466 or outboard motor.

467 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
468 the department shall make rules setting the performance standards for towing companies to be  
469 used by the department.

470 (11) (a) The Motor Vehicle Division may specify that a report required under  
471 Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and  
472 retrieval of the information.

473 (b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the  
474 administrator of the database may adopt a schedule of fees assessed for utilizing the database.

475 (ii) The fees under this Subsection (11)(b) shall:

476 (A) be reasonable and fair; and

477 (B) reflect the cost of administering the database.

478 Section 8. Section 53-3-104 is amended to read:

479 **53-3-104. Division duties.**

480 The division shall:

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

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

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

489 (c) for acceptable documentation to verify that an individual is homeless as verified by  
490 the Department of Workforce Services, for purposes of residency, address verification, and



- 491 obtaining a fee waiver;
- 492 (d) regarding the restrictions to be imposed on an individual driving a motor vehicle  
493 with a temporary learner permit or learner permit;
- 494 (e) for exemptions from licensing requirements as authorized in this chapter;
- 495 (f) establishing procedures for the storage and maintenance of applicant information  
496 provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804; and
- 497 (g) to provide educational information to each applicant for a license, which  
498 information shall be based on data provided by the Division of Air Quality, including:
- 499 (i) ways drivers can improve air quality; and  
500 (ii) the harmful effects of vehicle emissions;
- 501 (2) examine each applicant according to the class of license applied for;  
502 (3) license motor vehicle drivers;  
503 (4) file every application for a license received by the division and shall maintain  
504 indices containing:
- 505 (a) all applications denied and the reason each was denied;  
506 (b) all applications granted; and  
507 (c) the name of every licensee whose license has been suspended, disqualified, or  
508 revoked by the division and the reasons for the action;
- 509 (5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with  
510 this chapter;
- 511 (6) file all accident reports and abstracts of court records of convictions received by the  
512 division under state law;
- 513 (7) maintain a record of each licensee showing the licensee's convictions and the traffic  
514 accidents in which the licensee has been involved where a conviction has resulted;
- 515 (8) consider the record of a licensee upon an application for renewal of a license and at  
516 other appropriate times;
- 517 (9) search the license files, compile, and furnish a report on the driving record of any  
518 individual licensed in the state in accordance with Section 53-3-109;
- 519 (10) develop and implement a record system as required by Section 41-6a-604;  
520 (11) in accordance with Section 53G-10-507, establish:
- 521 (a) procedures and standards to certify teachers of driver education classes to

522 administer knowledge and skills tests;

523 (b) minimal standards for the tests; and

524 (c) procedures to enable school districts to administer or process any tests for students

525 to receive a class D operator's license;

526 (12) in accordance with Section 53-3-510, establish:

527 (a) procedures and standards to certify licensed instructors of commercial driver

528 training school courses to administer the skills test;

529 (b) minimal standards for the test; and

530 (c) procedures to enable licensed commercial driver training schools to administer or

531 process skills tests for students to receive a class D operator's license;

532 (13) provide administrative support to the Driver License Medical Advisory Board

533 created in Section 53-3-303;

534 (14) upon request by the lieutenant governor, provide the lieutenant governor with a

535 digital copy of the driver license or identification card signature of an individual who is an

536 applicant for voter registration under Section 20A-2-206; ~~and~~

537 (15) in accordance with Section 53-3-407.1, establish:

538 (a) procedures and standards to license a commercial driver license third party tester or

539 commercial driver license third party examiner to administer the commercial driver license

540 skills tests;

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

542 (c) procedures to enable a licensed commercial driver license third party tester or

543 commercial driver license third party examiner to administer a commercial driver license skills

544 test for an applicant to receive a commercial driver license~~[-]; and~~

545 (16) receive from the Department of Health and Human Services a result from a blood

546 or urine test of an individual arrested for driving under the influence and use the blood or urine

547 test result in an administrative hearing or agency review involving the individual who is the

548 subject of the blood or urine test as described in Section 53-3-111.

549 Section 9. Section 53-3-111 is enacted to read:

550 **53-3-111. Blood and urine test reports -- Permissible uses and restrictions.**

551 (1) The division shall receive a result of a blood or urine test report in accordance with

552 Title 26B, Chapter 8, Part 4, Health Statistics.

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

555 (i) an administrative hearing involving that individual;

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

558 (iii) in accordance Title 63G, Chapter 4, Part 4, Judicial Review, a judicial review of  
559 the administrative hearing described in Subsection (2)(a)(i).

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

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

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

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

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

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

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

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

572 (c) as otherwise required by law.

573 Section 10. Section **53-3-223** is amended to read:

574 **53-3-223. Chemical test for driving under the influence -- Temporary license --**  
575 **Hearing and decision -- Suspension and fee -- Judicial review.**

576 (1) (a) If a peace officer has reasonable grounds to believe that a person may be  
577 violating or has violated Section [41-6a-502](#), [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#), the peace  
578 officer may, in connection with arresting the person, request that the person submit to a  
579 chemical test or tests to be administered in compliance with the standards under Section  
580 [41-6a-520](#).

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

583 (2) The peace officer shall advise a person prior to the person's submission to a

584 chemical test that a test result indicating a violation of Section 41-6a-502, 41-6a-517,  
585 76-5-102.1, or 76-5-207 shall, and the existence of a blood alcohol content sufficient to render  
586 the person incapable of safely driving a motor vehicle may, result in suspension or revocation  
587 of the person's license to drive a motor vehicle.

588 (3) If the person submits to a chemical test and the test results indicate a blood or  
589 breath alcohol content in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207,  
590 or if a peace officer makes a determination, based on reasonable grounds, that the person is  
591 otherwise in violation of Section 41-6a-502, 76-5-102.1, or 76-5-207, a peace officer shall, on  
592 behalf of the division and within 24 hours of arrest, give notice of the division's intention to  
593 suspend the person's license to drive a motor vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

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

618 (iii) the test results, if any.

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

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

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

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

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

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

628 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable  
629 grounds to believe that the person was driving a motor vehicle in violation of Section  
630 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the person failed to appear before the  
631 division as required in the notice, or if a hearing is not requested under this section, the division  
632 shall:

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

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

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

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

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

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

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

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

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

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

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

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

657 (B) no sooner than 60 days beginning on the 45th day after the date of arrest upon  
658 receiving written verification of the person's reduction of a charge for a violation of Section  
659 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to  
660 completion of the suspension period.

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

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

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

670 (iii) If a person's license is reinstated under this Subsection (7)(b), the person is  
671 required to pay the license reinstatement application fees under Subsections 53-3-105(26) and  
672 (27).

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

675 (8) (a) The division shall assess against a person, in addition to any fee imposed under  
676 Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover

677 administrative costs, which shall be paid before the person's driving privilege is reinstated.  
678 This fee shall be cancelled if the person obtains an unappealed division hearing or court  
679 decision that the suspension was not proper.

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

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

686 (i) (A) the reporting court notifies the Driver License Division that the person is  
687 participating in or has successfully completed a 24-7 sobriety program as defined in Section  
688 41-6a-515.5; or

689 (B) the reporting court notifies the Driver License Division that the person is  
690 participating in or has successfully completed a problem solving court program approved by  
691 the Judicial Council, including a driving under the influence court program or a drug court  
692 program, and has elected to become an interlock restricted driver as a condition of probation  
693 during the remainder of the person's suspension period in accordance with Section 41-6a-518;  
694 and

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

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

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

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

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

706 (iii) pays the license reinstatement application fees described in Subsections  
707 53-3-105(26) and (27).

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

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

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

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

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

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

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

725 (i) was charged with a violation of Section [41-6a-502](#) that is a misdemeanor;

726 (ii) has a valid driving privilege, with the exception of the suspension under Subsection  
727 (7)(a)(i)(B);

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

730 (iv) pays the license reinstatement application fees described in Subsections  
731 [53-3-105](#)(26) and (27);

732 (b) (i) The person shall remain an ignition interlock restricted driver for a period of two  
733 years from the original effective date of the suspension under Subsection (7)(a)(i)(B).

734 (ii) If the person removes an ignition interlock device from a vehicle owned or driven  
735 by the person prior to the expiration of the two-year ignition interlock restriction period and  
736 does not install a new ignition interlock device from the same or a different provider within 24  
737 hours:

738 (A) the person's driver license shall be suspended under Subsection (7)(a)(i)(B) for the



739 remainder of the two-year ignition interlock restriction period;

740 (B) the person is required to pay the license reinstatement application fee under

741 Subsection 53-3-105(26); and

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

743 section.

744 (c) Notwithstanding Subsections (11)(a) and (b), if the person is subsequently

745 convicted of the violation of Section 41-6a-502 that gave rise to the suspension under

746 Subsection (7)(a)(i)(B), the division shall revoke the person's license under Subsection

747 41-6a-509(1)(a)(ii), and the person is no longer an ignition interlock restricted driver under this

748 Subsection (11).

749 (12) (a) Notwithstanding the provisions in Subsection (7)(a)(i)(B) the division shall

750 reinstate a person's license prior to completion of the two-year suspension period imposed

751 under Subsection (7)(a)(i)(B) immediately upon receiving written verification of the person's

752 dismissal of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207,

753 if the written verification is received prior to completion of the suspension period.

754 (b) If the person elected to become an ignition interlock restricted driver under

755 Subsection (11), and the division receives written verification of the person's dismissal of a

756 charge for violation of Section 41-6a-502, the driver is no longer an ignition restricted driver

757 under Subsection (11)(b)(i), and the division shall reinstate the person's license prior to the

758 completion of the two-year ignition interlock restriction period under Subsection (11)(b)(i).

759 Section 11. Section 53-25-102 is enacted to read:

760 **53-25-102. Standards for oral fluid and portable breath tests -- Rulemaking.**

761 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

762 department shall make rules to establish standards for the proper use of oral fluid and portable

763 breath testing as part of a field sobriety test.

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

765 (a) oral fluid and portable breath testing techniques and practices comply with the rules

766 described in Subsection (1); and

767 (b) oral fluid and portable breath testing equipment is used in a manner consistent with

768 manufacturer and industry standards.

769 Section 12. **Effective date.**

770

This bill takes effect on May 1, 2024.