

24-7 SOBRIETY PROGRAM AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill expands the 24-7 sobriety program and allows a participant in a drug court to avoid suspension of the individual's driver license.

Highlighted Provisions:

This bill:

- ▶ removes language related to the 24-7 sobriety program limiting the program to a pilot program;
- ▶ allows expansion of the 24-7 sobriety program;
- ▶ allows an individual participating in a drug court to avoid suspension of the individual's driver license; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-509, as last amended by Laws of Utah 2017, Chapter 446

41-6a-515.5, as last amended by Laws of Utah 2018, Chapter 135

41-6a-517, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1



53-3-220, as last amended by Laws of Utah 2018, Chapters 121 and 133

53-3-223, as last amended by Laws of Utah 2019, Chapter 77

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

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

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

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

(a) suspend for a period of 120 days the operator's license of a person convicted for the first time under Section 41-6a-502 of an offense committed on or after July 1, 2009; or

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

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

(ii) the current driving under the influence violation under Section 41-6a-502 is committed:

(A) within a period of 10 years from the date of the prior violation; and

(B) on or after July 1, 2009.

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

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

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

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

(ii) has not been issued an operator license;

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

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

(ii) the current driving under the influence violation under Section 41-6a-502 is committed on or after July 1, 2009, and within a period of 10 years from the date of the prior violation; or

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

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

(ii) the current driving under the influence violation under Section 41-6a-502 is committed on or after July 1, 2009, and within a period of 10 years from the date of the prior violation; and

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

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

(a) suspend the person's driver license until the person is 21 years of age if the person is convicted for the first time of a driving under the influence violation under Section 41-6a-502 of an offense that was committed on or after July 1, 2009;

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

(i) is convicted for the first time of a driving under the influence violation under Section 41-6a-502 of an offense committed on or after July 1, 2009; and

(ii) has not been issued an operator license;

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

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

(ii) the current driving under the influence violation under Section 41-6a-502 is committed on or after July 1, 2009, and within a period of 10 years from the date of the prior violation; or

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

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

(ii) the current driving under the influence violation under Section 41-6a-502 is committed on or after July 1, 2009, and within a period of 10 years from the date of the prior violation; and

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

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

(5) The Driver License Division shall:

(a) deny, suspend, or revoke the operator's license of a person convicted under Section 41-6a-502 of an offense that was committed prior to July 1, 2009, for the denial, suspension, or revocation periods in effect prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

(i) the person was 20 years of age or older but under 21 years of age at the time of arrest; and

(ii) the conviction under Section 41-6a-502 is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.

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

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

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

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

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

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

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection

121 (8)(b);

122 (d) completes substance abuse treatment if it is found appropriate by the assessment
123 under Subsection (8)(c);

124 (e) completes an educational series if substance abuse treatment is not required by an
125 assessment under Subsection (8)(c) or the court does not order substance abuse treatment;

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

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

131 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
132 person has not unlawfully consumed alcohol during the suspension period imposed under
133 Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

134 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
135 affidavit or sworn statement to the court certifying that to the parent or legal guardian's
136 knowledge the person has not unlawfully consumed alcohol during the suspension period
137 imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

138 (9) If the court shortens a person's license suspension period in accordance with the
139 requirements of Subsection (8), the court shall forward the order shortening the person's
140 suspension period prior to the completion of the suspension period imposed under Subsection
141 (2)(a) or (b) or Subsection (3)(a) or (b) to the Driver License Division.

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

146 (ii) The additional suspension or revocation period provided in this Subsection (10)
147 shall begin the date on which the individual would be eligible to reinstate the individual's
148 driving privilege for a violation of Section 41-6a-502.

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

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

(i) complete all court ordered:

(A) screening;

(B) assessment;

(C) educational series;

(D) substance abuse treatment; and

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

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

(b) Upon receiving the notification described in Subsection (11)(a), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

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

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

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

~~[(d) Upon receiving the notification described in Subsection (12)(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).]~~

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

(B) For a suspension described under Subsection (12)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was previously suspended under this section or Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under Section 41-6a-502 is based.

(ii) (A) Upon receiving the notification described in Subsection (12)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two

years from the date of notice.

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

Section 2. Section 41-6a-515.5 is amended to read:

41-6a-515.5. Sobriety program for DUI.

(1) As used in this section:

(a) "24-7 sobriety program" means a 24 hours a day, seven days a week sobriety and drug monitoring program that:

- (i) requires an individual to abstain from alcohol or drugs for a period of time;
- (ii) requires an individual to submit to random drug testing; and
- (iii) requires the individual to be subject to testing to determine the presence of alcohol:

(A) twice a day at a central location where timely sanctions may be applied;

(B) by continuous remote sensing or transdermal alcohol monitoring by means of an electronic monitoring device that allows timely sanctions to be applied; or

(C) by an alternate method that is approved by the National Highway Traffic Safety Administration.

(b) (i) "Testing" means a procedure for determining the presence and level of alcohol or a drug in an individual's breath or body fluid, including blood, urine, saliva, or perspiration.

(ii) "Testing" includes any combination of the use of:

(A) remote and in-person breath testing;

(B) drug patch testing;

(C) urinalysis testing;

(D) saliva testing;

(E) continuous remote sensing;

(F) transdermal alcohol monitoring; or

(G) alternate body fluids approved for testing by the commissioner of the department.

~~[(2) (a) The department shall establish and administer a 24-7 sobriety program as a pilot program.]~~

214 ~~[(b)]~~ (2) The department ~~[shall]~~ may establish ~~[one pilot]~~ a 24-7 sobriety program with
215 a law enforcement agency that is able to meet the 24-7 sobriety program qualifications and
216 requirements under this section.

217 (3) (a) The 24-7 sobriety program shall include use of multiple testing methodologies
218 for the presence of alcohol or drugs that:

219 (i) best facilitates the ability to apply timely sanctions for noncompliance;

220 (ii) is available at an affordable cost; and

221 (iii) provides for positive, behavioral reinforcement for program compliance.

222 (b) The commissioner shall consider the following factors to determine which testing
223 methodologies are best suited for each participant:

224 (i) whether a device is available;

225 (ii) whether the participant is capable of paying the fees and costs associated with each
226 testing methodology;

227 (iii) travel requirements based on each testing methodology and the participant's
228 circumstances;

229 (iv) the substance or substances for which testing will be required; and

230 (v) other factors the commissioner considers relevant.

231 (4) (a) The 24-7 sobriety program shall be supported by evidence of effectiveness and
232 satisfy at least two of the following categories:

233 (i) the program is included in the federal registry of evidence-based programs and
234 practices;

235 (ii) the program has been reported in a peer-reviewed journal as having positive effects
236 on the primary targeted outcome; or

237 (iii) the program has been documented as effective by informed experts and other
238 sources.

239 (b) If a law enforcement agency participates in a 24-7 sobriety program, the department
240 shall assist in the creation and administration of the program in the manner provided in this
241 section.

242 (c) A 24-7 sobriety program shall have at least one testing location and two daily
243 testing times approximately 12 hours apart.

244 (d) If a person who is ordered by a judge to participate in the 24-7 sobriety program has

a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based, the person shall be required to participate in a 24-7 sobriety program for at least one year.

(5) (a) If a law enforcement agency participates in a 24-7 sobriety program, the law enforcement agency may designate an entity to provide the testing services or to take any other action required or authorized to be provided by the law enforcement agency pursuant to this section, except that the law enforcement agency's designee may not determine whether an individual is required to participate in the 24-7 sobriety program.

(b) Subject to the requirement in Subsection (4)(c), the law enforcement agency shall establish the testing locations and times for the county.

(6) (a) The commissioner of the department shall establish a data management technology plan for data collection on 24-7 sobriety program participants.

(b) All required data related to participants in the 24-7 sobriety program shall be received into the data management technology plan.

(c) The data collected under this Subsection (6) is owned by the state.

(7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to implement this section.

(b) The rules under Subsection (7)(a) shall:

(i) provide for the nature and manner of testing and the procedures and apparatus to be used for testing;

(ii) establish reasonable participation and testing fees for the program, including the collection of fees to pay the cost of installation, monitoring, and deactivation of any testing device;

(iii) require and provide for the approval of a 24-7 sobriety program data management technology plan that shall be used by the department and participating law enforcement agencies to manage testing, data access, fees and fee payments, and any required reports; and

(iv) establish a model sanctioning schedule for program noncompliance[; ~~and~~].

~~[(v) establish a process for piloting alternate components of the 24-7 sobriety program.]~~

Section 3. Section 41-6a-517 is amended to read:

41-6a-517. Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Practitioner" means the same as that term is defined in Section 58-37-2.

(c) "Prescribe" means the same as that term is defined in Section 58-37-2.

(d) "Prescription" means the same as that term is defined in Section 58-37-2.

(2) In cases not amounting to a violation of Section 41-6a-502, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was:

(a) involuntarily ingested by the accused;

(b) prescribed by a practitioner for use by the accused;

(c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(d) otherwise legally ingested.

(4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall, if the person is 21 years of age or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
(ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
and within a period of 10 years after the date of the prior violation.

(7) The Driver License Division shall, if the person is 19 years of age or older but
under 21 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age or for a period of one year, whichever is
longer, the driver license of a person convicted under Subsection (2) of an offense committed
on or after July 1, 2011; or

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

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
(ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
and within a period of 10 years after the date of the prior violation.

(8) The Driver License Division shall, if the person is under 19 years of age on the date
of arrest:

(a) suspend, until the person is 21 years of age, the driver license of a person convicted
under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, until the person is 21 years of age, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
(ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
and within a period of 10 years after the date of the prior violation.

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

(10) The Driver License Division shall:

(a) deny, suspend, or revoke a person's license for the denial and suspension periods in
effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was
committed prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial,
suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

338 (i) the person was 20 years of age or older but under 21 years of age at the time of
339 arrest; and

340 (ii) the conviction under Subsection (2) is for an offense that was committed on or after
341 July 1, 2009, and prior to July 1, 2011.

342 (11) A court that reported a conviction of a violation of this section for a violation that
343 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension
344 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period
345 if the person:

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

347 (b) completes a screening;

348 (c) completes an assessment, if it is found appropriate by a screening under Subsection
349 (11)(b);

350 (d) completes substance abuse treatment if it is found appropriate by the assessment
351 under Subsection (11)(c);

352 (e) completes an educational series if substance abuse treatment is not required by the
353 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

354 (f) has not been convicted of a violation of any motor vehicle law in which the person
355 was involved as the operator of the vehicle during the suspension period imposed under
356 Subsection (7)(a) or (8)(a);

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

359 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
360 person has not consumed a controlled substance not prescribed by a practitioner for use by the
361 person or unlawfully consumed alcohol during the suspension period imposed under
362 Subsection (7)(a) or (8)(a); or

363 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
364 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
365 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
366 for use by the person or unlawfully consumed alcohol during the suspension period imposed
367 under Subsection (7)(a) or (8)(a).

368 (12) If the court shortens a person's license suspension period in accordance with the

requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a) to the Driver License Division.

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

(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or

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

(b) Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

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

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division the order shortening the person's suspension period.

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

~~[(d) Upon receiving the notification described in Subsection (15)(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).]~~

(d) (i) (A) Upon receiving the notification described in Subsection (15)(c), for a first offense, the division shall suspend the person's driving privilege for a period of 120 days from the date of notice.

(B) For a suspension described in Subsection (15)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was suspended under this

section or under section [53-3-223](#), if the previous suspension was based on the same occurrence upon which the conviction under this section is based.

(ii) (A) Upon receiving the notification described in Subsection (15)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.

(B) For a revocation described in Subsection (15)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or under Section [53-3-223](#), if the previous revocation was based on the same occurrence upon which the conviction under this section is based.

Section 4. Section **53-3-220** is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section [76-5-303](#), specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, or automobile homicide under Section [76-5-207](#) or [76-5-207.5](#);

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section [41-6a-502](#) or as prohibited in an ordinance that complies with the requirements of Subsection [41-6a-510](#)(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section [41-6a-502](#) or as prohibited in an ordinance that complies with the requirements of Subsection [41-6a-510](#)(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

- 431 (vii) failure to stop and render aid as required under the laws of this state if a motor
432 vehicle accident results in the death or personal injury of another;
- 433 (viii) two charges of reckless driving, impaired driving, or any combination of reckless
434 driving and impaired driving committed within a period of 12 months; but if upon a first
435 conviction of reckless driving or impaired driving the judge or justice recommends suspension
436 of the convicted person's license, the division may after a hearing suspend the license for a
437 period of three months;
- 438 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement
439 officer as required in Section 41-6a-210;
- 440 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
441 requires disqualification;
- 442 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
443 allowing the discharge of a firearm from a vehicle;
- 444 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
445 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);
- 446 (xiii) operating or being in actual physical control of a motor vehicle while having any
447 measurable controlled substance or metabolite of a controlled substance in the person's body in
448 violation of Section 41-6a-517;
- 449 (xiv) operating or being in actual physical control of a motor vehicle while having any
450 measurable or detectable amount of alcohol in the person's body in violation of Section
451 41-6a-530;
- 452 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
453 violation of Section 41-6a-606;
- 454 (xvi) operating or being in actual physical control of a motor vehicle in this state
455 without an ignition interlock system in violation of Section 41-6a-518.2; or
- 456 (xvii) custodial interference, under:
- 457 (A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless
458 the court provides the division with an order of suspension for a shorter period of time;
- 459 (B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless
460 the court provides the division with an order of suspension for a shorter period of time; or
- 461 (C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless

the court provides the division with an order of suspension for a shorter period of time.

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of one of the following offenses while the person was an operator of a motor vehicle:

(i) any violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(ii) any criminal offense that prohibits:

(A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsection (1)(c)(i); or

(B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

(iii) Notwithstanding the provisions in this Subsection (1)(c), the division shall reinstate a person's driving privilege before completion of the suspension period imposed under this Subsection (1)(c) if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed a drug court program as defined in Section 78A-5-201.

(iv) If a person's driving privilege is reinstated under Subsection (1)(c)(iii), the person is required to pay the license reinstatement fees under Subsection 53-3-105(26).

(v) The court shall notify the division, in a manner specified by the division, if a person fails to complete all requirements of the drug court program.

(vi) Upon receiving the notification described in Subsection (1)(c)(v), the division shall suspend the person's driving privilege for a period of six months from the date of the notice, and no days shall be subtracted from the six-month suspension period for which a driving privilege was previously suspended under this Subsection (1)(c).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court Act ~~[of 1996]~~, for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Title 78A, Chapter 6, Juvenile Court Act ~~[of 1996]~~, for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of

524 eligibility for a driver license; or

525 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):

526 (I) impose a suspension for a period of two years; or

527 (II) if the person is under the age of eligibility for a driver license, impose a suspension
528 that begins on the date of conviction and continues for two years beginning on the date of
529 eligibility for a driver license.

530 (iv) Upon receipt of the first order suspending a person's driving privileges under
531 Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if
532 ordered by the court in accordance with Subsection 32B-4-411(3)(a).

533 (v) Upon receipt of the second or subsequent order suspending a person's driving
534 privileges under Section 32B-4-411, the division shall reduce the suspension period under
535 Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

536 (2) The division shall extend the period of the first denial, suspension, revocation, or
537 disqualification for an additional like period, to a maximum of one year for each subsequent
538 occurrence, upon receiving:

539 (a) a record of the conviction of any person on a charge of driving a motor vehicle
540 while the person's license is denied, suspended, revoked, or disqualified;

541 (b) a record of a conviction of the person for any violation of the motor vehicle law in
542 which the person was involved as a driver;

543 (c) a report of an arrest of the person for any violation of the motor vehicle law in
544 which the person was involved as a driver; or

545 (d) a report of an accident in which the person was involved as a driver.

546 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
547 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
548 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,
549 or revocation originally imposed under Section 53-3-221.

550 (4) (a) The division may extend to a person the limited privilege of driving a motor
551 vehicle to and from the person's place of employment or within other specified limits on
552 recommendation of the judge in any case where a person is convicted of any of the offenses
553 referred to in Subsections (1) and (2) except:

554 (i) automobile homicide under Subsection (1)(a)(i);

(ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c); and

(iii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance which complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician that:

(I) to the physician's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,

or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 5. Section 53-3-223 is amended to read:

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

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

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

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

(3) If the person submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation

of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the person's license to drive a motor vehicle.

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

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

(a) a copy of the citation issued for the offense;
(b) a signed report in a manner specified by the division indicating the chemical test results, if any; and

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

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

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

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

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

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

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

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

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

(iii) the test results, if any.

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

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

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

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

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

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

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

(i) if the person is 21 years of age or older at the time of arrest and the arrest was made on or after July 1, 2009, suspend the person's license or permit to operate a motor vehicle for a period of:

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

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

(ii) if the person is under 21 years of age at the time of arrest and the arrest was made on or after May 14, 2013:

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

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

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

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

(I) for a period of six months for a first suspension, if the person has not been issued an operator license; or

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

(b) The division shall deny or suspend a person's license for the denial and suspension

679 periods in effect:

680 (i) prior to July 1, 2009, for an offense that was committed prior to July 1, 2009;

681 (ii) from July 1, 2009, through June 30, 2011, if:

682 (A) the person was 20 years 6 months of age or older but under 21 years of age at the
683 time of arrest; and

684 (B) the conviction under Subsection (2) is for an offense that was committed on or
685 after July 1, 2009, and prior to July 1, 2011; or

686 (iii) prior to May 14, 2013, for an offense that was committed prior to May 14, 2013.

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

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

693 (B) no sooner than 60 days beginning on the 45th day after the date of arrest upon
694 receiving written verification of the person's reduction of a charge for a violation of Section
695 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the
696 suspension period.

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

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

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

706 (iii) If a person's license is reinstated under this Subsection (7)(c), the person is
707 required to pay the license reinstatement fees under Subsections [~~53-3-105(24) and (25)~~]
708 53-3-105(26) and (27).

709 (iv) The driver license reinstatements authorized under this Subsection (7)(c) only

710 apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

711 (8) (a) Notwithstanding the provisions in Subsection (7)(b)(iii), the division shall
712 shorten a person's two-year license suspension period that is currently in effect to a six-month
713 suspension period if:

714 (i) the driver was under the age of 19 at the time of arrest;

715 (ii) the offense was a first offense that was committed prior to May 14, 2013; and

716 (iii) the suspension under Subsection (7)(b)(iii) was based on the same occurrence
717 upon which the following written verifications are based:

718 (A) a court order shortening the driver license suspension for a violation of Section
719 [41-6a-502](#) pursuant to Subsection [41-6a-509](#)(8);

720 (B) a court order shortening the driver license suspension for a violation of Section
721 [41-6a-517](#) pursuant to Subsection [41-6a-517](#)(11);

722 (C) a court order shortening the driver license suspension for a violation of Section
723 [32B-4-409](#);

724 (D) a dismissal for a violation of Section [41-6a-502](#), Section [41-6a-517](#), or Section
725 [32B-4-409](#);

726 (E) a notice of declination to prosecute for a charge under Section [41-6a-502](#), Section
727 [41-6a-517](#), or Section [32B-4-409](#);

728 (F) a reduction of a charge under Section [41-6a-502](#), Section [41-6a-517](#), or Section
729 [32B-4-409](#); or

730 (G) other written documentation acceptable to the division.

731 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
732 division may make rules establishing requirements for acceptable written documentation to
733 shorten a person's driver license suspension period under Subsection (8)(a)(iii)(G).

734 (c) If a person's license sanction is shortened under this Subsection (8), the person is
735 required to pay the license reinstatement fees under Subsections [~~[53-3-105](#)(24) and (25)]~~
736 [53-3-105](#)(26) and (27).

737 (9) (a) The division shall assess against a person, in addition to any fee imposed under
738 Subsection [53-3-205](#)(12) for driving under the influence, a fee under Section [53-3-105](#) to cover
739 administrative costs, which shall be paid before the person's driving privilege is reinstated.
740 This fee shall be cancelled if the person obtains an unappealed division hearing or court

741 decision that the suspension was not proper.

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

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

750 (b) If a person's license is reinstated under Subsection (10)(a), the person is required to
751 pay the license reinstatement fees under Subsections [~~53-3-105(24) and (25)~~] [53-3-105\(26\) and](#)
752 [\(27\)](#).