

**Representative Steve Waldrip** proposes the following substitute bill:

**IMPAIRED DRIVING AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Waldrip**

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

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**LONG TITLE**

**General Description:**

This bill amends provisions and penalties related to a person's operation of a motor vehicle with a measurable controlled substance in the person's body.

**Highlighted Provisions:**

This bill:

- ▶ provides that the offense of a person's operation of a vehicle with a measurable controlled substance in the person's body does not include the presence of only inactive cannabis metabolite in the person's body;
- ▶ amends provisions associated with a person's operation of a motor vehicle with a measurable controlled substance in the person's body by making the offense a third degree felony if the person has two or more related convictions within 10 years;
- ▶ amends penalties associated with the conviction of a person's operation of a motor vehicle with a measurable controlled substance in the person's body; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **41-6a-517**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

29 **53-3-223**, as last amended by Laws of Utah 2019, Chapter 77

30 **53-3-231**, as last amended by Laws of Utah 2019, Chapter 77



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

32 Section 1. Section **41-6a-517** is amended to read:

33 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**  
34 **body -- Penalties -- Arrest without warrant.**

35 (1) As used in this section:

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

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

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

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

40 (2) (a) ~~[In]~~ Except as provided in Subsection (2)(b), in cases not amounting to a  
41 violation of Section **41-6a-502**, a person may not operate or be in actual physical control of a  
42 motor vehicle within this state if the person has any measurable controlled substance or  
43 metabolite of a controlled substance in the person's body.

44 (b) Subsection (2)(a) does not apply to a person that has  
45 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's  
46 body.

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

49 (a) involuntarily ingested by the accused;

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

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

54 (d) otherwise legally ingested.

55 (4) (a) A person ~~[convicted of a violation of]~~ who violates Subsection (2) for the first  
56

57 or second time is guilty of a class B misdemeanor.

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

60 (c) A person who violates Subsection (2) is guilty of a class A misdemeanor if the  
61 person:

62 (i) has also inflicted bodily injury upon another as a proximate result of having  
63 operated the vehicle in a negligent manner;

64 (ii) had a passenger under 16 years old in the vehicle at the time of the offense;

65 (iii) was 21 years old or older and had a passenger under 18 years old in the vehicle at  
66 the time of the offense; or

67 (iv) at the time of the violation of Subsection (2), also violated Section [41-6a-712](#) or  
68 [41-6a-714](#).

69 (d) A person who violates Subsection (2) is guilty of a third degree felony if:

70 (i) the person has also inflicted serious bodily injury upon another as a proximate result  
71 of having operated the vehicle in a negligent manner; or

72 (ii) the person is also guilty of automobile homicide under Section [76-5-207](#).

73 (5) A person who violates Subsection (2) is guilty of a third degree felony if:

74 (a) the person has two or more prior convictions as defined in Subsection  
75 [41-6a-501](#)(2), each of which is within 10 years of:

76 (i) the current conviction under Subsection (2); or

77 (ii) the commission of the offense upon which the current conviction is based; or

78 (b) the conviction under Subsection (2) is at any time after a conviction of:

79 (i) automobile homicide under Section [76-5-207](#) that is committed after July 1, 2001;

80 (ii) a felony violation of Section [41-6a-502](#), Subsection (2), or a statute previously in  
81 effect in this state that would constitute a violation of Section [41-6a-502](#) or Subsection (2) that  
82 is committed after July 1, 2001; or

83 (iii) any conviction described in Subsection (5)(b)(i) or (ii) for which judgment of  
84 conviction is reduced under Section [76-3-402](#).

85 ~~[(5)]~~ (6) A peace officer may, without a warrant, arrest a person for a violation of this  
86 section when the officer has probable cause to believe the violation has occurred, although not  
87 in the officer's presence, and if the officer has probable cause to believe that the violation was

88 committed by the person.

89 ~~[(6)]~~ (7) The Driver License Division shall, if the person is 21 years of age or older on  
90 the date of arrest:

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

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

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

95 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
96 and within a period of 10 years after the date of the prior violation.

97 ~~[(7)]~~ (8) The Driver License Division shall, if the person is 19 years of age or older but  
98 under 21 years of age on the date of arrest:

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

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

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

105 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
106 and within a period of 10 years after the date of the prior violation.

107 ~~[(8)]~~ (9) The Driver License Division shall, if the person is under 19 years of age on  
108 the date of arrest:

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

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

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

113 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
114 and within a period of 10 years after the date of the prior violation.

115 ~~[(9)]~~ (10) The Driver License Division shall subtract from any suspension or  
116 revocation period the number of days for which a license was previously suspended under  
117 Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence  
118 upon which the record of conviction is based.

119           ~~[(10)]~~ (11) The Driver License Division shall:

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

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

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

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

129           ~~[(11)]~~ (12) A court that reported a conviction of a violation of this section for a  
130 violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the  
131 suspension period imposed under Subsection ~~[(7)]~~ (8)(a) or ~~[(8)]~~ (9)(a) prior to completion of  
132 the suspension period if the person:

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

134           (b) completes a screening;

135           (c) completes an assessment, if it is found appropriate by a screening under Subsection  
136 ~~[(11)]~~ (12)(b);

137           (d) completes substance abuse treatment if it is found appropriate by the assessment  
138 under Subsection ~~[(11)]~~ (12)(c);

139           (e) completes an educational series if substance abuse treatment is not required by the  
140 assessment under Subsection ~~[(11)]~~ (12)(c) or the court does not order substance abuse  
141 treatment;

142           (f) has not been convicted of a violation of any motor vehicle law in which the person  
143 was involved as the operator of the vehicle during the suspension period imposed under  
144 Subsection ~~[(7)]~~ (8)(a) or ~~[(8)]~~ (9)(a);

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

147           (h) (i) is 18 years of age or older and provides a sworn statement to the court that the  
148 person has not consumed a controlled substance not prescribed by a practitioner for use by the  
149 person or unlawfully consumed alcohol during the suspension period imposed under

150 Subsection [~~(7)~~] (8)(a) or [~~(8)~~] (9)(a); or

151 (ii) is under 18 years of age and has the person's parent or legal guardian provide an  
152 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's  
153 knowledge the person has not consumed a controlled substance not prescribed by a practitioner  
154 for use by the person or unlawfully consumed alcohol during the suspension period imposed  
155 under Subsection [~~(7)~~] (8)(a) or [~~(8)~~] (9)(a).

156 [~~(12)~~] (13) If the court shortens a person's license suspension period in accordance with  
157 the requirements of Subsection [~~(11)~~] (12), the court shall forward the order shortening the  
158 person's license suspension period prior to the completion of the suspension period imposed  
159 under Subsection [~~(7)~~] (8)(a) or [~~(8)~~] (9)(a) to the Driver License Division.

160 [~~(13)~~] (14) (a) The court shall notify the Driver License Division if a person fails to:

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

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

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

166 [~~(14)~~] (15) The court:

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

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

171 [~~(15)~~] (16) (a) A court that reported a conviction of a violation of this section to the  
172 Driver License Division may shorten the suspension period imposed under Subsection [~~(6)~~] (7)  
173 before completion of the suspension period if the person is participating in or has successfully  
174 completed a 24-7 sobriety program as defined in Section [41-6a-515.5](#).

175 (b) If the court shortens a person's license suspension period in accordance with the  
176 requirements of this Subsection [~~(15)~~] (16), the court shall forward to the Driver License  
177 Division the order shortening the person's suspension period.

178 (c) The court shall notify the Driver License Division if a person fails to complete all  
179 requirements of a 24-7 sobriety program.

180 (d) Upon receiving the notification described in Subsection [~~(15)~~] (16)(c), the division

181 shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and  
182 (3).

183 Section 2. Section 53-3-223 is amended to read:

184 **53-3-223. Chemical test for driving under the influence -- Temporary license --**  
185 **Hearing and decision -- Suspension and fee -- Judicial review.**

186 (1) (a) If a peace officer has reasonable grounds to believe that a person may be  
187 violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a  
188 certain blood or breath alcohol concentration and driving under the influence of any drug,  
189 alcohol, or combination of a drug and alcohol or while having any measurable controlled  
190 substance or metabolite of a controlled substance in the person's body in violation of Section  
191 41-6a-517, the peace officer may, in connection with arresting the person, request that the  
192 person submit to a chemical test or tests to be administered in compliance with the standards  
193 under Section 41-6a-520.

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

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

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

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

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

- 212 (a) a copy of the citation issued for the offense;
- 213 (b) a signed report in a manner specified by the division indicating the chemical test  
214 results, if any; and
- 215 (c) any other basis for the peace officer's determination that the person has violated  
216 Section 41-6a-502 or 41-6a-517.
- 217 (6) (a) Upon request in a manner specified by the division, the division shall grant to  
218 the person an opportunity to be heard within 29 days after the date of arrest. The request to be  
219 heard shall be made within 10 calendar days of the day on which notice is provided under  
220 Subsection (5).
- 221 (b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the  
222 division in:
  - 223 (A) the county in which the arrest occurred; or
  - 224 (B) a county that is adjacent to the county in which the arrest occurred.
- 225 (ii) The division may hold a hearing in some other county if the division and the person  
226 both agree.
- 227 (c) The hearing shall be documented and shall cover the issues of:
  - 228 (i) whether a peace officer had reasonable grounds to believe the person was driving a  
229 motor vehicle in violation of Section 41-6a-502 or 41-6a-517;
  - 230 (ii) whether the person refused to submit to the test; and
  - 231 (iii) the test results, if any.
- 232 (d) (i) In connection with a hearing the division or its authorized agent:
  - 233 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and  
234 the production of relevant books and papers; or
  - 235 (B) may issue subpoenas for the attendance of necessary peace officers.
- 236 (ii) The division shall pay witness fees and mileage from the Transportation Fund in  
237 accordance with the rates established in Section 78B-1-119.
- 238 (e) The division may designate one or more employees to conduct the hearing.
- 239 (f) Any decision made after a hearing before any designated employee is as valid as if  
240 made by the division.
- 241 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable  
242 grounds to believe that the person was driving a motor vehicle in violation of Section



243 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the  
244 notice, or if a hearing is not requested under this section, the division shall:

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

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

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

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

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

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

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

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

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

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

265 (b) The division shall deny or suspend a person's license for the denial and suspension  
266 periods in effect:

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

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

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

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

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

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

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

280 (B) no sooner than 60 days beginning on the 45th day after the date of arrest upon  
281 receiving written verification of the person's reduction of a charge for a violation of Section  
282 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the  
283 suspension period.

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

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

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

293 (iii) If a person's license is reinstated under this Subsection (7)(c), the person is  
294 required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

295 (iv) The driver license reinstatements authorized under this Subsection (7)(c) only  
296 apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

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

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

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

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

304 (A) a court order shortening the driver license suspension for a violation of Section

305 41-6a-502 pursuant to Subsection 41-6a-509(8);

306 (B) a court order shortening the driver license suspension for a violation of Section  
307 41-6a-517 pursuant to Subsection 41-6a-517~~[(11)]~~(12);

308 (C) a court order shortening the driver license suspension for a violation of Section  
309 32B-4-409;

310 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section  
311 32B-4-409;

312 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section  
313 41-6a-517, or Section 32B-4-409;

314 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section  
315 32B-4-409; or

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

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

320 (c) If a person's license sanction is shortened under this Subsection (8), the person is  
321 required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

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

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

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

335 (b) If a person's license is reinstated under Subsection (10)(a), the person is required to

336 pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

337 Section 3. Section 53-3-231 is amended to read:

338 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**  
339 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**  
340 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**  
341 **Referral to local substance abuse authority or program.**

342 (1) (a) As used in this section:

343 (i) "Local substance abuse authority" has the same meaning as provided in Section  
344 62A-15-102.

345 (ii) "Substance abuse program" means any substance abuse program licensed by the  
346 Department of Human Services or the Department of Health and approved by the local  
347 substance abuse authority.

348 (b) Calculations of blood, breath, or urine alcohol concentration under this section shall  
349 be made in accordance with the procedures in Subsection 41-6a-502(1).

350 (2) (a) A person younger than 21 years of age may not operate or be in actual physical  
351 control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol  
352 concentration in the person's body as shown by a chemical test.

353 (b) A person who violates Subsection (2)(a), in addition to any other applicable  
354 penalties arising out of the incident, shall have the person's operator license denied or  
355 suspended as provided in Subsection (7).

356 (3) (a) When a peace officer has reasonable grounds to believe that a person may be  
357 violating or has violated Subsection (2), the peace officer may, in connection with arresting the  
358 person for a violation of Section 32B-4-409, request that the person submit to a chemical test  
359 or tests to be administered in compliance with the standards under Section 41-6a-520.

360 (b) The peace officer shall advise a person prior to the person's submission to a  
361 chemical test that a test result indicating a violation of Subsection (2)(a) will result in denial or  
362 suspension of the person's license to operate a motor vehicle or a refusal to issue a license.

363 (c) If the person submits to a chemical test and the test results indicate a blood, breath,  
364 or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a  
365 determination, based on reasonable grounds, that the person is otherwise in violation of  
366 Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the

367 arrest, give notice of the division's intention to deny or suspend the person's license to operate a  
368 vehicle or refusal to issue a license under this section.

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

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

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

375 (b) a signed report in a manner specified by the Driver License Division indicating the  
376 chemical test results, if any; and

377 (c) any other basis for a peace officer's determination that the person has violated  
378 Subsection (2).

379 (6) (a) (i) Upon request in a manner specified by the division, the Driver License  
380 Division shall grant to the person an opportunity to be heard within 29 days after the date of  
381 arrest under Section [32B-4-409](#).

382 (ii) The request shall be made within 10 calendar days of the day on which notice is  
383 provided.

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

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

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

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

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

391 (i) whether a peace officer had reasonable grounds to believe the person was operating  
392 a motor vehicle or motorboat in violation of Subsection (2)(a);

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

394 (iii) the test results, if any.

395 (d) In connection with a hearing, the division or its authorized agent may administer  
396 oaths and may issue subpoenas for the attendance of witnesses and the production of relevant  
397 books and papers and records as defined in Section [46-4-102](#).

398 (e) One or more members of the division may conduct the hearing.

399 (f) Any decision made after a hearing before any number of the members of the  
400 division is as valid as if made after a hearing before the full membership of the division.

401 (7) If, after a hearing, the division determines that a peace officer had reasonable  
402 grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a),  
403 if the person fails to appear before the division as required in the notice, or if the person does  
404 not request a hearing under this section, the division shall for a person under 21 years of age on  
405 the date of arrest:

406 (a) deny the person's license until the person complies with Subsection (11)(b)(i) but  
407 for a period of not less than six months beginning on the 45th day after the date of arrest for a  
408 first offense under Subsection (2)(a) committed on or after May 14, 2013;

409 (b) suspend the person's license until the person complies with Subsection (11)(b)(i)  
410 and until the person is 21 years of age or for a period of two years, whichever is longer,  
411 beginning on the 45th day after the date of arrest for a second or subsequent offense under  
412 Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or  
413 suspension;

414 (c) deny the person's application for a license or learner's permit until the person  
415 complies with Subsection (11)(b)(i) but for a period of not less than six months if:

416 (i) the person has not been issued an operator license; and

417 (ii) the suspension is for a first offense under Subsection (2)(a) committed on or after  
418 July 1, 2009;

419 (d) deny the person's application for a license or learner's permit until the person  
420 complies with Subsection (11)(b)(i) and until the person is 21 years of age or for a period of  
421 two years, whichever is longer, if:

422 (i) the person has not been issued an operator license; and

423 (ii) the suspension is for a second or subsequent offense under Subsection (2)(a)  
424 committed on or after July 1, 2009, and within 10 years of a prior denial or suspension; or

425 (e) deny or suspend a person's license for the denial and suspension periods in effect:

426 (i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed  
427 prior to July 1, 2009;

428 (ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of

429 age or older but under 21 years of age at the time of arrest and the conviction under Subsection  
430 (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or  
431 (iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed  
432 prior to May 14, 2013.

433 (8) (a) Notwithstanding the provisions in Subsection (7)(e)(iii), the division shall  
434 shorten a person's one-year license suspension or denial period that is currently in effect to a  
435 six-month suspension or denial period if:

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

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

438 (iii) the suspension or denial under Subsection (7)(e)(iii) was based on the same

439 occurrence upon which the following written verifications are based:

440 (A) a court order shortening the driver license suspension for a violation of Section  
441 41-6a-502 pursuant to Subsection 41-6a-509(8);

442 (B) a court order shortening the driver license suspension for a violation of Section  
443 41-6a-517 pursuant to Subsection 41-6a-517~~(11)~~(12);

444 (C) a court order shortening the driver license suspension for a violation of Section  
445 32B-4-409;

446 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section  
447 32B-4-409;

448 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section  
449 41-6a-517, or Section 32B-4-409;

450 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section  
451 32B-4-409; or

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

453 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
454 division may make rules establishing requirements for acceptable documentation to shorten a  
455 person's driver license suspension or denial period under this Subsection (8).

456 (c) If a person's license sanction is shortened under this Subsection (8), the person is  
457 required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

458 (9) (a) (i) Following denial or suspension the division shall assess against a person, in  
459 addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105,

460 which shall be paid before the person's driving privilege is reinstated, to cover administrative  
461 costs.

462 (ii) This fee shall be canceled if the person obtains an unappealed division hearing or  
463 court decision that the suspension was not proper.

464 (b) A person whose operator license has been denied, suspended, or postponed by the  
465 division under this section following an administrative hearing may file a petition within 30  
466 days after the suspension for a hearing on the matter which, if held, is governed by Section  
467 [53-3-224](#).

468 (10) After reinstatement of an operator license for a first offense under this section, a  
469 report authorized under Section [53-3-104](#) may not contain evidence of the denial or suspension  
470 of the person's operator license under this section if the person has not been convicted of any  
471 other offense for which the denial or suspension may be extended.

472 (11) (a) In addition to the penalties in Subsection (9), a person who violates Subsection  
473 (2)(a) shall:

474 (i) obtain an assessment and recommendation for appropriate action from a substance  
475 abuse program, but any associated costs shall be the person's responsibility; or

476 (ii) be referred by the division to the local substance abuse authority for an assessment  
477 and recommendation for appropriate action.

478 (b) (i) Reinstatement of the person's operator license or the right to obtain an operator  
479 license within five years of the effective date of the license sanction under Subsection (7) is  
480 contingent upon successful completion of the action recommended by the local substance  
481 abuse authority or the substance abuse program.

482 (ii) The local substance abuse authority's or the substance abuse program's  
483 recommended action shall be determined by an assessment of the person's alcohol abuse and  
484 may include:

485 (A) a targeted education and prevention program;

486 (B) an early intervention program; or

487 (C) a substance abuse treatment program.

488 (iii) Successful completion of the recommended action shall be determined by  
489 standards established by the Division of Substance Abuse and Mental Health.

490 (c) At the conclusion of the penalty period imposed under Subsection (2), the local



491 substance abuse authority or the substance abuse program shall notify the division of the  
492 person's status regarding completion of the recommended action.

493 (d) The local substance abuse authorities and the substance abuse programs shall  
494 cooperate with the division in:

495 (i) conducting the assessments;

496 (ii) making appropriate recommendations for action; and

497 (iii) notifying the division about the person's status regarding completion of the  
498 recommended action.

499 (e) (i) The local substance abuse authority is responsible for the cost of the assessment  
500 of the person's alcohol abuse, if the assessment is conducted by the local substance abuse  
501 authority.

502 (ii) The local substance abuse authority or a substance abuse program selected by a  
503 person is responsible for:

504 (A) conducting an assessment of the person's alcohol abuse; and

505 (B) for making a referral to an appropriate program on the basis of the findings of the  
506 assessment.

507 (iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees  
508 associated with the recommended program to which the person selected or is referred.

509 (B) The costs and fees under Subsection (11)(e)(iii)(A) shall be based on a sliding scale  
510 consistent with the local substance abuse authority's policies and practices regarding fees for  
511 services or determined by the substance abuse program.