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DUI TESTING AMENDMENTS
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- requires the Department of Health and Human Services to:
 - test blood and urine samples for both drugs and alcohol;
 - provide the testing results in a timely manner; and
 - provide test results through a secure medium to the Driver License Division and relevant law enforcement agencies;
- 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 circumstances, for a person not participating in a 24-7 sobriety program;
- requires the Department of Public Safety to make rules to establish standards for proper usage and administration of oral fluid and portable breath tests as part of a field sobriety test;
- amends provisions related to driver license revocation for a subsequent offense related to driving under the influence;
- requires law enforcement agencies to provide training on the use of oral fluid and

28 portable breath tests as part of a field sobriety test; and
 29 ▸ makes technical changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **26B-1-216**, as renumbered and amended by Laws of Utah 2023, Chapter 305

37 **26B-1-304**, as renumbered and amended by Laws of Utah 2022, Chapter 255

38 **26B-8-406**, as renumbered and amended by Laws of Utah 2023, Chapter 306

39 **26B-8-407**, as renumbered and amended by Laws of Utah 2023, Chapter 306

40 **41-6a-509**, as last amended by Laws of Utah 2023, Chapters 239, 384

41 **41-6a-515.6**, as enacted by Laws of Utah 2017, Chapter 283

42 **41-6a-1406**, as last amended by Laws of Utah 2023, Chapter 335

43 **53-3-104**, as last amended by Laws of Utah 2021, Chapter 284

44 **53-3-223**, as last amended by Laws of Utah 2023, Chapters 239, 384

45 ENACTS:

46 **53-3-111**, as Utah Code Annotated 1953

47 **53-25-102**, as Utah Code Annotated 1953

48

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

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

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

52 The department shall:

- 53 (1) monitor and evaluate the quality of services provided by the department including:
 54 (a) in accordance with Part 5, Fatality Review, monitoring, reviewing, and making
 55 recommendations relating to a fatality review;
 56 (b) overseeing the duties of the child protection ombudsman appointed under Section
 57 80-2-1104; and
 58 (c) conducting internal evaluations of the quality of services provided by the department
 59 and service providers contracted with the department;
 60 (2) conduct investigations described in Section 80-2-703; [and]
 61 (3) develop an integrated human services system and implement a system of care by:

- 62 (a) designing and implementing a comprehensive continuum of services for individuals
 63 who receive services from the department or a service provider contracted with the
 64 department;
- 65 (b) establishing and maintaining department contracts with public and private service
 66 providers;
- 67 (c) establishing standards for the use of service providers who contract with the
 68 department;
- 69 (d) coordinating a service provider network to be used within the department to ensure
 70 individuals receive the appropriate type of services;
- 71 (e) centralizing the department's administrative operations; and
- 72 (f) integrating, analyzing, and applying department-wide data and research to monitor
 73 the quality, effectiveness, and outcomes of services provided by the department[-] ;
 74 and
- 75 (4) (a) coordinate with the Driver License Division, the Department of Public Safety,
 76 and any other law enforcement agency to test and provide results of blood or urine
 77 samples submitted to the department as part of an investigation for a driving offense
 78 that may have occurred and there is reason to believe the individual's blood or urine
 79 may contain:
- 80 (i) alcohol; or
- 81 (ii) other drugs or substances that the department reasonably determines could impair
 82 an individual or that is illegal for the individual to possess or consume; and
- 83 (b) ensure that the results of the test described in Subsection (4)(a) are provided through
 84 a secure medium and in a timely manner.

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

86 **26B-1-304 . Restricted account created to fund drug testing for law enforcement**
 87 **agencies.**

- 88 (1) There is created within the General Fund a restricted account known as the State
 89 Laboratory Drug Testing Account.
- 90 (2) The account consists of[-] :
- 91 (a) a specified portion of fees generated under Subsection 53-3-106(5) from the
 92 reinstatement of certain licenses, which shall be deposited in this account[-] ; and
- 93 (b) the deposits described in Subsection 41-6a-1406(6)(b)(v) from the administrative
 94 testing fee related to vehicles impounded under Section 41-6a-527.
- 95 (3) The department shall use funds in this account solely for the costs of performing drug

96 and alcohol analysis tests for state and local law enforcement agencies, and may not
97 assess any charge or fee to the law enforcement agencies for whom the analysis tests are
98 performed.

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

100 **26B-8-406 . Disclosure of health data -- Limitations.**

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

- 102 (1) one of the following persons has consented to the disclosure:
- 103 (a) the individual;
- 104 (b) the next-of-kin if the individual is deceased;
- 105 (c) the parent or legal guardian if the individual is a minor or mentally incompetent; or
- 106 (d) a person holding a power of attorney covering such matters on behalf of the
107 individual;
- 108 (2) the disclosure is to a governmental entity in this or another state or the federal
109 government, provided that:
- 110 (a) the data will be used for a purpose for which they were collected by the department;
111 and
- 112 (b) the recipient enters into a written agreement satisfactory to the department agreeing
113 to protect such data in accordance with the requirements of this part and department
114 rule and not permit further disclosure without prior approval of the department;
- 115 (3) the disclosure is to an individual or organization, for a specified period, solely for bona
116 fide research and statistical purposes, determined in accordance with department rules,
117 and the department determines that the data are required for the research and statistical
118 purposes proposed and the requesting individual or organization enters into a written
119 agreement satisfactory to the department to protect the data in accordance with this part
120 and department rule and not permit further disclosure without prior approval of the
121 department;
- 122 (4) the disclosure is to a governmental entity for the purpose of conducting an audit,
123 evaluation, or investigation of the department and such governmental entity agrees not
124 to use those data for making any determination affecting the rights, benefits, or
125 entitlements of any individual to whom the health data relates;
- 126 (5) the disclosure is of specific medical or epidemiological information to authorized
127 personnel within the department, local health departments, public health authorities,
128 official health agencies in other states, the United States Public Health Service, the
129 Centers for Disease Control and Prevention (CDC), or agencies responsible to enforce

- 130 quarantine, when necessary to continue patient services or to undertake public health
 131 efforts to control communicable, infectious, acute, chronic, or any other disease or
 132 health hazard that the department considers to be dangerous or important or that may
 133 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
 136 health personnel who has a legitimate need to have access to the information in order
 137 to assist the patient or to protect the health of others closely associated with the
 138 patient; and
- 139 (b) this Subsection (6) does not create a duty to warn third parties;
- 140 (7) the disclosure is necessary to obtain payment from an insurer or other third-party payor
 141 in order for the department to obtain payment or to coordinate benefits for a patient; [or]
- 142 (8) the disclosure is to the subject of the identifiable health data[-] ; or
- 143 (9) the disclosure is limited to the results of a blood or urine test and the disclosure is:
- 144 (a) to the Driver License Division, as authorized by Section 53-3-111; or
- 145 (b) to the requesting law enforcement agency as part of an investigation, as authorized
 146 by Subsection 26B-1-216(4).

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

148 **26B-8-407 . Disclosure of health data -- Discretion of department -- Exception.**

- 149 (1) Any disclosure provided for in Section 26B-8-406 shall be made at the discretion of the
 150 department.
- 151 (2) Notwithstanding Subsection (1), the disclosure provided for in[-] :
- 152 (a) Subsection 26B-8-406(4) shall be made when the requirements of that paragraph are
 153 met[-] ; and
- 154 (b) Subsection 26B-8-406(9) is not discretionary.

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

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

- 158 (1) (a) The Driver License Division shall, if the person is 21 years old or older at the
 159 time of arrest:
- 160 (i) suspend for a period of 120 days the operator's license of a person convicted for
 161 the first time under Section 41-6a-502 or 76-5-102.1; or
- 162 (ii) revoke for a period of two years the license of a person if:
- 163 (A) the person has a prior conviction as defined under Subsection 41-6a-501(2);

- 164 and
- 165 (B) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is
- 166 committed within a period of 10 years from the date of the prior violation.
- 167 (b) (i) If a person elects to become an interlock restricted driver under Subsection
- 168 53-3-223(10)(a), the Driver License Division may not suspend the operator's
- 169 license for a violation of Section 41-6a-502 as described in Subsection (1)(a)(i)
- 170 unless the person fails to complete 120 days of the interlock restriction.
- 171 (ii) If a person elects to become an interlock restricted driver under Subsection
- 172 53-3-223(10)(a), and the person fails to complete the full 120 days of interlock
- 173 restriction, the Driver License Division:
- 174 (A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a
- 175 period of 120 days from the date the ignition interlock system was removed
- 176 from the vehicle; and
- 177 (B) may not reduce the 120-day suspension for any days the person was compliant
- 178 with the interlock restriction under Subsection 53-3-223(10)(a).
- 179 (c) (i) If a person elects to become an interlock restricted driver under Subsection
- 180 41-6a-521(7), the Driver License Division may not suspend the operator's license
- 181 for a violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the
- 182 person fails to complete three years of the interlock restriction under Subsection
- 183 41-6a-521(7).
- 184 (ii) If a person elects to become an interlock restricted driver under Subsection
- 185 41-6a-521(7), and the person fails to complete the full three years of interlock
- 186 restriction, the Driver License Division:
- 187 (A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a
- 188 period of 120 days from the date the ignition interlock system was removed
- 189 from the vehicle; and
- 190 (B) may not reduce the 120-day suspension for any days the person was compliant
- 191 with the interlock restriction under Subsection 41-6a-521(7).
- 192 (2) The Driver License Division shall, if the person is 19 years old or older but under 21
- 193 years old at the time of arrest:
- 194 (a) suspend the person's driver license until the person is 21 years old or for a period of
- 195 one year, whichever is longer, if the person is convicted for the first time of a
- 196 violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense that was
- 197 committed on or after July 1, 2011;

- 198 (b) deny the person's application for a license or learner's permit until the person is 21
199 years old or for a period of one year, whichever is longer, if the person:
- 200 (i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1,
201 or 76-5-207 of an offense committed on or after July 1, 2011; and
202 (ii) has not been issued an operator license;
- 203 (c) revoke the person's driver license until the person is 21 years old or for a period of
204 two years, whichever is longer, if:
- 205 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
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; or
- 208 (d) deny the person's application for a license or learner's permit until the person is 21
209 years old or for a period of two years, whichever is longer, if:
- 210 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);
211 (ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is
212 committed within a period of 10 years from the date of the prior violation; and
213 (iii) the person has not been issued an operator license.
- 214 (3) The Driver License Division shall, if the person is under 19 years old at the time of
215 arrest:
- 216 (a) suspend the person's driver license until the person is 21 years old if the person is
217 convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or
218 76-5-207;
- 219 (b) deny the person's application for a license or learner's permit until the person is 21
220 years old if the person:
- 221 (i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1,
222 or 76-5-207; and
223 (ii) has not been issued an operator license;
- 224 (c) revoke the person's driver license until the person is 21 years old if:
- 225 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
226 (ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is
227 committed within a period of 10 years from the date of the prior violation; or
- 228 (d) deny the person's application for a license or learner's permit until the person is 21
229 years old if:
- 230 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);
231 (ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is

- 232 committed within a period of 10 years from the date of the prior violation; and
233 (iii) the person has not been issued an operator license.
- 234 (4) The Driver License Division shall suspend or revoke the license of a person as ordered
235 by the court under Subsection (9).
- 236 (5) The Driver License Division shall subtract from any suspension or revocation period the
237 number of days for which a license was previously suspended under Section 53-3-223 or
238 53-3-231, if the previous suspension was based on the same occurrence upon which the
239 record of conviction is based.
- 240 (6) If a conviction recorded as impaired driving is amended to a driving under the influence
241 conviction under Section 41-6a-502, 76-5-102.1, or 76-5-207 in accordance with
242 Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:
- 243 (a) may not subtract from any suspension or revocation any time for which a license was
244 previously suspended or revoked under Section 53-3-223 or 53-3-231; and
245 (b) shall start the suspension or revocation time under Subsection (1) on the date of the
246 amended conviction.
- 247 (7) A court that reported a conviction of a violation of Section 41-6a-502, 76-5-102.1, or
248 76-5-207 for a violation that occurred on or after July 1, 2009, to the Driver License
249 Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or
250 Subsection (3)(a) or (b) prior to completion of the suspension period if the person:
- 251 (a) completes at least six months of the license suspension;
252 (b) completes a screening;
253 (c) completes an assessment, if it is found appropriate by a screening under Subsection
254 (7)(b);
255 (d) completes substance abuse treatment if it is found appropriate by the assessment
256 under Subsection (7)(c);
257 (e) completes an educational series if substance abuse treatment is not required by an
258 assessment under Subsection (7)(c) or the court does not order substance abuse
259 treatment;
260 (f) has not been convicted of a violation of any motor vehicle law in which the person
261 was involved as the operator of the vehicle during the suspension period imposed
262 under Subsection (2)(a) or (b) or Subsection (3)(a) or (b);
263 (g) has complied with all the terms of the person's probation or all orders of the court if
264 not ordered to probation; and
265 (h) (i) is 18 years old or older and provides a sworn statement to the court that the

266 person has not unlawfully consumed alcohol during the suspension period
267 imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or
268 (ii) is under 18 years old and has the person's parent or legal guardian provide an
269 affidavit or sworn statement to the court certifying that to the parent or legal
270 guardian's knowledge the person has not unlawfully consumed alcohol during the
271 suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or
272 (b).

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

278 (9) (a) (i) In addition to any other penalties provided in this section, a court may order
279 the operator's license of a person who is convicted of a violation of Section
280 41-6a-502, 76-5-102.1, or 76-5-207 to be suspended or revoked for an additional
281 period of 90 days, 120 days, 180 days, one year, or two years to remove from the
282 highways those persons who have shown they are safety hazards.

283 (ii) The additional suspension or revocation period provided in this Subsection (9)
284 shall begin the date on which the individual would be eligible to reinstate the
285 individual's driving privilege for a violation of Section 41-6a-502, 76-5-102.1, or
286 76-5-207.

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

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

292 (i) screenings;

293 (ii) assessments;

294 (iii) educational series;

295 (iv) substance abuse treatment; and

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

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

- 300 (11) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the
301 Driver License Division may shorten the suspension or revocation period imposed
302 under Subsection (1) before completion of the suspension or revocation period if the
303 person:
- 304 (i) is participating in or has successfully completed a 24-7 sobriety program as
305 defined in Section 41-6a-515.5; ~~or~~
- 306 (ii) (A) is participating in or has successfully completed a problem solving court
307 program approved by the Judicial Council, including a driving under the
308 influence court program or a drug court program; and
309 (B) has elected to become an interlock restricted driver as a condition of probation
310 during the remainder of the person's suspension or revocation period in
311 accordance with Section 41-6a-518[-] ; or
- 312 (iii) has had their operator license suspended under Subsection (1)(a)(i), and the court
313 does not have a problem solving court program approved by the Judicial Council
314 or access to a 24-7 sobriety program as defined in Section 41-6a-515.5, if the
315 person:
- 316 (A) has installed an ignition interlock device in any vehicle owned or driven by
317 the person in accordance with Section 53-3-1007; and
- 318 (B) did not inflict bodily injury upon another as a proximate result of having
319 operated the vehicle in a negligent manner.
- 320 (b) If a court shortens a person's license suspension or revocation period in accordance
321 with the requirements of this Subsection (11), the court shall forward the order
322 shortening the person's suspension or revocation period to the Driver License
323 Division in a manner specified by the division.
- 324 (c) The court shall notify the Driver License Division, in a manner specified by the
325 Driver License Division, if a person fails to complete or comply with a condition that
326 allowed the court to shorten the person's license suspension or revocation period
327 under Subsection (11)(a).
- 328 (d) (i) (A) Upon receiving the notification described in Subsection (11)(c), for a
329 first offense, the division shall suspend the person's driving privilege for a
330 period of 120 days from the date of notice.
- 331 (B) For a suspension described under Subsection (11)(d)(i)(A), no days shall be
332 subtracted from the 120-day suspension period for which a driving privilege
333 was previously suspended under this section or Section 53-3-223, if the

334 previous suspension was based on the same occurrence upon which the
335 conviction under Section 41-6a-502 is based.

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

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

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

345 **41-6a-515.6 . Field sobriety test training.**

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

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

351 **41-6a-1406 . Removal and impoundment of vehicles -- Reporting and notification**
352 **requirements -- Administrative impound fee -- Refunds -- Possessory lien**
353 **-- Rulemaking.**

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

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

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

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

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

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

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

- 368 (ii) removed or impounded by any law enforcement or government entity.
- 369 (b) Before noon on the next business day after the date of the removal of the vehicle,
370 vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle
371 Division by:
- 372 (i) the peace officer or agency by whom the peace officer is employed; and
373 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
374 operator is employed.
- 375 (c) The report shall be in a form specified by the Motor Vehicle Division and shall
376 include:
- 377 (i) the operator's name, if known;
378 (ii) a description of the vehicle, vessel, or outboard motor;
379 (iii) the vehicle identification number or vessel or outboard motor identification
380 number;
381 (iv) the license number, temporary permit number, or other identification number
382 issued by a state agency;
383 (v) the date, time, and place of impoundment;
384 (vi) the reason for removal or impoundment;
385 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
386 outboard motor; and
387 (viii) the place where the vehicle, vessel, or outboard motor is stored.
- 388 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
389 State Tax Commission shall make rules to establish proper format and information
390 required on the form described in this Subsection (4).
- 391 (e) Until the tow truck operator or tow truck motor carrier reports the removal as
392 required under this Subsection (4), a tow truck motor carrier or impound yard may
393 not:
- 394 (i) collect any fee associated with the removal; and
395 (ii) begin charging storage fees.
- 396 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor
397 Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to
398 the following parties with an interest in the vehicle, vessel, or outboard motor, as
399 applicable:
- 400 (i) the registered owner;
401 (ii) any lien holder; or

- 402 (iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard
403 motor is currently operating under a temporary permit issued by the dealer, as
404 described in Section 41-3-302.
- 405 (b) The notice shall:
- 406 (i) state the date, time, and place of removal, the name, if applicable, of the person
407 operating the vehicle, vessel, or outboard motor at the time of removal, the reason
408 for removal, and the place where the vehicle, vessel, or outboard motor is stored;
- 409 (ii) state that the registered owner is responsible for payment of towing, impound,
410 and storage fees charged against the vehicle, vessel, or outboard motor;
- 411 (iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard
412 motor is released; and
- 413 (iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the
414 vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal
415 or impoundment under this section, one of the parties fails to make a claim for
416 release of the vehicle, vessel, or outboard motor.
- 417 (c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor
418 is not registered in this state, the Motor Vehicle Division shall make a reasonable
419 effort to notify the parties described in Subsection (5)(a) of the removal and the place
420 where the vehicle, vessel, or outboard motor is stored.
- 421 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where the
422 vehicle, vessel, or outboard motor is stored.
- 423 (e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if
424 a report was received by a tow truck operator or tow truck motor carrier reporting a
425 tow truck service in accordance with Subsection 72-9-603(1)(a)(i).
- 426 (6) (a) The vehicle, vessel, or outboard motor shall be released after a party described in
427 Subsection (5)(a):
- 428 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of
429 the State Tax Commission;
- 430 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
431 vessel, or outboard motor;
- 432 (iii) completes the registration, if needed, and pays the appropriate fees;
- 433 (iv) if the impoundment was made under Section 41-6a-527, pays[-] :
- 434 (A) an administrative impound fee of \$400; and
- 435 (B) in addition to the administrative fee described in Subsection (6)(a)(iv)(A), an

- 436 administrative testing fee of \$30; and
- 437 (v) pays all towing and storage fees to the place where the vehicle, vessel, or
- 438 outboard motor is stored.
- 439 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under
- 440 Subsection (6)(a)(iv)(A) shall be dedicated credits to the Motor Vehicle Division[;] .
- 441 (ii) [~~\$147~~] One-hundred and forty-seven dollars of the administrative impound fee
- 442 assessed under Subsection (6)(a)(iv)(A) shall be deposited into the Department of
- 443 Public Safety Restricted Account created in Section 53-3-106[;] .
- 444 (iii) [~~\$20~~] Twenty dollars of the administrative impound fee assessed under
- 445 Subsection (6)(a)(iv)(A) shall be deposited into the Neuro-Rehabilitation Fund
- 446 created in Section 26B-1-319[; and] .
- 447 (iv) [~~the~~] After the distributions described in Subsections (6)(b)(i) through (iii), the
- 448 remainder of the administrative impound fee assessed under Subsection (6)(a)(iv)
- 449 (A) shall be deposited into the General Fund.
- 450 (v) The administrative testing fee described in Subsection (6)(a)(iv)(B) shall be
- 451 deposited into the State Laboratory Drug Testing Account created in Section
- 452 26B-1-304.
- 453 (c) The administrative impound fee and the administrative testing fee assessed under
- 454 Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the
- 455 registered owner, lien holder, or owner's agent presents written evidence to the State
- 456 Tax Commission that:
- 457 (i) the Driver License Division determined that the arrested person's driver license
- 458 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as
- 459 shown by a letter or other report from the Driver License Division presented
- 460 within 180 days after the day on which the Driver License Division mailed the
- 461 final notification; or
- 462 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the
- 463 stolen vehicle report presented within 180 days after the day of the impoundment.
- 464 (d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
- 465 payment by cash and debit or credit card for a removal or impoundment under
- 466 Subsection (1) or any service rendered, performed, or supplied in connection with a
- 467 removal or impoundment under Subsection (1).
- 468 (e) The owner of an impounded vehicle may not be charged a fee for the storage of the
- 469 impounded vehicle, vessel, or outboard motor if:

- 470 (i) the vehicle, vessel, or outboard motor is being held as evidence; and
471 (ii) the vehicle, vessel, or outboard motor is not being released to a party described in
472 Subsection (5)(a), even if the party satisfies the requirements to release the
473 vehicle, vessel, or outboard motor under this Subsection (6).
- 474 (7) (a) For an impounded vehicle, vessel, or outboard motor not claimed by a party
475 described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103, the
476 Motor Vehicle Division shall issue a certificate of sale for the impounded vehicle,
477 vessel, or outboard motor as described in Section 41-1a-1103.
- 478 (b) The date of impoundment is considered the date of seizure for computing the time
479 period provided under Section 41-1a-1103.
- 480 (8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the
481 impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for
482 all the fees and charges, together with damages, court costs, and attorney fees, against
483 the operator of the vehicle, vessel, or outboard motor whose actions caused the removal
484 or impoundment.
- 485 (9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or
486 outboard motor.
- 487 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
488 department shall make rules setting the performance standards for towing companies to
489 be used by the department.
- 490 (11) (a) The Motor Vehicle Division may specify that a report required under Subsection
491 (4) be submitted in electronic form utilizing a database for submission, storage, and
492 retrieval of the information.
- 493 (b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the
494 administrator of the database may adopt a schedule of fees assessed for utilizing
495 the database.
- 496 (ii) The fees under this Subsection (11)(b) shall:
- 497 (A) be reasonable and fair; and
498 (B) reflect the cost of administering the database.

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

500 **53-3-104 . Division duties.**

501 The division shall:

- 502 (1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make
503 rules:

- 504 (a) for examining applicants for a license, as necessary for the safety and welfare of the
505 traveling public;
- 506 (b) for acceptable documentation of an applicant's identity, Social Security number,
507 Utah resident status, Utah residence address, proof of legal presence, proof of
508 citizenship in the United States, honorable or general discharge from the United
509 States military, and other proof or documentation required under this chapter;
- 510 (c) for acceptable documentation to verify that an individual is homeless as verified by
511 the Department of Workforce Services, for purposes of residency, address
512 verification, and obtaining a fee waiver;
- 513 (d) regarding the restrictions to be imposed on an individual driving a motor vehicle
514 with a temporary learner permit or learner permit;
- 515 (e) for exemptions from licensing requirements as authorized in this chapter;
- 516 (f) establishing procedures for the storage and maintenance of applicant information
517 provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804; and
- 518 (g) to provide educational information to each applicant for a license, which information
519 shall be based on data provided by the Division of Air Quality, including:
- 520 (i) ways drivers can improve air quality; and
521 (ii) the harmful effects of vehicle emissions;
- 522 (2) examine each applicant according to the class of license applied for;
- 523 (3) license motor vehicle drivers;
- 524 (4) file every application for a license received by the division and shall maintain indices
525 containing:
- 526 (a) all applications denied and the reason each was denied;
527 (b) all applications granted; and
528 (c) the name of every licensee whose license has been suspended, disqualified, or
529 revoked by the division and the reasons for the action;
- 530 (5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this
531 chapter;
- 532 (6) file all accident reports and abstracts of court records of convictions received by the
533 division under state law;
- 534 (7) maintain a record of each licensee showing the licensee's convictions and the traffic
535 accidents in which the licensee has been involved where a conviction has resulted;
- 536 (8) consider the record of a licensee upon an application for renewal of a license and at
537 other appropriate times;

- 538 (9) search the license files, compile, and furnish a report on the driving record of any
539 individual licensed in the state in accordance with Section 53-3-109;
- 540 (10) develop and implement a record system as required by Section 41-6a-604;
- 541 (11) in accordance with Section 53G-10-507, establish:
- 542 (a) procedures and standards to certify teachers of driver education classes to administer
543 knowledge and skills tests;
- 544 (b) minimal standards for the tests; and
- 545 (c) procedures to enable school districts to administer or process any tests for students to
546 receive a class D operator's license;
- 547 (12) in accordance with Section 53-3-510, establish:
- 548 (a) procedures and standards to certify licensed instructors of commercial driver training
549 school courses to administer the skills test;
- 550 (b) minimal standards for the test; and
- 551 (c) procedures to enable licensed commercial driver training schools to administer or
552 process skills tests for students to receive a class D operator's license;
- 553 (13) provide administrative support to the Driver License Medical Advisory Board created
554 in Section 53-3-303;
- 555 (14) upon request by the lieutenant governor, provide the lieutenant governor with a digital
556 copy of the driver license or identification card signature of an individual who is an
557 applicant for voter registration under Section 20A-2-206; [and]
- 558 (15) in accordance with Section 53-3-407.1, establish:
- 559 (a) procedures and standards to license a commercial driver license third party tester or
560 commercial driver license third party examiner to administer the commercial driver
561 license skills tests;
- 562 (b) minimum standards for the commercial driver license skills test; and
- 563 (c) procedures to enable a licensed commercial driver license third party tester or
564 commercial driver license third party examiner to administer a commercial driver
565 license skills test for an applicant to receive a commercial driver license[-]; and
- 566 (16) receive from the Department of Health and Human Services a result from a blood or
567 urine test of an individual arrested for driving under the influence and use the blood or
568 urine test result in an administrative hearing or agency review involving the individual
569 who is the subject of the blood or urine test as described in Section 53-3-111.

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

571 **53-3-111 . Blood and urine test reports -- Permissible uses and restrictions.**

- 572 (1) The division shall receive a result of a blood or urine test report in accordance with Title
 573 26B, Chapter 8, Part 4, Health Statistics.
- 574 (2) (a) The division may only use an individual's personally identifiable health data from
 575 a blood and urine test in connection with:
- 576 (i) an administrative hearing involving that individual;
 577 (ii) in accordance with Title 63G, Chapter 4, Part 3, Agency Review, an agency
 578 review of the administrative hearing described in Subsection (2)(a)(i); or
 579 (iii) in accordance with Title 63G, Chapter 4, Part 4, Judicial Review, a judicial
 580 review of the administrative hearing described in Subsection (2)(a)(i).
- 581 (b) (i) The division shall aggregate and anonymize data from a blood and urine test.
 582 (ii) The division may only use the anonymized and aggregated data from blood and
 583 urine tests:
- 584 (A) to create a report required or requested by the Legislature; or
 585 (B) to create statistical reports for criminal justice agencies.
- 586 (3) The division shall securely retain each blood and urine test as a private record as
 587 provided in Title 63G, Chapter 2, Government Records Access and Management Act.
- 588 (4) The division may provide the information from a blood and urine test received under
 589 this section:
- 590 (a) to the individual who is the subject of the blood and urine test;
 591 (b) to the individual's attorney in connection with an administrative proceeding before
 592 the division; or
 593 (c) as otherwise required by law.

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

595 **53-3-223 . Chemical test for driving under the influence -- Temporary license --**
 596 **Hearing and decision -- Suspension and fee -- Judicial review.**

- 597 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
 598 violating or has violated Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, the
 599 peace officer may, in connection with arresting the person, request that the person
 600 submit to a chemical test or tests to be administered in compliance with the standards
 601 under Section 41-6a-520.
- 602 (b) In this section, a reference to Section 41-6a-502 includes any similar local ordinance
 603 adopted in compliance with Subsection 41-6a-510(1).
- 604 (2) The peace officer shall advise a person prior to the person's submission to a chemical
 605 test that a test result indicating a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1,

- 606 or 76-5-207 shall, and the existence of a blood alcohol content sufficient to render the
607 person incapable of safely driving a motor vehicle may, result in suspension or
608 revocation of the person's license to drive a motor vehicle.
- 609 (3) If the person submits to a chemical test and the test results indicate a blood or breath
610 alcohol content in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207,
611 or if a peace officer makes a determination, based on reasonable grounds, that the person
612 is otherwise in violation of Section 41-6a-502, 76-5-102.1, or 76-5-207, a peace officer
613 shall, on behalf of the division and within 24 hours of arrest, give notice of the division's
614 intention to suspend the person's license to drive a motor vehicle.
- 615 (4) When a peace officer gives notice on behalf of the division, the peace officer shall
616 supply to the driver, in a manner specified by the division, basic information regarding
617 how to obtain a prompt hearing before the division.
- 618 (5) As a matter of procedure, a peace officer shall send to the division within 10 calendar
619 days after the day on which notice is provided:
- 620 (a) a copy of the citation issued for the offense;
- 621 (b) a signed report in a manner specified by the division indicating the chemical test
622 results, if any; and
- 623 (c) any other basis for the peace officer's determination that the person has violated
624 Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207.
- 625 (6) (a) Upon request in a manner specified by the division, the division shall grant to the
626 person an opportunity to be heard within 29 days after the date of arrest. The request
627 to be heard shall be made within 10 calendar days of the day on which notice is
628 provided under Subsection (5).
- 629 (b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before
630 the division in:
- 631 (A) the county in which the arrest occurred; or
- 632 (B) a county that is adjacent to the county in which the arrest occurred.
- 633 (ii) The division may hold a hearing in some other county if the division and the
634 person both agree.
- 635 (c) The hearing shall be documented and shall cover the issues of:
- 636 (i) whether a peace officer had reasonable grounds to believe the person was driving
637 a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or
638 76-5-207;
- 639 (ii) whether the person refused to submit to the test; and

- 640 (iii) the test results, if any.
- 641 (d) (i) In connection with a hearing the division or its authorized agent:
- 642 (A) may administer oaths and may issue subpoenas for the attendance of witnesses
- 643 and the production of relevant books and papers; or
- 644 (B) may issue subpoenas for the attendance of necessary peace officers.
- 645 (ii) The division shall pay witness fees and mileage from the Transportation Fund in
- 646 accordance with the rates established in Section 78B-1-119.
- 647 (e) The division may designate one or more employees to conduct the hearing.
- 648 (f) Any decision made after a hearing before any designated employee is as valid as if
- 649 made by the division.
- 650 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
- 651 grounds to believe that the person was driving a motor vehicle in violation of Section
- 652 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the person failed to appear before
- 653 the division as required in the notice, or if a hearing is not requested under this
- 654 section, the division shall:
- 655 (i) if the person is 21 years old or older at the time of arrest, suspend the person's
- 656 license or permit to operate a motor vehicle for a period of:
- 657 (A) 120 days beginning on the 45th day after the date of arrest for a first
- 658 suspension; or
- 659 (B) two years beginning on the 45th day after the date of arrest for a second or
- 660 subsequent suspension for an offense that occurred within the previous 10
- 661 years; or
- 662 (ii) if the person is under 21 years old at the time of arrest:
- 663 (A) suspend the person's license or permit to operate a motor vehicle:
- 664 (I) for a period of six months, beginning on the 45th day after the date of arrest
- 665 for a first suspension; or
- 666 (II) until the person is 21 years old or for a period of two years, whichever is
- 667 longer, beginning on the 45th day after the date of arrest for a second or
- 668 subsequent suspension for an offense that occurred within the previous 10
- 669 years; or
- 670 (B) deny the person's application for a license or learner's permit:
- 671 (I) for a period of six months beginning on the 45th day after the date of the
- 672 arrest for a first suspension, if the person has not been issued an operator
- 673 license; or

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

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

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

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

689 (ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall
690 reinstate a person's license prior to completion of the 120-day suspension period
691 imposed under Subsection (7)(a)(i)(A) immediately upon receiving written
692 verification of the person's conviction of impaired driving under Section
693 41-6a-502.5 if:

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

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

699 (iii) If a person's license is reinstated under this Subsection (7)(b), the person is
700 required to pay the license reinstatement application fees under Subsections
701 53-3-105(26) and (27).

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

704 (8) (a) The division shall assess against a person, in addition to any fee imposed under
705 Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105
706 to cover administrative costs, which shall be paid before the person's driving
707 privilege is reinstated. This fee shall be cancelled if the person obtains an unappealed

- 708 division hearing or court decision that the suspension was not proper.
- 709 (b) A person whose license has been suspended by the division under this section
710 following an administrative hearing may file a petition within 30 days after the
711 suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.
- 712 (9) (a) Notwithstanding the provisions in Subsection (7)(a)(i), the division shall reinstate
713 a person's license before completion of the suspension period imposed under
714 Subsection (7)(a)(i) if:
- 715 (i) (A) the reporting court notifies the Driver License Division that the person is
716 participating in or has successfully completed a 24-7 sobriety program as
717 defined in Section 41-6a-515.5; or
- 718 (B) the reporting court notifies the Driver License Division that the person is
719 participating in or has successfully completed a problem solving court program
720 approved by the Judicial Council, including a driving under the influence court
721 program or a drug court program, and has elected to become an interlock
722 restricted driver as a condition of probation during the remainder of the
723 person's suspension period in accordance with Section 41-6a-518; and
- 724 (ii) the person has a valid driving privilege, with the exception of the suspension
725 under Subsection (7)(a)(i).
- 726 (b) If a person's license is reinstated under Subsection (9)(a), the person is required to
727 pay the license reinstatement application fees under Subsections 53-3-105(26) and
728 (27).
- 729 (10) (a) If the division suspends a person's license for an alcohol related offense under
730 Subsection (7)(a)(i)(A), the person may petition the division and elect to become an
731 ignition interlock restricted driver if the person:
- 732 (i) has a valid driving privilege, with the exception of the suspension under
733 Subsection (7)(a)(i)(A);
- 734 (ii) installs an ignition interlock device in any vehicle owned or driven by the person
735 in accordance with Section 53-3-1007; and
- 736 (iii) pays the license reinstatement application fees described in Subsections 53-3-105
737 (26) and (27).
- 738 (b) (i) The person shall remain an ignition interlock restricted driver for a period of
739 120 days from the original effective date of the suspension under Subsection
740 (7)(a)(i)(A).
- 741 (ii) If the person removes an ignition interlock device from a vehicle owned or driven

742 by the person prior to the expiration of the 120-day ignition interlock restriction
743 period and does not install a new ignition interlock device from the same or a
744 different provider within 24 hours:

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

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

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

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

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

757 (i) was charged with a violation of Section 41-6a-502 that is a misdemeanor;

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

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

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

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

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

771 (A) the person's driver license shall be suspended under Subsection (7)(a)(i)(B)
772 for the remainder of the two-year ignition interlock restriction period;

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

775 (C) the person may not elect to become an ignition interlock restricted driver

776 under this section.

777 (c) Notwithstanding Subsections (11)(a) and (b), if the person is subsequently convicted
 778 of the violation of Section 41-6a-502 that gave rise to the suspension under
 779 Subsection (7)(a)(i)(B), the division shall revoke the person's license under
 780 Subsection 41-6a-509(1)(a)(ii), and the person is no longer an ignition interlock
 781 restricted driver under this Subsection (11).

782 (12) (a) Notwithstanding the provisions in Subsection (7)(a)(i)(B), the division shall
 783 reinstate a person's license prior to completion of the two-year suspension period
 784 imposed under Subsection (7)(a)(i)(B) immediately upon receiving written
 785 verification of the person's dismissal of a charge for a violation of Section 41-6a-502,
 786 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to
 787 completion of the suspension period.

788 (b) If the person elected to become an ignition interlock restricted driver under
 789 Subsection (11), and the division receives written verification of the person's
 790 dismissal of a charge for violation of Section 41-6a-502, the driver is no longer an
 791 ignition interlock restricted driver under Subsection (11)(b)(i), and the division shall
 792 reinstate the person's license prior to the completion of the two-year ignition interlock
 793 restriction period under Subsection (11)(b)(i).

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

795 **53-25-102 . Standards for oral fluid and portable breath tests -- Rulemaking.**

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

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

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

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

804 Section 12. **Effective date.**

805 This bill takes effect on May 1, 2024.