

DRIVER LICENSE SUSPENSION AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions of the Uniform Driver License Act related to suspension of a driver license.

Highlighted Provisions:

This bill:

- ▶ provides that the Driver License Division may not suspend a person's driver license for certain offenses, unless the person was an operator of a motor vehicle at the time of the offense; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-218, as last amended by Laws of Utah 2015, Chapters 346 and 412

53-3-220, as last amended by Laws of Utah 2017, Chapter 181

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

Section 1. Section **53-3-218** is amended to read:

53-3-218. Court to report convictions and may recommend suspension of license
-- Severity of speeding violation defined.

30 (1) As used in this section, "conviction" means conviction by the court of first
31 impression or final administrative determination in an administrative traffic proceeding.

32 (2) (a) Except as provided in Subsection (2)(c), a court having jurisdiction over offenses
33 committed under this chapter or any other law of this state, or under any municipal ordinance
34 regulating driving motor vehicles on highways or driving motorboats on the water, shall
35 forward to the division within five days, an abstract of the court record of the conviction or
36 plea held in abeyance of any person in the court for a reportable traffic or motorboating
37 violation of any laws or ordinances, and may recommend the suspension of the license of the
38 person convicted.

39 (b) When the division receives a court record of a conviction or plea in abeyance for a
40 motorboat violation, the division may only take action against a person's driver license if the
41 motorboat violation is for a violation of Title 41, Chapter 6a, Part 5, Driving Under the
42 Influence and Reckless Driving.

43 (c) ~~[(i)]~~ A court may not forward to the division an abstract of ~~[the]~~ a court record of
44 ~~[the]~~ a conviction for a violation described in Subsection ~~53-3-220(1)(c)~~ ~~[and the Driver~~
45 ~~License Division may not suspend a person's license for a violation described in Subsection~~
46 ~~53-3-220(1)(c) if the person: (A)]~~ (i) or (ii), unless the court found that the person convicted of
47 ~~[a]~~ the violation ~~[described in Subsection 53-3-220(1)(c) was not]~~ was an operator of a motor
48 vehicle at the time of the violation~~;~~ and.

49 ~~[(B) (I) is participating in or has successfully completed substance abuse treatment at a~~
50 ~~licensed substance abuse treatment program that is approved by the Division of Substance~~
51 ~~Abuse and Mental Health in accordance with Section 62A-15-105; or]~~

52 ~~[(H) is participating in or has successfully completed probation through the Department~~
53 ~~of Corrections Adult Probation and Parole in accordance with Section 77-18-1.]~~

54 ~~[(ii) If the person convicted of a violation described in Subsection 53-3-220(1)(c) fails~~
55 ~~to comply with the terms of a substance abuse treatment program under Subsection~~
56 ~~(2)(c)(i)(B)(I) or the terms of probation under Subsection (2)(c)(i)(B)(H):]~~

57 ~~[(A) the substance abuse treatment program licensed by the Division of Substance~~

58 Abuse and Mental Health or the Department of Corrections Adult Probation and Parole shall
59 immediately provide an affidavit or other sworn information to the court notifying the court
60 that the person has failed to comply with the terms of a substance abuse treatment program
61 under Subsection (2)(c)(i)(B)(I) or the terms of probation under Subsection (2)(c)(i)(B)(II);]

62 [(B) upon receipt of an affidavit or sworn statement under Subsection (2)(c)(ii)(A), the
63 court shall immediately forward an abstract of the court record of the conviction for a violation
64 described in Subsection 53-3-220(1)(c) to the division; and]

65 [(C) the division shall immediately suspend the person's license in accordance with
66 Subsection 53-3-220(1)(c).]

67 (3) The abstract shall be made in the form prescribed by the division and shall include:

- 68 (a) the name, date of birth, and address of the party charged;
- 69 (b) the license certificate number of the party charged, if any;
- 70 (c) the registration number of the motor vehicle or motorboat involved;
- 71 (d) whether the motor vehicle was a commercial motor vehicle;
- 72 (e) whether the motor vehicle carried hazardous materials;
- 73 (f) whether the motor vehicle carried 16 or more occupants;
- 74 (g) whether the driver presented a commercial driver license;
- 75 (h) the nature of the offense;
- 76 (i) whether the offense involved an accident;
- 77 (j) the driver's blood alcohol content, if applicable;
- 78 (k) if the offense involved a speeding violation:
 - 79 (i) the posted speed limit;
 - 80 (ii) the actual speed; and
 - 81 (iii) whether the speeding violation occurred on a highway that is part of the interstate
- 82 system as defined in Section 72-1-102;
- 83 (l) the date of the hearing;
- 84 (m) the plea;
- 85 (n) the judgment or whether bail was forfeited; and

86 (o) the severity of the violation, which shall be graded by the court as "minimum,"
87 "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

88 (4) When a convicted person secures a judgment of acquittal or reversal in any
89 appellate court after conviction in the court of first impression, the division shall reinstate the
90 convicted person's license immediately upon receipt of a certified copy of the judgment of
91 acquittal or reversal.

92 (5) Upon a conviction for a violation of the prohibition on using a handheld wireless
93 communication device for text messaging or electronic mail communication while operating a
94 moving motor vehicle under Section 41-6a-1716, a judge may order a suspension of the
95 convicted person's license for a period of three months.

96 (6) Upon a conviction for a violation of careless driving under Section 41-6a-1715 that
97 causes or results in the death of another person, a judge may order a revocation of the convicted
98 person's license for a period of one year.

99 Section 2. Section 53-3-220 is amended to read:

100 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
101 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
102 **Limited driving privileges.**

103 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter
104 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or
105 disqualification, the division shall deny, suspend, or disqualify the license of a person upon
106 receiving a record of the person's conviction for:

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

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

113 (iii) driving or being in actual physical control of a motor vehicle while having a blood

114 or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance
115 that complies with the requirements of Subsection 41-6a-510(1);

116 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
117 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
118 regulating driving on highways;

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

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

121 (vii) failure to stop and render aid as required under the laws of this state if a motor
122 vehicle accident results in the death or personal injury of another;

123 (viii) two charges of reckless driving, impaired driving, or any combination of reckless
124 driving and impaired driving committed within a period of 12 months; but if upon a first
125 conviction of reckless driving or impaired driving the judge or justice recommends suspension
126 of the convicted person's license, the division may after a hearing suspend the license for a
127 period of three months;

128 (ix) failure to bring a motor vehicle to a stop at the command of a peace officer as
129 required in Section 41-6a-210;

130 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
131 requires disqualification;

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

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

136 (xiii) operating or being in actual physical control of a motor vehicle while having any
137 measurable controlled substance or metabolite of a controlled substance in the person's body in
138 violation of Section 41-6a-517;

139 (xiv) operating or being in actual physical control of a motor vehicle while having any
140 measurable or detectable amount of alcohol in the person's body in violation of Section
141 41-6a-530;

142 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
143 violation of Section 41-6a-606;

144 (xvi) operating or being in actual physical control of a motor vehicle in this state
145 without an ignition interlock system in violation of Section 41-6a-518.2; or

146 (xvii) custodial interference, under:

147 (A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless
148 the court provides the division with an order of suspension for a shorter period of time;

149 (B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless
150 the court provides the division with an order of suspension for a shorter period of time; or

151 (C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless
152 the court provides the division with an order of suspension for a shorter period of time.

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

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

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

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

163 (i) any violation of:

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

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

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

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

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

169 (ii) any criminal offense that prohibits:

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

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

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

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

178 (B) a record of the conviction.

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

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

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

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

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

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

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

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

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

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

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

- 198 (I) impose a suspension for one year beginning on the date of conviction; or
199 (II) if the person is under the age of eligibility for a driver license, impose a suspension
200 that begins on the date of conviction and continues for one year beginning on the date of
201 eligibility for a driver license; or
- 202 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):
- 203 (I) impose a suspension for a period of two years; or
204 (II) if the person is under the age of eligibility for a driver license, impose a suspension
205 that begins on the date of conviction and continues for two years beginning on the date of
206 eligibility for a driver license.
- 207 (iv) Upon receipt of the first order suspending a person's driving privileges under
208 Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if
209 ordered by the court in accordance with Subsection 32B-4-411(3)(a).
- 210 (v) Upon receipt of the second or subsequent order suspending a person's driving
211 privileges under Section 32B-4-411, the division shall reduce the suspension period under
212 Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).
- 213 (2) The division shall extend the period of the first denial, suspension, revocation, or
214 disqualification for an additional like period, to a maximum of one year for each subsequent
215 occurrence, upon receiving:
- 216 (a) a record of the conviction of any person on a charge of driving a motor vehicle
217 while the person's license is denied, suspended, revoked, or disqualified;
- 218 (b) a record of a conviction of the person for any violation of the motor vehicle law in
219 which the person was involved as a driver;
- 220 (c) a report of an arrest of the person for any violation of the motor vehicle law in
221 which the person was involved as a driver; or
- 222 (d) a report of an accident in which the person was involved as a driver.
- 223 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
224 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
225 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,

226 or revocation originally imposed under Section 53-3-221.

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

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

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

234 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
235 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
236 41-6a-517, a local ordinance which complies with the requirements of Subsection
237 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person
238 was charged with violating as a result of a plea bargain after having been originally charged
239 with violating one or more of these sections or ordinances, unless:

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

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

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

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

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

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

253 (II) the division has not received a report of an arrest for a violation of any motor

254 vehicle law in which the person was involved as the operator of the vehicle; and

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

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

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

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

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

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

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

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