

Senator Scott D. Sandall proposes the following substitute bill:

IMPAIRED DRIVING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: Scott D. Sandall

6	Cosponsors:	Eric K. Hutchings	Paul Ray
7	Cheryl K. Acton	Calvin R. Musselman	Adam Robertson
8	Melissa G. Ballard	Lee B. Perry	Lawanna Shurtliff
9	Brady Brammer	Candice B. Pierucci	Andrew Stoddard
10	Steve Eliason	Stephanie Pitcher	

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



- 25 vehicle with a measurable controlled substance in the person's body;
- 26 ▶ amends provisions related to the operation of a vehicle with a measurable controlled
- 27 substance in the person's body that results in the serious bodily injury or death of
- 28 another; and
- 29 ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill provides a coordination clause.

34 **Utah Code Sections Affected:**

35 AMENDS:

- 36 **41-6a-517**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 37 **53-3-223**, as last amended by Laws of Utah 2019, Chapter 77
- 38 **53-3-231**, as last amended by Laws of Utah 2019, Chapter 77
- 39 **58-37-8**, as last amended by Laws of Utah 2019, Chapter 58

40 **Utah Code Sections Affected by Coordination Clause:**

41 **58-37-8**, as last amended by Laws of Utah 2019, Chapter 58



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

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

45 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
46 **body -- Penalties -- Arrest without warrant.**

47 (1) As used in this section:

- 48 (a) "Controlled substance" means the same as that term is defined in Section **58-37-2**.
- 49 (b) "Practitioner" means the same as that term is defined in Section **58-37-2**.
- 50 (c) "Prescribe" means the same as that term is defined in Section **58-37-2**.
- 51 (d) "Prescription" means the same as that term is defined in Section **58-37-2**.

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

56 (b) Subsection (2)(a) does not apply to a person that has
57 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's
58 body.

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

61 (a) involuntarily ingested by the accused;

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

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

66 (d) otherwise legally ingested.

67 (4) (a) A person [~~convicted of a violation of~~] who violates Subsection (2) for the first
68 or second time is guilty of a class B misdemeanor.

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

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

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

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

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

78 (iv) at the time of the violation of Subsection (2), also violated Section [41-6a-712](#) or
79 [41-6a-714](#).

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

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

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

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

85 (a) the person has two or more prior convictions as defined in Subsection

86 [41-6a-501\(2\)](#), each of which is within 10 years of:

- 87 (i) the current conviction under Subsection (2); or
- 88 (ii) the commission of the offense upon which the current conviction is based; or
- 89 (b) the conviction under Subsection (2) is at any time after a conviction of:
- 90 (i) automobile homicide under Section 76-5-207 that is committed after July 1, 2001;
- 91 (ii) a felony violation of Section 41-6a-502, Subsection (2), or a statute previously in
- 92 effect in this state that would constitute a violation of Section 41-6a-502 or Subsection (2) that
- 93 is committed after July 1, 2001; or
- 94 (iii) any conviction described in Subsection (5)(b)(i) or (ii) for which judgment of
- 95 conviction is reduced under Section 76-3-402.

96 [~~5~~] (6) A peace officer may, without a warrant, arrest a person for a violation of this
97 section when the officer has probable cause to believe the violation has occurred, although not
98 in the officer's presence, and if the officer has probable cause to believe that the violation was
99 committed by the person.

100 [~~6~~] (7) The Driver License Division shall, if the person is 21 years of age or older on
101 the date of arrest:

- 102 (a) suspend, for a period of 120 days, the driver license of a person convicted under
- 103 Subsection (2) of an offense committed on or after July 1, 2009; or
- 104 (b) revoke, for a period of two years, the driver license of a person if:
- 105 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
- 106 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
- 107 and within a period of 10 years after the date of the prior violation.

108 [~~7~~] (8) The Driver License Division shall, if the person is 19 years of age or older but
109 under 21 years of age on the date of arrest:

- 110 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is
- 111 longer, the driver license of a person convicted under Subsection (2) of an offense committed
- 112 on or after July 1, 2011; or
- 113 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is
- 114 longer, the driver license of a person if:
- 115 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
- 116 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
- 117 and within a period of 10 years after the date of the prior violation.

118 ~~[(8)]~~ (9) The Driver License Division shall, if the person is under 19 years of age on
119 the date of arrest:

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

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

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

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

126 ~~[(9)]~~ (10) The Driver License Division shall subtract from any suspension or
127 revocation period the number of days for which a license was previously suspended under
128 Section ~~53-3-223~~ or ~~53-3-231~~, if the previous suspension was based on the same occurrence
129 upon which the record of conviction is based.

130 ~~[(10)]~~ (11) The Driver License Division shall:

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

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

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

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

140 ~~[(11)]~~ (12) A court that reported a conviction of a violation of this section for a
141 violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the
142 suspension period imposed under Subsection ~~[(7)]~~ (8)(a) or ~~[(8)]~~ (9)(a) prior to completion of
143 the suspension period if the person:

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

145 (b) completes a screening;

146 (c) completes an assessment, if it is found appropriate by a screening under Subsection
147 ~~[(11)]~~ (12)(b);

148 (d) completes substance abuse treatment if it is found appropriate by the assessment

149 under Subsection [~~(11)~~] (12)(c);

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

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

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

158 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
159 person has not consumed a controlled substance not prescribed by a practitioner for use by the
160 person or unlawfully consumed alcohol during the suspension period imposed under
161 Subsection [~~(7)~~] (8)(a) or [~~(8)~~] (9)(a); or

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

167 [~~(12)~~] (13) If the court shortens a person's license suspension period in accordance with
168 the requirements of Subsection [~~(11)~~] (12), the court shall forward the order shortening the
169 person's license suspension period prior to the completion of the suspension period imposed
170 under Subsection [~~(7)~~] (8)(a) or [~~(8)~~] (9)(a) to the Driver License Division.

171 [~~(13)~~] (14) (a) The court shall notify the Driver License Division if a person fails to:

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

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

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

177 [~~(14)~~] (15) The court:

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

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

182 [~~(15)~~] (16) (a) A court that reported a conviction of a violation of this section to the
183 Driver License Division may shorten the suspension period imposed under Subsection [~~(6)~~] (7)
184 before completion of the suspension period if the person is participating in or has successfully
185 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

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

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

191 (d) Upon receiving the notification described in Subsection [~~(15)~~] (16)(c), the division
192 shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and
193 (3).

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

195 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
196 **Hearing and decision -- Suspension and fee -- Judicial review.**

197 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
198 violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a
199 certain blood or breath alcohol concentration and driving under the influence of any drug,
200 alcohol, or combination of a drug and alcohol or while having any measurable controlled
201 substance or metabolite of a controlled substance in the person's body in violation of Section
202 41-6a-517, the peace officer may, in connection with arresting the person, request that the
203 person submit to a chemical test or tests to be administered in compliance with the standards
204 under Section 41-6a-520.

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

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

211 a motor vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

242 (iii) the test results, if any.

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

244 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and

245 the production of relevant books and papers; or

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

247 (ii) The division shall pay witness fees and mileage from the Transportation Fund in

248 accordance with the rates established in Section 78B-1-119.

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

250 (f) Any decision made after a hearing before any designated employee is as valid as if

251 made by the division.

252 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable

253 grounds to believe that the person was driving a motor vehicle in violation of Section

254 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the

255 notice, or if a hearing is not requested under this section, the division shall:

256 (i) if the person is 21 years of age or older at the time of arrest and the arrest was made

257 on or after July 1, 2009, suspend the person's license or permit to operate a motor vehicle for a

258 period of:

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

260 (B) two years beginning on the 45th day after the date of arrest for a second or

261 subsequent suspension for an offense that occurred within the previous 10 years; or

262 (ii) if the person is under 21 years of age at the time of arrest and the arrest was made

263 on or after May 14, 2013:

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

265 (I) for a period of six months, beginning on the 45th day after the date of arrest for a

266 first suspension; or

267 (II) until the person is 21 years of age or for a period of two years, whichever is longer,

268 beginning on the 45th day after the date of arrest for a second or subsequent suspension for an

269 offense that occurred within the previous 10 years; or

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

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

272 operator license; or

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

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

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

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

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

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

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

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

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

291 (B) no sooner than 60 days beginning on the 45th day after the date of arrest upon
292 receiving written verification of the person's reduction of a charge for a violation of Section
293 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the
294 suspension period.

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

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

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

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

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

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

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

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

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

315 (A) a court order shortening the driver license suspension for a violation of Section
316 41-6a-502 pursuant to Subsection 41-6a-509(8);

317 (B) a court order shortening the driver license suspension for a violation of Section
318 41-6a-517 pursuant to Subsection 41-6a-517~~(11)~~(12);

319 (C) a court order shortening the driver license suspension for a violation of Section
320 32B-4-409;

321 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section
322 32B-4-409;

323 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section
324 41-6a-517, or Section 32B-4-409;

325 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section
326 32B-4-409; or

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

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

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

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

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

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

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

346 (b) If a person's license is reinstated under Subsection (10)(a), the person is required to
347 pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

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

349 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**
350 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**
351 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**
352 **Referral to local substance abuse authority or program.**

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

354 (i) "Local substance abuse authority" has the same meaning as provided in Section
355 62A-15-102.

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

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

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

364 (b) A person who violates Subsection (2)(a), in addition to any other applicable
365 penalties arising out of the incident, shall have the person's operator license denied or

366 suspended as provided in Subsection (7).

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

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

374 (c) If the person submits to a chemical test and the test results indicate a blood, breath,
375 or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a
376 determination, based on reasonable grounds, that the person is otherwise in violation of
377 Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the
378 arrest, give notice of the division's intention to deny or suspend the person's license to operate a
379 vehicle or refusal to issue a license under this section.

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

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

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

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

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

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

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

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

- 397 (A) the county in which the arrest occurred; or
- 398 (B) a county that is adjacent to the county in which the arrest occurred.
- 399 (ii) The division may hold a hearing in some other county if the division and the person
- 400 both agree.
- 401 (c) The hearing shall be documented and shall cover the issues of:
- 402 (i) whether a peace officer had reasonable grounds to believe the person was operating
- 403 a motor vehicle or motorboat in violation of Subsection (2)(a);
- 404 (ii) whether the person refused to submit to the test; and
- 405 (iii) the test results, if any.
- 406 (d) In connection with a hearing, the division or its authorized agent may administer
- 407 oaths and may issue subpoenas for the attendance of witnesses and the production of relevant
- 408 books and papers and records as defined in Section [46-4-102](#).
- 409 (e) One or more members of the division may conduct the hearing.
- 410 (f) Any decision made after a hearing before any number of the members of the
- 411 division is as valid as if made after a hearing before the full membership of the division.
- 412 (7) If, after a hearing, the division determines that a peace officer had reasonable
- 413 grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a),
- 414 if the person fails to appear before the division as required in the notice, or if the person does
- 415 not request a hearing under this section, the division shall for a person under 21 years of age on
- 416 the date of arrest:
- 417 (a) deny the person's license until the person complies with Subsection (11)(b)(i) but
- 418 for a period of not less than six months beginning on the 45th day after the date of arrest for a
- 419 first offense under Subsection (2)(a) committed on or after May 14, 2013;
- 420 (b) suspend the person's license until the person complies with Subsection (11)(b)(i)
- 421 and until the person is 21 years of age or for a period of two years, whichever is longer,
- 422 beginning on the 45th day after the date of arrest for a second or subsequent offense under
- 423 Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or
- 424 suspension;
- 425 (c) deny the person's application for a license or learner's permit until the person
- 426 complies with Subsection (11)(b)(i) but for a period of not less than six months if:
- 427 (i) the person has not been issued an operator license; and

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

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

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

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

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

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

439 (ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of
440 age or older but under 21 years of age at the time of arrest and the conviction under Subsection
441 (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

442 (iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed
443 prior to May 14, 2013.

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

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

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

449 (iii) the suspension or denial under Subsection (7)(e)(iii) was based on the same
450 occurrence upon which the following written verifications are based:

451 (A) a court order shortening the driver license suspension for a violation of Section
452 41-6a-502 pursuant to Subsection 41-6a-509(8);

453 (B) a court order shortening the driver license suspension for a violation of Section
454 41-6a-517 pursuant to Subsection 41-6a-517[~~(11)~~](12);

455 (C) a court order shortening the driver license suspension for a violation of Section
456 32B-4-409;

457 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section
458 32B-4-409;

459 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section
460 41-6a-517, or Section 32B-4-409;

461 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section
462 32B-4-409; or

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

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

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

469 (9) (a) (i) Following denial or suspension the division shall assess against a person, in
470 addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105,
471 which shall be paid before the person's driving privilege is reinstated, to cover administrative
472 costs.

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

475 (b) A person whose operator license has been denied, suspended, or postponed by the
476 division under this section following an administrative hearing may file a petition within 30
477 days after the suspension for a hearing on the matter which, if held, is governed by Section
478 53-3-224.

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

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

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

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

489 (b) (i) Reinstatement of the person's operator license or the right to obtain an operator

490 license within five years of the effective date of the license sanction under Subsection (7) is
491 contingent upon successful completion of the action recommended by the local substance
492 abuse authority or the substance abuse program.

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

496 (A) a targeted education and prevention program;

497 (B) an early intervention program; or

498 (C) a substance abuse treatment program.

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

501 (c) At the conclusion of the penalty period imposed under Subsection (2), the local
502 substance abuse authority or the substance abuse program shall notify the division of the
503 person's status regarding completion of the recommended action.

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

506 (i) conducting the assessments;

507 (ii) making appropriate recommendations for action; and

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

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

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

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

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

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

520 (B) The costs and fees under Subsection (11)(e)(iii)(A) shall be based on a sliding scale

521 consistent with the local substance abuse authority's policies and practices regarding fees for
522 services or determined by the substance abuse program.

523 Section 4. Section **58-37-8** is amended to read:

524 **58-37-8. Prohibited acts -- Penalties.**

525 (1) Prohibited acts A -- Penalties and reporting:

526 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
527 intentionally:

528 (i) produce, manufacture, or dispense, or to possess with intent to produce,
529 manufacture, or dispense, a controlled or counterfeit substance;

530 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
531 arrange to distribute a controlled or counterfeit substance;

532 (iii) possess a controlled or counterfeit substance with intent to distribute; or

533 (iv) engage in a continuing criminal enterprise where:

534 (A) the person participates, directs, or engages in conduct that results in a violation of
535 Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b,
536 Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d,
537 Clandestine Drug Lab Act, that is a felony; and

538 (B) the violation is a part of a continuing series of two or more violations of Chapters
539 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation
540 Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine
541 Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons
542 with respect to whom the person occupies a position of organizer, supervisor, or any other
543 position of management.

544 (b) A person convicted of violating Subsection (1)(a) with respect to:

545 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
546 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
547 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
548 subsequent conviction is guilty of a first degree felony;

549 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
550 marijuana, or a substance listed in Section **58-37-4.2** is guilty of a third degree felony, and
551 upon a second or subsequent conviction is guilty of a second degree felony; or

552 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
553 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
554 felony.

555 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may
556 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of
557 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
558 person or in the person's immediate possession during the commission or in furtherance of the
559 offense, the court shall additionally sentence the person convicted for a term of one year to run
560 consecutively and not concurrently; and the court may additionally sentence the person
561 convicted for an indeterminate term not to exceed five years to run consecutively and not
562 concurrently.

563 (d) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
564 felony punishable by imprisonment for an indeterminate term of not less than seven years and
565 which may be for life. Imposition or execution of the sentence may not be suspended, and the
566 person is not eligible for probation.

567 (e) The Administrative Office of the Courts shall report to the Division of
568 Occupational and Professional Licensing the name, case number, date of conviction, and if
569 known, the date of birth of each person convicted of violating Subsection (1)(a).

570 (2) Prohibited acts B -- Penalties and reporting:

571 (a) It is unlawful:

572 (i) for a person knowingly and intentionally to possess or use a controlled substance
573 analog or a controlled substance, unless it was obtained under a valid prescription or order,
574 directly from a practitioner while acting in the course of the person's professional practice, or as
575 otherwise authorized by this chapter;

576 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
577 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
578 by persons unlawfully possessing, using, or distributing controlled substances in any of those
579 locations; or

580 (iii) for a person knowingly and intentionally to possess an altered or forged
581 prescription or written order for a controlled substance.

582 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:

583 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;
584 or

585 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
586 of a class A misdemeanor on a first or second conviction, and on a third or subsequent
587 conviction is guilty of a third degree felony.

588 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
589 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
590 penalty than provided in this Subsection (2).

591 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled
592 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
593 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the
594 person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the
595 person is guilty of a third degree felony.

596 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
597 boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a
598 public jail or other place of confinement shall be sentenced to a penalty one degree greater than
599 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as
600 listed in:

601 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
602 indeterminate term as provided by law, and:

603 (A) the court shall additionally sentence the person convicted to a term of one year to
604 run consecutively and not concurrently; and

605 (B) the court may additionally sentence the person convicted for an indeterminate term
606 not to exceed five years to run consecutively and not concurrently; and

607 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
608 indeterminate term as provided by law, and the court shall additionally sentence the person
609 convicted to a term of six months to run consecutively and not concurrently.

610 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

611 (i) on a first conviction, guilty of a class B misdemeanor;

612 (ii) on a second conviction, guilty of a class A misdemeanor; and

613 (iii) on a third or subsequent conviction, guilty of a third degree felony.

614 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
615 amounting to a violation of Section 76-5-207:

616 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
617 body any measurable amount of a controlled substance; and

618 (ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner,
619 causing serious bodily injury as defined in Section 76-1-601 or the death of another.

620 (h) A person who violates Subsection (2)(g) by having in the person's body:

621 (i) a controlled substance classified under Schedule I, ~~[other than those described in~~
622 ~~Subsection (2)(h)(ii);]~~ or a controlled substance classified under Schedule II is guilty of a
623 second degree felony; or

624 ~~[(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection~~
625 ~~58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third~~
626 ~~degree felony; or]~~

627 ~~[(iii)]~~ (ii) a controlled substance classified under Schedules III, IV, or V is guilty of a
628 class A misdemeanor.

629 (i) A person is guilty of a separate offense for each victim suffering serious bodily
630 injury or death as a result of the person's negligent driving in violation of Subsection(2)(g)
631 whether or not the injuries arise from the same episode of driving.

632 (j) The Administrative Office of the Courts shall report to the Division of Occupational
633 and Professional Licensing the name, case number, date of conviction, and if known, the date
634 of birth of each person convicted of violating Subsection (2)(a).

635 (3) Prohibited acts C -- Penalties:

636 (a) It is unlawful for a person knowingly and intentionally:

637 (i) to use in the course of the manufacture or distribution of a controlled substance a
638 license number which is fictitious, revoked, suspended, or issued to another person or, for the
639 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
640 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
641 person;

642 (ii) to acquire or obtain possession of, to procure or attempt to procure the
643 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
644 attempting to acquire or obtain possession of, or to procure the administration of a controlled

645 substance by misrepresentation or failure by the person to disclose receiving a controlled
646 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
647 prescription or written order for a controlled substance, or the use of a false name or address;

648 (iii) to make a false or forged prescription or written order for a controlled substance,
649 or to utter the same, or to alter a prescription or written order issued or written under the terms
650 of this chapter; or

651 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
652 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
653 device of another or any likeness of any of the foregoing upon any drug or container or labeling
654 so as to render a drug a counterfeit controlled substance.

655 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
656 misdemeanor.

657 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
658 degree felony.

659 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

660 (4) Prohibited acts D -- Penalties:

661 (a) Notwithstanding other provisions of this section, a person not authorized under this
662 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
663 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
664 of fact finds the act is committed:

665 (i) in a public or private elementary or secondary school or on the grounds of any of
666 those schools during the hours of 6 a.m. through 10 p.m.;

667 (ii) in a public or private vocational school or postsecondary institution or on the
668 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

669 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
670 facility's hours of operation;

671 (iv) in a public park, amusement park, arcade, or recreation center when the public or
672 amusement park, arcade, or recreation center is open to the public;

673 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

674 (vi) in or on the grounds of a library when the library is open to the public;

675 (vii) within an area that is within 100 feet of any structure, facility, or grounds included

676 in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

677 (viii) in the presence of a person younger than 18 years of age, regardless of where the
678 act occurs; or

679 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
680 distribution of a substance in violation of this section to an inmate or on the grounds of a
681 correctional facility as defined in Section 76-8-311.3.

682 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
683 and shall be imprisoned for a term of not less than five years if the penalty that would
684 otherwise have been established but for this Subsection (4) would have been a first degree
685 felony.

686 (ii) Imposition or execution of the sentence may not be suspended, and the person is
687 not eligible for probation.

688 (c) If the classification that would otherwise have been established would have been
689 less than a first degree felony but for this Subsection (4), a person convicted under this
690 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
691 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

692 (d) (i) If the violation is of Subsection (4)(a)(ix):

693 (A) the person may be sentenced to imprisonment for an indeterminate term as
694 provided by law, and the court shall additionally sentence the person convicted for a term of
695 one year to run consecutively and not concurrently; and

696 (B) the court may additionally sentence the person convicted for an indeterminate term
697 not to exceed five years to run consecutively and not concurrently; and

698 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
699 the mental state required for the commission of an offense, directly or indirectly solicits,
700 requests, commands, coerces, encourages, or intentionally aids another person to commit a
701 violation of Subsection (4)(a)(ix).

702 (e) It is not a defense to a prosecution under this Subsection (4) that:

703 (i) the actor mistakenly believed the individual to be 18 years of age or older at the
704 time of the offense or was unaware of the individual's true age; or

705 (ii) the actor mistakenly believed that the location where the act occurred was not as
706 described in Subsection (4)(a) or was unaware that the location where the act occurred was as

707 described in Subsection (4)(a).

708 (5) A violation of this chapter for which no penalty is specified is a class B
709 misdemeanor.

710 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
711 guilty or no contest to a violation or attempted violation of this section or a plea which is held
712 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
713 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
714 abeyance agreement.

715 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
716 conviction that is:

717 (i) from a separate criminal episode than the current charge; and

718 (ii) from a conviction that is separate from any other conviction used to enhance the
719 current charge.

720 (7) A person may be charged and sentenced for a violation of this section,
721 notwithstanding a charge and sentence for a violation of any other section of this chapter.

722 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
723 of, a civil or administrative penalty or sanction authorized by law.

724 (b) When a violation of this chapter violates a federal law or the law of another state,
725 conviction or acquittal under federal law or the law of another state for the same act is a bar to
726 prosecution in this state.

727 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
728 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
729 substance or substances, is prima facie evidence that the person or persons did so with
730 knowledge of the character of the substance or substances.

731 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
732 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
733 administering controlled substances or from causing the substances to be administered by an
734 assistant or orderly under the veterinarian's direction and supervision.

735 (11) Civil or criminal liability may not be imposed under this section on:

736 (a) a person registered under this chapter who manufactures, distributes, or possesses
737 an imitation controlled substance for use as a placebo or investigational new drug by a

738 registered practitioner in the ordinary course of professional practice or research; or

739 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
740 employment.

741 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
742 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
743 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
744 as defined in Section 58-37-2.

745 (b) In a prosecution alleging violation of this section regarding peyote as defined in
746 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
747 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
748 traditional Indian religion.

749 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
750 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
751 trial.

752 (ii) The notice shall include the specific claims of the affirmative defense.

753 (iii) The court may waive the notice requirement in the interest of justice for good
754 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

755 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
756 a preponderance of the evidence. If the defense is established, it is a complete defense to the
757 charges.

758 (13) (a) It is an affirmative defense that the person produced, possessed, or
759 administered a controlled substance listed in Section 58-37-4.2 if the person was:

760 (i) engaged in medical research; and

761 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

762 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
763 a controlled substance listed in Section 58-37-4.2.

764 (14) It is an affirmative defense that the person possessed, in the person's body, a
765 controlled substance listed in Section 58-37-4.2 if:

766 (a) the person was the subject of medical research conducted by a holder of a valid
767 license to possess controlled substances under Section 58-37-6; and

768 (b) the substance was administered to the person by the medical researcher.

769 (15) The application of any increase in penalty under this section to a violation of
770 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
771 Subsection (15) takes precedence over any conflicting provision of this section.

772 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
773 listed in Subsection (16)(b) that the person:

774 (i) reasonably believes that the person or another person is experiencing an overdose
775 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
776 controlled substance or other substance;

777 (ii) reports in good faith the overdose event to a medical provider, an emergency
778 medical service provider as defined in Section [26-8a-102](#), a law enforcement officer, a 911
779 emergency call system, or an emergency dispatch system, or the person is the subject of a
780 report made under this Subsection (16);

781 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
782 actual location of the overdose event that facilitates responding to the person experiencing the
783 overdose event;

784 (iv) remains at the location of the person experiencing the overdose event until a
785 responding law enforcement officer or emergency medical service provider arrives, or remains
786 at the medical care facility where the person experiencing an overdose event is located until a
787 responding law enforcement officer arrives;

788 (v) cooperates with the responding medical provider, emergency medical service
789 provider, and law enforcement officer, including providing information regarding the person
790 experiencing the overdose event and any substances the person may have injected, inhaled, or
791 otherwise introduced into the person's body; and

792 (vi) is alleged to have committed the offense in the same course of events from which
793 the reported overdose arose.

794 (b) The offenses referred to in Subsection (16)(a) are:

795 (i) the possession or use of less than 16 ounces of marijuana;

796 (ii) the possession or use of a scheduled or listed controlled substance other than
797 marijuana; and

798 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
799 Imitation Controlled Substances Act.

800 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not
801 include seeking medical assistance under this section during the course of a law enforcement
802 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

803 (17) If any provision of this chapter, or the application of any provision to any person
804 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
805 invalid provision or application.

806 (18) A legislative body of a political subdivision may not enact an ordinance that is
807 less restrictive than any provision of this chapter.

808 (19) If a minor who is under 18 years of age is found by a court to have violated this
809 section, the court may order the minor to complete:

810 (a) a screening as defined in Section 41-6a-501;

811 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
812 assessment to be appropriate; and

813 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
814 treatment as indicated by an assessment.

815 **Section 5. Coordinating H.B. 350 with S.B. 121 -- Substantive and technical**
816 **amendments.**

817 If this H.B. 350 and S.B. 121, Medical Cannabis Amendments, both pass and become
818 law, it is the intent of the Legislature that the amendments to Section 58-37-8 in this bill
819 supersede the amendments to Section 58-37-8 in S.B. 121 when the Office of Legislative
820 Research and General Counsel prepares the Utah Code database for publication.