

Ann Millner proposes the following substitute bill:

Fatal Motor Vehicle Accident Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ann Millner

House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill directs law enforcement to seek a warrant to administer a drug and alcohol test to a driver when the driver is involved in a fatal motor vehicle accident.

Highlighted Provisions:

This bill:

- directs a peace officer investigating a fatal motor vehicle accident to pursue a warrant for a drug test for a surviving driver; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-520, as last amended by Laws of Utah 2023, Chapter 415

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

Section 1. Section **41-6a-520** is amended to read:

41-6a-520 . Implied consent to chemical tests for alcohol or drug -- Number of tests -- Refusal -- Warning, report.

(1)(a) ~~[A person]~~ An individual operating a motor vehicle in this state ~~[is considered to have given the person's consent]~~ consents to a chemical test or tests of the ~~[person's]~~ individual's breath, blood, urine, or oral fluids ~~[for the purpose of determining]~~ to determine whether the ~~[person]~~ individual was operating or in actual physical control of a motor vehicle~~[-while]~~:

- (i) having a blood or breath alcohol content statutorily prohibited under Section

- 30 41-6a-502, 41-6a-530, or 53-3-231;
- 31 (ii) under the influence of alcohol, ~~[any]~~ a drug, or combination of alcohol and ~~[any]~~ a
- 32 drug under Section 41-6a-502; or
- 33 (iii) having any measurable controlled substance or metabolite of a controlled
- 34 substance in the ~~[person's-]~~ individual's body in violation of Section 41-6a-517.
- 35 ~~[(b) A test or tests authorized under this Subsection (1) must be administered at the~~
- 36 ~~direction of a peace officer having grounds to believe that person to have been~~
- 37 ~~operating or in actual physical control of a motor vehicle while in violation of any~~
- 38 ~~provision under Subsections (1)(a)(i) through (iii).]~~
- 39 (b) A peace officer having reasonable suspicion to believe that an individual was
- 40 operating or was in actual physical control of a motor vehicle in violation of an
- 41 offense described in Subsections (1)(a)(i) through (iii) shall direct that a test be
- 42 administered as authorized in Subsection (1).
- 43 (c)(i) ~~[The-]~~ A peace officer determines which of the tests are administered and how
- 44 many ~~[of them]~~ tests are administered.
- 45 ~~[(ii) If a peace officer requests more than one test, refusal by a person to take one or~~
- 46 ~~more requested tests, even though the person does submit to any other requested~~
- 47 ~~test or tests, is a refusal under this section.]~~
- 48 (ii) If a peace officer requests more than one test, refusal by an individual to take one
- 49 or more requested tests, even if the individual submits to another requested test or
- 50 tests, is a refusal under this section.
- 51 (d)(i) ~~[A person-]~~ An individual who has been requested under this section to submit
- 52 to a chemical test or tests of the ~~[person's-]~~ individual's breath, blood, or urine, or
- 53 oral fluids may not select the test or tests to be administered.
- 54 (ii) The failure or inability of a peace officer to arrange for ~~[any]~~ a specific chemical
- 55 test is not a defense to taking a test requested by a peace officer, and it is not a
- 56 defense in ~~[any]~~ a criminal, civil, or administrative proceeding resulting from ~~[a~~
- 57 ~~person's-]~~ an individual's refusal to submit to the requested test or tests.
- 58 (2)(a) A peace officer requesting a test or tests shall warn ~~[a person-]~~ an individual that
- 59 refusal to submit to the test or tests may result in criminal prosecution, revocation of
- 60 the ~~[person's-]~~ individual's license to operate a motor vehicle, a ~~[five or 10-year]~~
- 61 five-year or 10-year prohibition of driving with ~~[any]~~ a measurable or detectable
- 62 amount of alcohol in the ~~[person's-]~~ individual's body depending on the ~~[person's prior]~~
- 63 individual's driving history, and a three-year prohibition of driving without an

- 64 ignition interlock device if the ~~[person]~~ individual:
- 65 (i) has been placed under arrest;
- 66 (ii) has then been requested by a peace officer to submit to ~~[any]~~ one or more of the
- 67 chemical tests under Subsection (1); and
- 68 (iii) refuses to submit to ~~[any]~~ a chemical test requested.
- 69 (b)(i) ~~[Following the warning under Subsection (2)(a), if the person does not~~
- 70 ~~immediately request that the chemical test or tests as offered by a peace officer be~~
- 71 ~~administered, a]~~ A peace officer shall, on behalf of the Driver License Division
- 72 and within 24 hours of the arrest, give notice of the Driver License Division's
- 73 intention to revoke the ~~[person's-]~~ individual's privilege or license to operate a
- 74 motor vehicle if, following the warning described in Subsection (2)(a), the
- 75 individual does not immediately request that a chemical test or tests be
- 76 administered as offered by a peace officer.
- 77 (ii) When a peace officer gives the notice on behalf of the Driver License Division,
- 78 the peace officer shall supply to the operator, in a manner specified by the Driver
- 79 License Division, basic information regarding how to obtain a hearing before the
- 80 Driver License Division.
- 81 (c) ~~[As a matter of procedure, the-]~~ A peace officer shall submit a signed report, within
- 82 10 calendar days after the day on which notice is provided under Subsection (2)(b),
- 83 that:
- 84 (i) the peace officer had grounds to believe the arrested ~~[person-]~~ individual was in
- 85 violation of ~~[any]~~ a provision under Subsections (1)(a)(i) through (iii); and
- 86 (ii) the ~~[person-]~~ individual had refused to submit to a chemical test or tests under
- 87 Subsection (1).
- 88 (3) ~~[Upon the request of the person-]~~ If an individual who was tested requests so, the results
- 89 of the test or tests shall be made available to the ~~[person]~~ individual.
- 90 (4)(a) The ~~[person]~~ individual to be tested may, at the ~~[person's-]~~ individual's own
- 91 expense, have a physician or a physician assistant of the ~~[person's-]~~ individual's own
- 92 choice administer a chemical test in addition to the test or tests administered at the
- 93 direction of a peace officer.
- 94 (b) The failure or inability to obtain the additional test does not affect admissibility of
- 95 the results of the test or tests taken at the direction of a peace officer, or preclude or
- 96 delay the test or tests to be taken at the direction of a peace officer.
- 97 (c) The additional test shall be subsequent to the test or tests administered at the

- 98 direction of a peace officer.
- 99 (5) ~~[For the purpose of determining whether to submit to a chemical test or tests, the person~~
100 ~~to be tested]~~ An individual being asked to submit to a chemical test or tests does not have
101 the right to consult an attorney or have an attorney, physician, or other ~~[person]~~
102 individual present [as a condition for the taking of any test] for the purpose of
103 determining whether to submit to a chemical test or tests.
- 104 (6) Notwithstanding the provisions in this section, a blood test taken under this section is
105 subject to Section 77-23-213.
- 106 (7) If a peace officer investigating a motor vehicle accident resulting in the death of an
107 individual believes there is insufficient probable cause to justify a search warrant
108 authorizing a chemical test described in Subsection (1)(a), the peace officer shall consult
109 with a senior officer regarding the lack of probable cause before declining to seek a
110 search warrant authorizing a chemical test.

111 Section 2. **Effective Date.**

112 This bill takes effect on May 6, 2026.