

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

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**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. This bill addresses requirements for a chemical test of an individual involved in a 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

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*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]~~:

- 29 (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~~ ~~]~~ ~~←~~ ~~§~~ ~~§~~ ~~→~~ a ~~←~~ ~~§~~ peace officer shall  
 81a 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.