

**DRIVING UNDER THE INFLUENCE AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott K. Jenkins**

House Sponsor: James A. Dunnigan

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**LONG TITLE**

**General Description:**

This bill modifies the Traffic Code by amending provisions relating to driving under the influence.

**Highlighted Provisions:**

This bill:

- ▶ establishes minimum hours that a court shall require a person to participate in home confinement, if the court orders home confinement through the use of electronic monitoring for a first, second, or felony driving under the influence offense; and
- ▶ makes technical corrections.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**41-6a-505**, as enacted by Laws of Utah 2005, Chapter 2

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

Section 1. Section **41-6a-505** is amended to read:

**41-6a-505. Sentencing requirements for driving under the influence of alcohol,**



28 **drugs, or a combination of both violations.**

29 (1) As part of any sentence for a first conviction of Section 41-6a-502:

30 (a) the court shall:

31 (i) (A) impose a jail sentence of not less than 48 consecutive hours;

32 (B) require the person to work in a compensatory-service work program for not less  
33 than 48 hours; or

34 (C) require the person to participate in home confinement of not fewer than 48  
35 consecutive hours through the use of electronic monitoring in accordance with Section  
36 41-6a-506;

37 (ii) order the person to participate in a screening;

38 (iii) order the person to participate in an assessment, if it is found appropriate by a  
39 screening under Subsection (1)(a)(ii);

40 (iv) order the person to participate in an educational series if the court does not order  
41 substance abuse treatment as described under Subsection (1)(b);

42 (v) impose a fine of not less than \$700; and

43 (vi) order probation for the person in accordance with Section 41-6a-507, if there is  
44 admissible evidence that the person had a blood alcohol level of .16 or higher; and

45 (b) the court may:

46 (i) order the person to obtain substance abuse treatment if the substance abuse  
47 treatment program determines that substance abuse treatment is appropriate; or

48 (ii) order probation for the person in accordance with Section 41-6a-507.

49 (2) If a person is convicted under Section 41-6a-502 within 10 years of a prior  
50 conviction as defined in Subsection 41-6a-501(2):

51 (a) the court shall:

52 (i) (A) impose a jail sentence of not less than 240 consecutive hours;

53 (B) require the person to work in a compensatory-service work program for not less  
54 than 240 hours; or

55 (C) require the person to participate in home confinement of not fewer than 240  
56 consecutive hours through the use of electronic monitoring in accordance with Section  
57 41-6a-506;

58 (ii) order the person to participate in a screening;

59 (iii) order the person to participate in an assessment, if it is found appropriate by a  
60 screening under Subsection (2)(a)(ii);

61 (iv) order the person to participate in an educational series if the court does not order  
62 substance abuse treatment as described under Subsection (2)(b);

63 (v) impose a fine of not less than \$800; and

64 (vi) order probation for the person in accordance with Section 41-6a-507; and

65 (b) the court may order the person to obtain substance abuse treatment if the substance  
66 abuse treatment program determines that substance abuse treatment is appropriate.

67 (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison  
68 sentence and places the defendant on probation:

69 (a) the court shall impose:

70 (i) a fine of not less than \$1,500;

71 (ii) a jail sentence of not less than 1,500 hours;

72 (iii) supervised probation; and

73 (iv) an order requiring the person to obtain a screening and assessment and substance  
74 abuse treatment at a substance abuse treatment program providing intensive care or inpatient  
75 treatment and long-term closely supervised follow-through after treatment for not less than 240  
76 hours; and

77 (b) the court may require the person to participate in home confinement of not fewer  
78 than 1,500 hours through the use of electronic monitoring in accordance with Section  
79 41-6a-506.

80 (4) (a) The requirements of Subsections (1)(a), (2)(a), and (3)(a) may not be suspended.

81 (b) Probation or parole resulting from a conviction for a violation under this section  
82 may not be terminated.

83 (5) If a person is convicted of a violation of Section 41-6a-502 and there is admissible  
84 evidence that the person had a blood alcohol level of .16 or higher, the court shall order the  
85 following, or describe on record why the order or orders are not appropriate:

86 (a) treatment as described under Subsection (1)(b), (2)(b), or (3)(a)(iv); and

87 (b) one or both of the following:

88 (i) the installation of an ignition interlock system as a condition of probation for the  
89 person in accordance with Section 41-6a-518; or

90           (ii) the imposition of home confinement through the use of electronic monitoring in  
91 accordance with Section 41-6a-506.

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**Legislative Review Note**  
**as of 1-18-13 4:06 PM**

**Office of Legislative Research and General Counsel**