

Effective 7/1/2024

41-6a-502 Driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration -- Penalties -- Reporting of convictions.

(1) An actor commits driving under the influence if the actor operates or is in actual physical control of a vehicle within this state if the actor:

- (a) has sufficient alcohol in the actor's body that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;
- (b) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the actor incapable of safely operating a vehicle; or
- (c) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation or actual physical control.

(2)

- (a) A violation of Subsection (1) is a class B misdemeanor.
- (b) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a class A misdemeanor if the actor:
 - (i) has a passenger younger than 16 years old in the vehicle at the time of the offense;
 - (ii) is 21 years old or older and has a passenger younger than 18 years old in the vehicle at the time of the offense;
 - (iii) at the time of the offense, also violated:
 - (A) Section 41-6a-712 or 41-6a-714; or
 - (B) Section 41-6a-709, if the violation occurs on a one-way highway, other than a roundabout, that has more than one lane of traffic; or
 - (iv) has one prior conviction within 10 years of:
 - (A) the current conviction under Subsection (1); or
 - (B) the commission of the offense upon which the current conviction is based.
- (c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree felony if:
 - (i) the actor has two or more prior convictions each of which is within 10 years of:
 - (A) the current conviction; or
 - (B) the commission of the offense upon which the current conviction is based; or
 - (ii) the current conviction is at any time after:
 - (A) a felony conviction; or
 - (B) any conviction described in Subsection (2)(c)(ii)(A) for which judgment of conviction is reduced under Section 76-3-402.

(3) Alcohol concentration in the blood shall be based upon grams of alcohol per 100 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of alcohol per 210 liters of breath.

(4) A violation of this section includes a violation under a local ordinance similar to this section adopted in compliance with Section 41-6a-510.

(5) A court shall, monthly, send to the Division of Professional Licensing, created in Section 58-1-103, a report containing the name, case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving under the influence, in whole or in part, of a prescribed controlled substance.

(6) An offense described in this section is a strict liability offense.

(7) A guilty or no contest plea to an offense described in this section may not be held in abeyance.

(8) An actor is guilty of a separate offense under Subsection (1) for each passenger in the vehicle that is younger than 16 years old at the time of the offense.

Amended by Chapter 197, 2024 General Session