

**DUI PLEA RESTRICTIONS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: D. Chris Buttars**

**This act modifies the Motor Vehicles Code by providing restrictions on when a court can accept a plea of guilty or no contest in a driving under the influence of alcohol or drugs case. This act requires that a court receive verification that the prosecutor agrees to the plea, the prosecutor files a criminal information, or the court receives verification of no prior offenses from a law enforcement agency.**

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

**41-6-43.8**, Utah Code Annotated 1953

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

Section 1. Section **41-6-43.8** is enacted to read:

**41-6-43.8. Acceptance of plea of guilty to DUI – Restrictions -- Verification of prior violations -- Prosecutor to examine defendant's record.**

(1) A court may not accept a plea of guilty or no contest to a charge under Section 41-6-44 unless:

(a) the prosecutor agrees to the plea:

(i) in open court;

(ii) in writing; or

(iii) by another means of communication which the court finds adequate to record the prosecutor's agreement;

(b) the charge is filed by information as defined under Section 77-1-3; or

(c) the court receives verification from a law enforcement agency that the defendant's driver license record contains no record of a conviction, arrest, or charge for:

(i) more than one prior violation within the previous ten years of any offense which, if the defendant were convicted, would qualify as a "conviction" as defined under Subsection 41-6-44(1);

(ii) a felony violation of Section 41-6-44; or

(iii) automobile homicide under Section 76-5-207.

(2) A verification under Subsection (1)(c) may be made by:

(a) a written indication on the citation;

(b) a separate written document; or

(c) any other means which the court finds adequate to record the law enforcement agency's verification.

(3) Prior to agreeing to a plea of guilty or no contest or to filing an information under Subsection (1), the prosecutor shall examine the criminal history or driver license record of the defendant.

(4) A plea of guilty or no contest is not made invalid by the failure of the court, prosecutor, or law enforcement agency to comply with this section.