

1 **DUI PLEA RESTRICTIONS**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: D. Chris Buttars**

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

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

11 ENACTS:

12 **41-6-43.8**, Utah Code Annotated 1953

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

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

15 **41-6-43.8. Acceptance of plea of guilty to DUI -- Restrictions -- Verification of**  
16 **prior violations -- Prosecutor to examine defendant's record.**

17 (1) A court may not accept a plea of guilty or no contest to a charge under Section  
18 41-6-44 unless:

19 (a) the prosecutor agrees to the plea:

20 (i) in open court;

21 (ii) in writing; or

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

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

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

27 (i) more than one prior violation within the previous ten years of any offense which, if



28 the defendant were convicted, would qualify as a "conviction" as defined under Subsection  
29 41-6-44(1);

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

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

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

33 (a) a written indication on the citation;

34 (b) a separate written document; or

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

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

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

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**Legislative Review Note**

**as of 11-20-02 4:54 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**Interim Committee Note**

**as of 12-12-02 1:42 PM**

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

**State Impact**

It is estimated that provisions of this bill can be implemented within existing resources. It is estimated that five additional DUI convictions annually will result. There may be a very small increase in revenues to the State from fines generated from the additional DUI convictions.

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**Individual and Business Impact**

Persons with a prior history of offenses in the time frame identified in the bill will likely face more stringent penalties upon conviction.

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**Office of the Legislative Fiscal Analyst**