

**AMENDMENTS TO DRIVING UNDER THE
INFLUENCE PROVISIONS**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig A. Frank

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to driving under the influence violations.

Highlighted Provisions:

This bill:

- changes the repeal date on restrictions on pleas to driving under the influence violations from July 1, 2008 to July 1, 2007; and
- provides that beginning on July 1, 2007, a plea may not be held in abeyance in any case involving a driving under the influence violation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63-55b-177, as last amended by Chapter 341, Laws of Utah 2006

77-2a-3, as last amended by Chapter 341, Laws of Utah 2006

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

Section 1. Section **63-55b-177** is amended to read:



63-55b-177. Repeal dates, Title 77.

Section 77-2a-3.1 is repealed June 30, [~~2008~~] 2007.

Section 2. Section **77-2a-3** is amended to read:

77-2a-3. Manner of entry of plea -- Powers of court.

(1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be done in full compliance with the provisions of Rule 11, Utah Rules of Criminal Procedure.

(b) In cases charging offenses for which bail may be forfeited, a plea in abeyance agreement may be entered into without a personal appearance before a magistrate.

(2) A plea in abeyance agreement may provide that the court may, upon finding that the defendant has successfully completed the terms of the agreement:

(a) reduce the degree of the offense and enter judgment of conviction and impose sentence for a lower degree of offense; or

(b) allow withdrawal of defendant's plea and order the dismissal of the case.

(3) Upon finding that a defendant has successfully completed the terms of a plea in abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as provided in the plea in abeyance agreement or as agreed to by all parties. Upon sentencing a defendant for any lesser offense pursuant to a plea in abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of the offense.

(4) The court may require the Department of Corrections to assist in the administration of the plea in abeyance agreement as if the defendant were on probation to the court under Section 77-18-1.

(5) The terms of a plea in abeyance agreement may include:

(a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in the same manner as if paid as a fine for a criminal conviction under Section 78-3-14.5 and a surcharge under Title 63, Chapter 63a, Crime Victim Reparation Trust, Public Safety Support Funds, Substance Abuse Prevention Account, and Services for Victims of Domestic Violence Account, and which may not exceed in amount the maximum fine and surcharge which could have been imposed upon conviction and sentencing for the same offense;

(b) an order that the defendant pay restitution to the victims of his actions as provided in Title 77, Chapter 38a, Crime Victims Restitution Act;

59 (c) an order that the defendant pay the costs of any remedial or rehabilitative program
60 required by the terms of the agreement; and

61 (d) an order that the defendant comply with any other conditions which could have
62 been imposed as conditions of probation upon conviction and sentencing for the same offense.

63 (6) A court may not hold a plea in abeyance without the consent of both the
64 prosecuting attorney and the defendant. A decision by a prosecuting attorney not to agree to a
65 plea in abeyance is final.

66 (7) No plea may be held in abeyance in any case involving a sexual offense against a
67 victim who is under the age of 14.

68 (8) Beginning on July 1, [~~2008~~] 2007, no plea may be held in abeyance in any case
69 involving a driving under the influence violation under Section 41-6a-502.

Legislative Review Note
as of 2-7-07 1:28 PM

Office of Legislative Research and General Counsel

H.B. 453 - Amendments to Driving Under the Influence Provisions

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
