

DRIVING UNDER THE INFLUENCE AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: James A. Dunnigan

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~~ [and]

- ▶ provides that a court may order the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation if a person is convicted of a driving under the influence violation and there is admissible evidence that the person had a blood alcohol level of .16 or higher; and ~~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

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) ~~It~~ **in lieu of Subsection (3)(a)(ii),** ~~the court~~ the court may require the person to participate
77a 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 ~~It~~ **[both] more** ~~of~~ 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; ~~It~~ **[or]**

89a **(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring**
89b **device as a condition of probation for the person; or** ~~It~~

90 ~~Ĥ~~→ [(~~ii~~)] (iii) ←~~Ĥ~~ the imposition of home confinement through the use of electronic
90a monitoring in
91 accordance with Section 41-6a-506.

Legislative Review Note
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Office of Legislative Research and General Counsel