

DRIVING UNDER THE INFLUENCE REVISIONS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the Traffic Code by amending provisions relating to driving under the influence.

Highlighted Provisions:

This bill:

► provides that for driving under the influence sentencing purposes a prior conviction shall be within 10 years of:

- the current conviction; or
- the commission of the offense upon which the current conviction is based; and

► makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-505, as last amended by Laws of Utah 2013, Chapter 71

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

Section 1. Section **41-6a-505** is amended to read:



28 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
29 **drugs, or a combination of both violations.**

30 (1) As part of any sentence for a first conviction of Section 41-6a-502:

31 (a) the court shall:

32 (i) (A) impose a jail sentence of not less than 48 consecutive hours;

33 (B) require the person to work in a compensatory-service work program for not less
34 than 48 hours; or

35 (C) require the person to participate in home confinement of not fewer than 48
36 consecutive hours through the use of electronic monitoring in accordance with Section
37 41-6a-506;

38 (ii) order the person to participate in a screening;

39 (iii) order the person to participate in an assessment, if it is found appropriate by a
40 screening under Subsection (1)(a)(ii);

41 (iv) order the person to participate in an educational series if the court does not order
42 substance abuse treatment as described under Subsection (1)(b);

43 (v) impose a fine of not less than \$700; and

44 (vi) order probation for the person in accordance with Section 41-6a-507, if there is
45 admissible evidence that the person had a blood alcohol level of .16 or higher; and

46 (b) the court may:

47 (i) order the person to obtain substance abuse treatment if the substance abuse
48 treatment program determines that substance abuse treatment is appropriate; or

49 (ii) order probation for the person in accordance with Section 41-6a-507.

50 (2) If a person [~~is convicted under Section 41-6a-502 within 10 years of a prior~~
51 ~~conviction as defined in Subsection 41-6a-501(2)] has a prior conviction as defined in
52 Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section
53 41-6a-502 or the commission of the offense upon which the current conviction is based:~~

54 (a) the court shall:

55 (i) (A) impose a jail sentence of not less than 240 consecutive hours;

56 (B) require the person to work in a compensatory-service work program for not less
57 than 240 hours; or

58 (C) require the person to participate in home confinement of not fewer than 240

- 59 consecutive hours through the use of electronic monitoring in accordance with Section
60 41-6a-506;
- 61 (ii) order the person to participate in a screening;
- 62 (iii) order the person to participate in an assessment, if it is found appropriate by a
63 screening under Subsection (2)(a)(ii);
- 64 (iv) order the person to participate in an educational series if the court does not order
65 substance abuse treatment as described under Subsection (2)(b);
- 66 (v) impose a fine of not less than \$800; and
- 67 (vi) order probation for the person in accordance with Section 41-6a-507; and
- 68 (b) the court may order the person to obtain substance abuse treatment if the substance
69 abuse treatment program determines that substance abuse treatment is appropriate.
- 70 (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison
71 sentence and places the defendant on probation:
- 72 (a) the court shall impose:
- 73 (i) a fine of not less than \$1,500;
- 74 (ii) a jail sentence of not less than 1,500 hours;
- 75 (iii) supervised probation; and
- 76 (iv) an order requiring the person to obtain a screening and assessment and substance
77 abuse treatment at a substance abuse treatment program providing intensive care or inpatient
78 treatment and long-term closely supervised follow-through after treatment for not less than 240
79 hours; and
- 80 (b) in lieu of Subsection (3)(a)(ii), the court may require the person to participate in
81 home confinement of not fewer than 1,500 hours through the use of electronic monitoring in
82 accordance with Section 41-6a-506.
- 83 (4) (a) The requirements of Subsections (1)(a), (2)(a), and (3)(a) may not be suspended.
- 84 (b) Probation or parole resulting from a conviction for a violation under this section
85 may not be terminated.
- 86 (5) If a person is convicted of a violation of Section 41-6a-502 and there is admissible
87 evidence that the person had a blood alcohol level of .16 or higher, the court shall order the
88 following, or describe on record why the order or orders are not appropriate:
- 89 (a) treatment as described under Subsection (1)(b), (2)(b), or (3)(a)(iv); and

- 90 (b) one or more of the following:
- 91 (i) the installation of an ignition interlock system as a condition of probation for the
- 92 person in accordance with Section [41-6a-518](#);
- 93 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
- 94 device as a condition of probation for the person; or
- 95 (iii) the imposition of home confinement through the use of electronic monitoring in
- 96 accordance with Section [41-6a-506](#).

Legislative Review Note
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Office of Legislative Research and General Counsel