

1                   **DRIVING UNDER THE INFLUENCE AND PUBLIC SAFETY**

2                                   **REVISIONS**

3   2017 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Norman K Thurston**

6                                   Senate Sponsor: \_\_\_\_\_

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7  
8                   **LONG TITLE**

9                   **General Description:**

10                   This bill amends provisions related to driving under the influence.

11                   **Highlighted Provisions:**

12                   This bill:

- 13                   ▶ reduces the blood alcohol content limit for driving under the influence;
- 14                   ▶ reduces the blood alcohol content limit in relation to certain criminal offenses;
- 15                   ▶ defines "novice learner driver";
- 16                   ▶ defines "novice licensed driver";
- 17                   ▶ modifies the definition of "alcohol restricted driver" to include a novice learner

18 driver and a novice licensed driver; and

- 19                   ▶ makes technical changes.

20                   **Money Appropriated in this Bill:**

21                   None

22                   **Other Special Clauses:**

23                   None

24                   **Utah Code Sections Affected:**

25                   AMENDS:

26                   **34A-3-112**, as renumbered and amended by Laws of Utah 1997, Chapter 375

27                   **41-6a-501**, as last amended by Laws of Utah 2010, Chapter 283



28            **41-6a-502**, as last amended by Laws of Utah 2010, Chapter 109  
 29            **41-6a-529**, as last amended by Laws of Utah 2008, Chapter 226  
 30            **76-5-207**, as last amended by Laws of Utah 2009, Chapter 214



31  
32 *Be it enacted by the Legislature of the state of Utah:*

33            Section 1. Section **34A-3-112** is amended to read:

34            **34A-3-112. Employee's willful misconduct.**

35            (1) Notwithstanding anything contained in this chapter, an employee or dependent of  
36 any employee is not entitled to receive compensation for disability or death from an  
37 occupational disease when the disability or death, wholly or in part, was caused by the  
38 purposeful self-exposure of the employee.

39            (2) Except in cases resulting in death:

40            (a) Compensation provided for in this chapter shall be reduced 15% when the  
41 occupational disease is caused by the willful failure of the employee:

42            (i) to use safety devices when provided by the employer; or

43            (ii) to obey any order or reasonable rule adopted by the employer for the safety of the  
44 employee.

45            (b) Except when the employer permitted, encouraged, or had actual knowledge of the  
46 conduct described in Subsections (2)(b)(i) through (iii), disability compensation may not be  
47 awarded under this chapter to an employee when the major contributing cause of the  
48 employee's disease is the employee's:

49            (i) use of illegal substances;

50            (ii) intentional abuse of drugs in excess of prescribed therapeutic amounts; or

51            (iii) intoxication from alcohol with a blood or breath alcohol concentration of [~~08~~] .05  
52 grams or greater as shown by a chemical test.

53            Section 2. Section **41-6a-501** is amended to read:

54            **41-6a-501. Definitions.**

55            (1) As used in this part:

56            (a) "Assessment" means an in-depth clinical interview with a licensed mental health  
57 therapist:

58            (i) used to determine if a person is in need of:

- 59 (A) substance abuse treatment that is obtained at a substance abuse program;
- 60 (B) an educational series; or
- 61 (C) a combination of Subsections (1)(a)(i)(A) and (B); and
- 62 (ii) that is approved by the Division of Substance Abuse and Mental Health in
- 63 accordance with Section [62A-15-105](#).
- 64 (b) "Driving under the influence court" means a court that is approved as a driving
- 65 under the influence court by the Utah Judicial Council according to standards established by
- 66 the Judicial Council.
- 67 (c) "Drug" or "drugs" means:
- 68 (i) a controlled substance as defined in Section [58-37-2](#);
- 69 (ii) a drug as defined in Section [58-17b-102](#); or
- 70 (iii) any substance that, when knowingly, intentionally, or recklessly taken into the
- 71 human body, can impair the ability of a person to safely operate a motor vehicle.
- 72 (d) "Educational series" means an educational series obtained at a substance abuse
- 73 program that is approved by the Division of Substance Abuse and Mental Health in accordance
- 74 with Section [62A-15-105](#).
- 75 (e) "Negligence" means simple negligence, the failure to exercise that degree of care
- 76 that an ordinarily reasonable and prudent person exercises under like or similar circumstances.
- 77 (f) "Novice learner driver" means an individual who:
- 78 (i) has applied for a Utah driver license;
- 79 (ii) has not previously held a driver license in this state or another state; and
- 80 (iii) has not completed the requirements for issuance of a Utah driver license.
- 81 (g) "Novice licensed driver" means an individual who:
- 82 (i) has completed the requirements for issuance of a Utah driver license;
- 83 (ii) was issued a Utah driver license within the last two years; and
- 84 (iii) has not previously held a driver license in this state or another state.
- 85 ~~(f)~~ (h) "Screening" means a preliminary appraisal of a person:
- 86 (i) used to determine if the person is in need of:
- 87 (A) an assessment; or
- 88 (B) an educational series; and
- 89 (ii) that is approved by the Division of Substance Abuse and Mental Health in

90 accordance with Section 62A-15-105.

91 ~~[(g)]~~ (i) "Serious bodily injury" means bodily injury that creates or causes:

92 (i) serious permanent disfigurement;

93 (ii) protracted loss or impairment of the function of any bodily member or organ; or

94 (iii) a substantial risk of death.

95 ~~[(h)]~~ (j) "Substance abuse treatment" means treatment obtained at a substance abuse

96 program that is approved by the Division of Substance Abuse and Mental Health in accordance

97 with Section 62A-15-105.

98 ~~[(i)]~~ (k) "Substance abuse treatment program" means a state licensed substance abuse

99 program.

100 ~~[(j)]~~ (l) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in

101 Section 41-6a-102; and

102 (ii) "Vehicle" or "motor vehicle" includes:

103 (A) an off-highway vehicle as defined under Section 41-22-2; and

104 (B) a motorboat as defined in Section 73-18-2.

105 (2) As used in Section 41-6a-503:

106 (a) "Conviction" means any conviction arising from a separate episode of driving for a

107 violation of:

108 (i) driving under the influence under Section 41-6a-502;

109 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a

110 combination of both-related reckless driving under:

111 (I) Section 41-6a-512; and

112 (II) Section 41-6a-528; or

113 (B) for an offense committed on or after July 1, 2008, impaired driving under Section

114 41-6a-502.5;

115 (iii) driving with any measurable controlled substance that is taken illegally in the body

116 under Section 41-6a-517;

117 (iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination

118 of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in

119 compliance with Section 41-6a-510;

120 (v) automobile homicide under Section 76-5-207;

121 (vi) Subsection 58-37-8(2)(g);

122 (vii) a violation described in Subsections (2)(a)(i) through (vi), which judgment of  
123 conviction is reduced under Section 76-3-402; or

124 (viii) statutes or ordinances previously in effect in this state or in effect in any other  
125 state, the United States, or any district, possession, or territory of the United States which  
126 would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of  
127 both-related reckless driving if committed in this state, including punishments administered  
128 under 10 U.S.C. Sec. 815.

129 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i)  
130 through (viii) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,  
131 prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently  
132 reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:

133 (i) enhancement of penalties under:

134 (A) this Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

135 (B) automobile homicide under Section 76-5-207; and

136 (ii) expungement under Title 77, Chapter 40, Utah Expungement Act.

137 Section 3. Section 41-6a-502 is amended to read:

138 **41-6a-502. Driving under the influence of alcohol, drugs, or a combination of**  
139 **both or with specified or unsafe blood alcohol concentration -- Reporting of convictions.**

140 (1) A person may not operate or be in actual physical control of a vehicle within this  
141 state if the person:

142 (a) has sufficient alcohol in the person's body that a subsequent chemical test shows  
143 that the person has a blood or breath alcohol concentration of [~~.08~~] .05 grams or greater at the  
144 time of the test;

145 (b) is under the influence of alcohol, any drug, or the combined influence of alcohol  
146 and any drug to a degree that renders the person incapable of safely operating a vehicle; or

147 (c) has a blood or breath alcohol concentration of [~~.08~~] .05 grams or greater at the time  
148 of operation or actual physical control.

149 (2) Alcohol concentration in the blood shall be based upon grams of alcohol per 100  
150 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of  
151 alcohol per 210 liters of breath.

152 (3) A violation of this section includes a violation under a local ordinance similar to  
153 this section adopted in compliance with Section 41-6a-510.

154 (4) Beginning on July 1, 2012, a court shall, monthly, send to the Division of  
155 Occupational and Professional Licensing, created in Section 58-1-103, a report containing the  
156 name, case number, and, if known, the date of birth of each person convicted during the  
157 preceding month of a violation of this section for whom there is evidence that the person was  
158 driving under the influence, in whole or in part, of a prescribed controlled substance.

159 Section 4. Section 41-6a-529 is amended to read:

160 **41-6a-529. Definitions -- Alcohol restricted drivers.**

161 (1) As used in this section and Section 41-6a-530, "alcohol restricted driver" means a  
162 person who:

163 (a) within the last two years:

164 (i) has been convicted of:

165 (A) a misdemeanor violation of Section 41-6a-502;

166 (B) alcohol, any drug, or a combination of both-related reckless driving under Section  
167 41-6a-512;

168 (C) impaired driving under Section 41-6a-502.5;

169 (D) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination  
170 of both-related reckless driving, or impaired driving adopted in compliance with Section  
171 41-6a-510;

172 (E) a violation described in Subsections (1)(a)(i)(A) through (D), which judgment of  
173 conviction is reduced under Section 76-3-402; or

174 (F) statutes or ordinances previously in effect in this state or in effect in any other state,  
175 the United States, or any district, possession, or territory of the United States which would  
176 constitute a violation of Section 41-6a-502, alcohol, any drug, or a combination of both-related  
177 reckless driving, or impaired driving if committed in this state, including punishments  
178 administered under 10 U.S.C. Sec. 815; or

179 (ii) has had the person's driving privilege suspended under Section 53-3-223 for an  
180 alcohol-related offense based on an arrest which occurred on or after July 1, 2005;

181 (b) within the last three years has been convicted of a violation of this section or  
182 Section 41-6a-518.2;

- 183 (c) within the last five years:
- 184 (i) has had the person's driving privilege revoked for refusal to submit to a chemical  
185 test under Section 41-6a-520, which refusal occurred on or after July 1, 2005; or
- 186 (ii) has been convicted of a class A misdemeanor violation of Section 41-6a-502  
187 committed on or after July 1, 2008;
- 188 (d) within the last 10 years:
- 189 (i) has been convicted of an offense described in Subsection (1)(a)(i) which offense  
190 was committed within 10 years of the commission of a prior offense described in Subsection  
191 (1)(a)(i) for which the person was convicted; or
- 192 (ii) has had the person's driving privilege revoked for refusal to submit to a chemical  
193 test and the refusal is within 10 years after:
- 194 (A) a prior refusal to submit to a chemical test under Section 41-6a-520; or
- 195 (B) a prior conviction for an offense described in Subsection (1)(a)(i) which is not  
196 based on the same arrest as the refusal;
- 197 (e) at any time has been convicted of:
- 198 (i) automobile homicide under Section 76-5-207 for an offense that occurred on or  
199 after July 1, 2005; or
- 200 (ii) a felony violation of Section 41-6a-502 for an offense that occurred on or after July  
201 1, 2005; [or]
- 202 (f) at the time of operation of a vehicle is under 21 years of age[:]; or
- 203 (g) is a novice learner driver or a novice licensed driver.
- 204 (2) For purposes of this section and Section 41-6a-530, a plea of guilty or no contest to  
205 a violation described in Subsection (1)(a)(i) which plea was held in abeyance under Title 77,  
206 Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if  
207 the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance  
208 agreement.
- 209 Section 5. Section 76-5-207 is amended to read:
- 210 **76-5-207. Automobile homicide.**
- 211 (1) As used in this section:
- 212 (a) "Drug" or "drugs" means:
- 213 (i) a controlled substance as defined in Section 58-37-2;

214 (ii) a drug as defined in Section 58-17b-102; or  
215 (iii) any substance that, when knowingly, intentionally, or recklessly taken into the  
216 human body, can impair the ability of a person to safely operate a motor vehicle.

217 (b) "Motor vehicle" means any self-propelled vehicle and includes any automobile,  
218 truck, van, motorcycle, train, engine, watercraft, or aircraft.

219 (2) (a) Criminal homicide is automobile homicide, a third degree felony, if the person  
220 operates a motor vehicle in a negligent manner causing the death of another and:

221 (i) has sufficient alcohol in his body that a subsequent chemical test shows that the  
222 person has a blood or breath alcohol concentration of ~~[-08]~~ .05 grams or greater at the time of  
223 the test;

224 (ii) is under the influence of alcohol, any drug, or the combined influence of alcohol  
225 and any drug to a degree that renders the person incapable of safely operating a vehicle; or

226 (iii) has a blood or breath alcohol concentration of ~~[-08]~~ .05 grams or greater at the  
227 time of operation.

228 (b) A conviction for a violation of this Subsection (2) is a second degree felony if it is  
229 subsequent to a conviction as defined in Subsection 41-6a-501(2).

230 (c) As used in this Subsection (2), "negligent" means simple negligence, the failure to  
231 exercise that degree of care that reasonable and prudent persons exercise under like or similar  
232 circumstances.

233 (3) (a) Criminal homicide is automobile homicide, a second degree felony, if the  
234 person operates a motor vehicle in a criminally negligent manner causing the death of another  
235 and:

236 (i) has sufficient alcohol in his body that a subsequent chemical test shows that the  
237 person has a blood or breath alcohol concentration of ~~[-08]~~ .05 grams or greater at the time of  
238 the test;

239 (ii) is under the influence of alcohol, any drug, or the combined influence of alcohol  
240 and any drug to a degree that renders the person incapable of safely operating a vehicle; or

241 (iii) has a blood or breath alcohol concentration of ~~[-08]~~ .05 grams or greater at the  
242 time of operation.

243 (b) As used in this Subsection (3), "criminally negligent" means criminal negligence as  
244 defined by Subsection 76-2-103(4).



245 (4) The standards for chemical breath analysis as provided by Section 41-6a-515 and  
246 the provisions for the admissibility of chemical test results as provided by Section 41-6a-516  
247 apply to determination and proof of blood alcohol content under this section.

248 (5) Calculations of blood or breath alcohol concentration under this section shall be  
249 made in accordance with Subsection 41-6a-502(1).

250 (6) The fact that a person charged with violating this section is or has been legally  
251 entitled to use alcohol or a drug is not a defense.

252 (7) Evidence of a defendant's blood or breath alcohol content or drug content is  
253 admissible except when prohibited by Rules of Evidence or the constitution.

254 (8) A person is guilty of a separate offense for each victim suffering bodily injury or  
255 serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a  
256 result of the person's violation of this section whether or not the injuries arise from the same  
257 episode of driving.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**