

**DRIVING UNDER THE INFLUENCE CLASSIFICATION  
AND SENTENCING REVISIONS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Eliason**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to classification of crimes and sentencing of individuals convicted of driving under the influence.

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions making it a felony for an individual convicted of driving under the influence while also driving the wrong way on a roadway or controlled-access highway;
- ▶ modifies sentencing requirements for an individual convicted of driving under the influence; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**41-6a-503**, as last amended by Laws of Utah 2009, Chapter 214

**41-6a-505**, as last amended by Laws of Utah 2016, Chapter 148



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

Section 1. Section **41-6a-503** is amended to read:

**41-6a-503. Penalties for driving under the influence violations.**

(1) A person who violates for the first or second time Section **41-6a-502** is guilty of a:

(a) class B misdemeanor; or

(b) class A misdemeanor if the person:

(i) has also inflicted bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(ii) had a passenger under 16 years of age in the vehicle at the time of the offense; or

(iii) was 21 years of age or older and had a passenger under 18 years of age in the vehicle at the time of the offense.

(2) A person who violates Section **41-6a-502** is guilty of a third degree felony if:

(a) the person has also inflicted serious bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(b) the person has two or more prior convictions as defined in Subsection **41-6a-501(2)**, each of which is within 10 years of:

(i) the current conviction under Section **41-6a-502**; or

(ii) the commission of the offense upon which the current conviction is based; ~~[or]~~

(c) the conviction under Section **41-6a-502** is at any time after a conviction of:

(i) automobile homicide under Section **76-5-207** that is committed after July 1, 2001;

(ii) a felony violation of Section **41-6a-502** or a statute previously in effect in this state that would constitute a violation of Section **41-6a-502** that is committed after July 1, 2001; or

(iii) any conviction described in Subsection (2)(c)(i) or (ii) which judgment of conviction is reduced under Section **76-3-402**~~[;]~~; or

(d) at the time of the violation of Section **41-6a-502**, the person also violates Section **41-6a-709**, **41-6a-712**, or **41-6a-714**.

(3) A person is guilty of a separate offense for each victim suffering bodily injury or serious bodily injury as a result of the person's violation of Section **41-6a-502** or death as a result of the person's violation of Section **76-5-207** whether or not the injuries arise from the same episode of driving.

59 Section 2. Section **41-6a-505** is amended to read:

60 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**  
61 **drugs, or a combination of both violations.**

62 (1) As part of any sentence for a first conviction of Section [41-6a-502](#):

63 (a) the court shall:

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

65 (B) require the person to work in a compensatory-service work program for not less  
66 than 48 hours; [~~or~~]

67 [~~(C) require the person to participate in home confinement of not fewer than 48~~  
68 ~~consecutive hours through the use of electronic monitoring in accordance with Section~~  
69 ~~[41-6a-506](#);~~]

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

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

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

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

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

78 (vii) (A) order the person to pay the administrative impound fee described in Section  
79 [41-6a-1406](#); or

80 (B) if the administrative impound fee was paid by a party described in Subsection  
81 [41-6a-1406\(5\)\(a\)](#), other than the person sentenced, order the person sentenced to reimburse the  
82 party; or

83 (viii) (A) order the person to pay the towing and storage fees described in Section  
84 [72-9-603](#); or

85 (B) if the towing and storage fees were paid by a party described in Subsection  
86 [41-6a-1406\(5\)\(a\)](#), other than the person sentenced, order the person sentenced to reimburse the  
87 party; and

88 (b) the court may:

89 (i) order the person to obtain substance abuse treatment if the substance abuse

90 treatment program determines that substance abuse treatment is appropriate; or  
91 (ii) order probation for the person in accordance with Section 41-6a-507.  
92 (2) If a person has a prior conviction as defined in Subsection 41-6a-501(2) that is  
93 within 10 years of the current conviction under Section 41-6a-502 or the commission of the  
94 offense upon which the current conviction is based:  
95 (a) the court shall:  
96 (i) (A) impose a jail sentence of not less than 240 ~~consecutive~~ hours; or  
97 ~~[(B) require the person to work in a compensatory-service work program for not less~~  
98 ~~than 240 hours; or]~~  
99 ~~[(C) require the person to participate in home confinement of not fewer than 240~~  
100 ~~consecutive hours through the use of electronic monitoring in accordance with Section~~  
101 ~~41-6a-506;]~~  
102 (B) impose a jail sentence of not less than 120 hours in addition to home confinement  
103 of not fewer than 720 consecutive hours through the use of electronic monitoring that includes  
104 a substance abuse testing instrument in accordance with Section 41-6a-506;  
105 (ii) order the person to participate in a screening;  
106 (iii) order the person to participate in an assessment, if it is found appropriate by a  
107 screening under Subsection (2)(a)(ii);  
108 (iv) order the person to participate in an educational series if the court does not order  
109 substance abuse treatment as described under Subsection (2)(b);  
110 (v) impose a fine of not less than \$800;  
111 (vi) order probation for the person in accordance with Section 41-6a-507;  
112 (vii) (A) order the person to pay the administrative impound fee described in Section  
113 41-6a-1406; or  
114 (B) if the administrative impound fee was paid by a party described in Subsection  
115 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the  
116 party; or  
117 (viii) (A) order the person to pay the towing and storage fees described in Section  
118 72-9-603; or  
119 (B) if the towing and storage fees were paid by a party described in Subsection  
120 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the

121 party; and

122 (b) the court may order the person to obtain substance abuse treatment if the substance  
123 abuse treatment program determines that substance abuse treatment is appropriate.

124 (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison  
125 sentence and places the defendant on probation[~~:(a)~~], the court shall impose:

126 [(i)] (a) a fine of not less than \$1,500;

127 [(ii)] (b) a jail sentence of not less than 1,500 hours; and

128 [(iii)] (c) supervised probation[~~; and~~].

129 [~~(b) in lieu of Subsection (3)(a)(ii), the court may require the person to participate in~~  
130 ~~home confinement of not fewer than 1,500 hours through the use of electronic monitoring in~~  
131 ~~accordance with Section 41-6a-506.~~]

132 (4) For Subsection (3)(a) or Subsection 41-6a-503(2)(b), the court shall impose an  
133 order requiring the person to obtain a screening and assessment for alcohol and substance  
134 abuse, and treatment as appropriate.

135 (5) (a) The requirements of Subsections (1)(a), (2)(a), (3)(a), and (4) may not be  
136 suspended.

137 (b) Probation or parole resulting from a conviction for a violation under this section  
138 may not be terminated.

139 (6) If a person is convicted of a violation of Section 41-6a-502 and there is admissible  
140 evidence that the person had a blood alcohol level of .16 or higher, the court shall order the  
141 following, or describe on record why the order or orders are not appropriate:

142 (a) treatment as described under Subsection (1)(b), (2)(b), or (4); and

143 (b) one or more of the following:

144 (i) the installation of an ignition interlock system as a condition of probation for the  
145 person in accordance with Section 41-6a-518;

146 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring  
147 device as a condition of probation for the person; or

148 (iii) the imposition of home confinement through the use of electronic monitoring in  
149 accordance with Section 41-6a-506.

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