

**Representative Steve Eliason** proposes the following substitute bill:

**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 class A misdemeanor for an individual convicted of driving under the influence while also driving the wrong way on a 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:



26 [41-6a-503](#), as last amended by Laws of Utah 2009, Chapter 214

27 [41-6a-505](#), as last amended by Laws of Utah 2016, Chapter 148

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

30 Section 1. Section [41-6a-503](#) is amended to read:

31 **[41-6a-503. Penalties for driving under the influence violations.](#)**

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

33 (a) class B misdemeanor; or

34 (b) class A misdemeanor if the person:

35 (i) has also inflicted bodily injury upon another as a proximate result of having

36 operated the vehicle in a negligent manner;

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

38 (iii) was 21 years of age or older and had a passenger under 18 years of age in the

39 vehicle at the time of the offense~~[-];~~ or

40 (iv) at the time of the violation of Section [41-6a-502](#), also violates Section [41-6a-714](#).

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

42 (a) the person has also inflicted serious bodily injury upon another as a proximate

43 result of having operated the vehicle in a negligent manner;

44 (b) the person has two or more prior convictions as defined in Subsection

45 [41-6a-501](#)(2), each of which is within 10 years of:

46 (i) the current conviction under Section [41-6a-502](#); or

47 (ii) the commission of the offense upon which the current conviction is based; or

48 (c) the conviction under Section [41-6a-502](#) is at any time after a conviction of:

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

50 (ii) a felony violation of Section [41-6a-502](#) or a statute previously in effect in this state

51 that would constitute a violation of Section [41-6a-502](#) that is committed after July 1, 2001; or

52 (iii) any conviction described in Subsection (2)(c)(i) or (ii) which judgment of

53 conviction is reduced under Section [76-3-402](#).

54 (3) A person is guilty of a separate offense for each victim suffering bodily injury or

55 serious bodily injury as a result of the person's violation of Section [41-6a-502](#) or death as a

56 result of the person's violation of Section [76-5-207](#) whether or not the injuries arise from the

57 same episode of driving.

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

59 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**  
60 **drugs, or a combination of both violations.**

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

62 (a) the court shall:

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

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

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

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

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

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

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

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

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

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

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

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

87 (b) the court may:

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

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

91 (2) If a person has a prior conviction as defined in Subsection 41-6a-501(2) that is  
92 within 10 years of the current conviction under Section 41-6a-502 or the commission of the  
93 offense upon which the current conviction is based:

94 (a) the court shall:

95 (i) (A) impose a jail sentence of not less than 240 [~~consecutive~~] hours; or

96 [~~(B) require the person to work in a compensatory-service work program for not less  
97 than 240 hours; or]~~

98 [~~(C) require the person to participate in home confinement of not fewer than 240  
99 consecutive hours through the use of electronic monitoring in accordance with Section  
100 41-6a-506;~~]

101 (B) impose a jail sentence of not less than 120 hours in addition to home confinement  
102 of not fewer than 720 consecutive hours through the use of electronic monitoring that includes  
103 a substance abuse testing instrument in accordance with Section 41-6a-506;

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

105 (iii) order the person to participate in an assessment, if it is found appropriate by a  
106 screening under Subsection (2)(a)(ii);

107 (iv) order the person to participate in an educational series if the court does not order  
108 substance abuse treatment as described under Subsection (2)(b);

109 (v) impose a fine of not less than \$800;

110 (vi) order probation for the person in accordance with Section 41-6a-507;

111 (vii) (A) order the person to pay the administrative impound fee described in Section  
112 41-6a-1406; or

113 (B) if the administrative impound fee was paid by a party described in Subsection  
114 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the  
115 party; or

116 (viii) (A) order the person to pay the towing and storage fees described in Section  
117 72-9-603; or

118 (B) if the towing and storage fees were paid by a party described in Subsection

119 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the  
120 party; and

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

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

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

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

127 [(iii)] (c) supervised probation[~~-and~~].

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

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

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

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

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

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

142 (b) one or more of the following:

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

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

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