

HB0162S01 compared with HB0162

~~{deleted text}~~ shows text that was in HB0162 but was deleted in HB0162S01.

Inserted text shows text that was not in HB0162 but was inserted into HB0162S01.

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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

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}~~ class A misdemeanor 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

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- ▶ 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

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~~[-]; or~~

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

(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;

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(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.

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

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

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

(a) the court shall:

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

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

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

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

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

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

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

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

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

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

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

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

(b) the court may:

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

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

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

(a) the court shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) one or more of the following:

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

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

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

†

~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel~~