

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 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-505, as last amended by Laws of Utah 2016, Chapter 148

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



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

27 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
28 **drugs, or a combination of both violations.**

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

30 (a) the court shall:

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

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

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

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

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

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

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

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

45 (vii) (A) order the person to pay the administrative impound fee described in Section
46 [41-6a-1406](#); or

47 (B) if the administrative impound fee was paid by a party described in Subsection
48 [41-6a-1406\(5\)\(a\)](#), other than the person sentenced, order the person sentenced to reimburse the
49 party; or

50 (viii) (A) order the person to pay the towing and storage fees described in Section
51 [72-9-603](#); or

52 (B) if the towing and storage fees were paid by a party described in Subsection
53 [41-6a-1406\(5\)\(a\)](#), other than the person sentenced, order the person sentenced to reimburse the
54 party; and

55 (b) the court may:

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

57 treatment program determines that substance abuse treatment is appropriate; or
58 (ii) order probation for the person in accordance with Section 41-6a-507.
59 (2) If a person has a prior conviction as defined in Subsection 41-6a-501(2) that is
60 within 10 years of the current conviction under Section 41-6a-502 or the commission of the
61 offense upon which the current conviction is based:
62 (a) the court shall:
63 (i) (A) impose a jail sentence of not less than 240 ~~[consecutive]~~ hours; or
64 ~~[(B) require the person to work in a compensatory-service work program for not less~~
65 ~~than 240 hours; or]~~
66 ~~[(C) require the person to participate in home confinement of not fewer than 240~~
67 ~~consecutive hours through the use of electronic monitoring in accordance with Section~~
68 ~~41-6a-506;]~~
69 (B) impose a jail sentence of not less than 120 hours in addition to home confinement
70 of not fewer than 720 consecutive hours through the use of electronic monitoring that includes
71 a substance abuse testing instrument in accordance with Section 41-6a-506;
72 (ii) order the person to participate in a screening;
73 (iii) order the person to participate in an assessment, if it is found appropriate by a
74 screening under Subsection (2)(a)(ii);
75 (iv) order the person to participate in an educational series if the court does not order
76 substance abuse treatment as described under Subsection (2)(b);
77 (v) impose a fine of not less than \$800;
78 (vi) order probation for the person in accordance with Section 41-6a-507;
79 (vii) (A) order the person to pay the administrative impound fee described in Section
80 41-6a-1406; or
81 (B) if the administrative impound fee was paid by a party described in Subsection
82 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the
83 party; or
84 (viii) (A) order the person to pay the towing and storage fees described in Section
85 72-9-603; or
86 (B) if the towing and storage fees were paid by a party described in Subsection
87 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the

88 party; and

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

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

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

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

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

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

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

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

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

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

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

110 (b) one or more of the following:

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

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

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

117