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**DRIVING UNDER THE INFLUENCE REVISIONS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Norman K. Thurston**

Senate Sponsor: J. Stuart Adams

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**LONG TITLE**

**General Description:**

This bill amends the definitions of "novice licensed driver" and "alcohol restricted driver."

**Highlighted Provisions:**

This bill:

- ▶ removes the definition of "novice licensed driver"; and
- ▶ removes a novice licensed driver from the definition of "alcohol restricted driver."

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**41-6a-501 (Effective 12/30/18)**, as last amended by Laws of Utah 2017, Chapter 283

**41-6a-529 (Effective 12/30/18)**, as last amended by Laws of Utah 2017, Chapter 283

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

Section 1. Section **41-6a-501 (Effective 12/30/18)** is amended to read:

**41-6a-501 (Effective 12/30/18). Definitions.**

(1) As used in this part:

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

- 30 (i) used to determine if a person is in need of:
- 31 (A) substance abuse treatment that is obtained at a substance abuse program;
- 32 (B) an educational series; or
- 33 (C) a combination of Subsections (1)(a)(i)(A) and (B); and
- 34 (ii) that is approved by the Division of Substance Abuse and Mental Health in
- 35 accordance with Section [62A-15-105](#).
- 36 (b) "Driving under the influence court" means a court that is approved as a driving
- 37 under the influence court by the Utah Judicial Council according to standards established by
- 38 the Judicial Council.
- 39 (c) "Drug" or "drugs" means:
- 40 (i) a controlled substance as defined in Section [58-37-2](#);
- 41 (ii) a drug as defined in Section [58-17b-102](#); or
- 42 (iii) any substance that, when knowingly, intentionally, or recklessly taken into the
- 43 human body, can impair the ability of a person to safely operate a motor vehicle.
- 44 (d) "Educational series" means an educational series obtained at a substance abuse
- 45 program that is approved by the Division of Substance Abuse and Mental Health in accordance
- 46 with Section [62A-15-105](#).
- 47 (e) "Negligence" means simple negligence, the failure to exercise that degree of care
- 48 that an ordinarily reasonable and prudent person exercises under like or similar circumstances.
- 49 (f) "Novice learner driver" means an individual who:
- 50 (i) has applied for a Utah driver license;
- 51 (ii) has not previously held a driver license in this state or another state; and
- 52 (iii) has not completed the requirements for issuance of a Utah driver license.
- 53 [~~(g) "Novice licensed driver" means an individual who:~~
- 54 [~~(i) has completed the requirements for issuance of a Utah driver license;~~
- 55 [~~(ii) was issued a Utah driver license within the last two years; and~~
- 56 [~~(iii) has not previously held a driver license in this state or another state.~~
- 57 [~~(h)~~] (g) "Screening" means a preliminary appraisal of a person:

- 58 (i) used to determine if the person is in need of:
- 59 (A) an assessment; or
- 60 (B) an educational series; and
- 61 (ii) that is approved by the Division of Substance Abuse and Mental Health in
- 62 accordance with Section 62A-15-105.
- 63 ~~[(†)]~~ (h) "Serious bodily injury" means bodily injury that creates or causes:
- 64 (i) serious permanent disfigurement;
- 65 (ii) protracted loss or impairment of the function of any bodily member or organ; or
- 66 (iii) a substantial risk of death.
- 67 ~~[(†)]~~ (i) "Substance abuse treatment" means treatment obtained at a substance abuse
- 68 program that is approved by the Division of Substance Abuse and Mental Health in accordance
- 69 with Section 62A-15-105.
- 70 ~~[(†)]~~ (j) "Substance abuse treatment program" means a state licensed substance abuse
- 71 program.
- 72 ~~[(†)]~~ (k) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in
- 73 Section 41-6a-102; and
- 74 (ii) "Vehicle" or "motor vehicle" includes:
- 75 (A) an off-highway vehicle as defined under Section 41-22-2; and
- 76 (B) a motorboat as defined in Section 73-18-2.
- 77 (2) As used in Section 41-6a-503:
- 78 (a) "Conviction" means any conviction arising from a separate episode of driving for a
- 79 violation of:
- 80 (i) driving under the influence under Section 41-6a-502;
- 81 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a
- 82 combination of both-related reckless driving under:
- 83 (I) Section 41-6a-512; and
- 84 (II) Section 41-6a-528; or
- 85 (B) for an offense committed on or after July 1, 2008, impaired driving under Section

86 41-6a-502.5;

87 (iii) driving with any measurable controlled substance that is taken illegally in the body  
88 under Section 41-6a-517;

89 (iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination  
90 of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in  
91 compliance with Section 41-6a-510;

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

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

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

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

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

105 (i) enhancement of penalties under:

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

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

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

109 Section 2. Section 41-6a-529 (Effective 12/30/18) is amended to read:

110 **41-6a-529 (Effective 12/30/18). Definitions -- Alcohol restricted drivers.**

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

113 (a) within the last two years:

- 114 (i) has been convicted of:
- 115 (A) a misdemeanor violation of Section 41-6a-502;
- 116 (B) alcohol, any drug, or a combination of both-related reckless driving under Section
- 117 41-6a-512;
- 118 (C) impaired driving under Section 41-6a-502.5;
- 119 (D) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination
- 120 of both-related reckless driving, or impaired driving adopted in compliance with Section
- 121 41-6a-510;
- 122 (E) a violation described in Subsections (1)(a)(i)(A) through (D), which judgment of
- 123 conviction is reduced under Section 76-3-402; or
- 124 (F) statutes or ordinances previously in effect in this state or in effect in any other state,
- 125 the United States, or any district, possession, or territory of the United States which would
- 126 constitute a violation of Section 41-6a-502, alcohol, any drug, or a combination of both-related
- 127 reckless driving, or impaired driving if committed in this state, including punishments
- 128 administered under 10 U.S.C. Sec. 815; or
- 129 (ii) has had the person's driving privilege suspended under Section 53-3-223 for an
- 130 alcohol-related offense based on an arrest which occurred on or after July 1, 2005;
- 131 (b) within the last three years has been convicted of a violation of this section or
- 132 Section 41-6a-518.2;
- 133 (c) within the last five years:
- 134 (i) has had the person's driving privilege revoked for refusal to submit to a chemical
- 135 test under Section 41-6a-520, which refusal occurred on or after July 1, 2005; or
- 136 (ii) has been convicted of a class A misdemeanor violation of Section 41-6a-502
- 137 committed on or after July 1, 2008;
- 138 (d) within the last 10 years:
- 139 (i) has been convicted of an offense described in Subsection (1)(a)(i) which offense
- 140 was committed within 10 years of the commission of a prior offense described in Subsection
- 141 (1)(a)(i) for which the person was convicted; or

142 (ii) has had the person's driving privilege revoked for refusal to submit to a chemical  
143 test and the refusal is within 10 years after:

144 (A) a prior refusal to submit to a chemical test under Section 41-6a-520; or

145 (B) a prior conviction for an offense described in Subsection (1)(a)(i) which is not  
146 based on the same arrest as the refusal;

147 (e) at any time has been convicted of:

148 (i) automobile homicide under Section 76-5-207 for an offense that occurred on or  
149 after July 1, 2005; or

150 (ii) a felony violation of Section 41-6a-502 for an offense that occurred on or after July  
151 1, 2005;

152 (f) at the time of operation of a vehicle is under 21 years of age; or

153 (g) is a novice learner driver [~~or a novice licensed driver~~].

154 (2) For purposes of this section and Section 41-6a-530, a plea of guilty or no contest to  
155 a violation described in Subsection (1)(a)(i) which plea was held in abeyance under Title 77,  
156 Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if  
157 the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance  
158 agreement.

159 Section 3. **Effective date.**

160 This bill takes effect on December 30, 2018.