

IGNITION INTERLOCK AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John R. Westwood

Senate Sponsor: _____

LONG TITLE

General Description:

This bill removes from the definition of "interlock restricted driver" a driver convicted of driving under the influence if the conviction does not involve alcohol.

Highlighted Provisions:

This bill:

- removes from the definition of "interlock restricted driver" a driver convicted of driving under the influence if the conviction does not involve alcohol; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-518.2, as last amended by Laws of Utah 2016, Chapter 149

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

Section 1. Section **41-6a-518.2** is amended to read:

41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition interlock system.



(1) As used in this section:

(a) " Ignition interlock system" means a constant monitoring device or any similar device that:

(i) is in working order at the time of operation or actual physical control; and

(ii) is certified by the Commissioner of Public Safety in accordance with Subsection 41-6a-518(8).

(b) (i) " Interlock restricted driver" means a person who:

(A) has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system;

(B) within the last 18 months has been convicted of a driving under the influence violation under Section 41-6a-502 that was committed on or after July 1, 2009;

(C) (I) within the last three years has been convicted of an offense that occurred after May 1, 2006 which would be a conviction as defined under Section 41-6a-501; and

(II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years from the date that one or more prior offenses was committed if the prior offense resulted in a conviction as defined in Subsection 41-6a-501(2);

(D) within the last three years has been convicted of a violation of this section;

(E) within the last three years has had the person's driving privilege revoked for refusal to submit to a chemical test under Section 41-6a-520, which refusal occurred after May 1, 2006;

(F) within the last three years has been convicted of a violation of Section 41-6a-502 and was under the age of 21 at the time the offense was committed;

(G) within the last six years has been convicted of a felony violation of Section 41-6a-502 for an offense that occurred after May 1, 2006; or

(H) within the last 10 years has been convicted of automobile homicide under Section 76-5-207 for an offense that occurred after May 1, 2006.

(ii) " Interlock restricted driver" does not include a person:

(A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under Section 41-6a-517[;] and [~~(B)~~] whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under Section 41-6a-517[;]; or

(B) whose conviction described in Subsection (1)(b)(i)(B) or (F) does not involve

59 alcohol and the convicting court notifies the Driver License Division at the time of sentencing
60 that the conviction does not involve alcohol.

61 (2) The division shall post the ignition interlock restriction on a person's electronic
62 record that is available to law enforcement.

63 (3) For purposes of this section, a plea of guilty or no contest to a violation of Section
64 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,
65 prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently
66 reduced or dismissed in accordance with the plea in abeyance agreement.

67 (4) An interlock restricted driver who operates or is in actual physical control of a
68 vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

69 (5) It is an affirmative defense to a charge of a violation of Subsection (4) if:

70 (a) the interlock restricted driver operated or was in actual physical control of a vehicle
71 owned by the interlock restricted driver's employer;

72 (b) the interlock restricted driver had given written notice to the employer of the
73 interlock restricted driver's interlock restricted status prior to the operation or actual physical
74 control under Subsection (5)(a);

75 (c) the interlock restricted driver had on the interlock restricted driver's person, or in
76 the vehicle, at the time of operation or physical control employer verification, as defined in
77 Subsection 41-6a-518(1); and

78 (d) the operation or actual physical control described in Subsection (5)(a) was in the
79 scope of the interlock restricted driver's employment.

80 (6) The affirmative defense described in Subsection (5) does not apply to:

81 (a) an employer-owned motor vehicle that is made available to an interlock restricted
82 driver for personal use; or

83 (b) a motor vehicle owned by a business entity that is entirely or partly owned or
84 controlled by the interlock restricted driver.