

1                   **DRIVING UNDER THE INFLUENCE MODIFICATIONS**

2                                   2018 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Steve Eliason**

5                                   Senate Sponsor: J. Stuart Adams

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7   **LONG TITLE**

8   **General Description:**

9           This bill modifies penalties for driving under the influence if the individual is also  
10 convicted for driving in the wrong direction during the same occurrence.

11 **Highlighted Provisions:**

12           This bill:

13           ▶ prohibits a plea to impaired driving if the individual was driving under the influence  
14 and if the individual was also driving in the wrong direction on a freeway or  
15 controlled-access highway during the same occurrence;

16           ▶ increases the penalty for driving under the influence to a class A misdemeanor if the  
17 individual was also driving in the wrong direction on a freeway or controlled-access  
18 highway during the same occurrence;

19           ▶ modifies ignition interlock requirements for an individual convicted of driving  
20 under the influence if the individual was also driving in the wrong direction on a  
21 freeway or controlled-access highway during the same occurrence;

22           ▶ modifies the definition of an alcohol restricted driver to include certain individuals  
23 convicted of driving under the influence while also driving in the wrong direction  
24 on a freeway or controlled-access highway; and

25           ▶ makes technical changes.

26 **Money Appropriated in this Bill:**

27           None



28 **Other Special Clauses:**

29 This bill provides a special effective date.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **41-6a-503**, as last amended by Laws of Utah 2009, Chapter 21433 **41-6a-518.2**, as last amended by Laws of Utah 2016, Chapter 14934 **41-6a-529 (Superseded 12/30/18)**, as last amended by Laws of Utah 2008, Chapter 22635 **41-6a-529 (Effective 12/30/18)**, as last amended by Laws of Utah 2017, Chapter 283

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37 *Be it enacted by the Legislature of the state of Utah:*38 Section 1. Section **41-6a-503** is amended to read:39 **41-6a-503. Penalties for driving under the influence violations.**40 (1) A person who violates for the first or second time Section **41-6a-502** is guilty of a:

41 (a) class B misdemeanor; or

42 (b) class A misdemeanor if the person:

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

44 operated the vehicle in a negligent manner;

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

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

47 vehicle at the time of the offense~~[-];~~ or48 (iv) at the time of the violation of Section **41-6a-502**, also violated Section **41-6a-714**.49 (2) A person who violates Section **41-6a-502** is guilty of a third degree felony if:

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

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

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

53 **41-6a-501(2)**, each of which is within 10 years of:54 (i) the current conviction under Section **41-6a-502**; or

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

56 (c) the conviction under Section **41-6a-502** is at any time after a conviction of:57 (i) automobile homicide under Section **76-5-207** that is committed after July 1, 2001;58 (ii) a felony violation of Section **41-6a-502** or a statute previously in effect in this state

59 that would constitute a violation of Section 41-6a-502 that is committed after July 1, 2001; or  
60 (iii) any conviction described in Subsection (2)(c)(i) or (ii) which judgment of  
61 conviction is reduced under Section 76-3-402.

62 (3) A person is guilty of a separate offense for each victim suffering bodily injury or  
63 serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a  
64 result of the person's violation of Section 76-5-207 whether or not the injuries arise from the  
65 same episode of driving.

66 Section 2. Section 41-6a-518.2 is amended to read:

67 **41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition**  
68 **interlock system.**

69 (1) As used in this section:

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

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

73 (ii) is certified by the Commissioner of Public Safety in accordance with Subsection  
74 41-6a-518(8).

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

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

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

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

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

85 (D) (I) within the last six years has been convicted of a violation of Section 41-6a-502  
86 and Section 41-6a-714 during the same occurrence, and the offense occurred after May 8,  
87 2018; and

88 (II) the offense described under Subsection (1)(b)(i)(D)(I) is committed within 10 years  
89 from the date that one or more prior offenses were committed if the prior offense resulted in a

90 conviction as defined in Subsection 41-6a-501(2);

91 ~~[(D)]~~ (E) within the last three years has been convicted of a violation of this section;

92 ~~[(E)]~~ (F) within the last three years has had the person's driving privilege revoked for  
93 refusal to submit to a chemical test under Section 41-6a-520, which refusal occurred after May  
94 1, 2006;

95 ~~[(F)]~~ (G) within the last three years has been convicted of a violation of Section  
96 41-6a-502 and was under the age of 21 at the time the offense was committed;

97 (H) within the last four years and six months has been convicted of a violation of  
98 Section 41-6a-502 and Section 41-6a-714 during the same occurrence, and the offense occurred  
99 after May 8, 2018;

100 ~~[(G)]~~ (I) within the last six years has been convicted of a felony violation of Section  
101 41-6a-502 for an offense that occurred after May 1, 2006; ~~[or]~~

102 (J) within the last nine years has been convicted of a felony violation of Section  
103 41-6a-502 and a violation of Section 41-6a-714 during the same occurrence, and the offense  
104 occurred after May 8, 2018;

105 ~~[(H)]~~ (K) within the last 10 years has been convicted of automobile homicide under  
106 Section 76-5-207 for an offense that occurred after May 1, 2006~~[-]; or~~

107 (L) within the last 13 years has been convicted of a violation of automobile homicide  
108 under Section 76-5-207 and a violation of Section 41-6a-714 during the same occurrence, and  
109 the offense occurred after May 8, 2018.

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

111 (A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under  
112 Section 41-6a-517; and

113 (B) whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions  
114 under Section 41-6a-517.

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

117 (3) For purposes of this section, a plea of guilty or no contest to a violation of Section  
118 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,  
119 prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently  
120 reduced or dismissed in accordance with the plea in abeyance agreement.

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

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

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

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

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

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

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

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

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

139 Section 3. Section 41-6a-529 (Superseded 12/30/18) is amended to read:

140 **41-6a-529 (Superseded 12/30/18). Definitions -- Alcohol restricted drivers.**

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

143 (a) within the last two years:

144 (i) has been convicted of:

145 (A) a misdemeanor violation of Section 41-6a-502;

146 (B) alcohol, any drug, or a combination of both-related reckless driving under Section  
147 41-6a-512;

148 (C) impaired driving under Section 41-6a-502.5;

149 (D) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination  
150 of both-related reckless driving, or impaired driving adopted in compliance with Section  
151 41-6a-510;

152 (E) a violation described in Subsections (1)(a)(i)(A) through (D), which judgment of  
153 conviction is reduced under Section 76-3-402; or

154 (F) statutes or ordinances previously in effect in this state or in effect in any other state,  
155 the United States, or any district, possession, or territory of the United States which would  
156 constitute a violation of Section 41-6a-502, alcohol, any drug, or a combination of both-related  
157 reckless driving, or impaired driving if committed in this state, including punishments  
158 administered under 10 U.S.C. Sec. 815; or

159 (ii) has had the person's driving privilege suspended under Section 53-3-223 for an  
160 alcohol-related offense based on an arrest which occurred on or after July 1, 2005;

161 (b) within the last three years has been convicted of a violation of this section or  
162 Section 41-6a-518.2;

163 (c) within the last five years:

164 (i) has had the person's driving privilege revoked for refusal to submit to a chemical  
165 test under Section 41-6a-520, which refusal occurred on or after July 1, 2005; or

166 (ii) has been convicted of a class A misdemeanor violation of Section 41-6a-502  
167 committed on or after July 1, 2008;

168 (d) within the last seven years has been convicted of a violation of Section 41-6a-502  
169 and Section 41-6a-714 during the same occurrence, and the offense occurred after May 8,  
170 2018;

171 [~~(d)~~] (e) within the last 10 years:

172 (i) has been convicted of an offense described in Subsection (1)(a)(i) which offense  
173 was committed within 10 years of the commission of a prior offense described in Subsection  
174 (1)(a)(i) for which the person was convicted; or

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

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

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

180 (f) within the last 15 years has been convicted of a violation of Section 41-6a-502 and  
181 Section 41-6a-714 during the same occurrence, which offense was committed within 10 years  
182 of the commission of a prior offense described in Subsection (1)(a)(i) for which the person was

183 convicted, and the offense occurred after May 8, 2018;

184 [~~(e)~~] (g) at any time has been convicted of:

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

187 (ii) a felony violation of Section 41-6a-502 for an offense that occurred on or after July  
188 1, 2005; or

189 [~~(f)~~] (h) at the time of operation of a vehicle is under 21 years of age.

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

195 Section 4. Section 41-6a-529 (Effective 12/30/18) is amended to read:

196 **41-6a-529 (Effective 12/30/18). Definitions -- Alcohol restricted drivers.**

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

199 (a) within the last two years:

200 (i) has been convicted of:

201 (A) a misdemeanor violation of Section 41-6a-502;

202 (B) alcohol, any drug, or a combination of both-related reckless driving under Section  
203 41-6a-512;

204 (C) impaired driving under Section 41-6a-502.5;

205 (D) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination  
206 of both-related reckless driving, or impaired driving adopted in compliance with Section  
207 41-6a-510;

208 (E) a violation described in Subsections (1)(a)(i)(A) through (D), which judgment of  
209 conviction is reduced under Section 76-3-402; or

210 (F) statutes or ordinances previously in effect in this state or in effect in any other state,  
211 the United States, or any district, possession, or territory of the United States which would  
212 constitute a violation of Section 41-6a-502, alcohol, any drug, or a combination of both-related  
213 reckless driving, or impaired driving if committed in this state, including punishments

214 administered under 10 U.S.C. Sec. 815; or

215 (ii) has had the person's driving privilege suspended under Section [53-3-223](#) for an  
216 alcohol-related offense based on an arrest which occurred on or after July 1, 2005;

217 (b) within the last three years has been convicted of a violation of this section or  
218 Section [41-6a-518.2](#);

219 (c) within the last five years:

220 (i) has had the person's driving privilege revoked for refusal to submit to a chemical  
221 test under Section [41-6a-520](#), which refusal occurred on or after July 1, 2005; or

222 (ii) has been convicted of a class A misdemeanor violation of Section [41-6a-502](#)  
223 committed on or after July 1, 2008;

224 (d) within the last seven years has been convicted of a violation of Section [41-6a-502](#)  
225 and Section [41-6a-714](#) during the same occurrence, and the offense occurred after May 8,  
226 2018;

227 [~~(d)~~] (e) within the last 10 years:

228 (i) has been convicted of an offense described in Subsection (1)(a)(i) which offense  
229 was committed within 10 years of the commission of a prior offense described in Subsection  
230 (1)(a)(i) for which the person was convicted; or

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

233 (A) a prior refusal to submit to a chemical test under Section [41-6a-520](#); or

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

236 (f) within the last 15 years has been convicted of a violation of Section [41-6a-502](#) and  
237 Section [41-6a-714](#) during the same occurrence, which offense was committed within 10 years  
238 of the commission of a prior offense described in Subsection (1)(a)(i) for which the person was  
239 convicted, and the offense occurred after May 8, 2018;

240 [~~(e)~~] (g) at any time has been convicted of:

241 (i) automobile homicide under Section [76-5-207](#) for an offense that occurred on or  
242 after July 1, 2005; or

243 (ii) a felony violation of Section [41-6a-502](#) for an offense that occurred on or after July  
244 1, 2005;



245            [~~(f)~~] (h) at the time of operation of a vehicle is under 21 years of age; or

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

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

252            Section 5. **Effective date.**

253            This bill takes effect on May 8, 2018, except that the amendments to Section [41-6a-529](#)  
254 (Effective 12/30/18) take effect on December 30, 2018.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**