

1 **DRIVING UNDER THE INFLUENCE AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Karen Kwan**

5 Senate Sponsor: Luz Escamilla

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to driving under the influence and novice drivers.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ delays the effective date of the reduction of the blood alcohol concentration limit
13 from .08 to .05 until December 30, 2022;
- 14 ▶ moves up the effective date and amends sections related to the definitions "novice
15 driver," "novice learner driver," and "alcohol restricted driver";
- 16 ▶ removes a novice driver and a novice learner driver;
- 17 ▶ amends the definition of alcohol restricted driver; and
- 18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill provides revisor instructions.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **41-6a-501 (Effective 12/30/18)**, as last amended by Laws of Utah 2017, Chapter 283

26 **41-6a-529 (Effective 12/30/18)**, as last amended by Laws of Utah 2017, Chapter 283

27 **Utah Code Sections Affected by Revisor Instructions:**



28 34A-3-112, as last amended by Laws of Utah 2017, Chapter 283
 29 41-6a-501, as last amended by Laws of Utah 2017, Chapter 283
 30 41-6a-502, as last amended by Laws of Utah 2017, Chapter 283
 31 41-6a-515.6, as enacted by Laws of Utah 2017, Chapter 283
 32 41-6a-529, as last amended by Laws of Utah 2017, Chapter 283
 33 76-5-207, as last amended by Laws of Utah 2017, Chapter 283

34 **Uncodified Material Affected:**

35 AMENDS UNCODIFIED MATERIAL:

36 **Uncodified Section 7, Laws of Utah 2017, Chapter 283**

37 This uncodified section affects Sections 34A-3-112, 41-6a-501, 41-6a-502,
 38 41-6a-515.6, 41-6a-529, and 76-5-207.

39

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

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

42 **41-6a-501 (Effective 12/30/18). Definitions.**

43 (1) As used in this part:

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

46 (i) used to determine if a person is in need of:

47 (A) substance abuse treatment that is obtained at a substance abuse program;

48 (B) an educational series; or

49 (C) a combination of Subsections (1)(a)(i)(A) and (B); and

50 (ii) that is approved by the Division of Substance Abuse and Mental Health in
 51 accordance with Section 62A-15-105.

52 (b) "Driving under the influence court" means a court that is approved as a driving
 53 under the influence court by the Utah Judicial Council according to standards established by
 54 the Judicial Council.

55 (c) "Drug" or "drugs" means:

56 (i) a controlled substance as defined in Section 58-37-2;

57 (ii) a drug as defined in Section 58-17b-102; or

58 (iii) any substance that, when knowingly, intentionally, or recklessly taken into the

59 human body, can impair the ability of a person to safely operate a motor vehicle.

60 (d) "Educational series" means an educational series obtained at a substance abuse
61 program that is approved by the Division of Substance Abuse and Mental Health in accordance
62 with Section [62A-15-105](#).

63 (e) "Negligence" means simple negligence, the failure to exercise that degree of care
64 that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

65 ~~[(f) "Novice learner driver" means an individual who:]~~

66 ~~[(i) has applied for a Utah driver license;]~~

67 ~~[(ii) has not previously held a driver license in this state or another state; and]~~

68 ~~[(iii) has not completed the requirements for issuance of a Utah driver license.]~~

69 ~~[(g) "Novice licensed driver" means an individual who:]~~

70 ~~[(i) has completed the requirements for issuance of a Utah driver license;]~~

71 ~~[(ii) was issued a Utah driver license within the last two years; and]~~

72 ~~[(iii) has not previously held a driver license in this state or another state.]~~

73 ~~[(h)]~~ (f) "Screening" means a preliminary appraisal of a person:

74 (i) used to determine if the person is in need of:

75 (A) an assessment; or

76 (B) an educational series; and

77 (ii) that is approved by the Division of Substance Abuse and Mental Health in
78 accordance with Section [62A-15-105](#).

79 ~~[(i)]~~ (g) "Serious bodily injury" means bodily injury that creates or causes:

80 (i) serious permanent disfigurement;

81 (ii) protracted loss or impairment of the function of any bodily member or organ; or

82 (iii) a substantial risk of death.

83 ~~[(j)]~~ (h) "Substance abuse treatment" means treatment obtained at a substance abuse

84 program that is approved by the Division of Substance Abuse and Mental Health in accordance
85 with Section [62A-15-105](#).

86 ~~[(k)]~~ (i) "Substance abuse treatment program" means a state licensed substance abuse
87 program.

88 ~~[(l)]~~ (j) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in
89 Section [41-6a-102](#); and

90 (ii) "Vehicle" or "motor vehicle" includes:
91 (A) an off-highway vehicle as defined under Section 41-22-2; and
92 (B) a motorboat as defined in Section 73-18-2.
93 (2) As used in Section 41-6a-503:
94 (a) "Conviction" means any conviction arising from a separate episode of driving for a
95 violation of:
96 (i) driving under the influence under Section 41-6a-502;
97 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a
98 combination of both-related reckless driving under:
99 (I) Section 41-6a-512; and
100 (II) Section 41-6a-528; or
101 (B) for an offense committed on or after July 1, 2008, impaired driving under Section
102 41-6a-502.5;
103 (iii) driving with any measurable controlled substance that is taken illegally in the body
104 under Section 41-6a-517;
105 (iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination
106 of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in
107 compliance with Section 41-6a-510;
108 (v) automobile homicide under Section 76-5-207;
109 (vi) Subsection 58-37-8(2)(g);
110 (vii) a violation described in Subsections (2)(a)(i) through (vi), which judgment of
111 conviction is reduced under Section 76-3-402; or
112 (viii) statutes or ordinances previously in effect in this state or in effect in any other
113 state, the United States, or any district, possession, or territory of the United States which
114 would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of
115 both-related reckless driving if committed in this state, including punishments administered
116 under 10 U.S.C. Sec. 815.
117 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i)
118 through (viii) 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, for purposes of:

- 121 (i) enhancement of penalties under:
- 122 (A) this Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and
- 123 (B) automobile homicide under Section 76-5-207; and
- 124 (ii) expungement under Title 77, Chapter 40, Utah Expungement Act.
- 125 Section 2. Section **41-6a-529 (Effective 12/30/18)** is amended to read:
- 126 **41-6a-529 (Effective 12/30/18). Definitions -- Alcohol restricted drivers.**
- 127 (1) As used in this section and Section [41-6a-530](#), "alcohol restricted driver" means a
- 128 person who:
- 129 (a) within the last two years:
- 130 (i) has been convicted of:
- 131 (A) a misdemeanor violation of Section 41-6a-502;
- 132 (B) alcohol, any drug, or a combination of both-related reckless driving under Section
- 133 [41-6a-512](#);
- 134 (C) impaired driving under Section [41-6a-502.5](#);
- 135 (D) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination
- 136 of both-related reckless driving, or impaired driving adopted in compliance with Section
- 137 [41-6a-510](#);
- 138 (E) a violation described in Subsections (1)(a)(i)(A) through (D), which judgment of
- 139 conviction is reduced under Section [76-3-402](#); or
- 140 (F) statutes or ordinances previously in effect in this state or in effect in any other state,
- 141 the United States, or any district, possession, or territory of the United States which would
- 142 constitute a violation of Section 41-6a-502, alcohol, any drug, or a combination of both-related
- 143 reckless driving, or impaired driving if committed in this state, including punishments
- 144 administered under 10 U.S.C. Sec. 815; or
- 145 (ii) has had the person's driving privilege suspended under Section [53-3-223](#) for an
- 146 alcohol-related offense based on an arrest which occurred on or after July 1, 2005;
- 147 (b) within the last three years has been convicted of a violation of this section or
- 148 Section [41-6a-518.2](#);
- 149 (c) within the last five years:
- 150 (i) has had the person's driving privilege revoked for refusal to submit to a chemical
- 151 test under Section [41-6a-520](#), which refusal occurred on or after July 1, 2005; or

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

154 (d) within the last 10 years:

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

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

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

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

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

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

166 (ii) a felony violation of Section 41-6a-502 for an offense that occurred on or after July
167 1, 2005; or

168 (f) at the time of operation of a vehicle is under 21 years of age~~;~~or].

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

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

175 Section 3. **Uncodified Section 7, Laws of Utah 2017, Chapter 283**

176 is amended to read:

177 Section 7. **Effective date.**

178 This bill takes effect on December 30, ~~[2018:]~~ 2022, except that the changes to Sections
179 41-6a-501 (Effective December 30, 2018) and 41-6a-529 (Effective December 30, 2018) take
180 effect on May 8, 2018.

181 Section 4. **Revisor instructions.**

182 The Legislature intends that the Office of Legislative Research and General Counsel, in

183 preparing the Utah Code database for publication, change the effective date in Sections
184 34A-3-112, [41-6a-501](#), 41-6a-502, 41-6a-515.6, [41-6a-529](#), and 76-5-207.

Legislative Review Note
Office of Legislative Research and General Counsel