

HB0345S01 compared with HB0345

~~{deleted text}~~ shows text that was in HB0345 but was deleted in HB0345S01.

Inserted text shows text that was not in HB0345 but was inserted into HB0345S01.

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Representative Paul Ray proposes the following substitute bill:

DRIVING UNDER THE INFLUENCE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Kwan

Senate Sponsor: ~~{_____}~~ Luz Escamilla

LONG TITLE

General Description:

This bill amends ~~{provisions related to}~~ uncodified language related to the effective date of a reduction in the blood alcohol level for driving under the influence ~~{and novice drivers}~~.

Highlighted Provisions:

This bill:

- ▶ ~~{delays}~~ amends the effective date of the reduction of the blood alcohol concentration limit for driving under the influence from .08 to .05 ~~{until December 30, 2022;~~

~~→ moves up the effective date and amends sections related to the definitions "novice driver," "novice learner driver," and "alcohol restricted driver";~~

~~→ removes a novice driver and a novice learner driver;~~

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- amends the definition of alcohol restricted driver; and
- makes technical changes; to take effect on December 17, 2018.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

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~~

~~}~~Utah Code Sections Affected by Revisor Instructions:

- 34A-3-112, as last amended by Laws of Utah 2017, Chapter 283
- 41-6a-501, as last amended by Laws of Utah 2017, Chapter 283
- 41-6a-502, as last amended by Laws of Utah 2017, Chapter 283
- 41-6a-515, ~~{6}~~5, as enacted by Laws of Utah 2017, Chapter 283
- 41-6a-529, as last amended by Laws of Utah 2017, Chapter 283
- 76-5-207, as last amended by Laws of Utah 2017, Chapter 283

Uncodified Material Affected:

AMENDS UNCODIFIED MATERIAL:

Uncodified Section 7, Laws of Utah 2017, Chapter 283

This uncodified section affects Sections 34A-3-112, 41-6a-501, 41-6a-502, 41-6a-515, ~~{6}~~5, 41-6a-529, and 76-5-207.

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:~~
- (i) ~~used to determine if a person is in need of:~~
- (A) ~~substance abuse treatment that is obtained at a substance abuse program;~~

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

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

~~— (i) serious permanent disfigurement;~~

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

~~— (iii) a substantial risk of death.~~

~~— [(j)] (h) "Substance abuse treatment" means treatment obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.~~

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

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

~~— (ii) "Vehicle" or "motor vehicle" includes:~~

~~— (A) an off-highway vehicle as defined under Section 41-22-2; and~~

~~— (B) a motorboat as defined in Section 73-18-2.~~

~~— (2) As used in Section 41-6a-503:~~

~~— (a) "Conviction" means any conviction arising from a separate episode of driving for a violation of:~~

~~— (i) driving under the influence under Section 41-6a-502;~~

~~— (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a combination of both-related reckless driving under:~~

~~— (I) Section 41-6a-512; and~~

~~— (II) Section 41-6a-528; or~~

~~— (B) for an offense committed on or after July 1, 2008, impaired driving under Section 41-6a-502.5;~~

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

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

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

~~— (vi) Subsection 58-37-8(2)(g);~~

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

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

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

~~—— (i) enhancement of penalties under:~~

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

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

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

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

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

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

~~—— (a) within the last two years:~~

~~—— (i) has been convicted of:~~

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

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

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

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

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

~~—— (F) statutes or ordinances previously in effect in this state or in effect in any other state;~~

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~~the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815; or~~

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

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

~~—— (c) within the last five years:~~

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

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

~~—— (d) within the last 10 years:~~

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

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

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

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

~~—— (c) at any time has been convicted of:~~

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

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

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

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

~~—— (2) For purposes of this section and Section 41-6a-530, a plea of guilty or no contest to a violation described in Subsection (1)(a)(i) which plea was held in abeyance under Title 77,~~

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~~Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.~~

~~Section 3.} Uncodified Section 7, Laws of Utah 2017, Chapter 283 is amended to read:~~

~~Section 7. Effective date.~~

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

~~Section 4.} [30] 17, 2018.~~

Section 2. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, change the effective date in Sections 34A-3-112, 41-6a-501, 41-6a-502, 41-6a-515, ~~6] 5,~~ 41-6a-529, and 76-5-207.

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~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel}~~