

1                    **DRIVING UNDER THE INFLUENCE AMENDMENTS**

2    2013 GENERAL SESSION

3    STATE OF UTAH

4    **Chief Sponsor: Scott K. Jenkins**

5    House Sponsor: James A. Dunnigan

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7 **LONG TITLE**

8 **General Description:**

9                    This bill modifies the Traffic Code by amending provisions relating to driving under the  
10 influence.

11 **Highlighted Provisions:**

12                    This bill:

13                    ▶ establishes minimum hours that a court shall require a person to participate in home  
14 confinement, if the court orders home confinement through the use of electronic  
15 monitoring for a first, second, or felony driving under the influence offense;

16                    ▶ provides that a court may order the imposition of an ankle attached continuous  
17 transdermal alcohol monitoring device as a condition of probation if a person is  
18 convicted of a driving under the influence violation and there is admissible evidence  
19 that the person had a blood alcohol level of .16 or higher; and

20                    ▶ makes technical corrections.

21 **Money Appropriated in this Bill:**

22                    None

23 **Other Special Clauses:**

24                    None

25 **Utah Code Sections Affected:**

26 AMENDS:

27                    **41-6a-505**, as enacted by Laws of Utah 2005, Chapter 2

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

30 Section 1. Section **41-6a-505** is amended to read:

31 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**  
32 **drugs, or a combination of both violations.**

33 (1) As part of any sentence for a first conviction of Section 41-6a-502:

34 (a) the court shall:

35 (i) (A) impose a jail sentence of not less than 48 consecutive hours;

36 (B) require the person to work in a compensatory-service work program for not less  
37 than 48 hours; or

38 (C) require the person to participate in home confinement of not fewer than 48  
39 consecutive hours through the use of electronic monitoring in accordance with Section  
40 41-6a-506;

41 (ii) order the person to participate in a screening;

42 (iii) order the person to participate in an assessment, if it is found appropriate by a  
43 screening under Subsection (1)(a)(ii);

44 (iv) order the person to participate in an educational series if the court does not order  
45 substance abuse treatment as described under Subsection (1)(b);

46 (v) impose a fine of not less than \$700; and

47 (vi) order probation for the person in accordance with Section 41-6a-507, if there is  
48 admissible evidence that the person had a blood alcohol level of .16 or higher; and

49 (b) the court may:

50 (i) order the person to obtain substance abuse treatment if the substance abuse  
51 treatment program determines that substance abuse treatment is appropriate; or

52 (ii) order probation for the person in accordance with Section 41-6a-507.

53 (2) If a person is convicted under Section 41-6a-502 within 10 years of a prior  
54 conviction as defined in Subsection 41-6a-501(2):

55 (a) the court shall:

56 (i) (A) impose a jail sentence of not less than 240 consecutive hours;

57 (B) require the person to work in a compensatory-service work program for not less

58 than 240 hours; or

59 (C) require the person to participate in home confinement of not fewer than 240  
60 consecutive hours through the use of electronic monitoring in accordance with Section  
61 41-6a-506;

62 (ii) order the person to participate in a screening;

63 (iii) order the person to participate in an assessment, if it is found appropriate by a  
64 screening under Subsection (2)(a)(ii);

65 (iv) order the person to participate in an educational series if the court does not order  
66 substance abuse treatment as described under Subsection (2)(b);

67 (v) impose a fine of not less than \$800; and

68 (vi) order probation for the person in accordance with Section 41-6a-507; and

69 (b) the court may order the person to obtain substance abuse treatment if the substance  
70 abuse treatment program determines that substance abuse treatment is appropriate.

71 (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison  
72 sentence and places the defendant on probation:

73 (a) the court shall impose:

74 (i) a fine of not less than \$1,500;

75 (ii) a jail sentence of not less than 1,500 hours;

76 (iii) supervised probation; and

77 (iv) an order requiring the person to obtain a screening and assessment and substance  
78 abuse treatment at a substance abuse treatment program providing intensive care or inpatient  
79 treatment and long-term closely supervised follow-through after treatment for not less than 240  
80 hours; and

81 (b) in lieu of Subsection (3)(a)(ii), the court may require the person to participate in  
82 home confinement of not fewer than 1,500 hours through the use of electronic monitoring in  
83 accordance with Section 41-6a-506.

84 (4) (a) The requirements of Subsections (1)(a), (2)(a), and (3)(a) may not be suspended.

85 (b) Probation or parole resulting from a conviction for a violation under this section

86 may not be terminated.

87 (5) If a person is convicted of a violation of Section 41-6a-502 and there is admissible  
88 evidence that the person had a blood alcohol level of .16 or higher, the court shall order the  
89 following, or describe on record why the order or orders are not appropriate:

90 (a) treatment as described under Subsection (1)(b), (2)(b), or (3)(a)(iv); and

91 (b) one or ~~both~~ more of the following:

92 (i) the installation of an ignition interlock system as a condition of probation for the  
93 person in accordance with Section 41-6a-518; ~~or~~

94 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring  
95 device as a condition of probation for the person; or

96 ~~(ii)~~ (iii) the imposition of home confinement through the use of electronic monitoring  
97 in accordance with Section 41-6a-506.