

KANE COUNTY JUSTICE COURT
State of Utah
76 North Main Street, Kanab, UT 84741
(435) 644-2351 – telephone; (435) 644-2052 – fax
jckane@utcourts.gov

ENHANCEMENT NOTICE – DUI, METABOLITE & IMPAIRED DRIVING – 11/29/16

Defendant: _____ Case No: _____

IF YOU ARE CONVICTED of one of these offenses, this conviction may be used to make a later DUI charge more serious. This form provides notification of the provisions of current Utah law regarding 1) enhancements; 2) minimum/maximum penalties; 3) minimum sentencing requirements; and, 4) the specific elements of your current charges. This Notice does not notify you of all possible collateral consequences.

ELEMENTS

[] Class B Misdemeanor – Driving Under the Influence of Alcohol, Drugs or a Combination (DUI) 41-6a-502(1): A person may not operate or be in actual physical control of a vehicle within this state if the person: (a) has sufficient alcohol in the person's body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .08 grams or greater at the time of the test; (b) is under the influence of alcohol, any drug, or the combination thereof, to a degree that renders the person incapable of safely operating a vehicle; or (c) has a blood or breath alcohol concentration of .08 grams or greater at the time of operation or actual physical control.

[] Class B Misdemeanor – Impaired Driving 41-6A-502.5: With the agreement of the prosecutor, a plea to a class B misdemeanor charge of DUI may be entered as a conviction of Impaired Driving if: (a) the defendant completes court ordered probation requirements [entered as impaired driving conviction, but amended to a DUI conviction, with the date of the amendment, for failure to successfully show completion of probation]; or (b) the prosecutor agrees, as part of a negotiated plea, and the court finds the plea to be in the interest of justice [conviction of impaired driving is entered]. Effective 5/12/2015, Impaired Driving is not available to a person with a prior conviction.

[] Class B Misdemeanor – Driving with Measurable Controlled Substance in the Body (Metabolite) 41-6a-517(2): In cases not amounting to a violation of Section 41-6a-502 (DUI), a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

ENHANCEMENT / PENALTIES

1st Class B Misdemeanor DUI Conviction Within Ten Years 41-6a-503, 505, 518: The court shall order, at a minimum: (a) a jail sentence of 48 consecutive hours, 48 hours of compensatory service, or home confinement of not fewer than 48 consecutive hours through the use of electronic monitoring; (b) a screening; (c) an assessment, if found appropriate by the screening; (d) an educational series, unless substance abuse treatment is ordered; (e) a \$1380 fine and surcharges; (f) supervised probation, if a blood alcohol level of .16 or higher; and (g) the installation of an ignition interlock device if the defendant was under the age of 21 when the violation occurred (except for violations involving drugs other than alcohol). For blood alcohol of .16 or higher, the court shall also order either an ignition interlock system, ankle monitoring, or home confinement with electronic monitoring.

2nd Class B Misdemeanor DUI Conviction Within Ten Years 41-6a-503, 505, 518: The court shall order, at a minimum: (a) a jail sentence of 240 consecutive hours, 240 hours of compensatory service, or home confinement of not fewer than 240 consecutive hours through the use of electronic monitoring; (b) a screening; (c) an assessment, if found appropriate by the screening; (d) an educational series, unless substance abuse treatment is ordered; (e) a \$1570 fine and surcharges; (f) supervised probation; and (g) the installation of the interlock ignition system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person.

3rd DUI Conviction Within Ten Years 41-6a-503, 505: A 3rd DUI conviction within 10 years is a third degree felony. A prison sentence may be ordered. If the court suspends the execution of a prison sentence and places the defendant on probation, the court shall order, at a minimum: (a) a \$2,893 fine and surcharges; (b) a jail sentence of 1,500 hours or home confinement of not fewer than 1,500 consecutive hours through the use of electronic monitoring; (c) supervised probation; (d) a screening and assessment for alcohol and substance abuse, and treatment as appropriate.

.16 or Higher 41-6a-505: For a blood alcohol level of .16 or higher, the Court shall order the following or describe why such an order is inappropriate: 1) treatment; and, 2) one or more of the following: a) an ignition interlock system; b) an ankle attached continuous transdermal alcohol monitoring device; or c) home confinement through electronic monitoring.

Impaired Driving Conviction 41-6a-502.5(6)(a) and (b): The court shall render the same order regarding screening, assessment, educational series, and substance abuse treatment for a 1st, 2nd, or subsequent conviction as it would, respectively for a 1st, 2nd or subsequent DUI conviction.

Impaired Driving and Metabolite 41-6a-501(2): Both Impaired Driving and Metabolite constitute qualifying convictions for DUI enhancement purposes.

Supervised Probation 41-6a-517(14): The court shall order supervised probation for a person convicted of Metabolite.

Minimum / Maximum Sentences

1st Class B Misdemeanor: 0 days to 6 months jail AND/OR \$1380.00 to \$1950.00 fines and surcharges (plus interest)
2nd Class B Misdemeanor: 0 days to 6 months jail AND/OR \$1570.00 to \$1950.00 fines and surcharges (plus interest)
Third Degree Felony: 0 days to 5 years prison AND/OR \$2893.00 to \$9543.00 fines and surcharges (plus interest)

I understand the foregoing Enhancement Notice as explained here and as orally explained to me.

_____ (Date) _____ (Defendant's signature)