

**NOTIFICATION OF ENHANCEMENT – DUI, METABOLITE AND IMPAIRED DRIVING**

Defendant: \_\_\_\_\_ Case No. \_\_\_\_\_

**IF YOU ARE CONVICTED of the offense of Driving Under the Influence of Alcohol and/or Drugs (DUI), Driving with any Measurable Controlled Substance in the Body (Metabolite) and/or the reduced charge of Impaired Driving, this conviction may be used to make a later DUI charge more serious by raising the classification of that offense. This form provides notification of the current provisions of Utah State Law regarding enhancement; minimum/maximum penalties applicable to the different classifications of offenses; minimum sentencing requirements that must be imposed by this court, and the specific elements of your current charges. It does not notify you of other 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 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 under 41-6a-502.5, if: (a) the defendant completes court ordered probation requirements; or (b) the prosecutor agrees as part of a negotiated plea and the court finds the plea to be in the interest of justice. Effective 5/12/2015, Impaired Driving is not available to a person who has a prior conviction as defined in Subsection 41-6a-501(2).

[ ] **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 compensatory service, or home confinement through the use of electronic monitoring; (b) a screening and an assessment (if it is found appropriate by the screening); (c) an educational series (unless the court orders substance abuse treatment); (d) a \$1380 fine and surcharges; (e) supervised probation if the defendant had a blood alcohol concentration of .16 or higher; and (f) 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 compensatory service, or home confinement through the use of electronic monitoring; (b) a screening and an assessment (if it is found appropriate by the screening); (c) an educational series (unless the court orders substance abuse treatment); (d) a \$1570 fine and surcharges; (e) supervised probation; and (f) 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 \$2893 fine and surcharges; (b) a jail sentence of 1,500 hours; (c) supervised probation; (d) a screening and assessment for alcohol and substance abuse, and treatment as appropriate.

**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 1<sup>st</sup>, 2<sup>nd</sup>, or subsequent conviction as it would, respectively for a 1<sup>st</sup>, 2<sup>nd</sup>, or subsequent DUI conviction.

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

41-6a-517(14): The court shall order supervised probation in accordance with 41-6a-507 for a person convicted of Metabolite.

**Minimum / Maximum Sentences**

Class B Misdemeanor:	0 days to 6 months jail	AND/OR	\$1380.00 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 Notification of Enhancement as explained here and as orally explained to me.*

\_\_\_\_\_ (Date) \_\_\_\_\_ (Defendant's signature)