

**NOTIFICATION OF ENHANCEMENT – CLASS-B-MISDEMEANOR DUI**

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

**ELEMENTS**

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.

**ENHANCEMENT / PENALTIES**

1<sup>st</sup> 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 \$1370 fine and surcharge; (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).

2<sup>nd</sup> 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 \$1560 fine and surcharge; and (e) supervised probation.

3<sup>rd</sup> DUI Conviction Within Ten Years 41-6a-503, 505: A 3<sup>rd</sup> DUI conviction within 10 years is a third degree felony. 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 \$2,883 fine and surcharge; (b) a jail sentence of 1,500 hours; (c) a screening and assessment and substance abuse treatment at a program providing intensive care or inpatient treatment and long-term closely supervised follow-through after treatment for not less than 240 hours; and (d) supervised probation.

Note: 41-6a 509(1): (a) For a DUI committed on or after 7/1/09, the DLD shall: (i) if the person is 21 or older at the time of arrest: (A) for a 1<sup>st</sup> DUI, suspend the license for 120 days; and (B) for a 2<sup>nd</sup> or subsequent DUI within 10 years, revoke the license for 2 years; (ii) if the person is under 21 at the time of arrest: (A), (B) for a 1<sup>st</sup> DUI, suspend the license until the defendant is 21 or for 120 days, whichever is longer, and, if no license, deny the application for a license or learner's permit until the defendant is 21 or for 120 days, whichever is longer; (C), (D) for a 2<sup>nd</sup> or subsequent DUI within 10 years, revoke the license until the defendant is 21 or for 2 years, whichever is longer, and, if no license, deny the application for a license or learner's permit until the defendant is 21 or for 2 years, whichever is longer. (b) For a DUI committed prior to 7/1/09, the DLD shall suspend the license for the suspension periods in effect prior to 7/1/09 (90-day suspension for 1<sup>st</sup> DUI, 1-year revocation for 2<sup>nd</sup> or subsequent DUI within 10 years).

Note: 41-6a-529: A DUI conviction will result in the defendant being classified as an alcohol-restricted driver for the periods prescribed in this section. It is a class B misdemeanor for an alcohol-restricted driver to operate or be in actual physical control of a motor vehicle in this state with any measurable or detectable amount of alcohol in the person's body.

**Minimum / Maximum Sentences**

Class B Misdemeanor: 0 days to 6 months jail; Amounts listed above to \$1,940 fines and surcharges, plus interest

Third Degree Felony: 1,500 hours jail to 5 years prison; \$2883 to \$9,533 fines and surcharges, plus interest

*I understand the foregoing Notification of Enhancement as explained here and as orally explained to me.*

\_\_\_\_\_ (Date)

\_\_\_\_\_ (Defendant)