

First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 07-0336.01 Stephen Miller

HOUSE BILL 07-1189

HOUSE SPONSORSHIP

Judd,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING DRUNK DRIVING LAW ENFORCEMENT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Increases the driver's license revocation period for first-time DUI/DUI per se violators after July 1, 2007, to 5 years. Increases the driver's license revocation period for multiple DUI/DUI per se violators who commit a second or subsequent violation after July 1, 2007, to 20 years. Permits the issuance of a probationary license upon the request of a driver whose license is revoked for 5 or 20 years under certain circumstances.

Specifies that persons whose licenses are revoked for 5 or 20 years may apply for early reinstatement with a restricted license requiring the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

use of an approved ignition interlock device.

Creates the drunk driving enforcement fund ("fund"). Specifies that the fund consists of moneys required to be deposited from certain sales and use tax receipts. Specifies the purposes of the fund.

Requires the department of transportation to include as a priority within the strategic transportation project investment program increased episodes of high visibility drunk driving enforcement. Specifies that the episodes shall be independent of the drunk driving prevention and law enforcement program.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 42-2-125 (1) (i), (2), and (2.3), Colorado Revised
3 Statutes, are amended to read:

4 **42-2-125. Mandatory revocation of license and permit.**

5 (1) The department shall immediately revoke the license or permit of any
6 driver ~~of~~ OR minor driver upon receiving a record showing that such
7 driver has:

8 (i) (I) Been convicted of any offense COMMITTED PRIOR TO JULY
9 1, 2007, provided for in section 42-4-1301 (1) or (2) (a) and has two
10 previous convictions of any of such offenses. The license of any driver
11 shall be revoked for an indefinite period and shall only be reissued upon
12 proof to the department that said driver has completed a level II alcohol
13 and drug education and treatment program certified by the division of
14 alcohol and drug abuse pursuant to section 42-4-1301.3 and that said
15 driver has demonstrated knowledge of the laws and driving ability
16 through the regular motor vehicle testing process. In no event shall such
17 license be reissued in less than two years.

18 (II) BEEN CONVICTED OF ANY OFFENSE COMMITTED ON OR AFTER
19 JULY 1, 2007, PROVIDED FOR IN SECTION 42-4-1301 (1) OR (2) (a) AND HAS
20 TWO PREVIOUS CONVICTIONS OF ANY OF SUCH OFFENSES. THE LICENSE OF

1 A DRIVER SHALL BE REVOKED FOR AN INDEFINITE PERIOD, BUT IN NO
2 EVENT LESS THAN TWENTY YEARS, AND SHALL ONLY BE REISSUED UPON
3 PROOF TO THE DEPARTMENT THAT SAID DRIVER HAS COMPLETED A LEVEL
4 II ALCOHOL AND DRUG EDUCATION AND TREATMENT PROGRAM CERTIFIED
5 BY THE DIVISION OF ALCOHOL AND DRUG ABUSE PURSUANT TO SECTION
6 42-4-1301.3 AND THAT SAID DRIVER HAS DEMONSTRATED KNOWLEDGE OF
7 THE LAWS AND DRIVING ABILITY THROUGH THE REGULAR MOTOR VEHICLE
8 TESTING PROCESS.

9 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF
10 THIS SUBSECTION (2), the period of revocation based on paragraphs (b)
11 AND (c) ~~and (k)~~ of subsection (1) of this section shall be one year; except
12 that any violation involving a commercial motor vehicle transporting
13 hazardous materials as defined under section 42-2-402 (7) shall result in
14 a revocation period of three years.

15 (b) AS TO OFFENSES COMMITTED ON OR AFTER JULY 1, 2007, THE
16 PERIOD OF REVOCATION BASED ON PARAGRAPH (b) OF SUBSECTION (1) OF
17 THIS SECTION SHALL BE FIVE YEARS FOR A FIRST VIOLATION COMMITTED
18 ON OR AFTER JULY 1, 2007, AND TWENTY YEARS FOR A SECOND OR
19 SUBSEQUENT VIOLATION COMMITTED ON OR AFTER JULY 1, 2007,
20 REGARDLESS OF WHETHER A PRIOR VIOLATION IS COMMITTED BEFORE, ON,
21 OR AFTER JULY 1, 2007 .

22 (2.3) The period of revocation under subparagraph (I) of
23 paragraph (g) of subsection (1) of this section shall be for not less than
24 one year; EXCEPT THAT, IF THE TWO CONVICTIONS ARE FOR DUI, AS
25 DESCRIBED IN SECTION 42-4-1301 (1) (f), OR DUI PER SE, AS DESCRIBED IN
26 SECTION 42-4-1301 (2) (a), OR A COMBINATION OF BOTH, AND ONE OF THE
27 OFFENSES OCCURRED ON OR AFTER JULY 1, 2007, THEN THE PERIOD OF

1 REVOCATION SHALL BE FOR TWENTY YEARS.

2 **SECTION 2.** 42-2-126 (6) (b) (I) and (6) (b) (II), Colorado
3 Revised Statutes, are amended, and the said 42-2-126 (6) (b) is further
4 amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

5 **42-2-126. Revocation of license based on administrative**
6 **determination.** (6) (b) (I) Except as otherwise provided in ~~subparagraph~~
7 SUBPARAGRAPHS (VIII.5) AND (IX) of this paragraph (b), the period of
8 license revocation under subparagraph (I) of paragraph (a) of subsection
9 (2) of this section for a first violation shall be three months.

10 (II) Except as otherwise provided in subparagraph (VIII.5) OF THIS
11 PARAGRAPH (b), the period of license revocation under subparagraph (I)
12 of paragraph (a) of subsection (2) of this section for a second or
13 subsequent revocation shall be one year.

14 (VIII.5) THE PERIOD OF LICENSE REVOCATION UNDER
15 SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION
16 FOR:

17 (A) A FIRST VIOLATION COMMITTED ON OR AFTER JULY 1, 2007,
18 SHALL BE FIVE YEARS;

19 (B) A SECOND OR SUBSEQUENT VIOLATION COMMITTED ON OR
20 AFTER JULY 1, 2007, REGARDLESS OF WHETHER A PRIOR VIOLATION IS
21 COMMITTED BEFORE, ON, OR AFTER JULY 1, 2007, SHALL BE TWENTY
22 YEARS.

23 **SECTION 3.** 42-2-126 (6) (b) (IX) (A.5) and (6) (b) (IX) (B),
24 Colorado Revised Statutes, are amended, and the said 42-2-126 (6) (b)
25 (IX) is further amended BY THE ADDITION OF THE FOLLOWING
26 NEW SUB-SUBPARAGRAPHS, to read:

27 **42-2-126. Revocation of license based on administrative**

1 **determination.** (6) (b) (IX) (A.5) AS TO OFFENSES COMMITTED BEFORE
2 JULY 1, 2007, a person whose license is revoked for a first offense under
3 subparagraph (I) of paragraph (a) of subsection (2) of this section may
4 request that, in lieu of the three-month revocation, the person's license be
5 revoked for a period of not less than thirty days, to be followed by a
6 suspension period of such length that the total period of revocation and
7 suspension equals six months. If the person is a persistent drunk driver,
8 as defined in section 42-1-102 (68.5), the probationary license shall be
9 conditioned on the use of an approved ignition interlock device, as
10 defined in section 42-2-132.5 (7) (a). The time served under a
11 probationary license shall not be credited against any mandatory interlock
12 restriction imposed pursuant to section 42-2-132.5. If the hearing officer
13 approves the request, the hearing officer may grant the person a
14 probationary license that may be used only for the reasons provided in
15 section 42-2-127 (14) (a).

16 (A.7) A PERSON WHOSE LICENSE IS REVOKED FOR A FIRST OFFENSE
17 COMMITTED ON OR AFTER JULY 1, 2007, UNDER SUBPARAGRAPH (I) OF
18 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION MAY REQUEST THAT,
19 IN LIEU OF THE FIVE-YEAR REVOCATION, THE PERSON'S LICENSE BE
20 REVOKED FOR A PERIOD OF NOT LESS THAN THREE MONTHS, TO BE
21 FOLLOWED BY A SUSPENSION PERIOD OF SUCH LENGTH THAT THE TOTAL
22 PERIOD OF REVOCATION AND SUSPENSION EQUALS FIVE YEARS. THE
23 PROBATIONARY LICENSE SHALL BE CONDITIONED ON THE USE OF AN
24 APPROVED IGNITION INTERLOCK DEVICE, AS DEFINED IN SECTION
25 42-2-132.5 (7) (a). THE TIME SERVED UNDER A PROBATIONARY LICENSE
26 SHALL NOT BE CREDITED AGAINST ANY MANDATORY INTERLOCK
27 RESTRICTION IMPOSED PURSUANT TO SECTION 42-2-132.5. IF THE HEARING

1 OFFICER APPROVES THE REQUEST, THE HEARING OFFICER MAY GRANT THE
2 PERSON A PROBATIONARY LICENSE THAT MAY BE USED ONLY FOR THE
3 REASONS PROVIDED IN SECTION 42-2-127 (14) (a).

4 (A.9) A PERSON WHOSE LICENSE IS REVOKED FOR A SECOND OR
5 SUBSEQUENT OFFENSE COMMITTED ON OR AFTER JULY 1, 2007, UNDER
6 SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION
7 MAY REQUEST THAT, IN LIEU OF THE TWENTY-YEAR REVOCATION, THE
8 PERSON'S LICENSE BE REVOKED FOR A PERIOD OF NOT LESS THAN THREE
9 MONTHS, TO BE FOLLOWED BY A SUSPENSION PERIOD OF SUCH LENGTH
10 THAT THE TOTAL PERIOD OF REVOCATION AND SUSPENSION EQUALS
11 TWENTY YEARS. THE PROBATIONARY LICENSE SHALL BE CONDITIONED ON
12 THE USE OF AN APPROVED IGNITION INTERLOCK DEVICE, AS DEFINED IN
13 SECTION 42-2-132.5 (7) (a). THE TIME SERVED UNDER A PROBATIONARY
14 LICENSE SHALL NOT BE CREDITED AGAINST ANY MANDATORY INTERLOCK
15 RESTRICTION IMPOSED PURSUANT TO SECTION 42-2-132.5. IF THE HEARING
16 OFFICER APPROVES THE REQUEST, THE HEARING OFFICER MAY GRANT THE
17 PERSON A PROBATIONARY LICENSE THAT MAY BE USED ONLY FOR THE
18 REASONS PROVIDED IN SECTION 42-2-127 (14) (a).

19 (B) The hearing to consider a request under sub-subparagraph (A),
20 ~~or~~ (A.5), (A.7), OR (A.9) of this subparagraph (IX) may be held at the
21 same time as the hearing held under subsection (8) of this section; except
22 that a probationary license may not become effective until at least thirty
23 days have elapsed since the beginning of the revocation period.

24 **SECTION 4.** 42-2-132 (2) (a) (I), Colorado Revised Statutes, is
25 amended to read:

26 **42-2-132. Period of suspension or revocation.** (2) (a) (I) ~~Any~~
27 EXCEPT AS OTHERWISE PROVIDED IN THIS PART 1, A person whose license

1 or privilege to drive a motor vehicle on the public highways has been
2 revoked is not entitled to apply for a probationary license, and, except as
3 provided in paragraph (b) of this subsection (2) and in sections 42-2-125,
4 42-2-126, 42-2-138, 42-2-205, and 42-7-406, such person is not entitled
5 to make application for a new license until the expiration of one year
6 from the date on which the revoked license was surrendered to and
7 received by the department; then such person may make application for
8 a new license as provided by law.

9 **SECTION 5.** 42-2-132.5 (1.5) (a), Colorado Revised Statutes, is
10 amended, and the said 42-2-132.5 (1.5) is further amended BY THE
11 ADDITION OF A NEW PARAGRAPH, to read:

12 **42-2-132.5. Mandatory and voluntary restricted licenses**
13 **following alcohol conviction.** (1.5) (a) EXCEPT AS OTHERWISE
14 PROVIDED IN PARAGRAPH (a.5) OF THIS SUBSECTION (1.5), a person whose
15 privilege to drive has been revoked for more than one year because of a
16 violation of any provision of section 42-4-1301 (1) (a), (1) (b), or (2) or
17 has been revoked for more than one year under any provision of section
18 42-2-126 may voluntarily apply for an early reinstatement with a
19 restricted license under the provisions of this section after the person's
20 privilege to drive has been revoked for one year. The restrictions
21 imposed pursuant to this section CONCERNING THE REVOCATIONS
22 DESCRIBED IN THIS PARAGRAPH (a) shall remain in effect for the longer of
23 one year or the total time period remaining on the license restraint prior
24 to early reinstatement.

25 (a.5) A PERSON WHOSE PRIVILEGE TO DRIVE HAS BEEN REVOKED
26 UNDER THIS ARTICLE FOR EITHER FIVE YEARS OR TWENTY YEARS BECAUSE
27 OF ONE OR MORE VIOLATIONS OF SECTION 42-4-1301 (1) (a) OR (2)

1 OCCURRING ON OR AFTER JULY 1, 2007, MAY VOLUNTARILY APPLY FOR AN
2 EARLY REINSTATEMENT WITH A RESTRICTED LICENSE UNDER THE
3 PROVISIONS OF THIS SECTION AFTER THE PERSON'S PRIVILEGE TO DRIVE
4 HAS BEEN REVOKED FOR THREE MONTHS OR AFTER THE EXPIRATION OF THE
5 PERSON'S PROBATIONARY LICENSE, WHICHEVER IS LATER. THE
6 RESTRICTIONS IMPOSED PURSUANT TO THIS SECTION CONCERNING THE
7 REVOCATIONS DESCRIBED IN THIS PARAGRAPH (a.5) SHALL REMAIN IN
8 EFFECT FOR THE LONGER OF TWO YEARS OR THE TOTAL TIME REMAINING
9 ON THE LICENSE RESTRAINT PRIOR TO EARLY REINSTATEMENT.

10 **SECTION 6.** Part 1 of article 2 of title 42, Colorado Revised
11 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
12 read:

13 **42-2-132.7. Drunk driving enforcement fund - creation.**

14 (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE DRUNK
15 DRIVING ENFORCEMENT FUND, REFERRED TO IN THIS SECTION AS THE
16 "FUND", THAT SHALL CONSIST OF MONEYS REQUIRED TO BE DEPOSITED IN
17 THE FUND PURSUANT TO SECTION 39-26-123 (3) (a) (I), C.R.S. THE
18 MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY
19 THE GENERAL ASSEMBLY FOR THE EXPENSES INCURRED BY THE
20 DEPARTMENT OF REVENUE AND THE DEPARTMENT OF TRANSPORTATION IN
21 IMPLEMENTING THE PROVISIONS OF HB 07-___ AND TO SUPPLEMENT THE
22 MONEYS THAT ARE ANNUALLY APPROPRIATED FROM THE PERSISTENT
23 DRUNK DRIVERS CASH FUND BY THE GENERAL ASSEMBLY, PURSUANT TO
24 SECTION 42-3-303 (1) (d), TO PAY A PORTION OF THE COSTS FOR
25 INTERVENTION OR TREATMENT SERVICES REQUIRED UNDER SECTION
26 42-2-132.5 FOR A PERSISTENT DRUNK DRIVER WHO IS UNABLE TO PAY FOR
27 THE REQUIRED INTERVENTION OR TREATMENT SERVICES.

1 (2) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE
2 OF THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS
3 PROVIDED IN SECTION 24-36-113, C.R.S. ALL INTEREST AND INCOME
4 DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND
5 SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND
6 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY
7 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR
8 TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

9 **SECTION 7.** The introductory portion to 39-26-123 (3) (a) and
10 39-26-123 (3) (a) (I), Colorado Revised Statutes, are amended to read:

11 **39-26-123. Receipts - disposition - transfers of general fund**
12 **surplus - sales and use tax holding fund - creation - definitions.**

13 (3) (a) For any state fiscal year commencing on or after July 1, 2006,
14 eighty-five percent of all net revenue collected under the provisions of
15 this article shall be credited to the old age pension fund created in section
16 1 of article XXIV of the state constitution. The remaining fifteen percent
17 shall be allocated among the sales and use tax holding fund created in
18 subsection (2) of this section, THE DRUNK DRIVING ENFORCEMENT FUND
19 CREATED IN SECTION 42-2-132.7, C.R.S., the general fund, the older
20 Coloradans cash fund created in section 26-11-205.5 (5), C.R.S., and the
21 supplemental old age pension health and medical care fund created in
22 section 26-2-117 (3), C.R.S., and credited to the funds by the state
23 treasurer as follows:

24 (I) Ten and three hundred fifty-five thousandths percent of all net
25 revenue to the sales and use tax holding fund, LESS THREE MILLION
26 DOLLARS TO BE CREDITED TO THE DRUNK DRIVING ENFORCEMENT FUND
27 CREATED IN SECTION 42-2-132.7, C.R.S.;

1 **SECTION 8.** Article 4 of title 43, Colorado Revised Statutes, is
2 amended BY THE ADDITION OF A NEW PART to read:

3 PART 9

4 HIGH VISIBILITY DRUNK DRIVING ENFORCEMENT

5 **43-4-901. High visibility drunk driving enforcement.** THE
6 DEPARTMENT OF TRANSPORTATION IN IMPLEMENTING THE STRATEGIC
7 TRANSPORTATION PROJECT INVESTMENT PROGRAM SHALL, AS A PRIORITY,
8 INCREASE THE NUMBER OF HIGH VISIBILITY DRUNK DRIVING ENFORCEMENT
9 EPISODES THAT THE DEPARTMENT OVERSEES TO BETWEEN TWELVE AND
10 FIFTEEN EPISODES ANNUALLY. THE HIGH VISIBILITY DRUNK DRIVING
11 ENFORCEMENT EPISODES REQUIRED BY THIS SECTION SHALL BE
12 INDEPENDENT OF, AND IN ADDITION TO, THE DRUNK DRIVING PREVENTION
13 AND LAW ENFORCEMENT PROGRAM DESCRIBED IN PART 4 OF THIS ARTICLE.

14 **SECTION 9. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.