

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 08-0450.01 Jerry Barry

HOUSE BILL 08-1194

HOUSE SPONSORSHIP

Judd, Fischer, and Todd

SENATE SPONSORSHIP

Veiga, and Shaffer

House Committees

Transportation & Energy
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES BY EXECUTIVE BRANCH AGENCIES TO REDUCE**
102 **THE INCIDENTS OF DRUNK DRIVING, AND, IN CONNECTION**
103 **THEREWITH, EXTENDING THE LENGTH OF SUSPENSION OF**
104 **DRIVING PRIVILEGES FOR CERTAIN OFFENDERS, REQUIRING**
105 **CERTAIN OFFENDERS TO USE AN IGNITION INTERLOCK DEVICE,**
106 **INCREASING THE COST TO REINSTATE A DRIVER'S LICENSE, AND**
107 **PROVIDING FOR HIGH-VISIBILITY DRUNK DRIVING LAW**
108 **ENFORCEMENT EPISODES.**

Bill Summary

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

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.

adopted.)

Extends the length of time that a person's driver's license is revoked or suspended due to certain alcohol- or drug-related offenses.

Authorizes a person whose driver's license has been revoked for a first-time alcohol-related offense:

! To seek a restricted license requiring the use of an ignition interlock device after the person's license has been revoked for a specified period; and

! To be eligible for an unrestricted license if no possible violations are identified for a specified period.

Increases the reinstatement fee following a revocation or suspension due to an alcohol- or drug-related offense. Specifies that a portion of the increased fee be transferred to the first time drunk driving offender account in the highway users tax fund to be used to pay for an ignition interlock device for a person who cannot afford the device.

Requires the department of transportation to include as a priority within the strategic transportation project investment program increased episodes of high-visibility drunk driving law 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. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Drunk driving is a pervasive problem that affects all citizens
5 of Colorado because it increases traffic accident injuries and deaths,
6 health care costs, and motor vehicle insurance rates; and

7 (b) Drunk driving recidivists substantially compound the drunk
8 driving problem by further increasing these consequences of drunk
9 driving and by burdening the judicial system.

10 (2) The general assembly, therefore, determines that encouraging
11 drunk driving offenders to use ignition interlock devices for specified
12 periods of time will help those offenders learn to modify their behaviors
13 to drive only while sober and will, therefore, reduce drunk driving

1 recidivism. The general assembly further determines that the desired
2 result and benefit of this act will be to reduce drunk driving recidivism.

3 **SECTION 2.** 42-2-125 (1) (g) (I) and (2), Colorado Revised
4 Statutes, are amended, and the said 42-2-125 (1) is further amended BY
5 THE ADDITION OF A NEW PARAGRAPH, to read:

6 **42-2-125. Mandatory revocation of license and permit.**

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

10 (b.5) IN THE CASE OF A DRIVER TWENTY-ONE YEARS OF AGE OR
11 OLDER, BEEN CONVICTED OF AN OFFENSE DESCRIBED IN SECTION
12 42-4-1301 (1) (a) OR (2) (a). EXCEPT AS PROVIDED IN SECTION
13 42-2-132.5, THE PERIOD OF REVOCATION BASED UPON THIS PARAGRAPH
14 (b.5) SHALL BE NINE MONTHS. THE PROVISIONS OF THIS PARAGRAPH (b.5)
15 SHALL NOT APPLY TO A PERSON WHOSE DRIVING PRIVILEGE WAS REVOKED
16 PURSUANT TO SECTION 42-2-126 (2) (a) (I) FOR A FIRST OFFENSE BASED ON
17 THE SAME DRIVING INCIDENT.

18 (g) (I) Been twice convicted of any ~~offense~~ COMBINATION OF
19 OFFENSES provided for in section 42-4-1301 (1) or (2) (a) for acts
20 committed within a period of five years;

21 (2) Unless otherwise provided in this section, the period of
22 revocation shall be not less than one year; except that the period of
23 revocation based on ~~paragraphs (b), (c), and (k)~~ PARAGRAPHS (b) AND (c)
24 of subsection (1) of this section involving a commercial motor vehicle
25 transporting hazardous materials as defined under section 42-2-402 (7)
26 shall result in a revocation period of three years.

27 **SECTION 3.** 42-2-126 (6) (b) (I), (6) (b) (II), (6) (b) (VI), (6) (b)

1 (VII), (6) (b) (IX) (A.5), and (6) (b) (IX) (B), Colorado Revised Statutes,
2 are amended, and the said 42-2-126 (6) (b) is further amended BY THE
3 ADDITION OF A NEW SUBPARAGRAPH, to read:

4 **42-2-126. Revocation of license based on administrative**
5 **determination.** (6) (b) (I) Except as otherwise provided in subparagraph
6 ~~(IX) of this paragraph (b)~~ SECTION 42-2-132.5, the period of license
7 revocation under subparagraph (I) of paragraph (a) of subsection (2) of
8 this section for a first violation COMMITTED ON OR AFTER JANUARY 1,
9 2009, shall be ~~three~~ NINE months.

10 (II) The period of license revocation under subparagraph (I) of
11 paragraph (a) of subsection (2) of this section for a second ~~or subsequent~~
12 revocation shall be one year.

13 (II.3) EXCEPT AS OTHERWISE PROVIDED IN SECTION 42-2-132.5,
14 THE PERIOD OF LICENSE REVOCATION UNDER SUBPARAGRAPH (I) OF
15 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION FOR A THIRD OR
16 SUBSEQUENT VIOLATION OCCURRING ON OR AFTER JANUARY 1, 2009,
17 SHALL BE TWO YEARS, REGARDLESS OF WHEN THE PRIOR VIOLATIONS WERE
18 COMMITTED.

19 (VI) EXCEPT AS OTHERWISE PROVIDED IN SECTION 42-2-132.5, the
20 period of license revocation under subparagraph (II) of paragraph (a) of
21 subsection (2) of this section for a second refusal shall be two years.

22 (VII) EXCEPT AS OTHERWISE PROVIDED IN SECTION 42-2-132.5, the
23 period of license revocation under subparagraph (II) of paragraph (a) of
24 subsection (2) of this section for a third or subsequent refusal shall be
25 three years.

26 (IX) (A.5) ~~A person twenty-one years of age or older at the time~~
27 ~~of the violation whose license is revoked for a first offense under~~

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

14 (B) The hearing to consider a request under sub-subparagraph (A)
15 or (A.5) of this subparagraph (IX) may be held at the same time as the
16 hearing held under subsection (8) of this section; except that a
17 probationary license may not become effective until at least thirty days
18 have elapsed since the beginning of the revocation period.

19 **SECTION 4. Repeal.** 42-2-127 (9), Colorado Revised Statutes,
20 is repealed as follows:

21 **42-2-127. Authority to suspend license - to deny license - type**
22 **of conviction - points.** (9) (a) ~~Whenever the department receives notice~~
23 ~~that a person has pled guilty to, or been found guilty by a court or a jury~~
24 ~~of, a violation of section 42-4-1301 (1) (a), (1) (c), or (2) (a) and receives~~
25 ~~the license surrendered by the person to the court pursuant to section~~
26 ~~42-2-129, the department shall immediately suspend the license of the~~
27 ~~person for a period of not less than one year. If the department is also~~

1 required to enter a license revocation for a period of one year or longer
2 under any provision of this title based on the same conviction, the
3 suspension shall not be entered.

4 (b) Upon suspending the license of any person as required by this
5 subsection (9), the department shall immediately notify the licensee as
6 provided in section 42-2-119 (2).

7 (c) Upon receipt of the notice of suspension, the licensee or the
8 licensee's attorney may request a hearing in writing. The department,
9 upon notice to the licensee as provided in section 42-2-119 (2), shall hold
10 a hearing not less than thirty days after receiving such request through a
11 hearing commissioner appointed by the executive director of the
12 department, which hearing shall be conducted in accordance with the
13 provisions of section 24-4-105, C.R.S. The hearing shall be held at the
14 district office of the department closest to the residence of the licensee;
15 except that all or part of the hearing may, at the discretion of the
16 department, be conducted in real time, by telephone or other electronic
17 means in accordance with section 42-1-218.5. After such hearing, the
18 licensee may appeal the decision of the department to the district court as
19 provided in section 42-2-135. Should a driver who has had a license
20 suspended under this subsection (9) be subsequently acquitted of such
21 charge by a court of record, the department shall immediately, in any
22 event not later than ten days after the receipt of such notice of acquittal,
23 reinstate said license to the driver affected.

24 **SECTION 5.** 42-2-132 (1), (2) (a) (I), and (2) (a) (II) (A),
25 Colorado Revised Statutes, are amended to read:

26 **42-2-132. Period of suspension or revocation.** (1) The
27 department shall not suspend a driver's or minor driver's license to drive

1 a motor vehicle on the public highways for a period of more than one
2 year, except as permitted under ~~sections 42-2-127 (9) and 42-2-138~~
3 SECTION 42-2-138 and except for noncompliance with the provisions of
4 subsection (4) of this section or section 42-7-406, or both.

5 (2) (a) (I) Any person whose license or privilege to drive a motor
6 vehicle on the public highways has been revoked is not entitled to apply
7 for a probationary license, and, except as provided in ~~paragraph (b) of this~~
8 ~~subsection (2) and~~ in sections 42-2-125, 42-2-126, 42-2-132.5, 42-2-138,
9 42-2-205, and 42-7-406, ~~such~~ THE person is not entitled to make
10 application for a new license until the expiration of one year from the ~~date~~
11 ~~on which the revoked license was surrendered to and received by the~~
12 ~~department~~ EFFECTIVE DATE OF THE REVOCATION; then ~~such~~ THE person
13 may make application for a new license as provided by law.

14 (II) (A) Following the period of revocation set forth in this
15 subsection (2), the department shall not issue a new license unless and
16 until it is satisfied that ~~such~~ THE person has demonstrated knowledge of
17 the laws and driving ability through the appropriate motor vehicle testing
18 process and that ~~such~~ THE person whose license was revoked pursuant to
19 section 42-2-125 for ~~an~~ A SECOND OR SUBSEQUENT alcohol- or
20 drug-related driving offense has completed not less than a level II alcohol
21 and drug education and treatment program certified by the division of
22 alcohol and drug abuse pursuant to section 42-4-1301.3.

23 **SECTION 6.** 42-2-132.5 (1.5) (a), Colorado Revised Statutes, is
24 amended to read:

25 **42-2-132.5. Mandatory and voluntary restricted licenses**
26 **following alcohol convictions - rules.** (1.5) (a) (I) A person whose
27 privilege to drive has been revoked for more than one year because of a

1 violation of any provision of section 42-4-1301 (1) (a), (1) (b), or (2) or
2 has been revoked for more than one year under any provision of section
3 42-2-126 may voluntarily apply for an early reinstatement with a
4 restricted license under the provisions of this section after the person's
5 privilege to drive has been revoked for one year. EXCEPT AS PROVIDED
6 IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) OR SUBSECTION (1.7) OF
7 THIS SECTION, the restrictions imposed pursuant to this section shall
8 remain in effect for the longer of one year or the total time period
9 remaining on the license restraint prior to early reinstatement.

10 (II) (A) FOR REVOCATIONS UNDER SECTION 42-2-125 (1) (b.5) OR
11 SECTION 42-2-126 (2) (a) (I) FOR A FIRST VIOLATION THAT REQUIRES ONLY
12 A NINE-MONTH REVOCATION, A PERSON TWENTY-ONE YEARS OF AGE OR
13 OLDER AT THE TIME OF THE OFFENSE MAY VOLUNTARILY APPLY FOR AN
14 EARLY REINSTATEMENT WITH A RESTRICTED LICENSE UNDER THE
15 PROVISIONS OF THIS SECTION AFTER THE PERSON'S PRIVILEGE TO DRIVE
16 HAS BEEN REVOKED FOR AT LEAST ONE MONTH. EXCEPT AS PROVIDED IN
17 PARAGRAPH (b.5) OF SUBSECTION (1) OF THIS SECTION, SUBSECTION (1.7)
18 OF THIS SECTION, AND SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH
19 (II), THE RESTRICTIONS IMPOSED PURSUANT TO THIS SUBPARAGRAPH (II)
20 SHALL REMAIN IN EFFECT FOR EIGHT MONTHS.

21 (B) FOR A PERSON WITH A RESTRICTED LICENSE ISSUED PURSUANT
22 TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II), IF THE
23 DEPARTMENT'S MONTHLY MONITORING REPORTS REQUIRED BY PARAGRAPH
24 (c) OF SUBSECTION (4) OF THIS SECTION SHOW THAT, FOR FOUR
25 CONSECUTIVE MONTHLY REPORTING PERIODS, THE APPROVED IGNITION
26 INTERLOCK DEVICE DID NOT PREVENT THE OPERATION OF THE MOTOR
27 VEHICLE DUE TO AN EXCESSIVE BLOOD ALCOHOL CONTENT OR DID NOT

1 DETECT THAT THERE HAS BEEN TAMPERING WITH THE DEVICE, THERE HAVE
2 BEEN NO OTHER REPORTS OF CIRCUMVENTION OR TAMPERING, AND THERE
3 ARE NO GROUNDS TO EXTEND THE RESTRICTION PURSUANT TO PARAGRAPH
4 (a) OF SUBSECTION (5) OF THIS SECTION, THEN THE PERSON SHALL BE
5 ELIGIBLE FOR A LICENSE WITHOUT THE RESTRICTION REQUIRED BY THIS
6 SECTION. IF THE DEPARTMENT DETERMINES THAT A PERSON IS ELIGIBLE
7 FOR A LICENSE WITHOUT THE RESTRICTION REQUIRED BY THIS SECTION
8 PURSUANT TO THIS SUB-SUBPARAGRAPH (B), THE DEPARTMENT SHALL
9 SERVE UPON THE PERSON A NOTICE OF SUCH ELIGIBILITY. A PERSON
10 ELIGIBLE FOR A LICENSE WITHOUT THE RESTRICTION REQUIRED BY THIS
11 SECTION PURSUANT TO THIS SUB-SUBPARAGRAPH (B) MAY REQUEST A
12 HEARING ON THE PERSON'S ELIGIBILITY. THE PROVISIONS OF THIS
13 SUB-SUBPARAGRAPH (B) SHALL NOT APPLY TO A PERSON COVERED BY
14 SUBSECTION (1.7) OF THIS SECTION.

15 (C) THE DEPARTMENT SHALL ESTABLISH A PROGRAM TO ASSIST
16 PERSONS WHO APPLY FOR A RESTRICTED LICENSE UNDER THIS
17 SUBPARAGRAPH (II) WHO ARE UNABLE TO PAY THE FULL COST OF AN
18 IGNITION INTERLOCK DEVICE. THE PROGRAM SHALL BE FUNDED FROM THE
19 FIRST TIME DRUNK DRIVING OFFENDER ACCOUNT IN THE HIGHWAY USERS
20 TAX FUND ESTABLISHED PURSUANT TO SECTION 42-2-132 (4) (b) (II). THE
21 EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY PROMULGATE RULES
22 GOVERNING THE PROGRAM.

23 **SECTION 7.** 42-2-132 (4) (a) (I) and (4) (b), Colorado Revised
24 Statutes, are amended to read:

25 **42-2-132. Period of suspension or revocation.** (4) (a) (I) Any
26 person whose license or other privilege to operate a motor vehicle in this
27 state has been suspended, cancelled, or revoked, pursuant to either this

1 article or article 4 or 7 of this title, shall pay a restoration fee of ~~sixty~~ ONE
2 HUNDRED THIRTY dollars to the executive director of the department prior
3 to the issuance to ~~such~~ THE person of a new license or the restoration of
4 ~~such~~ THE license or privilege.

5 (b) All restoration fees collected pursuant to this subsection (4)
6 shall be transmitted to the state treasurer, who shall credit: ~~the same~~

7 (I) (A) NINETY-FIVE DOLLARS to the driver's license administrative
8 revocation account in the highway users tax fund, which account is
9 hereby created AND REFERRED TO IN THIS SUBPARAGRAPH (I) AS THE
10 "ACCOUNT".

11 (B) The moneys in the account shall be subject to annual
12 appropriation by the general assembly for the direct and indirect costs
13 incurred by the department in the administration of ~~drivers'~~ DRIVER'S
14 license restraints pursuant to either this article or article 4 or article 7 of
15 this title, including, but not limited to, the direct and indirect costs of
16 providing administrative hearings under this title, without the use of
17 moneys from the general fund. At the end of each fiscal year, any
18 unexpended and unencumbered moneys remaining in the account shall be
19 transferred out of the account, credited to the highway users tax fund, and
20 allocated and expended as specified in section 43-4-205 (5.5) (c), C.R.S.;

21 AND

22 (II) (A) THIRTY-FIVE DOLLARS TO THE FIRST TIME DRUNK DRIVING
23 OFFENDER ACCOUNT IN THE HIGHWAY USERS TAX FUND, WHICH ACCOUNT
24 IS HEREBY CREATED AND REFERRED TO IN THIS SUBPARAGRAPH (II) AS THE
25 "ACCOUNT".

26 (B) THE MONEYS IN THE ACCOUNT SHALL BE SUBJECT TO ANNUAL
27 APPROPRIATION BY THE GENERAL ASSEMBLY ON AND AFTER JANUARY 1,

1 2009, FIRST TO THE DEPARTMENT OF REVENUE TO PAY ITS COSTS
2 ASSOCIATED WITH THE IMPLEMENTATION OF HOUSE BILL 08-1194, AS
3 ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SIXTH
4 GENERAL ASSEMBLY; SECOND, TO THE DEPARTMENT OF REVENUE TO PAY
5 A PORTION OF THE COSTS FOR AN IGNITION INTERLOCK DEVICE AS
6 REQUIRED BY SECTION 42-2-132.5 (1.5) (a) (II) FOR A FIRST TIME DRUNK
7 DRIVING OFFENDER WHO IS UNABLE PAY THE COSTS OF THE DEVICE; AND
8 THEN TO PROVIDE TWO MILLION DOLLARS TO THE DEPARTMENT OF
9 TRANSPORTATION FOR HIGH VISIBILITY DRUNK DRIVING ENFORCEMENT
10 PURSUANT TO SECTION 43-4-901, C.R.S. ANY MONEYS IN THE ACCOUNT
11 NOT EXPENDED FOR THESE PURPOSES MAY BE INVESTED BY THE STATE
12 TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED
13 FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE
14 CREDITED TO THE ACCOUNT. AT THE END OF EACH FISCAL YEAR, ANY
15 UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE ACCOUNT
16 SHALL REMAIN IN THE ACCOUNT AND SHALL NOT BE CREDITED OR
17 TRANSFERRED TO THE GENERAL FUND, THE HIGHWAY USERS TAX FUND, OR
18 ANOTHER FUND.

19
20 **SECTION 8.** Article 4 of title 43, Colorado Revised Statutes, is
21 amended BY THE ADDITION OF A NEW PART to read:

22 **PART 9**

23 **HIGH-VISIBILITY DRUNK DRIVING LAW ENFORCEMENT**

24 **43-4-901. High-visibility drunk driving law enforcement.** THE
25 DEPARTMENT OF TRANSPORTATION IN IMPLEMENTING THE STRATEGIC
26 TRANSPORTATION PROJECT INVESTMENT PROGRAM SHALL, AS A PRIORITY,
27 INCREASE TO BETWEEN TWELVE AND FIFTEEN EPISODES ANNUALLY THE

1 NUMBER OF HIGH-VISIBILITY DRUNK DRIVING LAW ENFORCEMENT
2 EPISODES THAT THE DEPARTMENT OVERSEES. THE HIGH-VISIBILITY DRUNK
3 DRIVING LAW ENFORCEMENT EPISODES REQUIRED BY THIS SECTION SHALL
4 BE INDEPENDENT OF, AND IN ADDITION TO, THE DRUNK DRIVING
5 PREVENTION AND LAW ENFORCEMENT PROGRAM DESCRIBED IN PART 4 OF
6 THIS ARTICLE.

7 **SECTION 9. Effective date - applicability.** (1) Sections 7 and
8 8 of this act, this section, and section 10 of this act shall take effect the
9 later of September 1, 2008, or the effective date of this act, and shall
10 apply to restorations of driving privileges requested on or after said date.

11 (2) Sections 1 to 6 of this act shall take effect the later of January
12 1, 2009, or the effective date of this act, and shall apply to offenses
13 committed on or after said date.

14 **SECTION 10. Effective date.** This act shall take effect at 12:01
15 a.m. on the day following the expiration of the ninety-day period after
16 final adjournment of the general assembly that is allowed for submitting
17 a referendum petition pursuant to article V, section 1 (3) of the state
18 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);
19 except that, if a referendum petition is filed against this act or an item,
20 section, or part of this act within such period, then the act, item, section,
21 or part, if approved by the people, shall take effect on the date of the
22 official declaration of the vote thereon by proclamation of the governor.