

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0450.01 Jerry Barry

HOUSE BILL 08-1194

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HOUSE SPONSORSHIP

**Judd**, Fischer, and Todd

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House Committees  
Transportation & Energy

Senate Committees

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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.

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Authorizes a person whose driver's license has been revoked for a first-time alcohol-related offense:

- To seek a restricted license requiring the use of an ignition interlock device after the person's license has been revoked for a specified period; and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

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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 conviction.** (1.5) (a) (I) A person whose privilege to  
27 drive has been revoked for more than one year because of a violation of

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5 has been revoked for one year.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

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

17 **42-2-132. Period of suspension or revocation.** (4) (a) (I) Any  
18 person whose license or other privilege to operate a motor vehicle in this  
19 state has been suspended, cancelled, or revoked, pursuant to either this  
20 article or article 4 or 7 of this title, shall pay a restoration fee of ~~sixty~~ ONE  
21 HUNDRED THIRTY dollars to the executive director of the department prior  
22 to the issuance to ~~such~~ THE person of a new license or the restoration of  
23 ~~such~~ THE license or privilege.

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

26 (I) (A) NINETY-FIVE DOLLARS to the driver's license administrative  
27 revocation account in the highway users tax fund, which account is

1 hereby created AND REFERRED TO IN THIS SUBPARAGRAPH (I) AS THE  
2 "ACCOUNT".

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

13 AND

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

18 (B) THE MONEYS IN THE ACCOUNT SHALL BE SUBJECT TO ANNUAL  
19 APPROPRIATION BY THE GENERAL ASSEMBLY ON AND AFTER JANUARY 1,  
20 2009, TO PAY A PORTION OF THE COSTS FOR AN IGNITION INTERLOCK  
21 DEVICE AS REQUIRED BY SECTION 42-2-132.5 (1.5) (a) (II) FOR A FIRST  
22 TIME DRUNK DRIVING OFFENDER WHO IS UNABLE PAY THE COSTS OF THE  
23 DEVICE. AT THE END OF EACH FISCAL YEAR, ANY UNEXPENDED AND  
24 UNENCUMBERED MONEYS REMAINING IN THE ACCOUNT SHALL BE  
25 TRANSFERRED OUT OF THE ACCOUNT, CREDITED TO THE HIGHWAY USERS  
26 TAX FUND, AND ALLOCATED AND EXPENDED AS SPECIFIED IN SECTION  
27 43-4-205 (5.5) (c), C.R.S.

