

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 16, 2008
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB08-1194 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

1 Amend reengrossed bill, page 3, line 16, strike "42-2-126 (2) (a) (I)" and
2 substitute "42-2-126 (3) (a) (I)";

3 strike lines 18 through 20 and substitute the following:

4 "(g) (I) Been twice convicted of any ~~offense provided for in~~
5 ~~section 42-4-1301 (1) or (2) (a)~~ COMBINATION OF DUI, DUI PER SE,
6 DWAI, OR HABITUAL USER for acts committed within a period of five
7 years;"

8 strike line 27 and substitute the following:

9 "SECTION 3. 42-2-126 (3) (a) and (3) (c), Colorado Revised
10 Statutes, as repealed and reenacted in House Bill 08-1166, enacted at the
11 Second Regular Session of the Sixty-sixth General Assembly, are
12 amended to read:

13 **42-2-126. Revocation of license based on administrative**
14 **determination. (3) Revocation of license. (a) Excess BAC 0.08. (I)**
15 The department shall revoke the license of a person for excess BAC 0.08
16 for:

17 (A) ~~three~~ NINE months for a first violation COMMITTED ON OR
18 AFTER JANUARY 1, 2009 EXCEPT THAT SUCH A PERSON MAY APPLY FOR A
19 RESTRICTED LICENSE PURSUANT TO THE PROVISIONS OF SECTION
20 42-2-132.5; and

1 (B) ~~For One year for a second or subsequent violation; and~~

2 (C) TWO YEARS FOR A THIRD OR SUBSEQUENT VIOLATION
3 OCCURRING ON OR AFTER JANUARY 1, 2009, REGARDLESS OF WHEN THE
4 PRIOR VIOLATIONS OCCURRED; EXCEPT THAT SUCH A PERSON MAY APPLY
5 FOR A RESTRICTED LICENSE PURSUANT TO THE PROVISIONS OF SECTION
6 42-2-132.5.

7 (II) (A) ~~Notwithstanding the provisions of subparagraph (I) of this~~
8 ~~paragraph (a), a person twenty-one years of age or older at the time of the~~
9 ~~violation whose license is revoked for a first offense under subparagraph~~
10 ~~(I) of this paragraph (a) may request that, in lieu of the three-month~~
11 ~~revocation, the person's license be revoked for a period of not less than~~
12 ~~thirty days, to be followed by a suspension period of such length that the~~
13 ~~total period of revocation and suspension equals six months. If the~~
14 ~~hearing officer approves the request, the hearing officer may grant the~~
15 ~~person a probationary license that may be used only for the reasons~~
16 ~~provided in section 42-2-127 (14) (a). If the person is a persistent drunk~~
17 ~~driver, as defined in section 42-1-102 (68.5), the probationary license~~
18 ~~shall be conditioned on the use of an approved ignition interlock device,~~
19 ~~as defined in section 42-2-132.5 (7) (a). The time served under a~~
20 ~~probationary license shall not be credited against any mandatory interlock~~
21 ~~restriction imposed pursuant to section 42-2-132.5.~~

22 (B) ~~The hearing to consider a request under this subparagraph (H)~~
23 ~~may be held at the same time as the hearing held under subsection (8) of~~
24 ~~this section; except that a probationary license may not become effective~~
25 ~~until at least thirty days have elapsed since the beginning of the~~
26 ~~revocation period.~~

27 (c) **Refusal.** (I) The department shall revoke the license of a
28 person for refusal for one year for a first violation, two years for a second
29 violation and three years for a third or subsequent violation; except that
30 the period of revocation shall be at least three years if the person was
31 driving a commercial motor vehicle that was transporting hazardous
32 materials as defined in section 42-2-402 (7).

33 (II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF
34 THIS PARAGRAPH (C), SUCH A PERSON WHOSE LICENSE HAS BEEN REVOKED
35 FOR TWO YEARS FOR A SECOND VIOLATION OR FOR THREE YEARS FOR A
36 THIRD OR SUBSEQUENT VIOLATION MAY APPLY FOR A RESTRICTED LICENSE
37 PURSUANT TO THE PROVISIONS OF SECTION 42-2-132.5."

1 Strike page 4.

2 Page 5, strike lines 1 through 18.

3 Page 6, line 25, strike "amended" and substitute "amended, and the said
4 42-2-132 (2) is further amended BY THE ADDITION OF A NEW
5 PARAGRAPH,".

6 Page 7, after line 22, insert the following:

7 "(c) A PERSON WHOSE DRIVING PRIVILEGE IS RESTORED PRIOR TO
8 A HEARING ON THE MERITS OF ANY DRIVING RESTRAINT WAIVES THE
9 PERSON'S RIGHT TO A HEARING ON THE MERITS OF THE DRIVING
10 RESTRAINT."

11 Page 8, line 11, strike "42-2-126 (2) (a) (I)" and substitute "42-2-126 (3)
12 (a) (I)".

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