

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

March 11, 2010  
Date

Committee on Judiciary.

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

HB10-1347 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 2, line 5, strike "THE FOLLOWING NEW" and  
2 substitute "A NEW SECTION to read:".

3 Page 2, strike line 6.

4 Page 3, strike lines 6 through 8 and substitute:

5           "(a) "CONVICTION" MEANS A VERDICT OF GUILTY BY A JUDGE OR  
6 JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS ACCEPTED BY  
7 THE COURT FOR AN OFFENSE, OR ADJUDICATION FOR AN OFFENSE THAT  
8 WOULD CONSTITUTE A CRIMINAL OFFENSE IF COMMITTED BY AN ADULT.  
9 "CONVICTION" ALSO INCLUDES HAVING RECEIVED A DEFERRED JUDGMENT  
10 AND SENTENCE OR DEFERRED ADJUDICATION; EXCEPT THAT A PERSON  
11 SHALL NOT BE DEEMED TO HAVE BEEN CONVICTED IF THE PERSON HAS  
12 SUCCESSFULLY COMPLETED A DEFERRED SENTENCE OR DEFERRED  
13 ADJUDICATION."

14 Page 5, strike lines 1 through 3 and substitute "DUI PER SE, DWAI, OR  
15 HABITUAL USER WHO, AT THE TIME OF SENTENCING, HAS A PRIOR  
16 CONVICTION OF DUI, DUI PER SE, DWAI, HABITUAL USER,".

17 Page 5, line 10, strike "YEAR, DURING WHICH TIME" and substitute "YEAR.  
18 DURING THE MANDATORY TEN-DAY PERIOD OF IMPRISONMENT,".

1 Page 5, strike lines 25 and 26 and substitute:

2 "(C) PARTICIPATING IN A COURT-ORDERED LEVEL II ALCOHOL AND  
3 DRUG DRIVING SAFETY EDUCATION OR TREATMENT PROGRAM, AS  
4 DESCRIBED IN SECTION 42-4-1301.3 (3) (c) (IV);".

5 Page 6, strike line 23 through 27 and substitute "THIS SUBSECTION (5);  
6 EXCEPT THAT A COURT MAY ALLOW THE PERSON TO PARTICIPATE IN A  
7 PROGRAM PURSUANT TO SECTION 18-1.3-106 (1) (a) (I), (1) (a) (IV), OR (1)  
8 (a) (V), C.R.S., ONLY IF THE PROGRAM IS AVAILABLE THROUGH THE  
9 COUNTY IN WHICH THE PERSON IMPRISONED AND ONLY FOR THE PURPOSE  
10 OF:

11 (A) CONTINUING A POSITION OF EMPLOYMENT THAT THE PERSON  
12 HELD AT THE TIME OF SENTENCING FOR SAID VIOLATION;

13 (B) CONTINUING ATTENDANCE AT AN EDUCATIONAL INSTITUTION  
14 AT WHICH THE PERSON WAS ENROLLED AT THE TIME OF SENTENCING FOR  
15 SAID VIOLATION; OR

16 (C) PARTICIPATING IN A COURT-ORDERED LEVEL II ALCOHOL AND  
17 DRUG DRIVING SAFETY EDUCATION OR TREATMENT PROGRAM, AS  
18 DESCRIBED IN SECTION 42-4-1301.3 (3) (c) (IV).

19 (6) **Third and subsequent offenses.** A PERSON WHO IS  
20 CONVICTED OF DUI, DUI PER SE, DWAI, OR HABITUAL USER WHO, AT THE  
21 TIME OF SENTENCING, HAS TWO OR MORE PRIOR CONVICTIONS OF DUI,  
22 DUI".

23 Page 7, line 7, strike "YEAR, DURING WHICH TIME" and substitute "YEAR.  
24 DURING THE MANDATORY SIXTY-DAY PERIOD OF IMPRISONMENT,".

25 Page 7, strike lines 22 and 23 and substitute:

26 "(III) PARTICIPATING IN A COURT-ORDERED LEVEL II ALCOHOL  
27 AND DRUG DRIVING SAFETY EDUCATION OR TREATMENT PROGRAM, AS  
28 DESCRIBED IN SECTION 42-4-1301.3 (3) (c) (IV);".

29 Page 8, strike lines 22 and 23 and substitute "A REQUIREMENT THAT THE  
30 PERSON COMPLETE A LEVEL II ALCOHOL AND DRUG DRIVING SAFETY  
31 EDUCATION OR TREATMENT PROGRAM, AS DESCRIBED IN SECTION

- 1 42-4-1301.3 (3) (c) (IV), AT THE PERSON'S OWN EXPENSE;".
- 2 Page 9, strike line 3 and substitute "AND DRUG DRIVING SAFETY  
3 EDUCATION OR TREATMENT PROGRAM DESCRIBED IN".
- 4 Page 9, line 7, strike "AND".
- 5 Page 9, after line 10 insert:
- 6 "(VI) MAY REQUIRE THE PERSON TO SUBMIT TO CONTINUOUS  
7 ALCOHOL MONITORING USING SUCH TECHNOLOGY OR DEVICES AS ARE  
8 AVAILABLE TO THE COURT FOR SUCH PURPOSE; AND
- 9 (VII) MAY IMPOSE SUCH ADDITIONAL CONDITIONS OF PROBATION  
10 AS MAY BE PERMITTED BY LAW."
- 11 Page 9, strike line 25 and substitute "OF THE PERSON IN ANY  
12 COURT-ORDERED ALCOHOL AND DRUG DRIVING SAFETY EDUCATION OR".
- 13 Page 10, line 10, strike "AN ALCOHOL OR" and substitute "A LEVEL II  
14 ALCOHOL AND DRUG DRIVING SAFETY EDUCATION OR TREATMENT  
15 PROGRAM PURSUANT TO SUBPARAGRAPH".
- 16 Page 10, strike line 11.
- 17 Page 11, line 13, strike "AN" and substitute "A".
- 18 Page 11, line 14, strike "AUTHENTICATED".
- 19 Page 12, line 19, strike "ONE HALF OF".
- 20 Page 12, line 20, strike "42-3-303 AND ONE HALF" and substitute  
21 "42-3-303."
- 22 Page 12, strike lines 21 and 22.
- 23 Page 13, strike line 21 and substitute "COMPLETING A LEVEL II ALCOHOL  
24 AND DRUG DRIVING SAFETY EDUCATION OR TREATMENT PROGRAM, AS  
25 DESCRIBED IN SECTION 42-4-1301.3 (3) (c) (IV). A COURT MAY".
- 26 Page 14, strike lines 17 through 27.

1 Page 15, strike lines 1 through 4 and substitute:

2 "SECTION 3. 42-3-303 (1) (c) (II), Colorado Revised Statutes,  
3 is amended, and the said 42-3-303 is further amended BY THE  
4 ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

5 **42-3-303. Persistent drunk driver cash fund - programs to**  
6 **deter persistent drunk drivers.** (1) There is hereby created in the state  
7 treasury the persistent drunk driver cash fund, which shall be composed  
8 of moneys collected for penalty surcharges under section 42-4-1301 (7)  
9 (d) (II). The moneys in such fund are subject to annual appropriation by  
10 the general assembly:

11 (c) (II) The departments of transportation, revenue, and human  
12 services AND THE JUDICIAL BRANCH shall coordinate programs intended  
13 to accomplish the goals described in subparagraph (I) of this paragraph  
14 (c).

15 (e) TO ASSIST IN PROVIDING COURT-ORDERED ALCOHOL  
16 TREATMENT PROGRAMS FOR INDIGENT AND INCARCERATED OFFENDERS;

17 (f) TO ASSIST IN PROVIDING APPROVED IGNITION INTERLOCK  
18 DEVICES, AS DEFINED IN SECTION 42-2-132.5 (7) (a), FOR INDIGENT  
19 OFFENDERS; AND

20 (g) TO ASSIST IN PROVIDING CONTINUOUS MONITORING  
21 TECHNOLOGY OR DEVICES FOR INDIGENT OFFENDERS."

22 Renumber succeeding sections accordingly.

23 Page 15, strike line 17 and substitute "REPEAT ANY PORTION OF AN  
24 ALCOHOL AND DRUG DRIVING SAFETY EDUCATION OR TREATMENT  
25 PROGRAM".

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