

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0199.01 Michael Dohr x4347

HOUSE BILL 12-1168

HOUSE SPONSORSHIP

Young, Fischer, Kerr A., Levy

SENATE SPONSORSHIP

Morse,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING CLARIFICATION OF PROVISIONS AUTHORIZING IGNITION
102 INTERLOCK DEVICES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill repeals and reenacts, with amendments, the statute authorizing the department of revenue to require ignition interlock devices for persons driving with an interlock-restricted license. The bill also relocates statutory provisions regarding crimes related to ignition interlock devices to the interlock statute.

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**
3 **with amendments,** 42-2-132.5 as follows:

4 **42-2-132.5. Mandatory and voluntary restricted licenses**
5 **following alcohol convictions - rules. (1) Persons required to hold an**
6 **interlock-restricted license.** THE FOLLOWING PERSONS SHALL BE
7 REQUIRED TO HOLD AN INTERLOCK-RESTRICTED LICENSE PURSUANT TO
8 THIS SECTION FOR AT LEAST ONE YEAR FOLLOWING REINSTATEMENT PRIOR
9 TO BEING ELIGIBLE TO OBTAIN ANY OTHER DRIVER'S LICENSE ISSUED
10 UNDER THIS ARTICLE:

11 (a) A PERSON WHOSE PRIVILEGE TO DRIVE WAS REVOKED FOR
12 MULTIPLE CONVICTIONS FOR ANY COMBINATION OF A DUI, DUI PER SE,
13 DWAI, OR HABITUAL USER PURSUANT TO SECTION 42-2-125 (1) (g) (I) OR
14 (1) (i);

15 (b) A PERSON WHOSE LICENSE HAS BEEN REVOKED FOR EXCESS
16 BAC PURSUANT TO THE PROVISIONS OF SECTION 42-2-126 WHEN THE
17 PERSON'S BAC WAS 0.17 OR MORE AT THE TIME OF DRIVING OR WITHIN
18 TWO HOURS AFTER DRIVING;

19 (c) A PERSON WHOSE PRIVILEGE TO DRIVE WAS REVOKED AS AN
20 HABITUAL OFFENDER UNDER SECTION 42-2-203 IN WHICH THE
21 REVOCATION WAS DUE IN PART TO A DUI, DUI PER SE, DWAI, OR
22 HABITUAL USER CONVICTION; OR

23 (d) A PERSON WHOSE PRIVILEGE TO DRIVE WAS REVOKED FOR
24 INTERLOCK CIRCUMVENTION PURSUANT TO PARAGRAPH (a) OR (b) OF
25 SUBSECTION (7) OF THIS SECTION.

26 **(2) Posting the interlock restriction to driving record prior to**

1 **reinstatement of driving privileges.** AS SOON AS A PERSON MEETS THE
2 CONDITIONS OF SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT SHALL
3 NOTE ON THE DRIVING RECORD OF A PERSON REQUIRED TO HOLD AN
4 INTERLOCK-RESTRICTED LICENSE UNDER THIS SECTION THAT THE PERSON
5 IS REQUIRED TO HAVE AN APPROVED IGNITION INTERLOCK DEVICE. A
6 PERSON WHOSE DRIVING RECORD CONTAINS THE NOTATION REQUIRED BY
7 THIS SUBSECTION (2) SHALL NOT OPERATE A MOTOR VEHICLE WITHOUT AN
8 APPROVED IGNITION INTERLOCK DEVICE UNTIL THE RESTRICTION IS
9 REMOVED PURSUANT TO THIS SECTION.

10 (3) **Minimum interlock restriction requirement for persistent**
11 **drunk drivers.** A PERSON REQUIRED TO HOLD AN INTERLOCK-RESTRICTED
12 LICENSE PURSUANT TO THIS SECTION WHO IS A PERSISTENT DRUNK DRIVER
13 AS DEFINED IN SECTION 42-1-102 (68.5), BASED ON AN OFFENSE THAT
14 OCCURRED ON OR AFTER JULY 1, 2004, SHALL BE REQUIRED TO HOLD THE
15 INTERLOCK-RESTRICTED LICENSE FOR AT LEAST TWO YEARS FOLLOWING
16 REINSTATEMENT BEFORE BEING ELIGIBLE TO OBTAIN ANY OTHER DRIVER'S
17 LICENSE ISSUED UNDER THIS ARTICLE.

18 (4) **Persons who may acquire an interlock-restricted license**
19 **prior to serving a full-term revocation.** (a) (I) A PERSON WHOSE
20 PRIVILEGE TO DRIVE HAS BEEN REVOKED FOR ONE YEAR OR MORE BECAUSE
21 OF A DUI, DUI PER SE, OR DWAI CONVICTION OR HAS BEEN REVOKED FOR
22 ONE YEAR OR MORE FOR EXCESS BAC OR REFUSAL UNDER ANY PROVISION
23 OF SECTION 42-2-126 MAY APPLY FOR AN EARLY REINSTATEMENT WITH AN
24 INTERLOCK-RESTRICTED LICENSE UNDER THE PROVISIONS OF THIS SECTION
25 AFTER THE PERSON'S PRIVILEGE TO DRIVE HAS BEEN REVOKED FOR ONE
26 YEAR. EXCEPT FOR FIRST-TIME OFFENDERS AS PROVIDED IN
27 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) OR FOR PERSISTENT DRUNK

1 DRIVERS AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, THE
2 RESTRICTIONS IMPOSED PURSUANT TO THIS SECTION SHALL REMAIN IN
3 EFFECT FOR THE LONGER OF ONE YEAR OR THE TOTAL TIME PERIOD
4 REMAINING ON THE LICENSE RESTRAINT PRIOR TO EARLY REINSTATEMENT.

5 (II) (A) **First-time offender eligibility.** FOR REVOCATIONS FOR
6 CONVICTIONS FOR DUI OR DUI PER SE UNDER SECTION 42-2-125 (1) (b.5)
7 OR FOR EXCESS BAC .08 UNDER SECTION 42-2-126 (3) (a) (I) FOR A FIRST
8 VIOLATION THAT REQUIRES ONLY A NINE-MONTH REVOCATION, A PERSON
9 TWENTY-ONE YEARS OF AGE OR OLDER AT THE TIME OF THE OFFENSE MAY
10 APPLY FOR AN EARLY REINSTATEMENT WITH AN INTERLOCK-RESTRICTED
11 LICENSE UNDER THE PROVISIONS OF THIS SECTION AFTER THE PERSON'S
12 PRIVILEGE TO DRIVE HAS BEEN REVOKED FOR AT LEAST ONE MONTH.
13 EXCEPT AS PROVIDED IN PARAGRAPH (c) OF SUBSECTION (1) OF THIS
14 SECTION, SUBSECTION (3) OF THIS SECTION, AND SUB-SUBPARAGRAPH (B)
15 OF THIS SUBPARAGRAPH (II), THE RESTRICTIONS IMPOSED PURSUANT TO
16 THIS SUBPARAGRAPH (II) SHALL REMAIN IN EFFECT FOR AT LEAST EIGHT
17 MONTHS.

18 (B) **First-time offender interlock removal.** A PERSON WITH AN
19 INTERLOCK-RESTRICTED LICENSE ISSUED PURSUANT TO
20 SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) SHALL BE ELIGIBLE
21 FOR A LICENSE WITHOUT THE RESTRICTION REQUIRED BY THIS SECTION IF
22 THE DEPARTMENT'S MONTHLY MONITORING REPORTS REQUIRED IN
23 SUBSECTION (6) OF THIS SECTION SHOW THAT, FOR FOUR CONSECUTIVE
24 MONTHLY REPORTING PERIODS, THE APPROVED IGNITION INTERLOCK
25 DEVICE DID NOT INTERRUPT OR PREVENT THE NORMAL OPERATION OF THE
26 MOTOR VEHICLE DUE TO AN EXCESSIVE BREATH ALCOHOL CONTENT OR DID
27 NOT DETECT THAT THERE HAS BEEN TAMPERING WITH THE DEVICE, THERE

1 HAVE BEEN NO OTHER REPORTS OF CIRCUMVENTION OR TAMPERING, AND
2 THERE ARE NO GROUNDS TO EXTEND THE RESTRICTION PURSUANT TO
3 PARAGRAPH (b) OF SUBSECTION (7) OF THIS SECTION. IF THE DEPARTMENT
4 DETERMINES THAT A PERSON IS ELIGIBLE FOR A LICENSE WITHOUT THE
5 RESTRICTION REQUIRED BY THIS SECTION PURSUANT TO THIS
6 SUB-SUBPARAGRAPH (B), THE DEPARTMENT SHALL SERVE UPON THE
7 PERSON A NOTICE OF SUCH ELIGIBILITY. A PERSON WHO HAS NOT BEEN
8 SERVED BUT WHO BELIEVES HE OR SHE IS ELIGIBLE FOR A LICENSE
9 WITHOUT THE RESTRICTION REQUIRED BY THIS SECTION PURSUANT TO THIS
10 SUB-SUBPARAGRAPH (B) MAY REQUEST A HEARING ON HIS OR HER
11 ELIGIBILITY. THE PROVISIONS OF THIS SUB-SUBPARAGRAPH (B) DO NOT
12 APPLY TO A PERSON COVERED BY SUBSECTION (3) OF THIS SECTION.

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

22 (b) **Early reinstatement eligibility requirement.** (I) TO BE
23 ELIGIBLE FOR EARLY REINSTATEMENT WITH AN INTERLOCK-RESTRICTED
24 LICENSE PURSUANT TO THIS SUBSECTION (4), A PERSON SHALL HAVE
25 SATISFIED ALL CONDITIONS FOR REINSTATEMENT IMPOSED BY LAW
26 INCLUDING TIME PERIODS FOR NON-ALCOHOL-RELATED RESTRAINTS;
27 EXCEPT THAT A PERSON WHOSE LICENSE WAS ALSO RESTRAINED FOR

1 DRIVING UNDER RESTRAINT PURSUANT TO SECTION 42-2-138 MAY BE
2 ELIGIBLE FOR EARLY REINSTATEMENT UNDER THIS SECTION SO LONG AS
3 THE RESTRAINT WAS CAUSED IN PART BY DRIVING ACTIVITY OCCURRING
4 AFTER AN ALCOHOL-RELATED OFFENSE AND THE LENGTH OF ANY LICENSE
5 RESTRICTION UNDER THIS SECTION INCLUDES THE PERIOD OF RESTRAINT
6 UNDER SECTION 42-2-138.

7 (II) BEFORE BEING ELIGIBLE FOR EARLY REINSTATEMENT WITH AN
8 INTERLOCK-RESTRICTED LICENSE UNDER THIS SECTION, A PERSON SHALL
9 PROVIDE PROOF OF FINANCIAL RESPONSIBILITY TO THE DEPARTMENT
10 PURSUANT TO THE REQUIREMENTS OF THE "MOTOR VEHICLE FINANCIAL
11 RESPONSIBILITY ACT", ARTICLE 7 OF THIS TITLE. THE PERSON SHALL
12 MAINTAIN SUCH PROOF OF FINANCIAL RESPONSIBILITY WITH THE
13 DEPARTMENT FOR THE LONGER OF THREE YEARS OR THE PERIOD THAT THE
14 PERSON'S LICENSE IS RESTRICTED UNDER THIS SECTION; EXCEPT THAT, FOR
15 AN OFFENDER SUBJECT TO SECTION 42-7-408 (1) (c) (I), THE PERIOD OF
16 TIME THAT THE PERSON MUST MAINTAIN SUCH PROOF OF FINANCIAL
17 RESPONSIBILITY IS THE PERIOD OF TIME THAT THE PERSON'S LICENSE IS
18 RESTRICTED UNDER THIS SECTION.

19 (c) IN ORDER TO BE ELIGIBLE FOR EARLY REINSTATEMENT
20 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), A PERSON WHO
21 HAS BEEN DESIGNATED AN HABITUAL OFFENDER UNDER THE PROVISIONS
22 OF SECTION 42-2-202 MUST HAVE AT LEAST ONE CONVICTION FOR DUI,
23 DUI PER SE, DWAI, OR HABITUAL USER UNDER SECTION 42-4-1301, AND
24 NO CONTRIBUTING VIOLATIONS OTHER THAN A VIOLATION FOR DRIVING
25 UNDER RESTRAINT UNDER SECTION 42-2-138 OR RECKLESS DRIVING UNDER
26 SECTION 42-4-1401.

27 (5) **Requirements for issuing the interlock-restricted license.**

1 (a) (I) THE DEPARTMENT SHALL ISSUE AN INTERLOCK-RESTRICTED
2 LICENSE UNDER THIS SECTION IF THE DEPARTMENT RECEIVES FROM A
3 PERSON DESCRIBED IN THIS SECTION AN AFFIDAVIT STATING THAT THE
4 PERSON HAS OBTAINED:

5 (A) A SIGNED LEASE AGREEMENT FOR THE INSTALLATION AND USE
6 OF AN APPROVED IGNITION INTERLOCK DEVICE IN EACH MOTOR VEHICLE
7 ON WHICH THE PERSON'S NAME APPEARS ON THE REGISTRATION AND ANY
8 OTHER VEHICLE THAT THE PERSON MAY DRIVE DURING THE PERIOD OF THE
9 INTERLOCK-RESTRICTED LICENSE; AND

10 (B) THE WRITTEN CONSENT OF ALL OTHER OWNERS, IF ANY, OF
11 EACH MOTOR VEHICLE IN WHICH THE APPROVED IGNITION INTERLOCK
12 DEVICE IS INSTALLED.

13 (b) (I) NOTWITHSTANDING THE REQUIREMENTS OF PARAGRAPH (a)
14 OF THIS SUBSECTION (5), THE DEPARTMENT SHALL ISSUE AN
15 INTERLOCK-RESTRICTED LICENSE TO ANY PERSON NOT SEEKING EARLY
16 REINSTATEMENT BUT WHO IS REQUIRED TO HOLD AN
17 INTERLOCK-RESTRICTED LICENSE PURSUANT TO SUBSECTION (1) OF THIS
18 SECTION WHO IS NOT THE REGISTERED OWNER OR CO-OWNER OF A MOTOR
19 VEHICLE IF THE PERSON SUBMITS AN AFFIDAVIT STATING THAT THE PERSON
20 IS NOT THE OWNER OR CO-OWNER OF A MOTOR VEHICLE AND HAS NO
21 ACCESS TO A MOTOR VEHICLE IN WHICH TO INSTALL AN APPROVED
22 IGNITION INTERLOCK DEVICE.

23 (II) IF A PERSON HOLDING AN INTERLOCK-RESTRICTED LICENSE
24 ISSUED PURSUANT TO THIS PARAGRAPH (b) BECOMES AN OWNER OR
25 CO-OWNER OF A MOTOR VEHICLE OR OTHERWISE HAS ACCESS TO A MOTOR
26 VEHICLE IN WHICH AN APPROVED IGNITION INTERLOCK DEVICE MAY BE
27 INSTALLED, HE OR SHE SHALL ENTER INTO A LEASE AGREEMENT FOR THE

1 INSTALLATION AND USE OF AN APPROVED IGNITION INTERLOCK DEVICE ON
2 THE VEHICLE FOR A PERIOD EQUAL TO THE REMAINING PERIOD OF THE
3 INTERLOCK-RESTRICTED LICENSE AND SUBMIT THE AFFIDAVIT DESCRIBED
4 IN PARAGRAPH (a) OF THIS SUBSECTION (5).

5 (c) THE TERMS OF THE INTERLOCK-RESTRICTED LICENSE SHALL
6 PROHIBIT THE PERSON FROM DRIVING A MOTOR VEHICLE OTHER THAN A
7 VEHICLE IN WHICH AN APPROVED IGNITION INTERLOCK DEVICE IS
8 INSTALLED.

9 (d) THE DEPARTMENT SHALL NOT ISSUE A LICENSE UNDER THIS
10 SECTION THAT AUTHORIZES THE OPERATION OF A COMMERCIAL MOTOR
11 VEHICLE AS DEFINED IN SECTION 42-2-402 (4) DURING THE RESTRICTION
12 REQUIRED BY THIS SECTION.

13 (6) **Interlock monitoring device - reports.** THE LEASING AGENCY
14 FOR ANY APPROVED IGNITION INTERLOCK DEVICE SHALL PROVIDE
15 MONTHLY MONITORING REPORTS FOR THE DEVICE TO THE DEPARTMENT TO
16 MONITOR COMPLIANCE WITH THE PROVISIONS OF THIS SECTION. THE
17 LEASING AGENCY SHALL CHECK THE DEVICE AT LEAST ONCE EVERY SIXTY
18 DAYS TO ENSURE THAT THE DEVICE IS OPERATING AND THAT THERE HAS
19 BEEN NO TAMPERING WITH THE DEVICE. IF THE LEASING AGENCY DETECTS
20 THAT THERE HAS BEEN TAMPERING WITH THE DEVICE, THE LEASING
21 AGENCY SHALL NOTIFY THE DEPARTMENT OF THAT FACT WITHIN FIVE DAYS
22 OF THE DETECTION.

23 (7) **Licensing sanctions for violating the interlock restrictions.**

24 (a) **Due to circumvention - conviction.** UPON RECEIPT OF NOTICE OF A
25 CONVICTION UNDER SUBSECTION (10) OF THIS SECTION, THE DEPARTMENT
26 SHALL REVOKE ANY INTERLOCK-RESTRICTED LICENSE ISSUED TO THE
27 CONVICTED PERSON PURSUANT TO THIS SECTION. THE DEPARTMENT SHALL

1 NOT REINSTATE THE INTERLOCK-RESTRICTED LICENSE FOR A PERIOD OF
2 ONE YEAR OR THE REMAINING PERIOD OF LICENSE RESTRAINT IMPOSED
3 PRIOR TO THE ISSUANCE OF AN INTERLOCK-RESTRICTED LICENSE
4 PURSUANT TO THIS SECTION, WHICHEVER IS LONGER. A PERSON IS
5 ENTITLED TO A HEARING ON THE QUESTION OF WHETHER THE REVOCATION
6 IS SUSTAINED AND THE CALCULATION OF THE LENGTH OF THE
7 INELIGIBILITY.

8 (b) **Due to circumvention - administrative record.** UPON
9 RECEIPT OF AN ADMINISTRATIVE RECORD OTHER THAN A NOTICE OF A
10 CONVICTION DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (7)
11 ESTABLISHING THAT A PERSON WHO IS SUBJECT TO THE RESTRICTIONS OF
12 THIS SECTION HAS OPERATED A MOTOR VEHICLE WITHOUT AN APPROVED
13 IGNITION INTERLOCK DEVICE OR HAS CIRCUMVENTED OR ATTEMPTED TO
14 CIRCUMVENT THE PROPER USE OF AN APPROVED IGNITION INTERLOCK
15 DEVICE, THE DEPARTMENT MAY REVOKE ANY LICENSE ISSUED TO THE
16 PERSON PURSUANT TO THIS SECTION AND NOT REINSTATE THE LICENSE FOR
17 A PERIOD OF ONE YEAR OR THE REMAINING PERIOD OF LICENSE RESTRAINT
18 IMPOSED PRIOR TO THE ISSUANCE OF AN INTERLOCK-RESTRICTED LICENSE
19 PURSUANT TO THIS SECTION, WHICHEVER IS LONGER. A PERSON IS
20 ENTITLED TO A HEARING ON THE QUESTION OF WHETHER THE LICENSE
21 SHOULD BE REVOKED AND THE CALCULATION OF THE LENGTH OF THE
22 INELIGIBILITY.

23 (c) **Due to a lease violation.** IF A LEASE FOR AN APPROVED
24 IGNITION INTERLOCK DEVICE IS TERMINATED FOR ANY REASON BEFORE
25 THE PERIOD OF THE INTERLOCK RESTRICTION EXPIRES AND THE LICENSEE
26 PROVIDES NO OTHER SUCH LEASE, THE DEPARTMENT SHALL NOTIFY THE
27 LICENSEE THAT THE DEPARTMENT SHALL SUSPEND THE LICENSE UNTIL THE

1 LICENSEE ENTERS INTO A NEW SIGNED LEASE AGREEMENT FOR THE
2 REMAINING PERIOD OF THE INTERLOCK RESTRICTION.

3 (d) **Extending the interlock license restriction.** IF THE MONTHLY
4 MONITORING REPORTS REQUIRED BY SUBSECTION (6) OF THIS SECTION
5 SHOW THAT THE APPROVED IGNITION INTERLOCK DEVICE INTERRUPTED OR
6 PREVENTED THE NORMAL OPERATION OF THE VEHICLE DUE TO EXCESSIVE
7 BREATH ALCOHOL CONTENT IN THREE OF ANY TWELVE CONSECUTIVE
8 REPORTING PERIODS, THE DEPARTMENT SHALL EXTEND THE INTERLOCK
9 RESTRICTION ON THE PERSON'S LICENSE FOR AN ADDITIONAL TWELVE
10 MONTHS AFTER THE EXPIRATION OF THE EXISTING INTERLOCK
11 RESTRICTION. THE DEPARTMENT SHALL NOTIFY THE PERSON THAT THE
12 IGNITION INTERLOCK RESTRICTION IS BEING EXTENDED AND THAT HIS OR
13 HER LICENSE SHALL BE SUSPENDED UNLESS THE PERSON ENTERS INTO A
14 NEW SIGNED LEASE AGREEMENT FOR THE USE OF AN APPROVED IGNITION
15 INTERLOCK DEVICE FOR THE EXTENDED PERIOD. THE PERSON IS ENTITLED
16 TO A HEARING ON THE EXTENSION OF THE RESTRICTION. BASED UPON
17 FINDINGS AT THE HEARING, INCLUDING AGGRAVATING AND MITIGATING
18 FACTORS, THE HEARING OFFICER MAY SUSTAIN THE EXTENSION, RESCIND
19 THE EXTENSION, OR REDUCE THE PERIOD OF EXTENSION.

20 (8) THE DEPARTMENT MAY PROMULGATE RULES TO IMPLEMENT
21 THE PROVISIONS OF THIS SECTION.

22 (9) **Approved ignition interlock device definition - rules.**

23 (a) FOR THE PURPOSES OF THIS SECTION, "APPROVED IGNITION INTERLOCK
24 DEVICE" MEANS A DEVICE APPROVED BY THE DEPARTMENT OF PUBLIC
25 HEALTH AND ENVIRONMENT THAT IS INSTALLED IN A MOTOR VEHICLE AND
26 THAT MEASURES THE BREATH ALCOHOL CONTENT OF THE DRIVER BEFORE
27 A VEHICLE IS STARTED AND THAT PERIODICALLY REQUIRES ADDITIONAL

1 BREATH SAMPLES DURING VEHICLE OPERATION. THE DEVICE MAY NOT
2 ALLOW A MOTOR VEHICLE TO BE STARTED OR TO CONTINUE NORMAL
3 OPERATION IF THE DEVICE MEASURES AN ALCOHOL LEVEL ABOVE THE
4 LEVEL ESTABLISHED BY THE DEPARTMENT OF PUBLIC HEALTH AND
5 ENVIRONMENT.

6 (b) THE STATE BOARD OF HEALTH MAY PROMULGATE RULES TO
7 IMPLEMENT THE PROVISIONS OF THIS SUBSECTION (9) CONCERNING
8 APPROVED IGNITION INTERLOCK DEVICES.

9 (10) **Operating vehicle after circumventing interlock device.**

10 (a) A PERSON WHOSE PRIVILEGE TO DRIVE IS RESTRICTED TO THE
11 OPERATION OF A MOTOR VEHICLE EQUIPPED WITH AN APPROVED IGNITION
12 INTERLOCK DEVICE AND WHO OPERATES A MOTOR VEHICLE OTHER THAN
13 A MOTOR VEHICLE EQUIPPED WITH AN APPROVED IGNITION INTERLOCK
14 DEVICE OR WHO CIRCUMVENTS OR ATTEMPTS TO CIRCUMVENT THE PROPER
15 USE OF AN APPROVED IGNITION INTERLOCK DEVICE COMMITS A CLASS 1
16 TRAFFIC MISDEMEANOR.

17 (b) IF A PEACE OFFICER ISSUES A CITATION PURSUANT TO
18 PARAGRAPH (a) OF THIS SUBSECTION (10), THE PEACE OFFICER SHALL
19 IMMEDIATELY CONFISCATE THE OFFENDING DRIVER'S LICENSE, SHALL FILE
20 AN INCIDENT REPORT ON A FORM PROVIDED BY THE DEPARTMENT, AND
21 SHALL NOT PERMIT THE DRIVER TO CONTINUE TO OPERATE THE MOTOR
22 VEHICLE.

23 (c) A COURT SHALL NOT ACCEPT A PLEA OF GUILTY TO ANOTHER
24 OFFENSE FROM A PERSON CHARGED WITH A VIOLATION OF PARAGRAPH (a)
25 OF THIS SUBSECTION (10); EXCEPT THAT THE COURT MAY ACCEPT A PLEA
26 OF GUILTY TO ANOTHER OFFENSE UPON A GOOD FAITH REPRESENTATION
27 BY THE PROSECUTING ATTORNEY THAT THE ATTORNEY COULD NOT

1 ESTABLISH A PRIMA FACIE CASE IF THE DEFENDANT WERE BROUGHT TO
2 TRIAL ON THE OFFENSE.

3 (11) **Tampering with an approved ignition interlock device.**

4 (a) A PERSON SHALL NOT INTERCEPT, BYPASS, OR INTERFERE WITH OR AID
5 ANY OTHER PERSON IN INTERCEPTING, BYPASSING, OR INTERFERING WITH
6 AN APPROVED IGNITION INTERLOCK DEVICE FOR THE PURPOSE OF
7 PREVENTING OR HINDERING THE LAWFUL OPERATION OR PURPOSE OF THE
8 APPROVED IGNITION INTERLOCK DEVICE REQUIRED UNDER THIS SECTION.

9 (b) A PERSON WHOSE PRIVILEGE TO DRIVE IS RESTRICTED TO THE
10 OPERATION OF A MOTOR VEHICLE EQUIPPED WITH AN APPROVED IGNITION
11 INTERLOCK DEVICE SHALL NOT DRIVE A MOTOR VEHICLE IN WHICH AN
12 APPROVED IGNITION INTERLOCK DEVICE IS INSTALLED PURSUANT TO THIS
13 SECTION IF THE PERSON KNOWS THAT ANY PERSON HAS INTERCEPTED,
14 BYPASSED, OR INTERFERED WITH THE APPROVED IGNITION INTERLOCK
15 DEVICE.

16 (c) A PERSON VIOLATING ANY PROVISION OF THIS SUBSECTION (11)
17 COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED
18 IN SECTION 18-1.3-501, C.R.S.

19 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-204, **add** (2)

20 (a) (VIII.5) as follows:

21 **18-1.3-204. Conditions of probation.** (2) (a) When granting
22 probation, the court may, as a condition of probation, require that the
23 defendant:

24 (VIII.5) INSTALL AND USE AN APPROVED IGNITION INTERLOCK
25 DEVICE UPON ANY MOTOR VEHICLE USED BY THE DEFENDANT AS DEFINED
26 IN SECTION 42-2-132.5 (9) (a), C.R.S.;

27 **SECTION 3.** In Colorado Revised Statutes, 42-2-116, **amend** (6);

1 and **repeal** (7) and (8) as follows:

2 **42-2-116. Restricted license.** (6) (a) ~~Except as otherwise~~
3 ~~provided in paragraph (b) of this subsection (6), any~~ A person who
4 violates any provision of this section commits a class A traffic infraction.

5 (b) ~~Any person whose privilege to drive is restricted to the~~
6 ~~operation of a motor vehicle equipped with an approved ignition interlock~~
7 ~~device as defined in section 42-2-132.5 (7) (a), who operates a motor~~
8 ~~vehicle other than a motor vehicle equipped with an approved ignition~~
9 ~~interlock device or who circumvents or attempts to circumvent the proper~~
10 ~~use of an approved ignition interlock device commits a class 1 traffic~~
11 ~~misdemeanor.~~

12 (7) ~~Whenever a peace officer issues a citation pursuant to~~
13 ~~paragraph (b) of subsection (6) of this section, the peace officer shall~~
14 ~~immediately confiscate the license, shall file an incident report on a form~~
15 ~~provided by the department, and shall not permit the driver to continue to~~
16 ~~operate the motor vehicle.~~

17 (8) ~~No court shall accept a plea of guilty to another offense from~~
18 ~~a person charged with a violation of subsection (6) (b) of this section;~~
19 ~~except that the court may accept a plea of guilty to another offense upon~~
20 ~~a good faith representation by the prosecuting attorney that the attorney~~
21 ~~could not establish a prima facie case if the defendant were brought to~~
22 ~~trial on the offense.~~

23 **SECTION 4.** In Colorado Revised Statutes, **repeal** 42-2-126.3.

24 **SECTION 5.** In Colorado Revised Statutes, 42-2-126, **amend** (4)

25 (d) (II) (A) as follows:

26 **42-2-126. Revocation of license based on administrative**
27 **determination.** (4) **Multiple restraints and conditions on driving**

1 **privileges.** (d) (II) (A) If a person was determined to be driving with
2 excess BAC and the person had a BAC that was 0.17 or more or if the
3 person's driving record otherwise indicates a designation as a persistent
4 drunk driver as defined in section 42-1-102 (68.5), the department shall
5 require the person to complete a level II alcohol and drug education and
6 treatment program certified by the unit in the department of human
7 services that administers behavioral health programs and services,
8 including those related to mental health and substance abuse, pursuant to
9 section 42-4-1301.3 as a condition to restoring driving privileges to the
10 person and, upon the restoration of driving privileges, shall require the
11 person to hold a restricted license requiring the use of an ignition
12 interlock device pursuant to section 42-2-132.5 (1) ~~(b.5)~~ (b).

13 **SECTION 6.** In Colorado Revised Statutes, 42-2-127, **amend**
14 (14) (a) (I) (B) as follows:

15 **42-2-127. Authority to suspend license - to deny license - type**
16 **of conviction - points.** (14) (a) (I) If there is no other statutory reason for
17 denial of a probationary license, any individual who has had a license
18 suspended by the department because of, at least in part, a conviction of
19 an offense specified in paragraph (b) of subsection (5) of this section may
20 be entitled to a probationary license pursuant to subsection (12) of this
21 section for the purpose of driving for reasons of employment, education,
22 health, or alcohol and drug education or treatment, but:

23 (B) If the individual is a persistent drunk driver, as defined in
24 section 42-1-102 (68.5), any probationary license shall require the use of
25 an approved ignition interlock device, as defined in section 42-2-132.5
26 ~~(7)~~ ~~(a)~~ (9) (a), and the time that the individual holds a probationary
27 license under this section shall not be credited against the time that the

1 individual may be required to hold a ~~restricted~~ AN
2 INTERLOCK-RESTRICTED license pursuant to section 42-2-132.5.

3 **SECTION 7.** In Colorado Revised Statutes, 42-2-132, **amend** (2)
4 (a) (IV) and (4) (b) (II) (B) as follows:

5 **42-2-132. Period of suspension or revocation.** (2) (a) (IV) Any
6 person whose license or privilege to drive a motor vehicle on the public
7 highways has been revoked under section 42-2-125 (1) (g) (I) or (1) (i) or
8 42-2-203 where the revocation was due in part to a DUI, DUI per se,
9 DWAI, or habitual user conviction shall be required to present an
10 affidavit stating that the person has obtained at the person's own expense
11 a signed lease agreement for the installation and use of an approved
12 ignition interlock device, as defined in section 42-2-132.5 ~~(7)~~ (9) (a), in
13 each motor vehicle on which the person's name appears on the
14 registration and any other vehicle that the person may drive during the
15 period of the ~~restricted~~ INTERLOCK-RESTRICTED license. ~~and a copy of~~
16 ~~each signed lease agreement.~~

17 (4) (b) All restoration fees collected pursuant to this subsection (4)
18 shall be transmitted to the state treasurer, who shall credit:

19 (II) (B) The moneys in the account shall be subject to annual
20 appropriation by the general assembly on and after January 1, 2009, first
21 to the department of revenue to pay its costs associated with the
22 implementation of House Bill 08-1194, as enacted at the second regular
23 session of the sixty-sixth general assembly; second, to the department of
24 revenue to pay a portion of the costs for an ignition interlock device as
25 ~~required~~ DESCRIBED by section 42-2-132.5 ~~(1.5)(a)(H)~~ (4) (a) (II) (C) for
26 a first time drunk driving offender who is unable to pay the costs of the
27 device; and then to provide two million dollars to the department of

1 transportation for high visibility drunk driving enforcement pursuant to
2 section 43-4-901, C.R.S. Any moneys in the account not expended for
3 these purposes may be invested by the state treasurer as provided by law.
4 All interest and income derived from the investment and deposit of
5 moneys in the account shall be credited to the account. At the end of each
6 fiscal year, any unexpended and unencumbered moneys remaining in the
7 account shall remain in the account and shall not be credited or
8 transferred to the general fund, the highway users tax fund, or another
9 fund.

10 **SECTION 8.** In Colorado Revised Statutes, 42-3-303, **amend** (1)
11 (f) as follows:

12 **42-3-303. Persistent drunk driver cash fund - programs to**
13 **deter persistent drunk drivers.** (1) There is hereby created in the state
14 treasury the persistent drunk driver cash fund, which shall be composed
15 of moneys collected for penalty surcharges under section 42-4-1307 (10)
16 (b). The moneys in ~~such~~ THE fund are subject to annual appropriation by
17 the general assembly:

18 (f) To assist in providing approved ignition interlock devices, as
19 defined in section 42-2-132.5 ~~(7)~~(a) (9) (a), for indigent offenders; and

20 **SECTION 9.** In Colorado Revised Statutes, 42-4-1307, **amend**
21 (7) (b) (V) and (8) as follows:

22 **42-4-1307. Penalties for traffic offenses involving alcohol and**
23 **drugs - repeal.** (7) **Probation-related penalties.** When a person is
24 sentenced to a period of probation pursuant to subparagraph (IV) of
25 paragraph (a) of subsection (5) of this section or subparagraph (IV) of
26 paragraph (a) of subsection (6) of this section:

27 (b) The court:

1 (V) May require the person to use an approved ignition interlock
2 device, as defined in section 42-2-132.5 ~~(7)~~(a) (9) (a), during the period
3 of probation at the person's own expense;

4 (8) **Ignition interlock devices.** In sentencing a person pursuant
5 to this section, courts are encouraged to require the person to use an
6 approved ignition interlock device, as defined in section 42-2-132.5 ~~(7)~~
7 ~~(a)~~ (9) (a), as a condition of bond, probation, and participation in
8 programs pursuant to section 18-1.3-106, C.R.S.

9 **SECTION 10. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 7, 2012, if adjournment sine die is on May 9, 2012); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2012 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.