

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

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.

HOUSE
3rd Reading Unam ended
February 29, 2012

HOUSE
Am ended 2nd Reading
February 28, 2012

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11 (a) A PERSON WHOSE PRIVILEGE TO DRIVE WAS REVOKED FOR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15 (b) A PERSON WHOSE LICENSE HAS BEEN REVOKED FOR EXCESS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 OR WHOSE DRIVING RECORD OTHERWISE
19 INDICATES A DESIGNATION OF PERSISTENT DRUNK DRIVER AS DEFINED IN
20 SECTION 42-1-102 (68.5);

21 (c) A PERSON WHOSE PRIVILEGE TO DRIVE WAS REVOKED AS AN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

25 (d) A PERSON WHOSE PRIVILEGE TO DRIVE WAS REVOKED FOR
26 INTERLOCK CIRCUMVENTION PURSUANT TO PARAGRAPH (a) OR (b) OF

1 SUBSECTION (7) OF THIS SECTION.

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

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

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22 PRIVILEGE TO DRIVE HAS BEEN REVOKED FOR ONE YEAR OR MORE BECAUSE
23 OF A DUI, DUI PER SE, OR DWAI CONVICTION OR HAS BEEN REVOKED FOR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

1 YEAR. EXCEPT FOR FIRST-TIME OFFENDERS AS PROVIDED IN
2 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) OR FOR PERSISTENT DRUNK
3 DRIVERS AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, THE
4 RESTRICTIONS IMPOSED PURSUANT TO THIS SECTION SHALL REMAIN IN
5 EFFECT FOR THE LONGER OF ONE YEAR OR THE TOTAL TIME PERIOD
6 REMAINING ON THE LICENSE RESTRAINT PRIOR TO EARLY REINSTATEMENT.

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

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

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

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

21 (b) **Early reinstatement eligibility requirement.** (I) TO BE
22 ELIGIBLE FOR EARLY REINSTATEMENT WITH AN INTERLOCK-RESTRICTED
23 LICENSE PURSUANT TO THIS SUBSECTION (4), A PERSON SHALL HAVE
24 SATISFIED ALL CONDITIONS FOR REINSTATEMENT IMPOSED BY LAW
25 INCLUDING TIME PERIODS FOR NON-ALCOHOL-RELATED RESTRAINTS;
26 EXCEPT THAT A PERSON WHOSE LICENSE WAS ALSO RESTRAINED FOR
27 DRIVING UNDER RESTRAINT PURSUANT TO SECTION 42-2-138 MAY BE

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

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

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

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

27 (a) (I) THE DEPARTMENT MAY ISSUE AN INTERLOCK-RESTRICTED LICENSE

1 UNDER THIS SECTION IF THE DEPARTMENT RECEIVES FROM A PERSON
2 DESCRIBED IN THIS SECTION AN AFFIDAVIT STATING THAT THE PERSON HAS
3 OBTAINED:

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

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

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

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

1 THE VEHICLE FOR A PERIOD EQUAL TO THE REMAINING PERIOD OF THE
2 INTERLOCK-RESTRICTED LICENSE AND SUBMIT THE AFFIDAVIT DESCRIBED
3 IN PARAGRAPH (a) OF THIS SUBSECTION (5).

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

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

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

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

23 (a) **Due to circumvention - conviction.** UPON RECEIPT OF NOTICE OF A
24 CONVICTION UNDER SUBSECTION (10) OF THIS SECTION, THE DEPARTMENT
25 SHALL REVOKE ANY INTERLOCK-RESTRICTED LICENSE ISSUED TO THE
26 CONVICTED PERSON PURSUANT TO THIS SECTION. THE DEPARTMENT SHALL
27 NOT REINSTATE THE INTERLOCK-RESTRICTED LICENSE FOR A PERIOD OF

1 ONE YEAR OR THE REMAINING PERIOD OF LICENSE RESTRAINT IMPOSED
2 PRIOR TO THE ISSUANCE OF AN INTERLOCK-RESTRICTED LICENSE
3 PURSUANT TO THIS SECTION, WHICHEVER IS LONGER. A PERSON IS
4 ENTITLED TO A HEARING ON THE QUESTION OF WHETHER THE REVOCATION
5 IS SUSTAINED AND THE CALCULATION OF THE LENGTH OF THE
6 INELIGIBILITY.

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

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

1 REMAINING PERIOD OF THE INTERLOCK RESTRICTION.

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

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

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

22 (a) FOR THE PURPOSES OF THIS SECTION, "APPROVED IGNITION INTERLOCK
23 DEVICE" MEANS A DEVICE APPROVED BY THE DEPARTMENT OF PUBLIC
24 HEALTH AND ENVIRONMENT THAT IS INSTALLED IN A MOTOR VEHICLE AND
25 THAT MEASURES THE BREATH ALCOHOL CONTENT OF THE DRIVER BEFORE
26 A VEHICLE IS STARTED AND THAT PERIODICALLY REQUIRES ADDITIONAL
27 BREATH SAMPLES DURING VEHICLE OPERATION. THE DEVICE MAY NOT

1 ALLOW A MOTOR VEHICLE TO BE STARTED OR TO CONTINUE NORMAL
2 OPERATION IF THE DEVICE MEASURES AN ALCOHOL LEVEL ABOVE THE
3 LEVEL ESTABLISHED BY THE DEPARTMENT OF PUBLIC HEALTH AND
4 ENVIRONMENT.

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

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

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

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

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


1 TRIAL ON THE OFFENSE.

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

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

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

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

18 
19 **SECTION 2.** In Colorado Revised Statutes, 42-2-116, **amend** (6);
20 and **repeal** (7) and (8) as follows:

21 **42-2-116. Restricted license.** (6) (a) ~~Except as otherwise~~
22 ~~provided in paragraph (b) of this subsection (6), any~~ A person who
23 violates any provision of this section commits a class A traffic infraction.

24 (b) ~~Any person whose privilege to drive is restricted to the~~
25 ~~operation of a motor vehicle equipped with an approved ignition interlock~~
26 ~~device as defined in section 42-2-132.5 (7) (a), who operates a motor~~
27 ~~vehicle other than a motor vehicle equipped with an approved ignition~~

1 ~~interlock device or who circumvents or attempts to circumvent the proper~~
2 ~~use of an approved ignition interlock device commits a class 1 traffic~~
3 ~~misdemeanor.~~

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

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

15 **SECTION 3.** In Colorado Revised Statutes, **repeal** 42-2-126.3.

16 **SECTION 4.** In Colorado Revised Statutes, 42-2-126, **amend** (4)
17 (d) (II) (A) and (9) (c) as follows:

18 **42-2-126. Revocation of license based on administrative**
19 **determination. (4) Multiple restraints and conditions on driving**
20 **privileges. (d) (II) (A)** If a person was determined to be driving with
21 excess BAC and the person had a BAC that was 0.17 or more or if the
22 person's driving record otherwise indicates a designation as a persistent
23 drunk driver as defined in section 42-1-102 (68.5), the department shall
24 require the person to complete a level II alcohol and drug education and
25 treatment program certified by the unit in the department of human
26 services that administers behavioral health programs and services,
27 including those related to mental health and substance abuse, pursuant to

1 section 42-4-1301.3 as a condition to restoring driving privileges to the
2 person and, upon the restoration of driving privileges, shall require the
3 person to hold a restricted license requiring the use of an ignition
4 interlock device pursuant to section 42-2-132.5 (1) ~~(b.5)~~ (b).

5 **42-2-126. Revocation of license based on administrative**
6 **determination.** (9) **Appeal.** (c) A filing of a petition for judicial review
7 shall not result in an automatic stay of the revocation order. The court
8 may grant a stay of the order only upon a motion and hearing and upon a
9 finding that there is a reasonable probability that the person will prevail
10 upon the merits and that the person will suffer irreparable harm if the
11 order is not stayed. FOR PURPOSES OF THIS SECTION, "IRREPARABLE HARM"
12 INCLUDES BUT IS NOT LIMITED TO A LOSS OF AT LEAST FIVE HUNDRED
13 DOLLARS AS A RESULT OF THE REVOCATION IF A STAY IS NOT GRANTED.

14 **SECTION 5.** In Colorado Revised Statutes, 42-2-127, **amend**
15 (14) (a) (I) (B) as follows:

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

24 (B) If the individual is **AN INTERLOCK-RESTRICTED DRIVER OR IS**
25 a persistent drunk driver, as defined in section 42-1-102 (68.5), any
26 probationary license shall require the use of an approved ignition
27 interlock device, as defined in section 42-2-132.5 ~~(7)~~(a) (9) (a), and the

1 time that the individual holds a probationary license under this section
2 shall ~~not~~ be credited against the time that the individual may be required
3 to hold a ~~restricted~~ AN INTERLOCK-RESTRICTED license pursuant to section
4 42-2-132.5.

5 **SECTION 6.** In Colorado Revised Statutes, 42-2-132, **amend** (2)
6 (a) (IV) and (4) (b) (II) (B) as follows:

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

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

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

1 a first time drunk driving offender who is unable to pay the costs of the
2 device; and then to provide two million dollars to the department of
3 transportation for high visibility drunk driving enforcement pursuant to
4 section 43-4-901, C.R.S. Any moneys in the account not expended for
5 these purposes may be invested by the state treasurer as provided by law.
6 All interest and income derived from the investment and deposit of
7 moneys in the account shall be credited to the account. At the end of each
8 fiscal year, any unexpended and unencumbered moneys remaining in the
9 account shall remain in the account and shall not be credited or
10 transferred to the general fund, the highway users tax fund, or another
11 fund.

12 **SECTION 7.** In Colorado Revised Statutes, 42-3-303, **amend** (1)
13 (f) as follows:

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

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

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

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

1 paragraph (a) of subsection (6) of this section:

2 (b) The court:

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

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

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