

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0402.01 Richard Sweetman x4333

HOUSE BILL 13-1240

HOUSE SPONSORSHIP

Young,

SENATE SPONSORSHIP

(None),

House Committees
Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 CONCERNING PENALTIES FOR PERSISTENT DRUNK DRIVERS.

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>.)

In current law, the definition of "persistent drunk driver" includes a person who drives a motor vehicle with a BAC of 0.17 or more. The bill lowers this threshold to 0.15 or more. The bill also amends the definition of "persistent drunk driver" to include a person who refuses to take or complete, or to cooperate in the completing of, a test of his or her blood, breath, saliva, or urine as required by law.

In current law, if a person is designated a persistent drunk driver,

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.

the state department of revenue (department) requires the person to complete a level II alcohol and drug education and treatment program. Under the bill, the department shall also require the person to hold a restricted license requiring the use of an ignition interlock device upon the restoration of his or her driving privileges.

In current law, a person whose privilege to drive was revoked for one year or more because of a second or subsequent DUI, DUI per se, or DWAI conviction; for excess blood alcohol content (BAC); or for refusal may apply for an early reinstatement with an interlock-restricted license after the person's privilege to drive has been revoked for one year. The bill reduces this one-year waiting period to one month for persons 21 years of age or older at the time of the offense; except that, for a person 21 years of age or older at the time of the offense whose privilege to drive was revoked because of a refusal, the waiting period is reduced to 2 months.

The bill amends the purposes of the first time drunk driving offender account in the highway users tax fund to include appropriations to the department to pay:

- ! A portion of the costs for an ignition interlock device for a persistent drunk driver who is unable to pay the costs of the device and who installs the ignition interlock device on his or her vehicle on or after January 1, 2014; and
- ! The department's costs associated with the implementation of the bill.

In current law, with certain exceptions, a license revocation must run consecutively and not concurrently with any other revocation. The bill provides that, for an offense committed on or after January 1, 2014, with certain exceptions, a license revocation can run concurrently with any other revocation.

In current law, if a license is revoked for refusal, the revocation may not run concurrently, in whole or in part, with any previous or subsequent suspensions, revocations, or denials that may be provided for by law. The bill provides that, for a refusal committed on or after January 1, 2014, with certain exceptions, a license revocation can run concurrently with any other revocation.

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

2 **SECTION 1.** In Colorado Revised Statutes, 42-2-132.5, **amend**

3 (1) (b), (4) (a) (I), and (4) (a) (II) (C) as follows:

4 **42-2-132.5. Mandatory and voluntary restricted licenses**
5 **following alcohol convictions - rules. (1) Persons required to hold an**

1 **interlock-restricted license.** The following persons shall be required to
2 hold an interlock-restricted license pursuant to this section for at least one
3 year following reinstatement prior to being eligible to obtain any other
4 driver's license issued under this article:

5 (b) A person whose license has been revoked for excess BAC
6 pursuant to the provisions of section 42-2-126 when the person's BAC
7 was ~~0.17 or more~~ 0.15 OR MORE at the time of driving or within two hours
8 after driving or whose driving record otherwise indicates a designation of
9 persistent drunk driver as defined in section 42-1-102 (68.5);

10 (4) **Persons who may acquire an interlock-restricted license**
11 **prior to serving a full-term revocation.** (a) (I) A person whose
12 privilege to drive has been revoked for one year or more because of a
13 DUI, DUI per se, or DWAI conviction or has been revoked for one year
14 or more for excess BAC ~~or refusal~~ under any provision of section
15 42-2-126 may apply for an early reinstatement with an interlock-restricted
16 license under the provisions of this section after the person's privilege to
17 drive has been revoked for ~~one year~~ ONE MONTH; EXCEPT THAT A PERSON
18 WHO IS LESS THAN TWENTY-ONE YEARS OF AGE AT THE TIME OF THE
19 OFFENSE MAY NOT APPLY FOR EARLY REINSTATEMENT UNTIL HIS OR HER
20 LICENSE HAS BEEN REVOKED FOR ONE YEAR. A PERSON WHOSE PRIVILEGE
21 TO DRIVE HAS BEEN REVOKED FOR ONE YEAR OR MORE BECAUSE OF A
22 REFUSAL MAY APPLY FOR AN EARLY REINSTATEMENT WITH AN
23 INTERLOCK-RESTRICTED LICENSE UNDER THE PROVISIONS OF THIS SECTION
24 AFTER THE PERSON'S PRIVILEGE TO DRIVE HAS BEEN REVOKED FOR TWO
25 MONTHS; EXCEPT THAT A PERSON WHO IS LESS THAN TWENTY-ONE YEARS
26 OF AGE AT THE TIME OF THE OFFENSE MAY NOT APPLY FOR EARLY
27 REINSTATEMENT UNTIL HIS OR HER LICENSE HAS BEEN REVOKED FOR ONE

1 YEAR. Except for first-time offenders as provided in subparagraph (II) of
2 this paragraph (a) or for persistent drunk drivers as provided in subsection
3 (3) of this section, the restrictions imposed pursuant to this section shall
4 remain in effect for the longer of one year or the total time period
5 remaining on the license restraint prior to early reinstatement.

6 (II) (C) **Financial assistance for first-time offenders and**
7 **persistent drunk drivers.** The department shall establish a program to
8 assist persons who apply for an interlock-restricted license pursuant to
9 this subparagraph (II) OR PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH
10 (a) OF THIS SUBSECTION (4) and who are unable to pay the full cost of an
11 approved ignition interlock device. The program shall be funded from the
12 first time drunk driving offender account in the highway users tax fund
13 established pursuant to section 42-2-132 (4) (b) (II).

14 **SECTION 2.** In Colorado Revised Statutes, 42-1-102, **amend**
15 (68.5) as follows:

16 **42-1-102. Definitions.** As used in articles 1 to 4 of this title,
17 unless the context otherwise requires:

18 (68.5) (a) "Persistent drunk driver" means any person who:

19 (I) Has been convicted of or had his or her driver's license revoked
20 for two or more alcohol-related driving violations;

21 (II) ~~who~~ Continues to drive after a driver's license or driving
22 privilege restraint has been imposed for one or more alcohol-related
23 driving offenses;

24 (III) ~~or who~~ Drives a motor vehicle while the amount of alcohol
25 in such person's blood, as shown by analysis of the person's blood or
26 breath, was ~~0.17 or more~~ 0.15 OR MORE grams of alcohol per one hundred
27 milliliters of blood or ~~0.17 or more~~ 0.15 OR MORE grams of alcohol per

1 two hundred ten liters of breath at the time of driving or within two hours
2 after driving; OR

3 (IV) REFUSES TO TAKE OR COMPLETE, OR TO COOPERATE IN THE
4 COMPLETING OF, A TEST OF HIS OR HER BLOOD, BREATH, SALIVA, OR URINE
5 AS REQUIRED BY SECTION 18-3-106 (4) OR 18-3-205 (4), C.R.S., OR
6 SECTION 42-4-1301.1 (2).

7 (b) Nothing in this subsection (68.5) shall be interpreted to affect
8 the penalties imposed under this title for multiple alcohol- or drug-related
9 driving offenses, including, but not limited to, penalties imposed for
10 violations under sections 42-2-125 (1) (g) and (1) (i) and 42-2-202 (2).

11 **SECTION 3.** In Colorado Revised Statutes, 42-2-126, **amend** (4)
12 (d) (II) (A) as follows:

13 **42-2-126. Revocation of license based on administrative**
14 **determination. (4) Multiple restraints and conditions on driving**
15 **privileges. (d) (II) (A)** If a person was determined to be driving with
16 excess BAC and the person had a BAC that was ~~0.17 or more~~ 0.15 OR
17 MORE or if the person's driving record otherwise indicates a designation
18 as a persistent drunk driver as defined in section 42-1-102 (68.5), the
19 department shall require the person to complete a level II alcohol and
20 drug education and treatment program certified by the unit in the
21 department of human services that administers behavioral health
22 programs and services, including those related to mental health and
23 substance abuse, pursuant to section 42-4-1301.3 as a condition to
24 restoring driving privileges to the person and, upon the restoration of
25 driving privileges, shall require the person to hold a restricted license
26 requiring the use of an ignition interlock device pursuant to section
27 42-2-132.5 (1) (b).

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

3 **42-2-132. Period of suspension or revocation.** (2) (a) (II) (B) If
4 the person was determined to be in violation of section 42-2-126 (3) (a)
5 and the person had a BAC that was ~~0.17 or more~~ 0.15 OR MORE at the
6 time of driving or within two hours after driving, or if the person's driving
7 record otherwise indicates a designation as a persistent drunk driver as
8 defined in section 42-1-102 (68.5), the department shall require the
9 person to complete a level II alcohol and drug education and treatment
10 program certified by the unit in the department of human services that
11 administers behavioral health programs and services, including those
12 related to mental health and substance abuse, pursuant to section
13 42-4-1301.3, AND, UPON THE RESTORATION OF DRIVING PRIVILEGES,
14 SHALL REQUIRE THE PERSON TO HOLD A RESTRICTED LICENSE REQUIRING
15 THE USE OF AN IGNITION INTERLOCK DEVICE PURSUANT TO SECTION
16 42-2-132.5 (1) (b).

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~~ IN 2008,
23 ~~regular session, of the sixty-sixth general assembly~~ AND TO PAY ITS COSTS
24 ASSOCIATED WITH THE IMPLEMENTATION OF HOUSE BILL 13-____,
25 ENACTED IN 2013; second, to the department of revenue to pay a portion
26 of the costs for an ignition interlock device as described by section
27 42-2-132.5 (4) (a) (II) (C) for a first time drunk driving offender who is

1 unable to pay the costs of the device; THIRD, TO THE DEPARTMENT OF
2 REVENUE TO PAY A PORTION OF THE COSTS FOR AN IGNITION INTERLOCK
3 DEVICE FOR A PERSISTENT DRUNK DRIVER WHO IS UNABLE TO PAY THE
4 COSTS OF THE DEVICE AND WHO INSTALLS THE IGNITION INTERLOCK
5 DEVICE ON HIS OR HER VEHICLE ON OR AFTER JANUARY 1, 2014; and then
6 to provide two million dollars to the department of transportation for high
7 visibility drunk driving enforcement pursuant to section 43-4-901, C.R.S.
8 Any moneys in the account not expended for these purposes may be
9 invested by the state treasurer as provided by law. All interest and income
10 derived from the investment and deposit of moneys in the account shall
11 be credited to the account. At the end of each fiscal year, any unexpended
12 and unencumbered moneys remaining in the account shall remain in the
13 account and shall not be credited or transferred to the general fund, the
14 highway users tax fund, or another fund.

15 **SECTION 5.** In Colorado Revised Statutes, 42-2-126, **amend** (3)
16 (c) (I), (4) (a) (I), (4) (a) (III), and (4) (b) (I); and **add** (4) (a) (V) as
17 follows:

18 **42-2-126. Revocation of license based on administrative**
19 **determination.** (3) **Revocation of license.** (c) **Refusal.** (I) EXCEPT AS
20 PROVIDED IN SECTION 42-2-132.5 (4), the department shall revoke the
21 license of a person for refusal for one year for a first violation, two years
22 for a second violation, and three years for a third or subsequent violation;
23 except that the period of revocation shall be at least three years if the
24 person was driving a commercial motor vehicle that was transporting
25 hazardous materials as defined in section 42-2-402 (7).

26 (4) **Multiple restraints and conditions on driving privileges.**
27 (a) (I) Except as otherwise provided in this paragraph (a), a revocation

1 imposed pursuant to this section FOR AN OFFENSE COMMITTED BEFORE
2 JANUARY 1, 2014, shall run consecutively and not concurrently with any
3 other revocation imposed pursuant to this section.

4 (III) (A) If a license is revoked for refusal FOR AN OFFENSE
5 COMMITTED BEFORE JANUARY 1, 2014, the revocation shall not run
6 concurrently, in whole or in part, with any previous or subsequent
7 suspensions, revocations, or denials that may be provided for by law,
8 including but not limited to any suspension, revocation, or denial that
9 results from a conviction of criminal charges arising out of the same
10 occurrence for a violation of section 42-4-1301. ~~Any revocation for~~
11 ~~refusal shall not preclude other action that the department is required to~~
12 ~~take in the administration of this title.~~

13 (B) IF A LICENSE IS REVOKED FOR REFUSAL FOR AN OFFENSE
14 COMMITTED ON OR AFTER JANUARY 1, 2014, AND THE PERSON IS ALSO
15 CONVICTED ON CRIMINAL CHARGES ARISING OUT OF THE SAME
16 OCCURRENCE FOR DUI, DUI PER SE, DWAI, OR UDD, BOTH THE
17 REVOCATION UNDER THIS SECTION AND ANY SUSPENSION, REVOCATION,
18 CANCELLATION, OR DENIAL THAT RESULTS FROM THE CONVICTION SHALL
19 BE IMPOSED, BUT THE PERIODS SHALL RUN CONCURRENTLY. THE TOTAL
20 PERIOD OF REVOCATION, SUSPENSION, CANCELLATION, OR DENIAL SHALL
21 NOT EXCEED THE LONGER OF THE TWO PERIODS.

22 (V) ANY REVOCATION FOR REFUSAL SHALL NOT PRECLUDE OTHER
23 ACTION THAT THE DEPARTMENT IS REQUIRED TO TAKE IN THE
24 ADMINISTRATION OF THIS TITLE.

25 (b) (I) The periods of revocation specified in subsection (3) of this
26 section are intended to be minimum periods of revocation for the
27 described conduct. EXCEPT AS DESCRIBED IN SECTION 42-2-132.5, a

1 license shall not be restored under any circumstances, and a probationary
2 license shall not be issued, during the revocation period.

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

5 **42-2-132. Period of suspension or revocation.** (4) (b) All
6 restoration fees collected pursuant to this subsection (4) shall be
7 transmitted to the state treasurer, who shall credit:

8 (II) (B) The moneys in the account shall be subject to annual
9 appropriation by the general assembly on and after January 1, 2009, first
10 to the department of revenue to pay its costs associated with the
11 implementation of House Bill 08-1194, as enacted ~~at the second~~ IN 2008,
12 ~~regular session, of the sixty-sixth general assembly~~ AND TO PAY ITS COSTS
13 ASSOCIATED WITH THE IMPLEMENTATION OF HOUSE BILL 13-____,
14 ENACTED IN 2013; second, to the department of revenue to pay a portion
15 of the costs for an ignition interlock device as described by section
16 42-2-132.5 (4) (a) (II) (C) for a first time drunk driving offender who is
17 unable to pay the costs of the device; and then to provide two million
18 dollars to the department of transportation for high visibility drunk
19 driving enforcement pursuant to section 43-4-901, C.R.S. Any moneys in
20 the account not expended for these purposes may be invested by the state
21 treasurer as provided by law. All interest and income derived from the
22 investment and deposit of moneys in the account shall be credited to the
23 account. At the end of each fiscal year, any unexpended and
24 unencumbered moneys remaining in the account shall remain in the
25 account and shall not be credited or transferred to the general fund, the
26 highway users tax fund, or another fund.

27 **SECTION 7. Effective date.** This act takes effect upon passage;

1 except that sections 1, 2, 3, 4, and 5 of this act take effect on January 1,
2 2014.

3 **SECTION 8. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.