

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 13-0402.01 Richard Sweetman x4333

HOUSE BILL 13-1240

HOUSE SPONSORSHIP

Young,

SENATE SPONSORSHIP

King,

House Committees

Transportation & Energy
Appropriations

Senate Committees

Transportation
Appropriations

A BILL FOR AN ACT

101 **CONCERNING PENALTIES FOR PERSISTENT DRUNK DRIVERS, AND, IN**
102 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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,

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.*

SENATE
2nd Reading Unamended
May 1, 2013

HOUSE
3rd Reading Unamended
April 19, 2013

HOUSE
Amended 2nd Reading
April 17, 2013

breath, saliva, or urine as required by law.

In current law, if a person is designated a persistent drunk driver, 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In current law, a person whose privilege to drive was revoked for one year or more because of a second or subsequent DUI, DUI per se, or DWAI conviction; for excess blood alcohol content (BAC); or for refusal may apply for an early reinstatement with an interlock-restricted license after the person's privilege to drive has been revoked for one year.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**

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

6 (b) A person whose license has been revoked for excess BAC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

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13 privilege to drive has been revoked for one year or more because of a
14 DUI, DUI per se, or DWAI conviction or has been revoked for one year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

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

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

15 **SECTION 2.** In Colorado Revised Statutes, 42-1-102, **amend**
16 (68.5) as follows:

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

19 (68.5) (a) "Persistent drunk driver" means any person who:

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

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

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

1 milliliters of blood or ~~0.17 or more~~ 0.15 OR MORE grams of alcohol per
2 two hundred ten liters of breath at the time of driving or within two hours
3 after driving; OR

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

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

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

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

1 42-2-132.5 (1) (b).

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

4 **42-2-132. Period of suspension or revocation.** (2) (a) (II) (B) If
5 the person was determined to be in violation of section 42-2-126 (3) (a)
6 and the person had a BAC that was ~~0.17 or more~~ 0.15 OR MORE at the
7 time of driving or within two hours after driving, or if the person's driving
8 record otherwise indicates a designation as a persistent drunk driver as
9 defined in section 42-1-102 (68.5), the department shall require the
10 person to complete a level II alcohol and drug education and treatment
11 program certified by the unit in the department of human services that
12 administers behavioral health programs and services, including those
13 related to mental health and substance abuse, pursuant to section
14 42-4-1301.3, AND, UPON THE RESTORATION OF DRIVING PRIVILEGES,
15 SHALL REQUIRE THE PERSON TO HOLD A RESTRICTED LICENSE REQUIRING
16 THE USE OF AN IGNITION INTERLOCK DEVICE PURSUANT TO SECTION
17 42-2-132.5 (1) (b).

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

20 (II) (B) The moneys in the account shall be subject to annual
21 appropriation by the general assembly on and after January 1, 2009, first
22 to the department of revenue to pay its costs associated with the
23 implementation of House Bill 08-1194, as enacted ~~at the second~~ IN 2008,
24 ~~regular session, of the sixty-sixth general assembly~~ AND TO PAY ITS COSTS
25 ASSOCIATED WITH THE IMPLEMENTATION OF **HOUSE BILL 13-1240**,
26 ENACTED IN 2013; second, to the department of revenue to pay a portion
27 of the costs for an ignition interlock device as described by section

1 42-2-132.5 (4) (a) (II) (C) for a first time drunk driving offender who is
2 unable to pay the costs of the device; THIRD, TO THE DEPARTMENT OF
3 REVENUE TO PAY A PORTION OF THE COSTS FOR AN IGNITION INTERLOCK
4 DEVICE FOR A PERSISTENT DRUNK DRIVER WHO IS UNABLE TO PAY THE
5 COSTS OF THE DEVICE AND WHO INSTALLS THE IGNITION INTERLOCK
6 DEVICE ON HIS OR HER VEHICLE ON OR AFTER JANUARY 1, 2014; and then
7 to provide two million dollars to the department of transportation for high
8 visibility drunk driving enforcement pursuant to section 43-4-901, C.R.S.
9 Any moneys in the account not expended for these purposes may be
10 invested by the state treasurer as provided by law. All interest and income
11 derived from the investment and deposit of moneys in the account shall
12 be credited to the account. At the end of each fiscal year, any unexpended
13 and unencumbered moneys remaining in the account shall remain in the
14 account and shall not be credited or transferred to the general fund, the
15 highway users tax fund, or another fund.

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

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

27 (4) **Multiple restraints and conditions on driving privileges.**

1 (a) (I) Except as otherwise provided in this paragraph (a), a revocation
2 imposed pursuant to this section FOR AN OFFENSE COMMITTED BEFORE
3 JANUARY 1, 2014, shall run consecutively and not concurrently with any
4 other revocation imposed pursuant to this section.

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

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

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

26 (b) (I) The periods of revocation specified in subsection (3) of this
27 section are intended to be minimum periods of revocation for the

1 described conduct. EXCEPT AS DESCRIBED IN SECTION 42-2-132.5, a
2 license shall not be restored under any circumstances, and a probationary
3 license shall not be issued, during the revocation period.

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

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

9 (II) (B) The moneys in the account shall be subject to annual
10 appropriation by the general assembly on and after January 1, 2009, first
11 to the department of revenue to pay its costs associated with the
12 implementation of House Bill 08-1194, as enacted ~~at the second~~ IN 2008,
13 ~~regular session, of the sixty-sixth general assembly~~ AND TO PAY ITS COSTS
14 ASSOCIATED WITH THE IMPLEMENTATION OF **HOUSE BILL 13-1240**,
15 ENACTED IN 2013; second, to the department of revenue to pay a portion
16 of the costs for an ignition interlock device as described by section
17 42-2-132.5 (4) (a) (II) (C) for a first time drunk driving offender who is
18 unable to pay the costs of the device; and then to provide two million
19 dollars to the department of transportation for high visibility drunk
20 driving enforcement pursuant to section 43-4-901, C.R.S. Any moneys in
21 the account not expended for these purposes may be invested by the state
22 treasurer as provided by law. All interest and income derived from the
23 investment and deposit of moneys in the account shall be credited to the
24 account. At the end of each fiscal year, any unexpended and
25 unencumbered moneys remaining in the account shall remain in the
26 account and shall not be credited or transferred to the general fund, the
27 highway users tax fund, or another fund.

1 **SECTION 7. Appropriation.** (1) In addition to any other
2 appropriation, there is hereby appropriated, out of any moneys in the first
3 time drunk driving offender account in the highway users tax fund created
4 in section 42-2-132 (4) (b) (II) (A), Colorado Revised Statutes, not
5 otherwise appropriated, to the department of revenue, for the fiscal year
6 beginning July 1, 2013, the sum of \$126,834 and 1.0 FTE, or so much
7 thereof as may be necessary, for the implementation of this act as follows:

8 (a) \$100,120 and 1.0 FTE for personal services, temporary staff,
9 operating expenses, and forms adjustment; and

10 (b) \$26,714 for the purchase of computer center services.

11 (2) In addition to any other appropriation, there is hereby
12 appropriated to the governor - lieutenant governor - state planning and
13 budgeting, for the fiscal year beginning July 1, 2013, the sum of \$26,714,
14 or so much thereof as may be necessary, for allocation to the office of
15 information technology, for the provision of computer center services for
16 the department of revenue related to the implementation of this act. Said
17 sum is from reappropriated funds received from the department of
18 revenue out of the appropriation made in paragraph (b) of subsection (1)
19 of this section.

20 **SECTION 8. Effective date.** This act takes effect upon passage;
21 except that sections 1, 2, 3, 4, and 5 of this act take effect on January 1,
22 2014.

23 **SECTION 9. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.