

**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. 13-1028.01 Richard Sweetman x4333

HOUSE BILL 13-1325

HOUSE SPONSORSHIP

Fields and Waller,

SENATE SPONSORSHIP

King,

House Committees

Judiciary
Appropriations

Senate Committees

Finance

A BILL FOR AN ACT

101 **CONCERNING PENALTIES FOR PERSONS WHO DRIVE WHILE UNDER THE**
102 **INFLUENCE OF ALCOHOL OR DRUGS, AND, IN CONNECTION**
103 **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 any DUI prosecution, if at the time of driving or within a reasonable time thereafter, the driver's blood contains 5 nanograms or more of delta 9-tetrahydrocannabinol per milliliter in whole blood, as shown by analysis of the defendant's blood, such fact gives rise to a

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 6, 2013

HOUSE
3rd Reading Unamended
May 6, 2013

HOUSE
Amended 2nd Reading
May 3, 2013

permissible inference that the defendant was under the influence of one or more drugs.

Under current law, in any prosecution for vehicular homicide or vehicular assault, if at the time of the commission of the alleged offense, or within a reasonable time thereafter, as shown by analysis of the defendant's blood or breath, there was 0.08 or more grams of alcohol per 100 milliliters of blood, or if there was at such time 0.08 or more grams of alcohol per 210 liters of breath, it is presumed that the defendant was under the influence of alcohol. The bill removes this presumption and states instead that such fact gives rise to a permissible inference that the defendant was under the influence of alcohol.

The bill removes instances of the term "habitual user" from the traffic code.

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

2 **SECTION 1.** In Colorado Revised Statutes, 42-4-1301, **amend**
3 (1) (d), (2) (b), (4), (6) (a) introductory portion, and (6) (e); **repeal** (1) (c);
4 and **add** (6) (a) (IV), (6) (j), and (6) (k) as follows:

5 **42-4-1301. Driving under the influence - driving while**
6 **impaired - driving with excessive alcoholic content - definitions -**
7 **penalties.** (1) (c) ~~It is a misdemeanor for any person who is an habitual~~
8 ~~user of any controlled substance defined in section 18-18-102 (5), C.R.S.,~~
9 ~~to drive a motor vehicle, vehicle, or low-power scooter in this state.~~

10 (d) ~~For the purposes of this subsection (1) AS USED IN THIS~~
11 ~~SECTION, one or more drugs shall mean all substances defined as a MEANS~~
12 ~~ANY drug, AS DEFINED in section 27-80-203 (13), C.R.S., and all~~
13 ~~controlled substances ANY CONTROLLED SUBSTANCE, AS defined in~~
14 ~~section 18-18-102 (5), C.R.S., and glue-sniffing, aerosol inhalation, and~~
15 ~~the inhalation of any INHALED GLUE, AEROSOL, OR other toxic vapor or~~
16 ~~vapors, AS DEFINED IN SECTION 18-18-412, C.R.S.~~

17 (2) (b) In any prosecution for the offense of DUI per se, the
18 defendant shall be entitled to offer direct and circumstantial evidence to

1 show that there is a disparity between what ~~the~~ ANY tests show and other
2 facts so that the trier of fact could infer that the tests were in some way
3 defective or inaccurate. Such evidence may include testimony of
4 nonexpert witnesses relating to the absence of any or all of the common
5 symptoms or signs of intoxication for the purpose of impeachment of the
6 accuracy of the analysis of the person's blood or breath.

7 (4) No court shall accept a plea of guilty to a non-alcohol-related
8 or non-drug-related traffic offense or guilty to the offense of UDD from
9 a person charged with DUI OR DUI per se; ~~or habitual user~~; except that
10 the court may accept a plea of guilty to a non-alcohol-related or
11 non-drug-related traffic offense or to UDD upon a good faith
12 representation by the prosecuting attorney that the attorney could not
13 establish a prima facie case if the defendant were brought to trial on the
14 original alcohol-related or drug-related offense.

15 (6) (a) In any prosecution for DUI or DWAI, the defendant's BAC
16 OR DRUG CONTENT at the time of the commission of the alleged offense
17 or within a reasonable time thereafter gives rise to the following
18 presumptions or inferences:

19 (IV) IF AT SUCH TIME THE DRIVER'S BLOOD CONTAINED FIVE
20 NANOGRAMS OR MORE OF DELTA 9-TETRAHYDROCANNABINOL PER
21 MILLILITER IN WHOLE BLOOD, AS SHOWN BY ANALYSIS OF THE
22 DEFENDANT'S BLOOD, SUCH FACT GIVES RISE TO A PERMISSIBLE INFERENCE
23 THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF ONE OR MORE
24 DRUGS.

25 (e) **Involuntary blood test - admissibility.** Evidence acquired
26 through an involuntary blood test pursuant to section 42-4-1301.1 (3)
27 shall be admissible in any prosecution for DUI, DUI per se, DWAI,

1 ~~habitual user~~, or UDD, and in any prosecution for criminally negligent
2 homicide pursuant to section 18-3-105, C.R.S., vehicular homicide
3 pursuant to section 18-3-106 (1) (b), C.R.S., assault in the third degree
4 pursuant to section 18-3-204, C.R.S., or vehicular assault pursuant to
5 section 18-3-205 (1) (b), C.R.S.

6 (j) IN ANY TRIAL FOR A VIOLATION OF THIS SECTION, IF, AT THE
7 TIME OF THE ALLEGED OFFENSE, THE PERSON POSSESSED A VALID MEDICAL
8 MARIJUANA REGISTRY IDENTIFICATION CARD, AS DEFINED IN SECTION
9 25-1.5-106 (2) (e), C.R.S., ISSUED TO HIMSELF OR HERSELF, THE
10 PROSECUTION SHALL NOT USE SUCH FACT AS PART OF THE PROSECUTION'S
11 CASE IN CHIEF.

12 (k) IN ANY TRAFFIC STOP, THE DRIVER'S POSSESSION OF A VALID
13 MEDICAL MARIJUANA REGISTRY IDENTIFICATION CARD, AS DEFINED IN
14 SECTION 25-1.5-106 (2) (e), C.R.S., ISSUED TO HIMSELF OR HERSELF SHALL
15 NOT, IN THE ABSENCE OF OTHER CONTRIBUTING FACTORS, CONSTITUTE
16 PROBABLE CAUSE FOR A PEACE OFFICER TO REQUIRE THE DRIVER TO
17 SUBMIT TO AN ANALYSIS OF HIS OR HER BLOOD.

18 **SECTION 2.** In Colorado Revised Statutes, 18-3-106, **amend** (1)
19 (b) (II), (2) introductory portion, and (2) (c); and **add** (2) (d) as follows:

20 **18-3-106. Vehicular homicide.** (1) (b) (II) For the purposes of
21 this subsection (1), one or more drugs ~~shall mean all substances defined~~
22 ~~as a~~ MEANS ANY drug, AS DEFINED in section 27-80-203 (13), C.R.S., and
23 ~~all controlled substances~~ ANY CONTROLLED SUBSTANCE, AS defined in
24 section 18-18-102 (5), and ~~glue-sniffing, aerosol inhalation, or the~~
25 ~~inhalation of~~ any INHALED GLUE, AEROSOL, OR other toxic vapor or
26 vapors, as defined in section 18-18-412.

27 (2) In any prosecution for a violation of subsection (1) of this

1 section, the amount of alcohol in the defendant's blood or breath at the
2 time of the commission of the alleged offense, or within a reasonable time
3 thereafter, as shown by analysis of the defendant's blood or breath, ~~shall~~
4 ~~give~~ GIVES rise to the following: ~~presumptions:~~

5 (c) If there was at such time 0.08 or more grams of alcohol per
6 one hundred milliliters of blood, or if there was at such time 0.08 or more
7 grams of alcohol per two hundred ten liters of breath, ~~it shall be presumed~~
8 SUCH FACT GIVES RISE TO THE PERMISSIBLE INFERENCE that the defendant
9 was under the influence of alcohol.

10 (d) IF AT SUCH TIME THE DRIVER'S BLOOD CONTAINED FIVE
11 NANOGRAMS OR MORE OF DELTA 9-TETRAHYDROCANNABINOL PER
12 MILLILITER IN WHOLE BLOOD, AS SHOWN BY ANALYSIS OF THE
13 DEFENDANT'S BLOOD, SUCH FACT GIVES RISE TO A PERMISSIBLE INFERENCE
14 THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF ONE OR MORE
15 DRUGS.

16 **SECTION 3.** In Colorado Revised Statutes, 18-3-205, **amend** (1)
17 (b) (II), (2) introductory portion, and (2) (c); and **add** (2) (d) as follows:

18 **18-3-205. Vehicular assault.** (1) (b) (II) For the purposes of this
19 subsection (1), one or more drugs ~~shall mean all substances defined as a~~
20 MEANS ANY drug, AS DEFINED in section 27-80-203 (13), C.R.S., ~~and all~~
21 ~~controlled substances~~ ANY CONTROLLED SUBSTANCE, AS defined in
22 section 18-18-102 (5), and ~~glue-sniffing, aerosol inhalation, or the~~
23 ~~inhalation of~~ any INHALED GLUE, AEROSOL, OR other toxic vapor or
24 vapors, as defined in section 18-18-412.

25 (2) In any prosecution for a violation of subsection (1) of this
26 section, the amount of alcohol in the defendant's blood or breath at the
27 time of the commission of the alleged offense, or within a reasonable time

1 thereafter, as shown by analysis of the defendant's blood or breath, ~~shall~~
2 ~~give~~ GIVES rise to the following: ~~presumptions:~~

3 (c) If there was at such time 0.08 or more grams of alcohol per
4 one hundred milliliters of blood, or if there was at such time 0.08 or more
5 grams of alcohol per two hundred ten liters of breath, ~~it shall be presumed~~
6 SUCH FACT GIVES RISE TO THE PERMISSIBLE INFERENCE that the defendant
7 was under the influence of alcohol.

8 (d) IF AT SUCH TIME THE DRIVER'S BLOOD CONTAINED FIVE
9 NANOGRAMS OR MORE OF DELTA 9-TETRAHYDROCANNABINOL PER
10 MILLILITER IN WHOLE BLOOD, AS SHOWN BY ANALYSIS OF THE
11 DEFENDANT'S BLOOD, SUCH FACT GIVES RISE TO A PERMISSIBLE INFERENCE
12 THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF ONE OR MORE
13 DRUGS.

14 **SECTION 4.** In Colorado Revised Statutes, 42-1-102, **repeal**
15 (41.7) as follows:

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

18 (41.7) "~~Habitual user~~" ~~shall incorporate by reference the offense~~
19 ~~described in section 42-4-1301 (1) (c).~~

20 **SECTION 5.** In Colorado Revised Statutes, 42-2-121, **amend** (2)
21 (b) and (5) (a) (III) as follows:

22 **42-2-121. Records to be kept by department - admission of**
23 **records in court.** (2) (b) The department shall also keep a separate file
24 of all abstracts of court records of dismissals of DUI, DUI per se, DWAI,
25 ~~habitual user~~, and UDD charges and all abstracts of records in cases
26 where the original charges were for DUI, DUI per se, DWAI, ~~habitual~~
27 ~~user~~, and UDD and the convictions were for nonalcohol- or

1 nondrug-related traffic offenses. This file shall be made available only to
2 criminal justice agencies, as defined in section 24-72-302 (3), C.R.S.

3 (5) (a) Upon application by a person, the department shall
4 expunge all records concerning a conviction of a person for UDD with a
5 BAC of at least 0.02 but not more than 0.05 and any records concerning
6 an administrative determination resulting in a revocation under section
7 42-2-126 (3) (b) or (3) (e) if:

8 (III) The person has not been convicted for any other DUI, DUI
9 per se, DWAI, ~~habitual user~~, or UDD offense that was committed while
10 such person was under twenty-one years of age and is not subject to any
11 other administrative determination resulting in a revocation under section
12 42-2-126 for any other occurrence while such person was under
13 twenty-one years of age;

14 **SECTION 6.** In Colorado Revised Statutes, **amend** 42-2-129 as
15 follows:

16 **42-2-129. Mandatory surrender of license or permit for**
17 **driving under the influence or with excessive alcoholic content.** Upon
18 a plea of guilty or nolo contendere, or a verdict of guilty by the court or
19 a jury, to DUI, OR DUI per se, ~~or habitual user~~, or, for a person under
20 twenty-one years of age, to DUI, DUI per se, DWAI, ~~habitual user~~, or
21 UDD, the court shall require the offender to immediately surrender the
22 offender's driver's, minor driver's, or temporary driver's license or
23 instruction permit to the court. The court shall forward to the department
24 a notice of plea or verdict, on the form prescribed by the department,
25 together with the offender's license or permit, not later than ten days after
26 the surrender of the license or permit. Any person who does not
27 immediately surrender the license or permit to the court, except for good

1 cause shown, commits a class 2 misdemeanor traffic offense.

2 **SECTION 7.** In Colorado Revised Statutes, 42-2-125, **amend** (1)
3 (b), (1) (g), and (1) (i) as follows:

4 **42-2-125. Mandatory revocation of license and permit.** (1) The
5 department shall immediately revoke the license or permit of any driver
6 or minor driver upon receiving a record showing that such driver has:

7 (b) Been convicted of driving a motor vehicle while under the
8 influence of a controlled substance, as defined in section 18-18-102 (5),
9 C.R.S.; ~~or while an habitual user of such a controlled substance;~~

10 (g) (I) Been twice convicted of any combination of DUI, DUI per
11 se, OR DWAI ~~or habitual user~~ for acts committed within a period of five
12 years;

13 (II) In the case of a minor driver, been convicted of DUI, DUI per
14 se, OR DWAI ~~or habitual user~~ committed while such driver was under
15 twenty-one years of age;

16 (i) Been convicted of DUI, DUI per se, OR DWAI ~~or habitual user~~
17 and has two previous convictions of any of such offenses. The license of
18 any driver shall be revoked for an indefinite period and shall only be
19 reissued upon proof to the department that said driver has completed a
20 level II alcohol and drug education and treatment program certified by the
21 unit in the department of human services that administers behavioral
22 health programs and services, including those related to mental health and
23 substance abuse, pursuant to section 42-4-1301.3 and that said driver has
24 demonstrated knowledge of the laws and driving ability through the
25 regular motor vehicle testing process. In no event shall such license be
26 reissued in less than two years.

27 **SECTION 8.** In Colorado Revised Statutes, 42-2-127, **amend** (1)

1 (a) and (6) (b); and **repeal** (5) (b) (II) as follows:

2 **42-2-127. Authority to suspend license - to deny license - type**
3 **of conviction - points.** (1) (a) Except as provided in paragraph (b) of
4 subsection (8) of this section, the department has the authority to suspend
5 the license of any driver who, in accordance with the schedule of points
6 set forth in this section, has been convicted of traffic violations resulting
7 in the accumulation of twelve points or more within any twelve
8 consecutive months or eighteen points or more within any twenty-four
9 consecutive months, or, in the case of a minor driver eighteen years of age
10 or older, who has accumulated nine points or more within any twelve
11 consecutive months, or twelve points or more within any twenty-four
12 consecutive months, or fourteen points or more for violations occurring
13 after reaching the age of eighteen years, or, in the case of a minor driver
14 under the age of eighteen years, who has accumulated more than five
15 points within any twelve consecutive months or more than six points for
16 violations occurring prior to reaching the age of eighteen years; except
17 that the accumulation of points causing the subjection to suspension of
18 the license of a chauffeur who, in the course of employment, has as a
19 principal duty the operation of a motor vehicle shall be sixteen points in
20 one year, twenty-four points in two years, or twenty-eight points in four
21 years, if all the points are accumulated while said chauffeur is in the
22 course of employment. Any provision of this section to the contrary
23 notwithstanding, the license of a chauffeur who is convicted of DUI, DUI
24 per se, DWAI, ~~habitual user~~, UDD, or leaving the scene of an accident
25 shall be suspended in the same manner as if the offense occurred outside
26 the course of employment. Whenever a minor driver under the age of
27 eighteen years receives a summons for a traffic violation, the minor's

1 parent or legal guardian or, if the minor is without parents or guardian,
2 the person who signed the minor driver's application for a license shall
3 immediately be notified by the court from which the summons was
4 issued.

5 (5) Point system schedule:

6 Type of conviction	Points
7 (b) (II) Habitual user	12

8 (6) (b) For the purposes of this article, a plea of no contest
9 accepted by the court or the forfeiture of any bail or collateral deposited
10 to secure a defendant's appearance in court or the failure to appear in
11 court by a defendant charged with DUI, DUI per se, ~~habitual user~~, or
12 UDD who has been issued a summons and notice to appear pursuant to
13 section 42-4-1707 as evidenced by records forwarded to the department
14 in accordance with the provisions of section 42-2-124 shall be considered
15 as a conviction.

16 **SECTION 9.** In Colorado Revised Statutes, 42-2-132, **amend** (2)
17 (a) (III) and (2) (a) (IV) as follows:

18 **42-2-132. Period of suspension or revocation.** (2) (a) (III) In the
19 case of a minor driver whose license has been revoked as a result of one
20 conviction for DUI, DUI per se, DWAI, ~~habitual user~~, or UDD, the minor
21 driver, unless otherwise required after an evaluation made pursuant to
22 section 42-4-1301.3, must complete a level I alcohol and drug education
23 program certified by the unit in the department of human services that
24 administers behavioral health programs and services, including those
25 related to mental health and substance abuse.

26 (IV) Any person whose license or privilege to drive a motor
27 vehicle on the public highways has been revoked under section 42-2-125

1 (1) (g) (I) or (1) (i) or 42-2-203 where the revocation was due in part to
2 a DUI, DUI per se, OR DWAI ~~or habitual user~~ conviction shall be
3 required to present an affidavit stating that the person has obtained at the
4 person's own expense a signed lease agreement for the installation and
5 use of an approved ignition interlock device, as defined in section
6 42-2-132.5 (9) (a), in each motor vehicle on which the person's name
7 appears on the registration and any other vehicle that the person may
8 drive during the period of the interlock-restricted license.

9 **SECTION 10.** In Colorado Revised Statutes, 42-2-132.5, **amend**
10 (1) (a), (1) (c), and (4) (c) as follows:

11 **42-2-132.5. Mandatory and voluntary restricted licenses**
12 **following alcohol convictions - rules.** (1) **Persons required to hold an**
13 **interlock-restricted license.** The following persons shall be required to
14 hold an interlock-restricted license pursuant to this section for at least one
15 year following reinstatement prior to being eligible to obtain any other
16 driver's license issued under this article:

17 (a) A person whose privilege to drive was revoked for multiple
18 convictions for any combination of a DUI, DUI per se, OR DWAI ~~or~~
19 ~~habitual user~~ pursuant to section 42-2-125 (1) (g) (I) or (1) (i);

20 (c) A person whose privilege to drive was revoked as an habitual
21 offender under section 42-2-203 in which the revocation was due in part
22 to a DUI, DUI per se, OR DWAI ~~or habitual user~~ conviction; or

23 (4) **Persons who may acquire an interlock-restricted license**
24 **prior to serving a full-term revocation.** (c) In order to be eligible for
25 early reinstatement pursuant to this subsection (4), a person who has been
26 designated an habitual offender under the provisions of section 42-2-202
27 must have at least one conviction for DUI, DUI per se, OR DWAI ~~or~~

1 ~~habitual user~~ under section 42-4-1301, and no contributing violations
2 other than violations for driving under restraint under section 42-2-138
3 or reckless driving under section 42-4-1401.

4 **SECTION 11.** In Colorado Revised Statutes, 42-2-138, **amend**
5 (1) (a) and (1) (d) as follows:

6 **42-2-138. Driving under restraint - penalty.** (1) (a) Any person
7 who drives a motor vehicle or off-highway vehicle upon any highway of
8 this state with knowledge that the person's license or privilege to drive,
9 either as a resident or a nonresident, is under restraint for any reason other
10 than conviction of DUI, DUI per se, DWAI, ~~habitual user~~, or UDD is
11 guilty of a misdemeanor. A court may sentence a person convicted of this
12 misdemeanor to imprisonment in the county jail for a period of not more
13 than six months and may impose a fine of not more than five hundred
14 dollars.

15 (d) (I) A person who drives a motor vehicle or off-highway
16 vehicle upon any highway of this state with knowledge that the person's
17 license or privilege to drive, either as a resident or nonresident, is
18 restrained under section 42-2-126 (3), is restrained solely or partially
19 because of a conviction of DUI, DUI per se, DWAI, ~~habitual user~~, or
20 UDD, or is restrained in another state solely or partially because of an
21 alcohol-related driving offense is guilty of a misdemeanor and, upon
22 conviction thereof, shall be punished by imprisonment in the county jail
23 for not less than thirty days nor more than one year and, in the discretion
24 of the court, by a fine of not less than five hundred dollars nor more than
25 one thousand dollars. Upon a second or subsequent conviction, the person
26 shall be punished by imprisonment in the county jail for not less than
27 ninety days nor more than two years and, in the discretion of the court, by

1 a fine of not less than five hundred dollars nor more than three thousand
2 dollars. The minimum county jail sentence imposed by this subparagraph
3 (I) shall be mandatory, and the court shall not grant probation or a
4 suspended sentence thereof; but, in a case where the defendant is
5 convicted although the defendant established that he or she had to drive
6 the motor vehicle in violation of this subparagraph (I) because of an
7 emergency, the mandatory jail sentence, if any, shall not apply, and, for
8 a first conviction, the court may impose a sentence of imprisonment in the
9 county jail for a period of not more than one year and, in the discretion of
10 the court, a fine of not more than one thousand dollars, and, for a second
11 or subsequent conviction, the court may impose a sentence of
12 imprisonment in the county jail for a period of not more than two years
13 and, in the discretion of the court, a fine of not more than three thousand
14 dollars.

15 (II) In any trial for a violation of subparagraph (I) of this
16 paragraph (d), a duly authenticated copy of the record of the defendant's
17 former convictions and judgments for DUI, DUI per se, DWAI, ~~habitual~~
18 ~~user~~, or UDD or an alcohol-related offense committed in another state
19 from any court of record or a certified copy of the record of any denial or
20 revocation of the defendant's driving privilege under section 42-2-126 (3)
21 from the department shall be prima facie evidence of the convictions,
22 judgments, denials, or revocations and may be used in evidence against
23 the defendant. Identification photographs and fingerprints that are part of
24 the record of the former convictions, judgments, denials, or revocations
25 and the defendant's incarceration after sentencing for any of the former
26 convictions, judgments, denials, or revocations shall be prima facie
27 evidence of the identity of the defendant and may be used in evidence

1 against the defendant.

2 **SECTION 12.** In Colorado Revised Statutes, 42-2-202, **amend**
3 (2) (a) (I) as follows:

4 **42-2-202. Habitual offenders - frequency and type of**
5 **violations.** (2) (a) An habitual offender is a person having three or more
6 convictions of any of the following separate and distinct offenses arising
7 out of separate acts committed within a period of seven years:

8 (I) DUI, DUI per se, OR DWAI; ~~or habitual user;~~

9 **SECTION 13.** In Colorado Revised Statutes, 42-2-405, **amend**
10 (3) (a) as follows:

11 **42-2-405. Driver's license disciplinary actions - grounds for**
12 **denial - suspension - revocation - disqualification.** (3) For purposes of
13 the imposition of restraints and sanctions against commercial driving
14 privileges:

15 (a) A conviction for DUI, DUI per se, OR DWAI, ~~or habitual user,~~
16 or a substantially similar law of any other state pertaining to drinking and
17 driving, or an administrative determination of a violation of section
18 42-2-126 (3) (a) or (3) (b) shall be deemed driving under the influence;
19 and

20 **SECTION 14.** In Colorado Revised Statutes, 42-4-1301.1,
21 **amend** (2) (a) (I) and (2) (b) (I) as follows:

22 **42-4-1301.1. Expressed consent for the taking of blood, breath,**
23 **urine, or saliva sample - testing.** (2) (a) (I) A person who drives a
24 motor vehicle upon the streets and highways and elsewhere throughout
25 this state shall be required to take and complete, and to cooperate in the
26 taking and completing of, any test or tests of the person's breath or blood
27 for the purpose of determining the alcoholic content of the person's blood

1 or breath when so requested and directed by a law enforcement officer
2 having probable cause to believe that the person was driving a motor
3 vehicle in violation of the prohibitions against DUI, DUI per se, DWAI,
4 ~~habitual user~~, or UDD. Except as otherwise provided in this section, if a
5 person who is twenty-one years of age or older requests that the test be a
6 blood test, then the test shall be of his or her blood; but, if the person
7 requests that a specimen of his or her blood not be drawn, then a
8 specimen of the person's breath shall be obtained and tested. A person
9 who is under twenty-one years of age shall be entitled to request a blood
10 test unless the alleged violation is UDD, in which case a specimen of the
11 person's breath shall be obtained and tested, except as provided in
12 subparagraph (II) of this paragraph (a).

13 (b) (I) Any person who drives any motor vehicle upon the streets
14 and highways and elsewhere throughout this state shall be required to
15 submit to and to complete, and to cooperate in the completing of, a test
16 or tests of such person's blood, saliva, and urine for the purpose of
17 determining the drug content within the person's system when so
18 requested and directed by a law enforcement officer having probable
19 cause to believe that the person was driving a motor vehicle in violation
20 of the prohibitions against DUI, OR DWAI or ~~habitual user~~ and when it
21 is reasonable to require such testing of blood, saliva, and urine to
22 determine whether such person was under the influence of, or impaired
23 by, one or more drugs, or one or more controlled substances, or a
24 combination of both alcohol and one or more drugs, or a combination of
25 both alcohol and one or more controlled substances.

26 **SECTION 15.** In Colorado Revised Statutes, 42-4-1307, **amend**
27 (3) (a) introductory portion, (5) (a) introductory portion, (5) (b)

1 introductory portion, (6) (a) introductory portion, (9) (a), (10) (a), (10)
2 (b), (10) (c), (10) (d) (I), (12), and (13) as follows:

3 **42-4-1307. Penalties for traffic offenses involving alcohol and**
4 **drugs - repeal.** (3) **First offenses - DUI and DUI per se.** (a) Except as
5 otherwise provided in subsections (5) and (6) of this section, a person
6 who is convicted of DUI OR DUI per se ~~or habitual user~~ shall be punished
7 by:

8 (5) **Second offenses.** (a) Except as otherwise provided in
9 subsection (6) of this section, a person who is convicted of DUI, DUI per
10 se, OR DWAI ~~or habitual user~~ who, at the time of sentencing, has a prior
11 conviction of DUI, DUI per se, DWAI, ~~habitual user~~, vehicular homicide
12 pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to
13 section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked
14 license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or
15 driving while the person's driver's license was under restraint pursuant to
16 section 42-2-138 (1) (d), shall be punished by:

17 (b) If a person is convicted of DUI, DUI per se, OR DWAI ~~or~~
18 ~~habitual user~~ and the violation occurred less than five years after the date
19 of a previous violation for which the person was convicted of DUI, DUI
20 per se, DWAI, ~~habitual user~~, vehicular homicide pursuant to section
21 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205
22 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to
23 section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the
24 person's driver's license was under restraint pursuant to section 42-2-138
25 (1) (d), the court shall not have discretion to employ any sentencing
26 alternatives described in section 18-1.3-106, C.R.S., during the minimum
27 period of imprisonment described in subparagraph (I) of paragraph (a) of

1 this subsection (5); except that a court may allow the person to participate
2 in a program pursuant to section 18-1.3-106 (1) (a) (II), (1) (a) (IV), or (1)
3 (a) (V), C.R.S., only if the program is available through the county in
4 which the person is imprisoned and only for the purpose of:

5 (6) **Third and subsequent offenses.** (a) A person who is
6 convicted of DUI, DUI per se, OR DWAI or ~~habitual user~~ who, at the time
7 of sentencing, has two or more prior convictions of DUI, DUI per se,
8 DWAI, ~~habitual user~~, vehicular homicide pursuant to section 18-3-106 (1)
9 (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S.,
10 aggravated driving with a revoked license pursuant to section 42-2-206
11 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the person's driver's
12 license was under restraint pursuant to section 42-2-138 (1) (d) shall be
13 punished by:

14 (9) **Previous convictions.** (a) For the purposes of subsections (5)
15 and (6) of this section, a person shall be deemed to have a previous
16 conviction for DUI, DUI per se, DWAI, ~~habitual user~~, vehicular homicide
17 pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to
18 section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked
19 license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or
20 driving while the person's driver's license was under restraint pursuant to
21 section 42-2-138 (1) (d), if the person has been convicted under the laws
22 of this state or under the laws of any other state, the United States, or any
23 territory subject to the jurisdiction of the United States, of an act that, if
24 committed within this state, would constitute the offense of DUI, DUI per
25 se, DWAI, ~~habitual user~~, vehicular homicide pursuant to section 18-3-106
26 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b),
27 C.R.S., aggravated driving with a revoked license pursuant to section

1 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the person's
2 driver's license was under restraint pursuant to section 42-2-138 (1) (d).

3 (10) **Additional costs and surcharges.** In addition to the
4 penalties prescribed in this section:

5 (a) Persons convicted of DUI, DUI per se, DWAI, ~~habitual user,~~
6 and UDD are subject to the costs imposed by section 24-4.1-119 (1) (c),
7 C.R.S., relating to the crime victim compensation fund;

8 (b) Persons convicted of DUI, DUI per se, AND DWAI ~~and~~
9 ~~habitual user~~ are subject to a surcharge of at least one hundred dollars but
10 no more than five hundred dollars to fund programs to reduce the number
11 of persistent drunk drivers. The surcharge shall be mandatory, and the
12 court shall not have discretion to suspend or waive the surcharge; except
13 that the court may suspend or waive the surcharge if the court determines
14 that a person is indigent. Moneys collected for the surcharge shall be
15 transmitted to the state treasurer, who shall credit the amount collected to
16 the persistent drunk driver cash fund created in section 42-3-303.

17 (c) Persons convicted of DUI, DUI per se, DWAI, ~~habitual user,~~
18 and UDD are subject to a surcharge of twenty dollars to be transmitted to
19 the state treasurer who shall deposit moneys collected for the surcharge
20 in the Colorado traumatic brain injury trust fund created pursuant to
21 section 26-1-309, C.R.S.;

22 (d) (I) Persons convicted of DUI, DUI per se, AND DWAI ~~and~~
23 ~~habitual user~~ are subject to a surcharge of at least one dollar but no more
24 than ten dollars for programs to fund efforts to address alcohol and
25 substance abuse problems among persons in rural areas. The surcharge
26 shall be mandatory, and the court shall not have discretion to suspend or
27 waive the surcharge; except that the court may suspend or waive the

1 surcharge if the court determines that a person is indigent. Any moneys
2 collected for the surcharge shall be transmitted to the state treasurer, who
3 shall credit the same to the rural alcohol and substance abuse cash fund
4 created in section 27-80-117 (3), C.R.S.

5 (12) **Victim impact panels.** In addition to any other penalty
6 provided by law, the court may sentence a person convicted of DUI, DUI
7 per se, DWAI, ~~habitual user~~, or UDD to attend and pay for one
8 appearance at a victim impact panel approved by the court, for which the
9 fee assessed to the person shall not exceed twenty-five dollars.

10 (13) **Alcohol and drug evaluation and supervision costs.** In
11 addition to any fines, fees, or costs levied against a person convicted of
12 DUI, DUI per se, DWAI, ~~habitual user~~, or UDD, the judge shall assess
13 each such person for the cost of the presentence or postsentence alcohol
14 and drug evaluation and supervision services.

15 **SECTION 16.** In Colorado Revised Statutes, 42-4-1702, **amend**
16 (1) as follows:

17 **42-4-1702. Alcohol- or drug-related traffic offenses - collateral**
18 **attack.** (1) ~~Except as otherwise provided in paragraph (b) of this~~
19 ~~subsection (1),~~ No person against whom a judgment has been entered for
20 DUI, DUI per se, DWAI, ~~habitual user~~, or UDD shall collaterally attack
21 the validity of that judgment unless such attack is commenced within six
22 months after the date of entry of the judgment.

23 **SECTION 17.** In Colorado Revised Statutes, 42-4-1705, **amend**
24 (1) (c) as follows:

25 **42-4-1705. Person arrested to be taken before the proper**
26 **court.** (1) Whenever a person is arrested for any violation of this article
27 punishable as a misdemeanor, the arrested person shall be taken without

1 unnecessary delay before a county judge who has jurisdiction of such
2 offense as provided by law, in any of the following cases:

3 (c) When the person is arrested and charged with DUI, DUI per
4 se, ~~habitual user~~, or UDD;

5 **SECTION 18.** In Colorado Revised Statutes, 42-4-1715, **amend**
6 (1) (b) (II) and (4) (a) (II) as follows:

7 **42-4-1715. Convictions, judgments, and charges recorded -**
8 **public inspection.** (1) (b) (II) Upon receiving a request for
9 expungement, the court may delay consideration of such request until
10 sufficient time has elapsed to ensure that the person is not convicted for
11 any additional offense of DUI, DUI per se, DWAI, ~~habitual user~~, or UDD
12 committed while the person was under twenty-one years of age.

13 (4) (a) Every court of record shall also forward a like report to the
14 department:

15 (II) Upon the dismissal of a charge for DUI, DUI per se, DWAI,
16 ~~habitual user~~, or UDD or if the original charge was for DUI, DUI per se,
17 DWAI, ~~habitual user~~, or UDD and the conviction was for a nonalcohol-
18 or nondrug-related traffic offense.

19 **SECTION 19.** In Colorado Revised Statutes, 42-7-408, **amend**
20 (1) (c) (I) as follows:

21 **42-7-408. Proof of financial responsibility - methods of giving**
22 **proof - duration - exception.** (1) (c) Notwithstanding the three-year
23 requirement in paragraph (b) of this subsection (1):

24 (I) If an insured has been found guilty of DUI, DUI per se, OR
25 DWAI or ~~habitual user~~ or if the insured's license has been revoked
26 pursuant to section 42-2-126, other than a revocation under section
27 42-2-126 (3) (b) or (3) (e), only one time and no accident was involved

1 in such offense, proof of financial responsibility for the future shall be
2 required to be maintained only for as long as the insured's driving
3 privilege is ordered to be under restraint, up to a maximum of three years.
4 The time period for maintaining the future proof of liability insurance
5 shall begin at the time the driver reinstates his or her driving privilege.

6 **SECTION 20.** In Colorado Revised Statutes, 40-10.1-110,
7 **amend** (3) (c) (I) as follows:

8 **40-10.1-110. Criminal history record check.** (3) An individual
9 whose criminal history record is checked pursuant to this section is
10 disqualified and prohibited from driving motor vehicles for the motor
11 carrier described in subsection (1) of this section if the criminal history
12 record check reflects that:

13 (c) Within the two years immediately preceding the date the
14 criminal history record check is completed, the individual was:

15 (I) Convicted in this state of driving under the influence, as
16 defined in section 42-4-1301 (1) (f), C.R.S.; driving with excessive
17 alcoholic content, as described in section 42-4-1301 (2) (a), C.R.S.; OR
18 driving while ability impaired, as defined in section 42-4-1301 (1) (g),
19 C.R.S.; ~~or driving while an habitual user of a controlled substance, as~~
20 ~~described in section 42-4-1301 (1) (c), C.R.S.; or~~

21 **SECTION 21.** In Colorado Revised Statutes, **add** 17-18-108 as
22 follows:

23 **17-18-108. Appropriation to comply with section 2-2-703 - HB**
24 **13-1325 - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE
25 FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY
26 BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT HOUSE BILL 13-1325,
27 ENACTED IN 2013:

1 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION
2 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
3 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
4 OTHERWISE APPROPRIATED, THE SUM OF TWENTY THOUSAND EIGHT
5 HUNDRED SIXTEEN DOLLARS (\$20,816).

6 (b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2015, IN ADDITION TO
7 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
8 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
9 OTHERWISE APPROPRIATED, THE SUM OF FIVE THOUSAND FIVE HUNDRED
10 FIFTY-ONE DOLLARS (\$5,551).

11 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

12 **SECTION 22. Appropriation.** In addition to any other
13 appropriation, there is hereby appropriated, out of any moneys in the
14 general fund not otherwise appropriated, to the judicial department, for
15 the fiscal year beginning July 1, 2013, the sum of \$12,000, or so much
16 thereof as may be necessary, for allocation to the office of the state public
17 defender for mandated costs related to the implementation of this act.

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