

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0583.01 Richard Sweetman x4333

HOUSE BILL 14-1036

HOUSE SPONSORSHIP

Waller and Saine,

SENATE SPONSORSHIP

King and Johnston,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING DRUNK DRIVING OFFENSES, AND, IN CONNECTION**
102 **THEREWITH, MAKING AND REDUCING APPROPRIATIONS.**

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>.)

Under current law, a DUI, DUI per se, or DWAI is a misdemeanor offense. The bill makes such an offense a class 4 felony if:

- ! The violation occurred not more than 7 years after the first of 2 prior convictions for DWAI, DUI, or DUI per se; vehicular homicide; or vehicular assault; or

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 violation occurred after 3 prior convictions for DWAI, DUI, or DUI per se; vehicular homicide; or vehicular assault.

The bill repeals provisions relating to the crime of aggravated driving with a revoked license when the offender also commits DUI, DUI per se, or DWAI as part of the same criminal episode.

The bill makes conforming amendments.

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) (a), (1) (b), and (2) (a); **repeal** (2) (a.5); and **add** (1) (j), (1) (k), and
4 (2) (d) as follows:

5 **42-4-1301. Driving under the influence - driving while**
6 **impaired - driving with excessive alcoholic content - definitions -**
7 **penalties.** (1) (a) ~~It is a misdemeanor for any~~ A person who is DRIVES A
8 MOTOR VEHICLE OR VEHICLE under the influence of alcohol or one or
9 more drugs, or a combination of both alcohol and one or more drugs, ~~to~~
10 ~~drive a motor vehicle or vehicle~~ IS GUILTY OF DRIVING UNDER THE
11 INFLUENCE. DRIVING UNDER THE INFLUENCE IS A MISDEMEANOR, BUT IT
12 IS A CLASS 4 FELONY IF:

13 (I) THE VIOLATION OCCURRED NOT MORE THAN SEVEN YEARS
14 AFTER THE FIRST OF TWO PRIOR CONVICTIONS, UPON CHARGES
15 SEPARATELY BROUGHT AND TRIED AND ARISING OUT OF SEPARATE AND
16 DISTINCT CRIMINAL EPISODES, FOR DWAI, DUI, OR DUI PER SE;
17 VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b), C.R.S.;
18 VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b), C.R.S.;
19 OR ANY COMBINATION THEREOF; OR

20 (II) THE VIOLATION OCCURRED AFTER THREE PRIOR CONVICTIONS,
21 UPON CHARGES SEPARATELY BROUGHT AND TRIED AND ARISING OUT OF
22 SEPARATE AND DISTINCT CRIMINAL EPISODES, FOR DWAI, DUI, OR DUI

1 PER SE; VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b),
2 C.R.S.; VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b),
3 C.R.S.; OR ANY COMBINATION THEREOF.

4 (b) ~~It is a misdemeanor for any~~ A person who ~~is~~ DRIVES A MOTOR
5 VEHICLE OR VEHICLE WHILE impaired by alcohol or by one or more drugs,
6 or by a combination of alcohol and one or more drugs, ~~to drive a motor~~
7 ~~vehicle or vehicle~~ IS GUILTY OF DRIVING WHILE ABILITY IMPAIRED.
8 DRIVING WHILE ABILITY IMPAIRED IS A MISDEMEANOR, BUT IT IS A CLASS
9 4 FELONY IF:

10 (I) THE VIOLATION OCCURRED NOT MORE THAN SEVEN YEARS
11 AFTER THE FIRST OF TWO PRIOR CONVICTIONS, UPON CHARGES
12 SEPARATELY BROUGHT AND TRIED AND ARISING OUT OF SEPARATE AND
13 DISTINCT CRIMINAL EPISODES, FOR DWAI, DUI, OR DUI PER SE;
14 VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b), C.R.S.;
15 VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b), C.R.S.;
16 OR ANY COMBINATION THEREOF; OR

17 (II) THE VIOLATION OCCURRED AFTER THREE PRIOR CONVICTIONS,
18 UPON CHARGES SEPARATELY BROUGHT AND TRIED AND ARISING OUT OF
19 SEPARATE AND DISTINCT CRIMINAL EPISODES, FOR DWAI, DUI, OR DUI
20 PER SE; VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b),
21 C.R.S.; VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b),
22 C.R.S.; OR ANY COMBINATION THEREOF.

23 (j) FOR THE PURPOSES OF THIS SECTION, A PERSON SHALL BE
24 DEEMED TO HAVE A PRIOR CONVICTION FOR DUI, DUI PER SE, OR DWAI;
25 VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b), C.R.S.;
26 OR VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b),
27 C.R.S., IF THE PERSON HAS BEEN CONVICTED UNDER THE LAWS OF THIS

1 STATE OR UNDER THE LAWS OF ANY OTHER STATE, THE UNITED STATES,
2 OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES,
3 OF AN ACT THAT, IF COMMITTED WITHIN THIS STATE, WOULD CONSTITUTE
4 ANY OF THESE OFFENSES. SUCH PRIOR CONVICTIONS SHALL BE SET FORTH
5 IN APT WORDS IN THE INDICTMENT OR INFORMATION.

6 (k) (I) IF A DEFENDANT IS CONVICTED OF A CLASS 4 FELONY
7 PURSUANT TO THIS SECTION, THE COURT SHALL SENTENCE THE PERSON IN
8 ACCORDANCE WITH THE PROVISIONS OF SECTIONS 18-1.3-401, C.R.S.

9 (II) (A) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH
10 (I) OF THIS PARAGRAPH (k), BEFORE THE IMPOSITION OF ANY SENTENCE TO
11 THE DEPARTMENT OF CORRECTIONS FOR A FELONY DUI, DUI PER SE, OR
12 DWAI OFFENSE, AT SENTENCING OR AT RESENTENCING AFTER A
13 REVOCATION OF PROBATION OR A COMMUNITY CORRECTIONS SENTENCE,
14 THE COURT SHALL EXHAUST ALL REASONABLE AND APPROPRIATE
15 ALTERNATIVE SENTENCES FOR THE OFFENSE, CONSIDERING ALL FACTORS
16 DESCRIBED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II).

17 (B) IF THE COURT SENTENCES THE DEFENDANT TO THE
18 DEPARTMENT OF CORRECTIONS FOR A FELONY DUI, DUI PER SE, OR DWAI
19 OFFENSE, IT MUST DETERMINE THAT INCARCERATION IS THE MOST
20 SUITABLE OPTION GIVEN THE FACTS AND CIRCUMSTANCES OF THE CASE,
21 INCLUDING THE DEFENDANT'S WILLINGNESS TO PARTICIPATE IN
22 TREATMENT AND THE DEFENDANT'S OPPORTUNITY TO HAVE PARTICIPATED
23 IN A DUI COURT. ADDITIONALLY, THE COURT MUST DETERMINE THAT ALL
24 OTHER REASONABLE AND APPROPRIATE SANCTIONS AND RESPONSES TO
25 THE VIOLATION THAT ARE AVAILABLE TO THE COURT HAVE BEEN TRIED
26 AND HAVE FAILED, DO NOT APPEAR LIKELY TO BE SUCCESSFUL IF TRIED, OR
27 PRESENT AN UNACCEPTABLE RISK TO PUBLIC SAFETY.

1 (C) IN MAKING THE DETERMINATION DESCRIBED IN
2 SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II), THE COURT SHALL
3 REVIEW, TO THE EXTENT AVAILABLE, THE INFORMATION PROVIDED BY THE
4 SUPERVISING AGENCY, WHICH INCLUDES, BUT IS NOT LIMITED TO, A
5 COMPLETE STATEMENT AS TO WHAT TREATMENT AND SENTENCING
6 OPTIONS HAVE BEEN TRIED AND HAVE FAILED, WHAT OTHER TREATMENT
7 AND SENTENCING OPTIONS ARE AVAILABLE, AND THE REASONS WHY ANY
8 OTHER AVAILABLE TREATMENT AND SENTENCING OPTIONS APPEAR TO BE
9 UNLIKELY TO BE SUCCESSFUL. THE SUPERVISING AGENCY SHALL PROVIDE
10 TO THE COURT THE RISK LEVEL OF THE OFFENDER, AS DETERMINED BY AN
11 EVIDENCE-BASED RISK ASSESSMENT TOOL EMPLOYED BY THE SUPERVISING
12 AGENCY AND ANY OTHER INFORMATION RELEVANT TO THE RISK THAT THE
13 DEFENDANT POSES TO PUBLIC SAFETY.

14 (2) (a) ~~It is a misdemeanor for any~~ A person to drive WHO DRIVES
15 a motor vehicle or vehicle when the person's BAC is 0.08 or more at the
16 time of driving or within two hours after driving COMMITS DUI PER SE.
17 During a trial, if the state's evidence raises the issue, or if a defendant
18 presents some credible evidence, that the defendant consumed alcohol
19 between the time that the defendant stopped driving and the time that
20 testing occurred, such issue shall be an affirmative defense, and the
21 prosecution must establish beyond a reasonable doubt that the minimum
22 0.08 blood or breath alcohol content required in this paragraph (a) was
23 reached as a result of alcohol consumed by the defendant before the
24 defendant stopped driving. DUI PER SE IS A MISDEMEANOR, BUT IT IS A
25 CLASS 4 FELONY IF:

26 (I) THE VIOLATION OCCURRED NOT MORE THAN SEVEN YEARS
27 AFTER THE FIRST OF TWO PRIOR CONVICTIONS, UPON CHARGES

1 SEPARATELY BROUGHT AND TRIED AND ARISING OUT OF SEPARATE AND
2 DISTINCT CRIMINAL EPISODES, FOR DWAI, DUI, OR DUI PER SE;
3 VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b), C.R.S.;
4 VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b), C.R.S.;
5 OR ANY COMBINATION THEREOF; OR

6 (II) THE VIOLATION OCCURRED AFTER THREE PRIOR CONVICTIONS,
7 UPON CHARGES SEPARATELY BROUGHT AND TRIED AND ARISING OUT OF
8 SEPARATE AND DISTINCT CRIMINAL EPISODES, FOR DWAI, DUI, OR DUI
9 PER SE; VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b),
10 C.R.S.; VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b),
11 C.R.S.; OR ANY COMBINATION THEREOF.

12 (a.5) ~~(f) It is a class A traffic infraction for any person under~~
13 ~~twenty-one years of age to drive a motor vehicle or vehicle when the~~
14 ~~person's BAC, as shown by analysis of the person's breath, is at least 0.02~~
15 ~~but not more than 0.05 at the time of driving or within two hours after~~
16 ~~driving. The court, upon sentencing a defendant pursuant to this~~
17 ~~subparagraph (f), may, in addition to any penalty imposed under a class~~
18 ~~A traffic infraction, order that the defendant perform up to twenty-four~~
19 ~~hours of useful public service, subject to the conditions and restrictions~~
20 ~~of section 18-1.3-507, C.R.S., and may further order that the defendant~~
21 ~~submit to and complete an alcohol evaluation or assessment, an alcohol~~
22 ~~education program, or an alcohol treatment program at such defendant's~~
23 ~~own expense.~~

24 ~~(H) A second or subsequent violation of this paragraph (a.5) shall~~
25 ~~be a class 2 traffic misdemeanor.~~

26 (d) (I) IT IS A CLASS A TRAFFIC INFRACTION FOR ANY PERSON
27 UNDER TWENTY-ONE YEARS OF AGE TO DRIVE A MOTOR VEHICLE OR

1 VEHICLE WHEN THE PERSON'S BAC, AS SHOWN BY ANALYSIS OF THE
2 PERSON'S BREATH, IS AT LEAST 0.02 BUT NOT MORE THAN 0.05 AT THE
3 TIME OF DRIVING OR WITHIN TWO HOURS AFTER DRIVING. THE COURT,
4 UPON SENTENCING A DEFENDANT PURSUANT TO THIS SUBPARAGRAPH (I),
5 MAY ORDER, IN ADDITION TO ANY PENALTY IMPOSED UNDER A CLASS A
6 TRAFFIC INFRACTION, THAT THE DEFENDANT PERFORM UP TO
7 TWENTY-FOUR HOURS OF USEFUL PUBLIC SERVICE, SUBJECT TO THE
8 CONDITIONS AND RESTRICTIONS OF SECTION 18-1.3-507, C.R.S., AND MAY
9 FURTHER ORDER THAT THE DEFENDANT SUBMIT TO AND COMPLETE AN
10 ALCOHOL EVALUATION OR ASSESSMENT, AN ALCOHOL EDUCATION
11 PROGRAM, OR AN ALCOHOL TREATMENT PROGRAM AT SUCH DEFENDANT'S
12 OWN EXPENSE.

13 (II) A SECOND OR SUBSEQUENT VIOLATION OF THIS PARAGRAPH (d)
14 IS A CLASS 2 TRAFFIC MISDEMEANOR.

15 **SECTION 2.** In Colorado Revised Statutes, 42-4-1307, **amend**
16 (2), (5) (a) introductory portion, (5) (b) introductory portion, (6) (a)
17 introductory portion, (7) (a), (7) (b) (V), (7) (c), (8), and (9) (a); and
18 **repeal** (15) as follows:

19 **42-4-1307. Penalties for traffic offenses involving alcohol and**
20 **drugs - legislative declaration - definitions - repeal. (2) Definitions.**

21 As used in this section, unless the context otherwise requires:

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

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

4 (a) (b) "Conviction" means a verdict of guilty by a judge or jury
5 or a plea of guilty or nolo contendere that is accepted by the court for an
6 offense or adjudication for an offense that would constitute a criminal
7 offense if committed by an adult. "Conviction" also includes having
8 received a deferred judgment and sentence or deferred adjudication;
9 except that a person shall not be deemed to have been convicted if the
10 person has successfully completed a deferred sentence or deferred
11 adjudication.

12 (b) (c) "Driving under the influence" or "DUI" means driving a
13 motor vehicle or vehicle when a person has consumed alcohol or one or
14 more drugs, or a combination of alcohol and one or more drugs, that
15 affects the person to a degree that the person is substantially incapable,
16 either mentally or physically, or both mentally and physically, of
17 exercising clear judgment, sufficient physical control, or due care in the
18 safe operation of a vehicle.

19 (c) (d) "Driving while ability impaired" or "DWAI" means driving
20 a motor vehicle or vehicle when a person has consumed alcohol or one or
21 more drugs, or a combination of both alcohol and one or more drugs, that
22 affects the person to the slightest degree so that the person is less able
23 than the person ordinarily would have been, either mentally or physically,
24 or both mentally and physically, to exercise clear judgment, sufficient
25 physical control, or due care in the safe operation of a vehicle.

26 (d) (e) "UDD" shall have the same meaning as provided in section
27 42-1-102 (109.7).

1 (5) **Second offenses.** (a) Except as otherwise provided in
2 subsection (6) OR (6.5) of this section, a person who is convicted of DUI,
3 DUI per se, or DWAI who, at the time of sentencing, has a prior
4 conviction of DUI, DUI per se, DWAI, vehicular homicide pursuant to
5 section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section
6 18-3-205 (1) (b), C.R.S., ~~aggravated driving with a revoked license~~
7 ~~pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B)~~, or driving
8 while the person's driver's license was under restraint pursuant to section
9 42-2-138 (1) (d), ~~shall~~ WILL be punished by:

10 (b) If a person is convicted of DUI, DUI per se, or DWAI and the
11 violation occurred less than five years after the date of a previous
12 violation for which the person was convicted of DUI, DUI per se, DWAI,
13 vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular
14 assault pursuant to section 18-3-205 (1) (b), C.R.S., ~~aggravated driving~~
15 ~~with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1)~~
16 ~~(b) (I) (B)~~, or driving while the person's driver's license was under
17 restraint pursuant to section 42-2-138 (1) (d), the court ~~shall~~ DOES not
18 have discretion to employ any sentencing alternatives described in section
19 18-1.3-106, C.R.S., during the minimum period of imprisonment
20 described in subparagraph (I) of paragraph (a) of this subsection (5);
21 except that a court may allow the person to participate in a program
22 pursuant to section 18-1.3-106 (1) (a) (II), (1) (a) (IV), or (1) (a) (V),
23 C.R.S., only if the program is available through the county in which the
24 person is imprisoned and only for the purpose of:

25 (6) **Third and subsequent offenses.** (a) EXCEPT AS PROVIDED IN
26 SECTION 42-4-1301 (1) (a) (I), (1) (a) (II), (1) (b) (I), (1) (b) (II), (2) (a) (I),
27 AND (2) (a) (II), a person who is convicted of DUI, DUI per se, or DWAI

1 who, at the time of sentencing, has two or more prior convictions of DUI,
2 DUI per se, DWAI, vehicular homicide pursuant to section 18-3-106 (1)
3 (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S.,
4 ~~aggravated driving with a revoked license pursuant to section 42-2-206~~
5 ~~(1) (b) (I) (A) or (1) (b) (I) (B)~~, or driving while the person's driver's
6 license was under restraint pursuant to section 42-2-138 (1) (d) ~~shall~~ WILL
7 be punished by:

8 (7) **Probation-related penalties.** When a person is sentenced to
9 a period of probation pursuant to subparagraph (IV) of paragraph (a) of
10 subsection (5) of this section or subparagraph (IV) of paragraph (a) of
11 subsection (6) of this section:

12 (a) The court shall impose ~~in addition to any other condition of~~
13 ~~probation~~, a sentence to one year of imprisonment in the county jail,
14 which sentence ~~shall~~ WILL be suspended, and against which sentence the
15 person shall not receive credit for any period of imprisonment to which
16 he or she is sentenced pursuant to subparagraph (I) of paragraph (a) of
17 subsection (5) of this section or subparagraph (I) of paragraph (a) of
18 subsection (6) of this section;

19 (b) The court:

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

23 (c) (I) ~~The court may impose all or part of the suspended sentence~~
24 ~~described in subparagraph (IV) of paragraph (a) of subsection (5) of this~~
25 ~~section or subparagraph (IV) of paragraph (a) of subsection (6) of this~~
26 ~~section at any time during the period of probation if the person violates~~
27 ~~a condition of his or her probation. During the period of imprisonment,~~

1 the person shall continue serving the probation sentence with no reduction
2 in time for the sentence to probation. A cumulative period of
3 imprisonment imposed pursuant to this paragraph (c) shall not exceed one
4 year IN IMPOSING A SENTENCE OF IMPRISONMENT PURSUANT TO
5 PARAGRAPH (a) OF THIS SUBSECTION (7), THE COURT SHALL CONSIDER THE
6 NATURE OF THE VIOLATION, THE REPORT OR TESTIMONY OF THE
7 PROBATION DEPARTMENT, THE IMPACT ON PUBLIC SAFETY, THE PROGRESS
8 OF THE PERSON IN ANY COURT-ORDERED ALCOHOL AND DRUG DRIVING
9 SAFETY EDUCATION OR TREATMENT PROGRAM, AND ANY OTHER
10 INFORMATION THAT MAY ASSIST THE COURT IN PROMOTING THE PERSON'S
11 COMPLIANCE WITH THE CONDITIONS OF HIS OR HER PROBATION.

12 (II) ~~In imposing a sentence of imprisonment pursuant to~~
13 ~~subparagraph (f) of this paragraph (c), the court shall consider the nature~~
14 ~~of the violation, the report or testimony of the probation department, the~~
15 ~~impact on public safety, the progress of the person in any court-ordered~~
16 ~~alcohol and drug driving safety education or treatment program, and any~~
17 ~~other information that may assist the court in promoting the person's~~
18 ~~compliance with the conditions of his or her probation. Any imprisonment~~
19 ~~imposed upon a person by the court pursuant to subparagraph (f) of this~~
20 ~~paragraph (c) shall~~ PARAGRAPH (a) OF THIS SUBSECTION (7) MUST be
21 imposed in a manner that promotes the person's compliance with the
22 conditions of his or her probation and not merely as a punitive measure.

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

1 (9) **Previous convictions.** (a) For the purposes of subsections (5)
2 and (6) of this section, a person ~~shall be~~ IS deemed to have a previous
3 conviction for DUI, DUI per se, DWAI, vehicular homicide pursuant to
4 section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section
5 18-3-205 (1) (b), C.R.S., ~~aggravated driving with a revoked license~~
6 ~~pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B)~~, or driving
7 while the person's driver's license was under restraint pursuant to section
8 42-2-138 (1) (d), if the person has been convicted under the laws of this
9 state or under the laws of any other state, the United States, or any
10 territory subject to the jurisdiction of the United States, of an act that, if
11 committed within this state, would constitute the offense of DUI, DUI per
12 se, DWAI, vehicular homicide pursuant to section 18-3-106 (1) (b),
13 C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S.,
14 ~~aggravated driving with a revoked license pursuant to section 42-2-206~~
15 ~~(1) (b) (I) (A) or (1) (b) (I) (B)~~, or driving while the person's driver's
16 license was under restraint pursuant to section 42-2-138 (1) (d).

17 (15) ~~If a defendant is convicted of aggravated driving with a~~
18 ~~revoked license based upon the commission of DUI, DUI per se, or~~
19 ~~DWAI pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B):~~

20 (a) ~~The court shall convict and sentence the offender for each~~
21 ~~offense separately;~~

22 (b) ~~The court shall impose all of the penalties for the~~
23 ~~alcohol-related driving offense, as such penalties are described in this~~
24 ~~section;~~

25 (c) ~~The provisions of section 18-1-408, C.R.S., shall not apply to~~
26 ~~the sentences imposed for either conviction;~~

27 (d) ~~Any probation imposed for a conviction under section~~

1 ~~42-2-206 may run concurrently with any probation required by this~~
2 ~~section; and~~

3 ~~(e) The department shall reflect both convictions on the~~
4 ~~defendant's driving record.~~

5 **SECTION 3.** In Colorado Revised Statutes, 42-2-206, **repeal** (1)
6 (b) (I) (A), (1) (b) (I) (B), and (1) (b) (III) as follows:

7 **42-2-206. Driving after revocation prohibited.** (1) (b) (I) A
8 person commits the crime of aggravated driving with a revoked license
9 if he or she is found to be an habitual offender and thereafter operates a
10 motor vehicle in this state while the revocation of the department
11 prohibiting such operation is in effect and, as a part of the same criminal
12 episode, also commits any of the following offenses:

13 (A) ~~DUI or DUI per se;~~

14 (B) ~~DWAI;~~

15 (III) ~~If a defendant is convicted of aggravated driving with a~~
16 ~~revoked license based upon the commission of DUI, DUI per se, or~~
17 ~~DWAI pursuant to sub-subparagraph (A) or (B) of subparagraph (I) of~~
18 ~~this paragraph (b):~~

19 (A) ~~The court shall convict and sentence the offender for each~~
20 ~~offense separately;~~

21 (B) ~~The court shall impose all of the penalties for the~~
22 ~~alcohol-related driving offense, as such penalties are described in section~~
23 ~~42-4-1307;~~

24 (C) ~~The provisions of section 18-1-408, C.R.S., shall not apply to~~
25 ~~the sentences imposed for either conviction;~~

26 (D) ~~Any probation imposed for a conviction under this section~~
27 ~~may run concurrently with any probation required by section 42-4-1307;~~

1 and

2 ~~(E) The department shall reflect both convictions on the~~
3 ~~defendant's driving record.~~

4 **SECTION 4.** In Colorado Revised Statutes, 42-1-102, **amend**
5 (109.7) as follows:

6 **42-1-102. Definitions.** As used in articles 1 to 4 of this title,
7 unless the context otherwise requires:

8 (109.7) "UDD" means underage drinking and driving, and use of
9 the term shall incorporate by reference the offense described in ~~section~~
10 ~~42-4-1301 (2) (a.5)~~ SECTION 42-4-1301 (2) (d).

11 **SECTION 5.** In Colorado Revised Statutes, 42-2-125, **amend**
12 (2.5) introductory portion as follows:

13 **42-2-125. Mandatory revocation of license and permit.**
14 (2.5) The period of revocation under paragraph (g.5) of subsection (1) of
15 this section for a person who is less than twenty-one years of age at the
16 time of the offense and who is convicted of driving with an alcohol
17 content of at least 0.02 but not more than 0.05 under ~~section 42-4-1301~~
18 ~~(2) (a.5)~~ SECTION 42-4-1301 (2) (d) is as follows:

19 **SECTION 6.** In Colorado Revised Statutes, 42-4-1701, **amend**
20 (4) (a) (I) introductory portion, (4) (a) (I) (N), and (4) (f) (I) as follows:

21 **42-4-1701. Traffic offenses and infractions classified -**
22 **penalties - penalty and surcharge schedule - repeal.** (4) (a) (I) Except
23 as provided in paragraph (c) of subsection (5) of this section, every
24 person who is convicted of, who admits liability for, or against whom a
25 judgment is entered for a violation of any provision of this title to which
26 paragraph (a) or (b) of subsection (5) of this section apply shall be fined
27 or penalized, and have a surcharge levied thereon pursuant to sections

1 24-4.1-119 (1) (f) and 24-4.2-104 (1) (b) (I), C.R.S., in accordance with
 2 the penalty and surcharge schedule set forth in sub-subparagraphs (A) to
 3 (P) of this subparagraph (I); or, if no penalty or surcharge is specified in
 4 the schedule, the penalty for class A and class B traffic infractions ~~shall~~
 5 ~~be~~ IS fifteen dollars, and the surcharge ~~shall be~~ IS four dollars. These
 6 penalties and surcharges ~~shall~~ apply whether the defendant acknowledges
 7 the defendant's guilt or liability in accordance with the procedure set forth
 8 by paragraph (a) of subsection (5) of this section or is found guilty by a
 9 court of competent jurisdiction or has judgment entered against the
 10 defendant by a county court magistrate. Penalties and surcharges for
 11 violating specific sections ~~shall be~~ ARE as follows:

12 (N) **Other offenses:**

13	42-4-1301 (2)(a.5) 42-4-1301 (2) (d)	\$ 100.00	\$ 16.00
14	42-4-1305	50.00	16.00
15	42-4-1402	150.00	16.00
16	42-4-1403	30.00	6.00
17	42-4-1404	15.00	6.00
18	42-4-1406	35.00	10.00
19	42-4-1407 (3)(a)	35.00	10.00
20	42-4-1407 (3)(b)	100.00	30.00
21	42-4-1407 (3)(c)	500.00	200.00
22	42-4-314	35.00	10.00
23	42-4-1408	15.00	6.00
24	42-4-1414 (2)(a)	500.00	156.00
25	42-4-1414 (2)(b)	1,000.00	312.00
26	42-4-1414 (2)(c)	5,000.00	1,560.00
27	42-4-1416 (3)	75.00	4.00

1 DOLLARS (\$26,425,197).

2 (c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2017, IN ADDITION
3 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
4 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
5 OTHERWISE APPROPRIATED, THE SUM OF THIRTY MILLION NINE HUNDRED
6 THIRTY-NINE THOUSAND FIVE HUNDRED TWO DOLLARS (\$30,939,502).

7 (d) FOR THE FISCAL YEAR BEGINNING JULY 1, 2018, IN ADDITION TO
8 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
9 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
10 OTHERWISE APPROPRIATED, THE SUM OF THIRTY MILLION NINE HUNDRED
11 THIRTY-NINE THOUSAND FIVE HUNDRED TWO DOLLARS (\$30,939,502).

12 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

13 **SECTION 8. Appropriation.** (1) For the implementation of this
14 act, the general fund appropriation made in the annual general
15 appropriation act to the controlled maintenance trust fund created in
16 section 24-75-302.5 (2) (a), Colorado Revised Statutes, for the fiscal year
17 beginning July 1, 2014, is decreased by \$2,727,995.

18 (2) In addition to any other appropriation, there is hereby
19 appropriated to the judicial department, for the fiscal year beginning July
20 1, 2014, the sum of \$2,928,084 and 37.7 FTE, or so much thereof as may
21 be necessary, to be allocated for the implementation of this act as follows:

22 (a) \$1,095,851, comprised of \$1,085,512 from the general fund
23 and \$10,339 cash funds from the judicial stabilization cash fund created
24 in section 13-32-101 (6), Colorado Revised Statutes, and 15.0 FTE to be
25 allocated to trial court programs for personal services;

26 (b) \$35,270 from the general fund to be allocated to trial court
27 programs for operating expenses;

1 (c) \$1,334,945, comprised of \$1,145,195 from the general fund
2 and \$189,750 cash funds from the offender services fund created in
3 section 16-11-214 (1) (a), Colorado Revised Statutes, and 22.0 FTE to be
4 allocated to probation programs for personal services;

5 (d) \$20,900 from the general fund to be allocated to probation
6 programs for operating expenses;

7 (e) \$397,807 from the general fund to be allocated to centrally
8 administered programs for courthouse capital/infrastructure maintenance;

9 (f) \$37,096 from the general fund and 0.7 FTE to be allocated to
10 the office of the state public defender for personal services;

11 (g) \$1,322 from the general fund to be allocated to the office of
12 the state public defender for operating and travel expenses;

13 (h) \$190 from the general fund to be allocated to the office of the
14 state public defender for capital outlay; and

15 (i) \$4,703 from the general fund to be allocated to the office of the
16 state public defender for capital outlay.

17 **SECTION 9. Act subject to petition - effective date -**
18 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
19 the expiration of the ninety-day period after final adjournment of the
20 general assembly (August 6, 2014, if adjournment sine die is on May 7,
21 2014); except that, if a referendum petition is filed pursuant to section 1
22 (3) of article V of the state constitution against this act or an item, section,
23 or part of this act within such period, then the act, item, section, or part
24 will not take effect unless approved by the people at the general election
25 to be held in November 2014 and, in such case, will take effect on the
26 date of the official declaration of the vote thereon by the governor.

1 (2) This act applies to offenses committed on or after the
2 applicable effective date of this act.