

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

2001



SENATE BILL 01-168

BY SENATOR(S) Hagedorn;
also REPRESENTATIVE(S) Alexander, Boyd, Coleman, Daniel, Groff,
Larson, Lawrence, Mace, Madden, Plant, Romanoff, and Williams S.

CONCERNING THE REQUIREMENT OF THE COMPLETION OF LEVEL II ALCOHOL
TREATMENT FOR PERSISTENT DRUNK DRIVERS, AND MAKING AN
APPROPRIATION THEREFOR.

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

SECTION 1. Legislative declaration. The general assembly hereby finds, determines, and declares that a person who drives a motor vehicle while under the influence of alcohol or drugs creates a threat to the safety of every Coloradan. Behavior modification for such individuals provides the best opportunity to change the conduct that leads to drinking and driving. Persons who meet the definition of a persistent drunk driver can benefit from education and treatment from qualified providers to assist them in making behavior modifications.

SECTION 2. 42-2-122 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-2-122. Department may cancel license - limited license for

Capital letters indicate new material added to existing statute; dashes through the words indicate deletions from existing statutes and such material not part of act.

physical or mental limitations - repeal. (1) The department has the authority to cancel, deny, or deny the reissuance of any driver's, minor driver's or provisional driver's license upon determining that the licensee was not entitled to the issuance thereof for any of the following reasons:

(i) FAILURE OF THE PERSON TO COMPLETE A LEVEL II ALCOHOL AND DRUG EDUCATION AND TREATMENT PROGRAM CERTIFIED BY THE DIVISION OF ALCOHOL AND DRUG ABUSE PURSUANT TO SECTION 42-4-1301 (10), AS REQUIRED BY SECTION 42-2-126 (7) OR 42-2-132 (2) (a) (II). SUCH FAILURE SHALL BE DOCUMENTED PURSUANT TO SECTION 42-2-144.

SECTION 3. 42-2-122 (3), Colorado Revised Statutes, is amended to read:

42-2-122. Department may cancel license - limited license for physical or mental limitations - repeal. (3) Upon such cancellation, the licensee must surrender the license so cancelled to the department, and thereafter such licensee shall be entitled to a hearing by the department if such license is returned and if such request is made within thirty days from the date of such cancellation; except that a denial or cancellation under paragraph (h) OR (i) of subsection (1) of this section shall be deemed to be final agency action for judicial review purposes under section 24-4-104, C.R.S. Such hearing, if requested, shall be held no later than thirty days from the date of such cancellation. Notification of such cancellation shall be given as provided in section 42-2-119.

SECTION 4. 42-2-126 (7) (c), Colorado Revised Statutes, is amended to read:

42-2-126. Revocation of license based on administrative determination. (7) (c) (I) Following a license revocation, the department shall not issue a new license or otherwise restore the driving privilege unless it is satisfied, after an investigation of the character, habits, and driving ability of the person, that it will be safe to grant the privilege of driving a motor vehicle on the highways. The department may not require a person to undergo skills or knowledge testing prior to issuance of a new license or restoration of such person's driving privilege if such person's license was revoked for a first violation of driving with excessive alcohol content pursuant to subparagraph (I) of paragraph (b) of subsection (6) of this section.

(II) IF THE PERSON WAS DETERMINED TO BE IN VIOLATION OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION AND THE PERSON HAD A BLOOD ALCOHOL LEVEL, AS SHOWN BY ANALYSIS OF SUCH PERSON'S BLOOD OR BREATH, THAT WAS 0.20 OR MORE GRAMS OF ALCOHOL PER ONE HUNDRED MILLILITERS OF BLOOD OR 0.20 OR MORE GRAMS OF ALCOHOL PER TWO HUNDRED TEN LITERS OF BREATH AT THE TIME OF DRIVING OR WITHIN TWO HOURS AFTER DRIVING; OR IF THE PERSON'S DRIVING RECORD OTHERWISE INDICATES A DESIGNATION AS A PERSISTENT DRUNK DRIVER AS DEFINED IN SECTION 42-1-102 (68.5), THE DEPARTMENT SHALL REQUIRE SUCH PERSON TO COMPLETE A LEVEL II ALCOHOL AND DRUG EDUCATION AND TREATMENT PROGRAM CERTIFIED BY THE DIVISION OF ALCOHOL AND DRUG ABUSE PURSUANT TO SECTION 42-4-1301 (10) BEFORE DRIVING PRIVILEGES MAY BE RESTORED.

(III) IF THE TOTAL PERIOD OF LICENSE RESTRAINT UNDER THIS PARAGRAPH (c) IS NOT SUFFICIENT TO ALLOW FOR THE COMPLETION OF LEVEL II ALCOHOL AND DRUG EDUCATION AND TREATMENT, OR THE DOCUMENTATION OF COMPLETION OF SUCH EDUCATION AND TREATMENT IS INCOMPLETE AT THE TIME OF REINSTATEMENT, PROOF OF CURRENT ENROLLMENT IN A LEVEL II ALCOHOL AND DRUG EDUCATION AND TREATMENT PROGRAM CERTIFIED BY THE DIVISION OF ALCOHOL AND DRUG ABUSE PURSUANT TO SECTION 42-4-1301 (10), ON A FORM APPROVED BY THE DEPARTMENT SHALL BE FILED WITH THE DEPARTMENT.

SECTION 5. 42-2-127 (14) (a), Colorado Revised Statutes, is amended to read:

42-2-127. Authority to suspend license - to deny license - type of conviction - points. (14) (a) If there is no other statutory reason for denial of a probationary license, any individual who has had a license suspended by the department because of, at least in part, a conviction of an offense specified in paragraph (b) of subsection (5) of this section may be entitled to a probationary license pursuant to subsection (12) of this section for the purpose of driving for reasons of employment, education, health, or alcohol and drug education or treatment; but such individual, if ordered by the court which convicted the individual, ~~must~~ SHALL be enrolled in a program of ~~alcohol and drug traffic~~ driving education or ALCOHOL AND DRUG EDUCATION AND treatment certified by the division of alcohol and drug abuse in the department of human services. Such a probationary license shall contain any other restrictions as the department deems reasonable and

necessary, shall be subject to cancellation for violation of any such restrictions, including absences from alcohol and drug education or treatment sessions or failure to complete alcohol and drug education or treatment programs, and shall be issued for the entire period of suspension.

SECTION 6. 42-2-132 (2) (a) (II), Colorado Revised Statutes, is amended to read:

42-2-132. Period of suspension or revocation.

(2) (a) (II) (A) Following the period of revocation set forth in this subsection (2), the department shall not issue a new license unless and until it is satisfied that such person has demonstrated knowledge of the laws and driving ability through the appropriate motor vehicle testing process and that such person whose license was revoked pursuant to section 42-2-125 for an alcohol- or drug-related driving offense has completed not less than a level II alcohol and drug education and treatment program certified by the division of alcohol and drug abuse pursuant to section 42-4-1301 (10).

(B) IF THE PERSON WAS DETERMINED TO BE IN VIOLATION OF SECTION 42-2-126 (2) (a) (I) AND THE PERSON HAD A BLOOD ALCOHOL LEVEL, AS SHOWN BY ANALYSIS OF SUCH PERSON'S BLOOD OR BREATH, THAT WAS 0.20 OR MORE GRAMS OF ALCOHOL PER ONE HUNDRED MILLILITERS OF BLOOD OR 0.20 OR MORE GRAMS OF ALCOHOL PER TWO HUNDRED TEN LITERS OF BREATH AT THE TIME OF DRIVING OR WITHIN TWO HOURS AFTER DRIVING; OR IF THE PERSON'S DRIVING RECORD OTHERWISE INDICATES A DESIGNATION AS A PERSISTENT DRUNK DRIVER AS DEFINED IN SECTION 42-1-102 (68.5), THE DEPARTMENT SHALL REQUIRE SUCH PERSON TO COMPLETE A LEVEL II ALCOHOL AND DRUG EDUCATION AND TREATMENT PROGRAM CERTIFIED BY THE DIVISION OF ALCOHOL AND DRUG ABUSE PURSUANT TO SECTION 42-4-1301 (10).

(C) IF THE TOTAL PERIOD OF LICENSE RESTRAINT UNDER THIS SUBPARAGRAPH (II) IS NOT SUFFICIENT TO ALLOW FOR THE COMPLETION OF LEVEL II ALCOHOL AND DRUG EDUCATION AND TREATMENT, OR THE DOCUMENTATION OF COMPLETION OF SUCH EDUCATION AND TREATMENT IS INCOMPLETE AT THE TIME OF REINSTATEMENT, PROOF OF CURRENT ENROLLMENT IN A LEVEL II ALCOHOL AND DRUG EDUCATION AND TREATMENT PROGRAM CERTIFIED BY THE DIVISION OF ALCOHOL AND DRUG ABUSE PURSUANT TO SECTION 42-4-1301 (10), ON A FORM APPROVED BY THE DEPARTMENT SHALL BE FILED WITH THE DEPARTMENT.

SECTION 7. Part 1 of article 2 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-2-144. Reporting by certified level II alcohol and drug education and treatment providers - notice of administrative remedies against a driver's license - rules. (1) THE DEPARTMENT SHALL REQUIRE ALL PROVIDERS OF LEVEL II ALCOHOL AND DRUG EDUCATION AND TREATMENT PROGRAMS CERTIFIED BY THE DIVISION OF ALCOHOL AND DRUG ABUSE PURSUANT TO SECTION 42-4-1301 (10) TO PROVIDE QUARTERLY REPORTS TO THE DEPARTMENT ABOUT EACH PERSON WHO IS ENROLLED AND WHO IS:

(a) REQUIRED TO COMPLETE LEVEL II ALCOHOL AND DRUG EDUCATION AND TREATMENT PURSUANT TO SECTION 42-2-126 (7) (c) (II); AND

(b) CHARGED WITH A SUBSEQUENT ALCOHOL- OR DRUG-RELATED DRIVING OFFENSE, OR BOTH.

(2) A PERSON DETERMINED NOT TO BE IN COMPLIANCE WITH LEVEL II ALCOHOL AND DRUG EDUCATION AND TREATMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE SENT A LETTER FROM THE DEPARTMENT NOTIFYING THE PERSON OF SUCH NONCOMPLIANCE, ANY ADMINISTRATIVE REMEDIES THAT MAY BE TAKEN AGAINST THE PERSON'S PRIVILEGE TO DRIVE, AND THE TIME PERIOD THE PERSON HAS TO COMPLY WITH THE REQUIREMENTS FOR LEVEL II ALCOHOL AND DRUG EDUCATION AND TREATMENT BEFORE ADMINISTRATIVE REMEDIES WILL BE EXERCISED AGAINST THE PERSON'S DRIVING PRIVILEGE.

(3) THE DEPARTMENT MAY PROMULGATE RULES NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION.

SECTION 8. 42-4-1301 (9) (a), (9) (b), and (9) (f) (I), Colorado Revised Statutes, are amended to read:

42-4-1301. Driving under the influence - driving while impaired - driving with excessive alcohol content - tests - penalties - useful public service program - alcohol and drug driving safety program. (9) (a) (I) Every person who is convicted of a violation of paragraph (a) or (c) of subsection (1) or paragraph (a) of subsection (2) of this section shall

be punished by imprisonment in the county jail for not less than five days nor more than one year, and, in addition, the court may impose a fine of not less than three hundred dollars nor more than one thousand dollars. Except as provided in subparagraph (II) of paragraph (f) of this subsection (9), the minimum period of imprisonment provided for such violation shall be mandatory. In addition to any other penalty that is imposed, every person who is convicted of a violation to which this subparagraph (I) applies shall perform not less than forty-eight hours nor more than ninety-six hours of useful public service. The performance of the minimum period of service shall be mandatory, and the court shall have no discretion to suspend the mandatory minimum period of performance of such service.

~~(II) Upon a conviction of a violation of paragraph (a) or (c) of subsection (1) or paragraph (a) of subsection (2) of this section, which violation occurred within five years after the date of a previous violation, for which there has been a conviction, of paragraph (a) or (c) of subsection (1) or paragraph (a) of subsection (2) of this section, or of section 18-3-106 (1)(b)(I) or 18-3-205 (1)(b)(I), C.R.S., the AN offender shall be punished by imprisonment in the county jail for not less than ninety days nor more than one year, and, in addition, the court may impose a fine of not less than five hundred dollars nor more than one thousand five hundred dollars UPON A CONVICTION OF A VIOLATION OF ANY OF THE FOLLOWING:~~

(A) PARAGRAPH (a) OR (c) OF SUBSECTION (1) OR PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, WHICH VIOLATION OCCURRED AT ANY TIME AFTER THE DATE OF A PREVIOUS VIOLATION FOR WHICH THERE HAS BEEN A CONVICTION OF PARAGRAPH (a) OR (c) OF SUBSECTION (1) OR PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION OR DRIVING WHILE SUCH PERSON'S DRIVER'S LICENSE IS REVOKED;

(B) SECTION 18-3-106 (1) (b) (I), C.R.S.;

(C) SECTION 18-3-205 (1) (b) (I), C.R.S.; OR

(D) PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION, DRIVING UNDER THE INFLUENCE, OR PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, DRIVING WHILE ABILITY IMPAIRED, AND THE AMOUNT OF ALCOHOL IN SUCH PERSON'S BLOOD, AS SHOWN BY ANALYSIS OF THE PERSON'S BLOOD OR BREATH, WAS 0.20 OR MORE GRAMS OF ALCOHOL PER ONE HUNDRED MILLILITERS OF BLOOD OR 0.20 OR MORE GRAMS OF ALCOHOL PER TWO HUNDRED TEN LITERS OF BREATH AT THE TIME OF DRIVING OR WITHIN TWO

HOURS AFTER DRIVING.

(III) The minimum period of imprisonment as provided for such A violation DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) shall be mandatory, but the court may suspend up to eighty days of the period of imprisonment if the offender complies with the provisions of subparagraph (I) of paragraph (f) of this subsection (9). In addition to any other penalty that is imposed, every person who is convicted of a violation to which ~~this subparagraph (II) applies~~ SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) AND THIS SUBPARAGRAPH (III) APPLY shall perform not less than sixty hours nor more than one hundred twenty hours of useful public service. The performance of the minimum period of service shall be mandatory, and the court shall have no discretion to suspend the mandatory minimum period of performance of such service.

~~(II) (IV) Upon conviction of a violation of paragraph (a) or (c) of subsection (1) or paragraph (a) of subsection (2) of this section, which violation occurred within five years after the date of a previous violation, for which there has been a conviction, of paragraph (b) of subsection (1) of this section, the AN offender shall be punished by imprisonment in the county jail for not less than seventy days nor more than one year, and, in addition, the court may impose a fine of not less than four hundred fifty dollars nor more than one thousand five hundred dollars UPON CONVICTION OF A VIOLATION OF ANY OF THE FOLLOWING:~~

(A) PARAGRAPH (a) OR (c) OF SUBSECTION (1) OR PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, WHICH VIOLATION OCCURRED AT ANY TIME AFTER THE DATE OF A PREVIOUS VIOLATION FOR WHICH THERE HAS BEEN A CONVICTION OF PARAGRAPH (a) OR (c) OF SUBSECTION (1) OR PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION;

(B) SECTION 18-3-106 (1) (b) (I), C.R.S.;

(C) SECTION 18-3-205 (1) (b) (I), C.R.S.; OR

(D) PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION, DRIVING UNDER THE INFLUENCE, OR PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, DRIVING WHILE ABILITY IMPAIRED, AND THE AMOUNT OF ALCOHOL IN SUCH PERSON'S BLOOD, AS SHOWN BY ANALYSIS OF THE PERSON'S BLOOD OR BREATH, WAS 0.20 OR MORE GRAMS OF ALCOHOL PER ONE HUNDRED MILLILITERS OF BLOOD OR 0.20 OR MORE GRAMS OF ALCOHOL PER TWO

HUNDRED TEN LITERS OF BREATH AT THE TIME OF DRIVING OR WITHIN TWO HOURS AFTER DRIVING.

(V) The minimum period of imprisonment as provided for ~~such~~ A violation DESCRIBED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH (a) shall be mandatory, but the court may suspend up to sixty-three days of the period of imprisonment if the offender complies with the provisions of subparagraph (I) of paragraph (f) of this subsection (9). In addition to any other penalty that is imposed, every person who is convicted of a violation to which ~~this subparagraph (III) applies~~ SUBPARAGRAPH (IV) OF THIS PARAGRAPH (a) AND THIS SUBPARAGRAPH (V) APPLY shall perform not less than fifty-six hours nor more than one hundred twelve hours of useful public service. The performance of the minimum period of service shall be mandatory, and the court shall have no discretion to suspend the mandatory minimum period of performance of such service.

(b) (I) Every person who is convicted of a violation of paragraph (b) of subsection (1) of this section shall be punished by imprisonment in the county jail for not less than two days nor more than one hundred eighty days, and, in addition, the court may impose a fine of not less than one hundred dollars nor more than five hundred dollars. Except as provided in subparagraph (II) of paragraph (f) of this subsection (9), the minimum period of imprisonment provided for such violation shall be mandatory. In addition to any other penalty which is imposed, every person who is convicted of a violation to which this subparagraph (I) applies shall perform not less than twenty-four hours nor more than forty-eight hours of useful public service. The performance of the minimum period of service shall be mandatory, and the court shall have no discretion to suspend the mandatory minimum period of performance of such service.

~~(II) Upon a conviction of a second or subsequent violation of paragraph (b) of subsection (1) of this section, which violation occurred within five years of the date of a previous violation, for which there has been a conviction, of paragraph (b) of subsection (1) of this section, the AN~~ offender shall be punished by imprisonment in the county jail for not less than forty-five days nor more than one year, and, in addition, the court may impose a fine of not less than three hundred dollars nor more than one thousand dollars UPON CONVICTION OF A VIOLATION OF ANY OF THE FOLLOWING:

(A) PARAGRAPH (a) OR (c) OF SUBSECTION (1) OR PARAGRAPH (a) OF

SUBSECTION (2) OF THIS SECTION, WHICH VIOLATION OCCURRED AT ANY TIME AFTER THE DATE OF A PREVIOUS VIOLATION FOR WHICH THERE HAS BEEN A CONVICTION OF PARAGRAPH (a) OR (c) OF SUBSECTION (1) OR PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION;

(B) SECTION 18-3-106 (1) (b) (I), C.R.S.;

(C) SECTION 18-3-205 (1) (b) (I), C.R.S.; OR

(D) PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION, DRIVING UNDER THE INFLUENCE, OR PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, DRIVING WHILE ABILITY IMPAIRED, AND THE AMOUNT OF ALCOHOL IN SUCH PERSON'S BLOOD, AS SHOWN BY ANALYSIS OF THE PERSON'S BLOOD OR BREATH, WAS 0.20 OR MORE GRAMS OF ALCOHOL PER ONE HUNDRED MILLILITERS OF BLOOD OR 0.20 OR MORE GRAMS OF ALCOHOL PER TWO HUNDRED TEN LITERS OF BREATH AT THE TIME OF DRIVING OR WITHIN TWO HOURS AFTER DRIVING.

(III) The minimum period of imprisonment as provided for ~~such~~ A violation DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) shall be mandatory, but the court may suspend up to forty days of the period of imprisonment if the offender complies with the provisions of subparagraph (I) of paragraph (f) of this subsection (9). In addition to any other penalty ~~which~~ THAT is imposed, every person who is convicted of a violation to which ~~this subparagraph (II) applies~~ SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) AND THIS SUBPARAGRAPH (III) APPLY shall perform not less than forty-eight hours nor more than ninety-six hours of useful public service. The performance of the minimum period of service shall be mandatory, and the court shall have no discretion to suspend the mandatory minimum period of performance of such service.

~~(HH) (IV) Upon conviction of a violation of paragraph (b) of subsection (1) of this section, which violation occurred within five years after the date of a previous violation, for which there has been a conviction, of paragraph (a) or (c) of subsection (1) or paragraph (a) of subsection (2) of this section, or of section 18-3-106 (1) (b) (I) or 18-3-205 (1) (b) (I), C.R.S., the AN offender shall be punished by imprisonment in the county jail for not less than sixty days nor more than one year, and, in addition, the court may impose a fine of not less than four hundred dollars nor more than one thousand two hundred dollars UPON CONVICTION OF A VIOLATION OF ANY OF THE FOLLOWING:~~

(A) PARAGRAPH (a) OR (c) OF SUBSECTION (1) OR PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, WHICH VIOLATION OCCURRED AT ANY TIME AFTER THE DATE OF A PREVIOUS VIOLATION FOR WHICH THERE HAS BEEN A CONVICTION OF PARAGRAPH (a) OR (c) OF SUBSECTION (1) OR PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION;

(B) SECTION 18-3-106 (1) (b) (I), C.R.S.;

(C) SECTION 18-3-205 (1) (b) (I), C.R.S.; OR

(D) PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION, DRIVING UNDER THE INFLUENCE, OR PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, DRIVING WHILE ABILITY IMPAIRED, AND THE AMOUNT OF ALCOHOL IN SUCH PERSON'S BLOOD, AS SHOWN BY ANALYSIS OF THE PERSON'S BLOOD OR BREATH, WAS 0.20 OR MORE GRAMS OF ALCOHOL PER ONE HUNDRED MILLILITERS OF BLOOD OR 0.20 OR MORE GRAMS OF ALCOHOL PER TWO HUNDRED TEN LITERS OF BREATH AT THE TIME OF DRIVING OR WITHIN TWO HOURS AFTER DRIVING.

(V) The minimum period of imprisonment as provided for ~~such~~ A violation DESCRIBED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH (b) shall be mandatory, but the court may suspend up to fifty-four days of the period of imprisonment if the offender complies with the provisions of subparagraph (I) of paragraph (f) of this subsection (9). In addition to any other penalty that is imposed, every person who is convicted of a violation to which ~~this subparagraph (III) applies~~ SUBPARAGRAPH (IV) OF THIS PARAGRAPH (b) AND THIS SUBPARAGRAPH (V) APPLY shall perform not less than fifty-two hours nor more than one hundred four hours of useful public service. The performance of the minimum period of service shall be mandatory, and the court shall have no discretion to suspend the mandatory minimum period of performance of such service.

~~(IV)~~ (VI) Notwithstanding the other provisions of this paragraph (b), if a person is charged with an offense of driving under the influence under paragraph (a) of subsection (1) of this section and the amount of alcohol in such person's blood, as shown by analysis of the person's blood or breath, was 0.20 or more grams of alcohol per one hundred milliliters of blood or 0.20 or more grams of alcohol per two hundred ten liters of breath at the time of driving or within two hours after driving, and if for such incident such person is then convicted of the lesser offense of driving while ability impaired under paragraph (b) of subsection (1) of this section, then, because

of such aggravating factor, such person is subject to the penalties imposed by paragraph (a) of this subsection (9) for such conviction.

(f) (I) The sentence of any person subject to the provisions of subparagraph (II), ~~or~~ (III), (IV), OR (V) of paragraph (a) or subparagraph (II), ~~or~~ (III), (IV), OR (V) of paragraph (b) of this subsection (9) may be suspended to the extent provided for in said subparagraphs if the offender receives a presentence alcohol and drug evaluation; based on that evaluation, satisfactorily completes an appropriate level I or level II alcohol and drug driving safety education or treatment program; and abstains from the use of alcohol for a period of one year from the date of sentencing. Such abstinence shall be monitored by the treatment facility by the administration of disulfiram or by any other means that the director of the treatment facility deems appropriate. If, at any time during the one-year period, the offender does not satisfactorily comply with the conditions of the suspension, that sentence shall be reimposed, and the offender shall spend that portion of such offender's sentence which was suspended in the county jail.

SECTION 9. 42-3-130.5, Colorado Revised Statutes, is amended to read:

42-3-130.5. Persistent drunk driver cash fund - programs to deter persistent drunk drivers. There is hereby created in the state treasury the persistent drunk driver cash fund, which shall be composed of moneys collected for penalty surcharges under section 42-4-1301 (9) (g) (II). The moneys in such fund are subject to annual appropriation by the general assembly to pay the costs incurred by the department regarding persistent drunk drivers under the provisions of sections 42-2-126 (2.5) and 42-7-406 (1.5), TO PAY FOR COSTS INCURRED BY THE DEPARTMENT FOR COMPUTER PROGRAMING CHANGES RELATED TO TREATMENT COMPLIANCE FOR PERSISTENT DRUNK DRIVERS PURSUANT TO SECTION 42-2-144, and to support programs that are intended to deter persistent drunk driving or intended to educate the public, with particular emphasis on the education of young drivers, regarding the dangers of persistent drunk driving. The departments of transportation, revenue, and human services shall coordinate programs intended to accomplish such goals.

SECTION 10. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any money in the

persistent drunk driver cash fund created in section 42-3-130.5, Colorado Revised Statutes, to the department of revenue, for the fiscal year beginning July 1, 2001, the sum of twenty-nine thousand two hundred sixty-seven dollars (\$29,267) and 0.4 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 11. Effective date - applicability. This section, sections 2 through 6, and section 12 of this act shall take effect upon passage and shall apply to administrative procedures of the department of revenue on or after said date, and sections 1, 7, and 8 of this act shall take effect July 1, 2001, and shall apply to traffic offenses involving alcohol, drugs and alcohol, or drugs committed on or after said date, and sections 9 and 10 shall take effect July 1, 2001.

SECTION 12. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Stan Matsunaka
PRESIDENT OF
THE SENATE

Doug Dean
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Judith Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO