

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**

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**HOUSE SPONSORSHIP**

**Waller and Saine,**

**SENATE SPONSORSHIP**

**King and Johnston,**

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**House Committees**

Judiciary  
Appropriations

**Senate Committees**

Judiciary  
State, Veterans, & Military Affairs

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**A BILL FOR AN ACT**

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

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**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.*

HOUSE  
3rd Reading Unamended  
April 14, 2014

HOUSE  
Amended 2nd Reading  
April 10, 2014

! 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.

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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; EXCEPT  
12 THAT: \_\_

13 (I) DRIVING UNDER THE INFLUENCE IS A CLASS 4 FELONY IF THE  
14 VIOLATION OCCURRED NOT MORE THAN FIVE YEARS AFTER THE FIRST OF  
15 TWO PRIOR CONVICTIONS, UPON CHARGES SEPARATELY BROUGHT AND  
16 TRIED AND ARISING OUT OF SEPARATE AND DISTINCT CRIMINAL EPISODES,  
17 FOR DWAI, DUI, OR DUI PER SE; VEHICULAR HOMICIDE, AS DESCRIBED IN  
18 SECTION 18-3-106 (1) (b), C.R.S.; VEHICULAR ASSAULT, AS DESCRIBED IN  
19 SECTION 18-3-205 (1) (b), C.R.S.; OR ANY COMBINATION THEREOF; AND

20 (II) EXCEPT AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS  
21 PARAGRAPH (a), DRIVING UNDER THE INFLUENCE IS A CLASS 5 FELONY IF  
22 THE VIOLATION OCCURRED NOT MORE THAN FIFTEEN YEARS AFTER THE

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

7 (b) ~~It is a misdemeanor for any~~ A person who ~~is~~ DRIVES A MOTOR  
8 VEHICLE OR VEHICLE WHILE impaired by alcohol or by one or more drugs,  
9 or by a combination of alcohol and one or more drugs, ~~to drive a motor~~  
10 ~~vehicle or vehicle~~ IS GUILTY OF DRIVING WHILE ABILITY IMPAIRED.  
11 DRIVING WHILE ABILITY IMPAIRED IS A MISDEMEANOR; EXCEPT THAT:

12 (I) DRIVING WHILE ABILITY IMPAIRED IS A CLASS 4 FELONY IF THE  
13 VIOLATION OCCURRED NOT MORE THAN FIVE YEARS AFTER THE FIRST OF  
14 TWO PRIOR CONVICTIONS, UPON CHARGES SEPARATELY BROUGHT AND  
15 TRIED AND ARISING OUT OF SEPARATE AND DISTINCT CRIMINAL EPISODES,  
16 FOR DWAI, DUI, OR DUI PER SE; VEHICULAR HOMICIDE, AS DESCRIBED IN  
17 SECTION 18-3-106 (1) (b), C.R.S.; VEHICULAR ASSAULT, AS DESCRIBED IN  
18 SECTION 18-3-205 (1) (b), C.R.S.; OR ANY COMBINATION THEREOF; AND

19 (II) EXCEPT AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS  
20 PARAGRAPH (b), DRIVING WHILE ABILITY IMPAIRED IS A CLASS 5 FELONY  
21 IF THE VIOLATION OCCURRED NOT MORE THAN FIFTEEN YEARS AFTER THE  
22 FIRST OF THREE PRIOR CONVICTIONS, UPON CHARGES SEPARATELY  
23 BROUGHT AND TRIED AND ARISING OUT OF SEPARATE AND DISTINCT  
24 CRIMINAL EPISODES, FOR DWAI, DUI, OR DUI PER SE; VEHICULAR  
25 HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b), C.R.S.; VEHICULAR  
26 ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b), C.R.S.; OR ANY  
27 COMBINATION THEREOF.

1 (j) FOR THE PURPOSES OF THIS SECTION, A PERSON SHALL BE  
2 DEEMED TO HAVE A PRIOR CONVICTION FOR DUI, DUI PER SE, OR DWAI;  
3 VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1)(b), C.R.S.;  
4 OR VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b),  
5 C.R.S., IF THE PERSON HAS BEEN CONVICTED UNDER THE LAWS OF THIS  
6 STATE OR UNDER THE LAWS OF ANY OTHER STATE, THE UNITED STATES,  
7 OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES,  
8 OF AN ACT THAT, IF COMMITTED WITHIN THIS STATE, WOULD CONSTITUTE  
9 ANY OF THESE OFFENSES. SUCH PRIOR CONVICTIONS SHALL BE SET FORTH  
10 IN APT WORDS IN THE INDICTMENT OR INFORMATION.

11 (k) (I) IF A DEFENDANT IS CONVICTED OF A \_\_\_ FELONY PURSUANT  
12 TO THIS SECTION, THE COURT SHALL SENTENCE THE PERSON IN  
13 ACCORDANCE WITH THE PROVISIONS OF SECTIONS 18-1.3-401, C.R.S.

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

22 (B) IF THE COURT SENTENCES THE DEFENDANT TO THE  
23 DEPARTMENT OF CORRECTIONS FOR A FELONY DUI, DUI PER SE, OR DWAI  
24 OFFENSE, IT MUST DETERMINE THAT INCARCERATION IS THE MOST  
25 SUITABLE OPTION GIVEN THE FACTS AND CIRCUMSTANCES OF THE CASE,  
26 INCLUDING THE DEFENDANT'S WILLINGNESS TO PARTICIPATE IN  
27 TREATMENT AND THE DEFENDANT'S OPPORTUNITY TO HAVE PARTICIPATED

1 IN A DUI COURT. ADDITIONALLY, THE COURT MUST DETERMINE THAT ALL  
2 OTHER REASONABLE AND APPROPRIATE SANCTIONS AND RESPONSES TO  
3 THE VIOLATION THAT ARE AVAILABLE TO THE COURT HAVE BEEN TRIED  
4 AND HAVE FAILED, DO NOT APPEAR LIKELY TO BE SUCCESSFUL IF TRIED, OR  
5 PRESENT AN UNACCEPTABLE RISK TO PUBLIC SAFETY.

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

19 (2) (a) ~~It is a misdemeanor for any~~ A person to ~~drive~~ WHO DRIVES  
20 a motor vehicle or vehicle when the person's BAC is 0.08 or more at the  
21 time of driving or within two hours after driving COMMITS DUI PER SE.  
22 During a trial, if the state's evidence raises the issue, or if a defendant  
23 presents some credible evidence, that the defendant consumed alcohol  
24 between the time that the defendant stopped driving and the time that  
25 testing occurred, such issue shall be an affirmative defense, and the  
26 prosecution must establish beyond a reasonable doubt that the minimum  
27 0.08 blood or breath alcohol content required in this paragraph (a) was

1 reached as a result of alcohol consumed by the defendant before the  
2 defendant stopped driving. DUI PER SE IS A MISDEMEANOR; EXCEPT THAT:

3 ==  
4 (I) DUI PER SE IS A CLASS 4 FELONY IF THE VIOLATION OCCURRED  
5 NOT MORE THAN FIVE YEARS AFTER THE FIRST OF TWO PRIOR  
6 CONVICTIONS, UPON CHARGES SEPARATELY BROUGHT AND TRIED AND  
7 ARISING OUT OF SEPARATE AND DISTINCT CRIMINAL EPISODES, FOR DWAI,  
8 DUI, OR DUI PER SE; VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION  
9 18-3-106 (1) (b), C.R.S.; VEHICULAR ASSAULT, AS DESCRIBED IN SECTION  
10 18-3-205 (1) (b), C.R.S.; OR ANY COMBINATION THEREOF; AND

11 (II) EXCEPT AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS  
12 PARAGRAPH (a), DUI PER SE IS A CLASS 5 FELONY IF THE VIOLATION  
13 OCCURRED NOT MORE THAN FIFTEEN YEARS AFTER THE FIRST OF THREE  
14 PRIOR CONVICTIONS, UPON CHARGES SEPARATELY BROUGHT AND TRIED  
15 AND ARISING OUT OF SEPARATE AND DISTINCT CRIMINAL EPISODES, FOR  
16 DWAI, DUI, OR DUI PER SE; VEHICULAR HOMICIDE, AS DESCRIBED IN  
17 SECTION 18-3-106 (1) (b), C.R.S.; VEHICULAR ASSAULT, AS DESCRIBED IN  
18 SECTION 18-3-205 (1) (b), C.R.S.; OR ANY COMBINATION THEREOF.

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

1 ~~submit to and complete an alcohol evaluation or assessment, an alcohol~~  
2 ~~education program, or an alcohol treatment program at such defendant's~~  
3 ~~own expense.~~

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

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

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

22 **SECTION 2.** In Colorado Revised Statutes, 42-4-1307, **amend**  
23 (2), (5) (a) introductory portion, (5) (b) introductory portion, (6) (a)  
24 introductory portion, (7) (a), (7) (b) (V), (7) (c), (8), and (9) (a); and  
25 **repeal** (15) as follows:

26 **42-4-1307. Penalties for traffic offenses involving alcohol and**  
27 **drugs - legislative declaration - definitions - repeal. (2) Definitions.**

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

2 (a) "APPROVED IGNITION INTERLOCK DEVICE" MEANS A DEVICE  
3 APPROVED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT  
4 THAT IS INSTALLED IN A MOTOR VEHICLE AND THAT MEASURES THE  
5 BREATH ALCOHOL CONTENT OF THE DRIVER BEFORE A VEHICLE IS STARTED  
6 AND THAT PERIODICALLY REQUIRES ADDITIONAL BREATH SAMPLES DURING  
7 VEHICLE OPERATION. THE DEVICE MAY NOT ALLOW A MOTOR VEHICLE TO  
8 BE STARTED OR TO CONTINUE NORMAL OPERATION IF THE DEVICE  
9 MEASURES AN ALCOHOL LEVEL ABOVE THE LEVEL ESTABLISHED BY THE  
10 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

11 ~~(a)~~ (b) "Conviction" means a verdict of guilty by a judge or jury  
12 or a plea of guilty or nolo contendere that is accepted by the court for an  
13 offense or adjudication for an offense that would constitute a criminal  
14 offense if committed by an adult. "Conviction" also includes having  
15 received a deferred judgment and sentence or deferred adjudication;  
16 except that a person shall not be deemed to have been convicted if the  
17 person has successfully completed a deferred sentence or deferred  
18 adjudication.

19 ~~(b)~~ (c) "Driving under the influence" or "DUI" means driving a  
20 motor vehicle or vehicle when a person has consumed alcohol or one or  
21 more drugs, or a combination of alcohol and one or more drugs, that  
22 affects the person to a degree that the person is substantially incapable,  
23 either mentally or physically, or both mentally and physically, of  
24 exercising clear judgment, sufficient physical control, or due care in the  
25 safe operation of a vehicle.

26 ~~(c)~~ (d) "Driving while ability impaired" or "DWAI" means driving  
27 a motor vehicle or vehicle when a person has consumed alcohol or one or



1 more drugs, or a combination of both alcohol and one or more drugs, that  
2 affects the person to the slightest degree so that the person is less able  
3 than the person ordinarily would have been, either mentally or physically,  
4 or both mentally and physically, to exercise clear judgment, sufficient  
5 physical control, or due care in the safe operation of a vehicle.

6 ~~(d)~~ (e) "UDD" shall have the same meaning as provided in section  
7 42-1-102 (109.7).

8 (5) **Second offenses.** (a) Except as otherwise provided in  
9 subsection (6) OR (6.5) of this section, a person who is convicted of DUI,  
10 DUI per se, or DWAI who, at the time of sentencing, has a prior  
11 conviction of DUI, DUI per se, DWAI, vehicular homicide pursuant to  
12 section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section  
13 18-3-205 (1) (b), C.R.S., ~~aggravated driving with a revoked license~~  
14 ~~pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B)~~, or driving  
15 while the person's driver's license was under restraint pursuant to section  
16 42-2-138 (1) (d), ~~shall~~ WILL be punished by:

17 (b) If a person is convicted of DUI, DUI per se, or DWAI and the  
18 violation occurred less than five years after the date of a previous  
19 violation for which the person was convicted of DUI, DUI per se, DWAI,  
20 vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular  
21 assault pursuant to section 18-3-205 (1) (b), C.R.S., ~~aggravated driving~~  
22 ~~with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1)~~  
23 ~~(b) (I) (B)~~, or driving while the person's driver's license was under  
24 restraint pursuant to section 42-2-138 (1) (d), the court ~~shall~~ DOES not  
25 have discretion to employ any sentencing alternatives described in section  
26 18-1.3-106, C.R.S., during the minimum period of imprisonment  
27 described in subparagraph (I) of paragraph (a) of this subsection (5);

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

5 (6) **Third and subsequent offenses.** (a) EXCEPT AS PROVIDED IN  
6 SECTION 42-4-1301 (1) (a), (1) (b), AND (2) (a), \_\_\_\_\_ a person who is  
7 convicted of DUI, DUI per se, or DWAI who, at the time of sentencing,  
8 has two or more prior convictions of DUI, DUI per se, DWAI, vehicular  
9 homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault  
10 pursuant to section 18-3-205 (1) (b), C.R.S., ~~aggravated driving with a~~  
11 ~~revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I)~~  
12 ~~(B)~~; or driving while the person's driver's license was under restraint  
13 pursuant to section 42-2-138 (1) (d) ~~shall~~ WILL be punished by:

14 (7) **Probation-related penalties.** When a person is sentenced to  
15 a period of probation pursuant to subparagraph (IV) of paragraph (a) of  
16 subsection (5) of this section or subparagraph (IV) of paragraph (a) of  
17 subsection (6) of this section:

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

25 (b) The court:

26 (V) May require the person to use an approved ignition interlock  
27 device ~~as defined in section 42-2-132.5 (9) (a)~~; during the period of

1 probation at the person's own expense;

2 (c) (I) ~~The court may impose all or part of the suspended sentence~~  
3 ~~described in subparagraph (IV) of paragraph (a) of subsection (5) of this~~  
4 ~~section or subparagraph (IV) of paragraph (a) of subsection (6) of this~~  
5 ~~section at any time during the period of probation if the person violates~~  
6 ~~a condition of his or her probation. During the period of imprisonment,~~  
7 ~~the person shall continue serving the probation sentence with no reduction~~  
8 ~~in time for the sentence to probation. A cumulative period of~~  
9 ~~imprisonment imposed pursuant to this paragraph (c) shall not exceed one~~  
10 ~~year~~ IN IMPOSING A SENTENCE OF IMPRISONMENT PURSUANT TO  
11 PARAGRAPH (a) OF THIS SUBSECTION (7), THE COURT SHALL CONSIDER THE  
12 NATURE OF THE VIOLATION, THE REPORT OR TESTIMONY OF THE  
13 PROBATION DEPARTMENT, THE IMPACT ON PUBLIC SAFETY, THE PROGRESS  
14 OF THE PERSON IN ANY COURT-ORDERED ALCOHOL AND DRUG DRIVING  
15 SAFETY EDUCATION OR TREATMENT PROGRAM, AND ANY OTHER  
16 INFORMATION THAT MAY ASSIST THE COURT IN PROMOTING THE PERSON'S  
17 COMPLIANCE WITH THE CONDITIONS OF HIS OR HER PROBATION.

18 (II) ~~In imposing a sentence of imprisonment pursuant to~~  
19 ~~subparagraph (I) of this paragraph (c), the court shall consider the nature~~  
20 ~~of the violation, the report or testimony of the probation department, the~~  
21 ~~impact on public safety, the progress of the person in any court-ordered~~  
22 ~~alcohol and drug driving safety education or treatment program, and any~~  
23 ~~other information that may assist the court in promoting the person's~~  
24 ~~compliance with the conditions of his or her probation. Any imprisonment~~  
25 ~~imposed upon a person by the court pursuant to subparagraph (I) of this~~  
26 ~~paragraph (c) shall~~ PARAGRAPH (a) OF THIS SUBSECTION (7) MUST be  
27 imposed in a manner that promotes the person's compliance with the

1 conditions of his or her probation and not merely as a punitive measure.

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

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

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

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

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

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

6           ~~(d) Any probation imposed for a conviction under section~~  
7 ~~42-2-206 may run concurrently with any probation required by this~~  
8 ~~section; and~~

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

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

13           **42-2-206. Driving after revocation prohibited.** (1) (b) (I) A  
14 person commits the crime of aggravated driving with a revoked license  
15 if he or she is found to be an habitual offender and thereafter operates a  
16 motor vehicle in this state while the revocation of the department  
17 prohibiting such operation is in effect and, as a part of the same criminal  
18 episode, also commits any of the following offenses:

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

20           (B) ~~DWAI;~~

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

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

27           ~~(B) The court shall impose all of the penalties for the~~

1 alcohol-related driving offense, as such penalties are described in section  
2 ~~42-4-1307~~;

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

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

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

10 **SECTION 4.** In Colorado Revised Statutes, 42-1-102, **amend**  
11 (109.7) as follows:

12 **42-1-102. Definitions.** As used in articles 1 to 4 of this title,  
13 unless the context otherwise requires:

14 (109.7) "UDD" means underage drinking and driving, and use of  
15 the term shall incorporate by reference the offense described in section  
16 ~~42-4-1301 (2) (a.5)~~ SECTION 42-4-1301 (2) (d).

17 **SECTION 5.** In Colorado Revised Statutes, 42-2-125, **amend**  
18 (2.5) introductory portion as follows:

19 **42-2-125. Mandatory revocation of license and permit.**  
20 (2.5) The period of revocation under paragraph (g.5) of subsection (1) of  
21 this section for a person who is less than twenty-one years of age at the  
22 time of the offense and who is convicted of driving with an alcohol  
23 content of at least 0.02 but not more than 0.05 under section ~~42-4-1301~~  
24 ~~(2) (a.5)~~ SECTION 42-4-1301 (2) (d) is as follows:

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

27 **42-4-1701. Traffic offenses and infractions classified -**

1 **penalties - penalty and surcharge schedule - repeal.** (4) (a) (I) Except  
 2 as provided in paragraph (c) of subsection (5) of this section, every  
 3 person who is convicted of, who admits liability for, or against whom a  
 4 judgment is entered for a violation of any provision of this title to which  
 5 paragraph (a) or (b) of subsection (5) of this section apply shall be fined  
 6 or penalized, and have a surcharge levied thereon pursuant to sections  
 7 24-4.1-119 (1) (f) and 24-4.2-104 (1) (b) (I), C.R.S., in accordance with  
 8 the penalty and surcharge schedule set forth in sub-subparagraphs (A) to  
 9 (P) of this subparagraph (I); or, if no penalty or surcharge is specified in  
 10 the schedule, the penalty for class A and class B traffic infractions ~~shall~~  
 11 ~~be~~ IS fifteen dollars, and the surcharge ~~shall be~~ IS four dollars. These  
 12 penalties and surcharges ~~shall~~ apply whether the defendant acknowledges  
 13 the defendant's guilt or liability in accordance with the procedure set forth  
 14 by paragraph (a) of subsection (5) of this section or is found guilty by a  
 15 court of competent jurisdiction or has judgment entered against the  
 16 defendant by a county court magistrate. Penalties and surcharges for  
 17 violating specific sections ~~shall be~~ ARE as follows:

18 (N) **Other offenses:**

19 <del>42-4-1301 (2)(a.5)</del> 42-4-1301 (2) (d)	\$ 100.00	\$ 16.00
20 42-4-1305	50.00	16.00
21 42-4-1402	150.00	16.00
22 42-4-1403	30.00	6.00
23 42-4-1404	15.00	6.00
24 42-4-1406	35.00	10.00
25 42-4-1407 (3)(a)	35.00	10.00
26 42-4-1407 (3)(b)	100.00	30.00
27 42-4-1407 (3)(c)	500.00	200.00

1	42-4-314	35.00	10.00
2	42-4-1408	15.00	6.00
3	42-4-1414 (2)(a)	500.00	156.00
4	42-4-1414 (2)(b)	1,000.00	312.00
5	42-4-1414 (2)(c)	5,000.00	1,560.00
6	42-4-1416 (3)	75.00	4.00
7	42-20-109 (2)	250.00	66.00

8 (f) (I) In addition to the surcharge specified in sub-subparagraph  
9 (N) of subparagraph (I) of paragraph (a) of this subsection (4), ~~an~~  
10 ~~additional~~ THE COURT SHALL ASSESS A surcharge of five dollars ~~shall be~~  
11 ~~assessed~~ for a violation of ~~section 42-4-1301(2)(a.5)~~ SECTION 42-4-1301  
12 (2) (d). Moneys collected pursuant to this paragraph (f) ~~shall~~ MUST be  
13 transmitted to the state treasurer who shall deposit such moneys in the  
14 rural alcohol and substance abuse cash fund created in section 27-80-117  
15 (3), C.R.S., within fourteen days after the end of each quarter, to be used  
16 for the purposes set forth in section 27-80-117, C.R.S.

17 **SECTION 7.** In Colorado Revised Statutes, **add** 17-18-111 as  
18 follows:

19 **17-18-111. Appropriation to comply with section 2-2-703 -**  
20 **H.B. 14-1036 - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE  
21 FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY  
22 BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT HOUSE BILL 14-1036,  
23 ENACTED IN 2014:

24 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2015, IN ADDITION  
25 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE  
26 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT  
27 OTHERWISE APPROPRIATED, THE SUM OF THIRTEEN MILLION TWO HUNDRED



1 TWELVE THOUSAND FIVE HUNDRED NINETY-NINE DOLLARS (\$13,212,599).

2 (b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2016, 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 TWENTY-SIX MILLION FOUR  
6 HUNDRED TWENTY-FIVE THOUSAND ONE HUNDRED NINETY-SEVEN  
7 DOLLARS (\$26,425,197).

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

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

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

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

24 (2) In addition to any other appropriation, there is hereby  
25 appropriated to the judicial department, for the fiscal year beginning July  
26 1, 2014, the sum of \$2,928,084 and 37.7 FTE, or so much thereof as may  
27 be necessary, to be allocated for the implementation of this act as follows:

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

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

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

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

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

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

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

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

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

23 **SECTION 9. Act subject to petition - effective date -**  
24 **applicability.** (1) This act takes effect July 1, 2015, except that, if a  
25 referendum petition is filed pursuant to section 1 (3) of article V of the  
26 state constitution against this act or an item, section, or part of this act  
27 within the ninety-day period after final adjournment of the general

1 assembly, then the act, item, section, or part will not take effect unless  
2 approved by the people at the general election to be held in November  
3 2014 and, in such case, will take effect on July 1, 2015, or on the date of  
4 the official declaration of the vote thereon by the governor, whichever is  
5 later.

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

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