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HOUSE BILL 15-1043

BY REPRESENTATIVE(S) Saine and McCann, Arndt, Becker K., Brown, Conti, Court, Danielson, Duran, Esgar, Fields, Garnett, Ginal, Kagan, Lontine, Mitsch Bush, Pabon, Pettersen, Primavera, Priola, Rankin, Van Winkle, Williams, Winter, Hullinghorst;
also SENATOR(S) Cooke and Johnston, Baumgardner, Crowder, Donovan, Garcia, Grantham, Guzman, Heath, Hodge, Holbert, Jahn, Jones, Kefalas, Kerr, Lambert, Lundberg, Merrifield, Neville T., Newell, Roberts, Scheffel, Scott, Sonnenberg, Todd, Woods, Cadman.

CONCERNING PENALTIES FOR DUI OFFENDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 42-4-1301, **amend** (1) (a), (1) (b), and (2) (a); **repeal** (2) (a.5); and **add** (1) (j), (1) (k), and (2) (d) as follows:

42-4-1301. Driving under the influence - driving while impaired - driving with excessive alcoholic content - definitions - penalties.
(1) (a) ~~It is a misdemeanor for any~~ A person who is DRIVES A MOTOR VEHICLE OR VEHICLE under the influence of alcohol or one or more drugs, or a combination of both alcohol and one or more drugs, ~~to drive a motor~~

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

~~vehicle or vehicle~~ COMMITS DRIVING UNDER THE INFLUENCE. DRIVING UNDER THE INFLUENCE IS A MISDEMEANOR, BUT IT IS A CLASS 4 FELONY IF THE VIOLATION OCCURRED AFTER THREE OR MORE PRIOR CONVICTIONS, ARISING OUT OF SEPARATE AND DISTINCT CRIMINAL EPISODES, FOR DUI, DUI PER SE, OR DWAI; VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b), C.R.S.; VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b), C.R.S.; OR ANY COMBINATION THEREOF.

(b) ~~It is a misdemeanor for any~~ A person who ~~is~~ DRIVES A MOTOR VEHICLE OR VEHICLE WHILE impaired by alcohol or by one or more drugs, or by a combination of alcohol and one or more drugs, ~~to drive a motor vehicle or vehicle~~ COMMITS DRIVING WHILE ABILITY IMPAIRED. DRIVING WHILE ABILITY IMPAIRED IS A MISDEMEANOR, BUT IT IS A CLASS 4 FELONY IF THE VIOLATION OCCURRED AFTER THREE OR MORE PRIOR CONVICTIONS, ARISING OUT OF SEPARATE AND DISTINCT CRIMINAL EPISODES, FOR DUI, DUI PER SE, OR DWAI; VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b), C.R.S.; VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b), C.R.S.; OR ANY COMBINATION THEREOF.

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

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

(II) (A) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (k), BEFORE THE IMPOSITION OF ANY SENTENCE TO THE DEPARTMENT OF CORRECTIONS FOR A FELONY DUI, DUI PER SE, OR DWAI OFFENSE, AT SENTENCING OR AT RESENTENCING AFTER A REVOCATION OF PROBATION OR A COMMUNITY CORRECTIONS SENTENCE, THE COURT SHALL CONSIDER ALL THE FACTORS DESCRIBED IN SUB-SUBPARAGRAPH (B) OF THIS

SUBPARAGRAPH (II).

(B) IF THE COURT SENTENCES THE DEFENDANT TO THE DEPARTMENT OF CORRECTIONS FOR A FELONY DUI, DUI PER SE, OR DWAI OFFENSE, IT MUST DETERMINE THAT INCARCERATION IS THE MOST SUITABLE OPTION GIVEN THE FACTS AND CIRCUMSTANCES OF THE CASE, INCLUDING THE DEFENDANT'S WILLINGNESS TO PARTICIPATE IN TREATMENT. ADDITIONALLY, THE COURT SHALL CONSIDER WHETHER ALL OTHER REASONABLE AND APPROPRIATE SANCTIONS AND RESPONSES TO THE VIOLATION THAT ARE AVAILABLE TO THE COURT HAVE BEEN EXHAUSTED, DO NOT APPEAR LIKELY TO BE SUCCESSFUL IF TRIED, OR PRESENT AN UNACCEPTABLE RISK TO PUBLIC SAFETY.

(2) (a) ~~It is a misdemeanor for any~~ A person to drive WHO DRIVES a motor vehicle or vehicle when the person's BAC is 0.08 or more at the time of driving or within two hours after driving COMMITS DUI PER SE. During a trial, if the state's evidence raises the issue, or if a defendant presents some credible evidence, that the defendant consumed alcohol between the time that the defendant stopped driving and the time that testing occurred, such issue shall be an affirmative defense, and the prosecution must establish beyond a reasonable doubt that the minimum 0.08 blood or breath alcohol content required in this paragraph (a) was reached as a result of alcohol consumed by the defendant before the defendant stopped driving. DUI PER SE IS A MISDEMEANOR, BUT IT IS A CLASS 4 FELONY IF THE VIOLATION OCCURRED AFTER THREE OR MORE PRIOR CONVICTIONS, ARISING OUT OF SEPARATE AND DISTINCT CRIMINAL EPISODES, FOR DUI, DUI PER SE, OR DWAI; VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b), C.R.S.; VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b), C.R.S.; OR ANY COMBINATION THEREOF.

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

~~complete an alcohol evaluation or assessment, an alcohol education program, or an alcohol treatment program at such defendant's own expense.~~

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

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

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

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

42-4-1307. Penalties for traffic offenses involving alcohol and drugs - legislative declaration - definitions - repeal. (2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "APPROVED IGNITION INTERLOCK DEVICE" HAS THE SAME MEANING AS SET FORTH IN SECTION 42-2-132.5.

~~(a)~~ (b) "Conviction" means a verdict of guilty by a judge or jury or a plea of guilty or nolo contendere that is accepted by the court for an offense or adjudication for an offense that would constitute a criminal offense if committed by an adult. "Conviction" also includes having received a deferred judgment and sentence or deferred adjudication; except

that a person shall not be deemed to have been convicted if the person has successfully completed a deferred sentence or deferred adjudication.

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

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

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

(5) **Second offenses.** (a) Except as otherwise provided in subsection (6) of this section, a person who is convicted of DUI, DUI per se, or DWAI who, at the time of sentencing, has a prior conviction of DUI, DUI per se, DWAI, vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), AS THAT CRIME EXISTED BEFORE THE EFFECTIVE DATE OF HOUSE BILL 15-1043, AS ENACTED IN 2015, or driving while the person's driver's license was under restraint pursuant to section 42-2-138 (1) (d), shall be punished by:

(b) If a person is convicted of DUI, DUI per se, or DWAI and the violation occurred less than five years after the date of a previous violation for which the person was convicted of DUI, DUI per se, DWAI, vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), AS THAT CRIME EXISTED BEFORE THE EFFECTIVE DATE OF HOUSE BILL

15-1043, AS ENACTED IN 2015, or driving while the person's driver's license was under restraint pursuant to section 42-2-138 (1) (d), the court ~~shall~~ DOES not have discretion to employ any sentencing alternatives described in section 18-1.3-106, C.R.S., during the minimum period of imprisonment described in subparagraph (I) of paragraph (a) of this subsection (5); except that a court may allow the person to participate in a program pursuant to section 18-1.3-106 (1) (a) (II), (1) (a) (IV), or (1) (a) (V), C.R.S., only if the program is available through the county in which the person is imprisoned and only for the purpose of:

(6) Third and subsequent offenses. (a) EXCEPT AS PROVIDED IN SECTION 42-4-1301 (1) (a), (1) (b), AND (2) (a), a person who is convicted of DUI, DUI per se, or DWAI who, at the time of sentencing, has two or more prior convictions of DUI, DUI per se, DWAI, vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), AS THAT CRIME EXISTED BEFORE THE EFFECTIVE DATE OF HOUSE BILL 15-1043, AS ENACTED IN 2015, or driving while the person's driver's license was under restraint pursuant to section 42-2-138 (1) (d) shall be punished by:

(c) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE DEFENDANT SATISFIES THE CONDITIONS DESCRIBED IN SUBPARAGRAPHS (I), (II), AND (III) OF THIS PARAGRAPH (c), THE COURT MAY INCLUDE AS A CONDITION OF PROBATION A REQUIREMENT THAT THE DEFENDANT PARTICIPATE IN ALCOHOL TREATMENT. IF THE DEFENDANT'S ASSESSED TREATMENT NEED IS FOR RESIDENTIAL TREATMENT, THE COURT MAY MAKE RESIDENTIAL ALCOHOL TREATMENT A CONDITION OF PROBATION AND MAY PLACE THE OFFENDER IN A COMMUNITY CORRECTIONS PROGRAM THAT CAN PROVIDE THE APPROPRIATE LEVEL OF TREATMENT. THIS PARAGRAPH (c) APPLIES ONLY IF:

(I) AT THE TIME OF SENTENCING, THE PERSON HAS TWO PRIOR CONVICTIONS OF DUI, DUI PER SE, DWAI, VEHICULAR HOMICIDE PURSUANT TO SECTION 18-3-106 (1) (b), C.R.S., OR VEHICULAR ASSAULT PURSUANT TO SECTION 18-3-205 (1) (b), C.R.S.; AND

(II) THE FIRST OF THE PERSON'S TWO PRIOR CONVICTIONS WAS BASED ON A VIOLATION THAT OCCURRED NOT MORE THAN SEVEN YEARS BEFORE THE VIOLATION FOR WHICH THE PERSON IS BEING SENTENCED.

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

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

(b) The court:

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

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

(II) ~~In imposing a sentence of imprisonment pursuant to subparagraph (I) of this paragraph (c), the court shall consider the nature of the violation, the report or testimony of the probation department, the impact on public safety, the progress of the person in any court-ordered~~

~~alcohol and drug driving safety education or treatment program, and any other information that may assist the court in promoting the person's compliance with the conditions of his or her probation. Any imprisonment imposed upon a person by the court pursuant to subparagraph (f) of this paragraph (c) shall~~ PARAGRAPH (a) OF THIS SUBSECTION (7) MUST be imposed in a manner that promotes the person's compliance with the conditions of his or her probation and not merely as a punitive measure.

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

(9) **Previous convictions.** (a) For the purposes of subsections (5) and (6) of this section, a person ~~shall be~~ IS deemed to have a previous conviction for DUI, DUI per se, DWAI, vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), AS THAT CRIME EXISTED BEFORE THE EFFECTIVE DATE OF HOUSE BILL 15-1043, AS ENACTED IN 2015, or driving while the person's driver's license was under restraint pursuant to section 42-2-138 (1) (d), if the person has been convicted under the laws of this state or under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States, of an act that, if committed within this state, would constitute the offense of DUI, DUI per se, DWAI, vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), AS THAT CRIME EXISTED BEFORE THE EFFECTIVE DATE OF HOUSE BILL 15-1043, AS ENACTED IN 2015, or driving while the person's driver's license was under restraint pursuant to section 42-2-138 (1) (d).

(15) If a defendant is convicted of aggravated driving with a revoked license based upon the commission of DUI, DUI per se, or DWAI pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), AS THAT CRIME EXISTED BEFORE THE EFFECTIVE DATE OF THIS HOUSE BILL 15-1043, AS ENACTED IN 2015:

SECTION 3. In Colorado Revised Statutes, 42-2-132.5, **amend** (1) as follows:

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

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

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

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

~~(d) (III) A person whose privilege to drive was revoked for interlock circumvention pursuant to paragraph (a) or (b) of subsection (7) of this section.~~

(b) A PERSON WHOSE PRIVILEGE TO DRIVE WAS REVOKED FOR MULTIPLE CONVICTIONS FOR ANY COMBINATION OF A DUI, DUI PER SE, OR DWAI PURSUANT TO SECTION 42-2-125 (1) (g) (I) OR (1) (i) SHALL HOLD AN INTERLOCK-RESTRICTED LICENSE PURSUANT TO THIS SECTION FOR AT LEAST TWO YEARS, BUT NOT MORE THAN FIVE YEARS, FOLLOWING REINSTATEMENT PRIOR TO BEING ELIGIBLE TO OBTAIN ANY OTHER DRIVER'S LICENSE ISSUED UNDER THIS ARTICLE.

SECTION 4. In Colorado Revised Statutes, 42-2-206, **amend** (1) (b) (II) and (1) (b) (III) introductory portion; and **repeal** (1) (b) (I) (A) and (1) (b) (I) (B) as follows:

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

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

(B) ~~DWAI;~~

(II) Aggravated driving with a revoked license is a ~~class 6 felony, punishable as provided in section 18-1.3-401, C.R.S.~~ CLASS 1 MISDEMEANOR, PUNISHABLE AS PROVIDED IN SECTION 18-1.3-501, C.R.S.; EXCEPT THAT A COURT SHALL SENTENCE THE OFFENDER TO A MANDATORY MINIMUM TERM OF IMPRISONMENT OF SIXTY DAYS IN THE CUSTODY OF A COUNTY JAIL.

(III) If a defendant is convicted of aggravated driving with a revoked license based upon the commission of DUI, DUI per se, or DWAI pursuant to sub-subparagraph (A) or (B) of subparagraph (I) of this paragraph (b), AS THAT CRIME EXISTED BEFORE THE EFFECTIVE DATE OF HOUSE BILL 15-1043, AS ENACTED IN 2015:

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

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

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

SECTION 6. In Colorado Revised Statutes, 42-2-125, **amend** (2.5) introductory portion as follows:

42-2-125. Mandatory revocation of license and permit. (2.5) The period of revocation under paragraph (g.5) of subsection (1) of this section for a person who is less than twenty-one years of age at the

time of the offense and who is convicted of driving with an alcohol content of at least 0.02 but not more than 0.05 under ~~section 42-4-1301 (2) (a.5)~~ SECTION 42-4-1301 (2) (d) is as follows:

SECTION 7. In Colorado Revised Statutes, 42-4-1701, **amend** (4) (a) (I) (N) and (4) (f) (I) as follows:

42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule - repeal. (4) (a) (I) Except as provided in paragraph (c) of subsection (5) of this section, every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of any provision of this title to which paragraph (a) or (b) of subsection (5) of this section apply shall be fined or penalized, and have a surcharge levied in accordance with sections 24-4.1-119 (1) (f) and 24-4.2-104 (1) (b) (I), C.R.S., in accordance with the penalty and surcharge schedule set forth in sub-subparagraphs (A) to (P) of this subparagraph (I); or, if no penalty or surcharge is specified in the schedule, the penalty for class A and class B traffic infractions is fifteen dollars, and the surcharge is four dollars. These penalties and surcharges apply whether the defendant acknowledges the defendant's guilt or liability in accordance with the procedure set forth by paragraph (a) of subsection (5) of this section, is found guilty by a court of competent jurisdiction, or has judgment entered against the defendant by a county court magistrate. Penalties and surcharges for violating specific sections are as follows:

(N) Other offenses:		
42-4-1301 (2)(a.5) 42-4-1301 (2)(d)	\$ 100.00	\$ 16.00
42-4-1305	50.00	16.00
42-4-1305.5 (2)	50.00	7.80
42-4-1402	150.00	16.00
42-4-1403	30.00	6.00
42-4-1404	15.00	6.00
42-4-1406	35.00	10.00
42-4-1407 (3)(a)	35.00	10.00
42-4-1407 (3)(b)	100.00	30.00
42-4-1407 (3)(c)	500.00	200.00
42-4-314	35.00	10.00
42-4-1408	15.00	6.00
42-4-1414 (2)(a)	500.00	156.00
42-4-1414 (2)(b)	1,000.00	312.00

42-4-1414 (2)(c)	5,000.00	1,560.00
42-4-1416 (3)	75.00	4.00
42-20-109 (2)	250.00	66.00

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

SECTION 8. In Colorado Revised Statutes, 42-2-126, **amend** (4) (d) (II) (A) as follows:

42-2-126. Revocation of license based on administrative determination. (4) **Multiple restraints and conditions on driving privileges.** (d) (II) (A) If a person was determined to be driving with excess BAC and the person had a BAC that was 0.15 or more 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 the person to complete a level II alcohol and drug education and treatment program certified by the unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse, pursuant to section 42-4-1301.3 as a condition to restoring driving privileges to the person and, upon the restoration of driving privileges, shall require the person to hold a restricted license requiring the use of an ignition interlock device pursuant to ~~section 42-2-132.5(1)(b)~~ SECTION 42-2-132.5 (1) (a) (II).

SECTION 9. In Colorado Revised Statutes, 42-2-132, **amend** (2) (a) (II) (B) as follows:

42-2-132. Period of suspension or revocation. (2) (a) (II) (B) If the person was determined to be in violation of section 42-2-126 (3) (a) and the person had a BAC that was 0.15 or more 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 the person to complete a level II alcohol and drug education and treatment program certified by the unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse, pursuant to section 42-4-1301.3, and, upon the restoration of driving privileges, shall require the person to hold a restricted license requiring the use of an ignition interlock device pursuant to ~~section 42-2-132.5 (1) (b)~~ SECTION 42-2-132.5 (1) (a) (II).

SECTION 10. In Colorado Revised Statutes, 17-2-201, **add** (5.9) as follows:

17-2-201. State board of parole. (5.9) AS A CONDITION OF PAROLE OF EACH PERSON CONVICTED OF A FELONY DUI OFFENSE DESCRIBED IN SECTION 42-4-1301 (1) (a), (1) (b), OR (2) (a), C.R.S., THE BOARD SHALL REQUIRE THE PAROLEE TO USE AN APPROVED IGNITION INTERLOCK DEVICE FOR THE ENTIRE PERIOD OF THE PERSON'S PAROLE.

SECTION 11. In Colorado Revised Statutes, **add** 17-18-120 as follows:

17-18-120. Appropriation to comply with section 2-2-703 - HB 15-1043 - repeal. (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY APPROPRIATIONS ARE MADE IN ORDER TO IMPLEMENT HOUSE BILL 15-1043, ENACTED IN 2015:

(a) FOR THE 2016-17 STATE FISCAL YEAR, TWO MILLION FIVE HUNDRED EIGHTY-ONE THOUSAND NINE HUNDRED FORTY-FOUR DOLLARS IS APPROPRIATED TO THE DEPARTMENT FROM THE GENERAL FUND.

(b) FOR THE 2017-18 STATE FISCAL YEAR, SIX MILLION FOUR HUNDRED NINETY-SEVEN THOUSAND ONE HUNDRED FIFTY-EIGHT DOLLARS IS APPROPRIATED TO THE DEPARTMENT FROM THE GENERAL FUND.

(c) FOR THE 2018-19 STATE FISCAL YEAR, NINE MILLION THREE HUNDRED NINETY-SEVEN THOUSAND SIX HUNDRED EIGHTY-NINE DOLLARS IS APPROPRIATED TO THE DEPARTMENT FROM THE GENERAL FUND.

(d) FOR THE 2019-20 STATE FISCAL YEAR, NINE MILLION THREE HUNDRED NINETY-SEVEN THOUSAND SIX HUNDRED EIGHTY-NINE DOLLARS

IS APPROPRIATED TO THE DEPARTMENT FROM THE GENERAL FUND.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2020.

SECTION 12. Appropriation. For the 2015-16 state fiscal year, \$1,272,133 is appropriated to the judicial department. This appropriation is from the general fund and is based on an assumption that the department will require an additional 14.2 FTE. To implement this act, the judicial department may use this appropriation as follows:

<u>Trial courts</u>	
Trial court programs	\$700,394 (8.8 FTE)
<u>Probation and related services</u>	
Probation programs	\$152,261 (2.3 FTE)
<u>Centrally administered programs</u>	
Courthouse capital/infrastructure maintenance	\$231,126
<u>Office of the state public defender</u>	
Personal services	\$167,569 (3.1 FTE)
Operating expenses	\$2,945
Attorney registration	\$437
Capital outlay	\$17,401

SECTION 13. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

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

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO