

**Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**PREAMENDED**

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

LLS NO. 10-0360.01 Richard Sweetman

**HOUSE BILL 10-1347**

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**HOUSE SPONSORSHIP**

**Levy,**

**SENATE SPONSORSHIP**

**Morse,**

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**House Committees**

Judiciary  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING MISDEMEANOR PENALTIES FOR PERSONS WHO ARE**  
102             **CONVICTED OF MULTIPLE TRAFFIC OFFENSES INVOLVING**  
103             **ALCOHOL OR DRUGS.**

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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>.)*

The bill adjusts the penalties for second offenses of driving under the influence (DUI) and driving while ability impaired (DWAI) and creates new penalties for third and subsequent offenses of DUI and DWAI.

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.*

In sentencing persons for DUI, DWAI, DUI per se, and habitual user, courts are encouraged to require the use of approved ignition interlock devices by persons as a condition of bond, probation, and participation in work, educational, and medical release programs.

An approved alcohol or drug treatment facility may not require a person to repeat any portion of an alcohol or drug treatment program that he or she has successfully completed while he or she was imprisoned.

The bill creates the court-ordered alcohol treatment fund to pay for court-ordered alcohol treatment and ignition interlock devices for indigent offenders and court-ordered alcohol treatment programs for incarcerated offenders.

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

2 **SECTION 1. Repeal.** 42-4-1301 (7), Colorado Revised Statutes,  
3 is repealed.

4 **SECTION 2.** Part 13 of article 4 of title 42, Colorado Revised  
5 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
6 read:

7 **42-4-1307. Penalties for traffic offenses involving alcohol and**  
8 **drugs - repeal.** (1) **Legislative declaration.** THE GENERAL ASSEMBLY  
9 HEREBY FINDS AND DECLARES THAT, FOR THE PURPOSES OF SENTENCING  
10 AS DESCRIBED IN SECTION 18-1-102.5, C.R.S., EACH SENTENCE FOR A  
11 CONVICTION OF A VIOLATION OF SECTION 42-4-1301 SHALL INCLUDE:

12 (a) A PERIOD OF IMPRISONMENT, WHICH, FOR A REPEAT OFFENDER,  
13 SHALL INCLUDE A MANDATORY MINIMUM PERIOD OF IMPRISONMENT AND  
14 RESTRICTIONS ON WHERE AND HOW THE SENTENCE MAY BE SERVED; AND

15 (b) A PERIOD OF PROBATION. THE PURPOSE OF PROBATION IS TO  
16 HELP THE OFFENDER CHANGE HIS OR HER BEHAVIOR TO REDUCE THE RISK  
17 OF FUTURE VIOLATIONS OF SECTION 42-4-1301. IF A COURT IMPOSES  
18 IMPRISONMENT AS A PENALTY ON AN OFFENDER FOR A VIOLATION OF A  
19 CONDITION OF HIS OR HER PROBATION, THE PENALTY SHALL CONSTITUTE

1 A SEPARATE PERIOD OF IMPRISONMENT THAT THE OFFENDER SHALL SERVE  
2 IN ADDITION TO THE IMPRISONMENT COMPONENT OF HIS OR HER ORIGINAL  
3 SENTENCE.

4 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT  
5 OTHERWISE REQUIRES:

6 (a) "CONVICTION" MEANS A VERDICT OF GUILTY BY A JUDGE OR  
7 JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS ACCEPTED BY  
8 THE COURT FOR AN OFFENSE, OR ADJUDICATION FOR AN OFFENSE THAT  
9 WOULD CONSTITUTE A CRIMINAL OFFENSE IF COMMITTED BY AN ADULT.  
10 "CONVICTION" ALSO INCLUDES HAVING RECEIVED A DEFERRED JUDGMENT  
11 AND SENTENCE OR DEFERRED ADJUDICATION; EXCEPT THAT A PERSON  
12 SHALL NOT BE DEEMED TO HAVE BEEN CONVICTED IF THE PERSON HAS  
13 SUCCESSFULLY COMPLETED A DEFERRED SENTENCE OR DEFERRED  
14 ADJUDICATION.

15 (b) "DRIVING UNDER THE INFLUENCE" OR "DUI" MEANS DRIVING  
16 A MOTOR VEHICLE OR VEHICLE WHEN A PERSON HAS CONSUMED ALCOHOL  
17 OR ONE OR MORE DRUGS, OR A COMBINATION OF ALCOHOL AND ONE OR  
18 MORE DRUGS, THAT AFFECTS THE PERSON TO A DEGREE THAT THE PERSON  
19 IS SUBSTANTIALLY INCAPABLE, EITHER MENTALLY OR PHYSICALLY, OR  
20 BOTH MENTALLY AND PHYSICALLY, OF EXERCISING CLEAR JUDGMENT,  
21 SUFFICIENT PHYSICAL CONTROL, OR DUE CARE IN THE SAFE OPERATION OF  
22 A VEHICLE.

23 (c) "DRIVING WHILE ABILITY IMPAIRED" OR "DWAI" MEANS  
24 DRIVING A MOTOR VEHICLE OR VEHICLE WHEN A PERSON HAS CONSUMED  
25 ALCOHOL OR ONE OR MORE DRUGS, OR A COMBINATION OF BOTH ALCOHOL  
26 AND ONE OR MORE DRUGS, THAT AFFECTS THE PERSON TO THE SLIGHTEST  
27 DEGREE SO THAT THE PERSON IS LESS ABLE THAN THE PERSON ORDINARILY

1 WOULD HAVE BEEN, EITHER MENTALLY OR PHYSICALLY, OR BOTH  
2 MENTALLY AND PHYSICALLY, TO EXERCISE CLEAR JUDGMENT, SUFFICIENT  
3 PHYSICAL CONTROL, OR DUE CARE IN THE SAFE OPERATION OF A VEHICLE.

4 (d) "UDD" SHALL HAVE THE SAME MEANING AS PROVIDED IN  
5 SECTION 42-1-102 (109.7).

6 (3) **First offenses - DUI, DUI per se, and habitual user.**  
7 EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (5) AND (6) OF THIS  
8 SECTION, A PERSON WHO IS CONVICTED OF DUI, DUI PER SE, OR HABITUAL  
9 USER SHALL BE PUNISHED BY:

10 (a) IMPRISONMENT IN THE COUNTY JAIL FOR AT LEAST FIVE DAYS  
11 BUT NO MORE THAN ONE YEAR, THE MINIMUM PERIOD OF WHICH SHALL BE  
12 MANDATORY EXCEPT AS OTHERWISE PROVIDED IN SECTION 42-4-1301.3;

13 (b) A FINE OF AT LEAST SIX HUNDRED DOLLARS BUT NO MORE  
14 THAN ONE THOUSAND DOLLARS; AND

15 (c) AT LEAST FORTY-EIGHT HOURS BUT NO MORE THAN NINETY-SIX  
16 HOURS OF USEFUL PUBLIC SERVICE, AND THE COURT SHALL NOT HAVE  
17 DISCRETION TO SUSPEND THE MANDATORY MINIMUM PERIOD OF  
18 PERFORMANCE OF SUCH SERVICE.

19 (4) **First offenses - DWAI.** EXCEPT AS OTHERWISE PROVIDED IN  
20 SUBSECTIONS (5) AND (6) OF THIS SECTION, A PERSON WHO IS CONVICTED  
21 OF DWAI SHALL BE PUNISHED BY:

22 (a) IMPRISONMENT IN THE COUNTY JAIL FOR AT LEAST TWO DAYS  
23 BUT NO MORE THAN ONE HUNDRE EIGHTY DAYS, THE MINIMUM PERIOD OF  
24 WHICH SHALL BE MANDATORY EXCEPT AS PROVIDED IN SECTION  
25 42-4-1301.3; AND

26 (b) A FINE OF AT LEAST TWO HUNDRED DOLLARS BUT NO MORE  
27 THAN FIVE HUNDRED DOLLARS; AND

1 (c) AT LEAST TWENTY-FOUR HOURS BUT NO MORE THAN  
2 FORTY-EIGHT HOURS OF USEFUL PUBLIC SERVICE, AND THE COURT SHALL  
3 NOT HAVE DISCRETION TO SUSPEND THE MANDATORY MINIMUM PERIOD OF  
4 PERFORMANCE OF SUCH SERVICE.

5 (5) **Second offenses.** (a) EXCEPT AS OTHERWISE PROVIDED IN  
6 SUBSECTION (6) OF THIS SECTION, A PERSON WHO IS CONVICTED OF DUI,  
7 DUI PER SE, DWAI, OR HABITUAL USER WHO, AT THE TIME OF  
8 SENTENCING, HAS A PRIOR CONVICTION OF DUI, DUI PER SE, DWAI,  
9 HABITUAL USER, VEHICULAR HOMICIDE PURSUANT TO SECTION 18-3-106  
10 (1) (b) (I), C.R.S., OR VEHICULAR ASSAULT PURSUANT TO SECTION  
11 18-3-205 (1) (b), C.R.S., OR OF DRIVING WHILE THE PERSON'S DRIVER'S  
12 LICENSE WAS UNDER RESTRAINT PURSUANT TO SECTION 42-2-138 (1) (d),  
13 SHALL BE PUNISHED BY:

14 (I) IMPRISONMENT IN THE COUNTY JAIL FOR AT LEAST TEN  
15 CONSECUTIVE DAYS BUT NO MORE THAN ONE YEAR. DURING THE  
16 MANDATORY TEN-DAY PERIOD OF IMPRISONMENT, THE PERSON SHALL NOT  
17 BE ELIGIBLE FOR EARNED TIME, GOOD TIME, OR TRUSTY PRISONER STATUS  
18 PURSUANT TO SECTION 17-26-115, C.R.S.; EXCEPT THAT THE PERSON  
19 SHALL RECEIVE CREDIT FOR ANY TIME THAT HE OR SHE SERVED IN  
20 CUSTODY FOR THE VIOLATION PRIOR TO HIS OR HER CONVICTION. DURING  
21 THE MANDATORY PERIOD OF IMPRISONMENT, THE PERSON MAY  
22 PARTICIPATE IN A PROGRAM PURSUANT TO SECTION 18-1.3-106 (1) (a) (I),  
23 (1) (a) (IV), OR (1) (a) (V), C.R.S., ONLY IF THE PROGRAM IS AVAILABLE  
24 THROUGH THE COUNTY IN WHICH THE PERSON IS IMPRISONED AND ONLY  
25 FOR THE PURPOSE OF:

26 (A) CONTINUING A POSITION OF EMPLOYMENT THAT THE PERSON  
27 HELD AT THE TIME OF SENTENCING FOR SAID VIOLATION;

1 (B) CONTINUING ATTENDANCE AT AN EDUCATIONAL INSTITUTION  
2 AT WHICH THE PERSON WAS ENROLLED AT THE TIME OF SENTENCING FOR  
3 SAID VIOLATION; OR

4 (C) PARTICIPATING IN A COURT-ORDERED LEVEL II ALCOHOL AND  
5 DRUG DRIVING SAFETY EDUCATION OR TREATMENT PROGRAM, AS  
6 DESCRIBED IN SECTION 42-4-1301.3 (3) (c) (IV);

7 (II) A FINE OF AT LEAST SIX HUNDRED DOLLARS BUT NO MORE  
8 THAN ONE THOUSAND FIVE HUNDRED DOLLARS;

9 (III) AT LEAST FORTY-EIGHT HOURS BUT NO MORE THAN ONE  
10 HUNDRED TWENTY HOURS OF USEFUL PUBLIC SERVICE, AND THE COURT  
11 SHALL NOT HAVE DISCRETION TO SUSPEND THE MANDATORY MINIMUM  
12 PERIOD OF PERFORMANCE OF THE SERVICE; AND

13 (IV) A PERIOD OF PROBATION OF AT LEAST TWO YEARS, WHICH  
14 PERIOD SHALL BEGIN IMMEDIATELY UPON THE COMMENCEMENT OF ANY  
15 PART OF THE SENTENCE THAT IS IMPOSED UPON THE PERSON PURSUANT TO  
16 THIS SECTION, AND A SUSPENDED SENTENCE OF IMPRISONMENT IN THE  
17 COUNTY JAIL FOR ONE YEAR, AS DESCRIBED IN SUBSECTION (7) OF THIS  
18 SECTION.

19 (b) IF A PERSON IS CONVICTED OF DUI, DUI PER SE, DWAI, OR  
20 HABITUAL USER AND THE VIOLATION OCCURRED LESS THAN FIVE YEARS  
21 AFTER THE DATE OF A PREVIOUS VIOLATION FOR WHICH THE PERSON WAS  
22 CONVICTED OF DUI, DUI PER SE, DWAI, HABITUAL USER, VEHICULAR  
23 HOMICIDE PURSUANT TO SECTION 18-3-106 (1) (b) (I), C.R.S., VEHICULAR  
24 ASSAULT PURSUANT TO SECTION 18-3-205 (1) (b), C.R.S., OR DRIVING  
25 WHILE THE PERSON'S DRIVER'S LICENSE WAS UNDER RESTRAINT PURSUANT  
26 TO SECTION 42-2-138 (1) (d), THE COURT SHALL NOT HAVE DISCRETION TO  
27 EMPLOY ANY SENTENCING ALTERNATIVES DESCRIBED IN PART 1 OF

1 ARTICLE 1.3 OF TITLE 18, C.R.S., DURING THE MINIMUM PERIOD OF  
2 IMPRISONMENT DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF  
3 THIS SUBSECTION (5); EXCEPT THAT A COURT MAY ALLOW THE PERSON TO  
4 PARTICIPATE IN A PROGRAM PURSUANT TO SECTION 18-1.3-106 (1) (a) (I),  
5 (1) (a) (IV), OR (1) (a) (V), C.R.S., ONLY IF THE PROGRAM IS AVAILABLE  
6 THROUGH THE COUNTY IN WHICH THE PERSON IMPRISONED AND ONLY FOR  
7 THE PURPOSE OF:

8 (A) CONTINUING A POSITION OF EMPLOYMENT THAT THE PERSON  
9 HELD AT THE TIME OF SENTENCING FOR SAID VIOLATION;

10 (B) CONTINUING ATTENDANCE AT AN EDUCATIONAL INSTITUTION  
11 AT WHICH THE PERSON WAS ENROLLED AT THE TIME OF SENTENCING FOR  
12 SAID VIOLATION; OR

13 (C) PARTICIPATING IN A COURT-ORDERED LEVEL II ALCOHOL AND  
14 DRUG DRIVING SAFETY EDUCATION OR TREATMENT PROGRAM, AS  
15 DESCRIBED IN SECTION 42-4-1301.3 (3) (c) (IV).

16 (6) **Third and subsequent offenses.** A PERSON WHO IS  
17 CONVICTED OF DUI, DUI PER SE, DWAI, OR HABITUAL USER WHO, AT THE  
18 TIME OF SENTENCING, HAS TWO OR MORE PRIOR CONVICTIONS OF DUI,  
19 DUI PER SE, DWAI, HABITUAL USER, VEHICULAR HOMICIDE PURSUANT TO  
20 SECTION 18-3-106 (1) (b) (I), C.R.S., OR VEHICULAR ASSAULT PURSUANT  
21 TO SECTION 18-3-205 (1) (b), C.R.S., OR OF DRIVING WHILE THE PERSON'S  
22 DRIVER'S LICENSE WAS UNDER RESTRAINT PURSUANT TO SECTION 42-2-138  
23 (1) (d) SHALL BE PUNISHED BY:

24 (a) IMPRISONMENT IN THE COUNTY JAIL FOR AT LEAST SIXTY  
25 CONSECUTIVE DAYS BUT NO MORE THAN ONE YEAR. DURING THE  
26 MANDATORY SIXTY-DAY PERIOD OF IMPRISONMENT, THE PERSON SHALL  
27 NOT BE ELIGIBLE FOR EARNED TIME, GOOD TIME, OR TRUSTY PRISONER

1 STATUS PURSUANT TO SECTION 17-26-115, C.R.S.; EXCEPT THAT A PERSON  
2 SHALL RECEIVE CREDIT FOR ANY TIME THAT HE OR SHE SERVED IN  
3 CUSTODY FOR THE VIOLATION PRIOR TO HIS OR HER CONVICTION. DURING  
4 THE MANDATORY PERIOD OF IMPRISONMENT, THE PERSON MAY  
5 PARTICIPATE IN A PROGRAM PURSUANT TO SECTION 18-1.3-106 (1) (a) (I),  
6 (1) (a) (IV), OR (1) (a) (V), C.R.S., ONLY IF THE PROGRAM IS AVAILABLE  
7 THROUGH THE COUNTY IN WHICH THE PERSON IS IMPRISONED AND ONLY  
8 FOR THE PURPOSE OF:

9 (I) CONTINUING A POSITION OF EMPLOYMENT THAT THE PERSON  
10 HELD AT THE TIME OF SENTENCING FOR SAID VIOLATION;

11 (II) CONTINUING ATTENDANCE AT AN EDUCATIONAL INSTITUTION  
12 AT WHICH THE PERSON WAS ENROLLED AT THE TIME OF SENTENCING FOR  
13 SAID VIOLATION; OR

14 (III) PARTICIPATING IN A COURT-ORDERED LEVEL II ALCOHOL AND  
15 DRUG DRIVING SAFETY EDUCATION OR TREATMENT PROGRAM, AS  
16 DESCRIBED IN SECTION 42-4-1301.3 (3) (c) (IV);

17 (b) A FINE OF AT LEAST SIX HUNDRED DOLLARS BUT NO MORE  
18 THAN ONE THOUSAND FIVE HUNDRED DOLLARS;

19 (c) AT LEAST FORTY-EIGHT HOURS BUT NO MORE THAN ONE  
20 HUNDRED TWENTY HOURS OF USEFUL PUBLIC SERVICE, AND THE COURT  
21 SHALL NOT HAVE DISCRETION TO SUSPEND THE MANDATORY MINIMUM  
22 PERIOD OF PERFORMANCE OF THE SERVICE; AND

23 (d) A PERIOD OF PROBATION OF AT LEAST TWO YEARS, WHICH  
24 PERIOD SHALL BEGIN IMMEDIATELY UPON THE COMMENCEMENT OF ANY  
25 PART OF THE SENTENCE THAT IS IMPOSED UPON THE PERSON PURSUANT TO  
26 THIS SECTION, AND A SUSPENDED SENTENCE OF IMPRISONMENT IN THE  
27 COUNTY JAIL FOR ONE YEAR, AS DESCRIBED IN SUBSECTION (7) OF THIS



1 SECTION.

2 (7) **Probation-related penalties.** WHEN A PERSON IS SENTENCED  
3 TO A PERIOD OF PROBATION PURSUANT TO SUBPARAGRAPH (IV) OF  
4 PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION OR PARAGRAPH (d)  
5 OF SUBSECTION (6) OF THIS SECTION:

6 (a) THE COURT SHALL IMPOSE, IN ADDITION TO ANY OTHER  
7 CONDITION OF PROBATION, A SENTENCE TO ONE YEAR OF IMPRISONMENT  
8 IN THE COUNTY JAIL, WHICH SENTENCE SHALL BE SUSPENDED, AND  
9 AGAINST WHICH SENTENCE THE PERSON SHALL NOT RECEIVE CREDIT FOR  
10 ANY PERIOD OF IMPRISONMENT TO WHICH HE OR SHE IS SENTENCED  
11 PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (5)  
12 OF THIS SECTION OR PARAGRAPH (d) OF SUBSECTION (6) OF THIS SECTION;

13 (b) THE COURT:

14 (I) SHALL INCLUDE, AS A CONDITION OF THE PERSON'S PROBATION,  
15 A REQUIREMENT THAT THE PERSON COMPLETE A LEVEL II ALCOHOL AND  
16 DRUG DRIVING SAFETY EDUCATION OR TREATMENT PROGRAM, AS  
17 DESCRIBED IN SECTION 42-4-1301.3 (3) (c) (IV), AT THE PERSON'S OWN  
18 EXPENSE;

19 (II) MAY IMPOSE AN ADDITIONAL PERIOD OF PROBATION FOR THE  
20 PURPOSE OF MONITORING THE PERSON OR ENSURING THAT THE PERSON  
21 CONTINUES TO RECEIVE COURT-ORDERED ALCOHOL OR SUBSTANCE ABUSE  
22 TREATMENT, WHICH ADDITIONAL PERIOD SHALL NOT EXCEED TWO YEARS,  
23 AS DESCRIBED IN SUBSECTION (11) OF THIS SECTION;

24 (III) MAY REQUIRE THAT THE PERSON COMMENCE THE ALCOHOL  
25 AND DRUG DRIVING SAFETY EDUCATION OR TREATMENT PROGRAM  
26 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) DURING ANY  
27 PERIOD OF IMPRISONMENT TO WHICH THE PERSON IS SENTENCED;

1 (IV) MAY REQUIRE THE PERSON TO APPEAR BEFORE THE COURT AT  
2 ANY TIME DURING THE PERSON'S PERIOD OF PROBATION; [REDACTED]

3 (V) MAY REQUIRE THE PERSON TO USE AN APPROVED IGNITION  
4 INTERLOCK DEVICE, AS DEFINED IN SECTION 42-2-132.5 (7) (a), DURING  
5 THE PERIOD OF PROBATION AT THE PERSON'S OWN EXPENSE;

6 (VI) MAY REQUIRE THE PERSON TO SUBMIT TO CONTINUOUS  
7 ALCOHOL MONITORING USING SUCH TECHNOLOGY OR DEVICES AS ARE  
8 AVAILABLE TO THE COURT FOR SUCH PURPOSE; AND

9 (VII) MAY IMPOSE SUCH ADDITIONAL CONDITIONS OF PROBATION  
10 AS MAY BE PERMITTED BY LAW.

11 (c) (I) THE COURT MAY IMPOSE ALL OR PART OF THE SUSPENDED  
12 SENTENCE DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF  
13 SUBSECTION (5) OF THIS SECTION OR PARAGRAPH (d) OF SUBSECTION (6)  
14 OF THIS SECTION AT ANY TIME DURING THE PERIOD OF PROBATION IF THE  
15 PERSON VIOLATES A CONDITION OF HIS OR HER PROBATION. UPON  
16 COMPLETION OF THE PERIOD OF IMPRISONMENT, THE PERSON SHALL  
17 RESUME SERVING THE PROBATION SENTENCE WITH NO REDUCTION IN TIME  
18 FOR THE SENTENCE TO PROBATION. A CUMULATIVE PERIOD OF  
19 IMPRISONMENT IMPOSED PURSUANT TO THIS PARAGRAPH (c) SHALL NOT  
20 EXCEED ONE YEAR.

21 (II) IN IMPOSING A SENTENCE OF IMPRISONMENT PURSUANT TO  
22 SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE COURT SHALL CONSIDER  
23 THE NATURE OF THE VIOLATION, THE REPORT OR TESTIMONY OF THE  
24 PROBATION DEPARTMENT, THE IMPACT ON PUBLIC SAFETY, THE PROGRESS  
25 OF THE PERSON IN ANY COURT-ORDERED ALCOHOL AND DRUG DRIVING  
26 SAFETY EDUCATION OR TREATMENT PROGRAM, AND ANY OTHER  
27 INFORMATION THAT MAY ASSIST THE COURT IN PROMOTING THE PERSON'S

1 COMPLIANCE WITH THE CONDITIONS OF HIS OR HER PROBATION. ANY  
2 IMPRISONMENT IMPOSED UPON A PERSON BY THE COURT PURSUANT TO  
3 SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) SHALL BE IMPOSED IN A  
4 MANNER THAT PROMOTES THE PERSON'S COMPLIANCE WITH THE  
5 CONDITIONS OF HIS OR HER PROBATION AND NOT MERELY AS A PUNITIVE  
6 MEASURE.

7 (d) THE PROSECUTION, THE PERSON, THE PERSON'S COUNSEL, OR  
8 THE PERSON'S PROBATION OFFICER MAY PETITION THE COURT AT ANY TIME  
9 FOR AN EARLY TERMINATION OF THE PERIOD OF PROBATION, WHICH THE  
10 COURT MAY GRANT UPON A SHOWING THAT:

11 (I) THE PERSON HAS SUCCESSFULLY COMPLETED A LEVEL II  
12 ALCOHOL AND DRUG DRIVING SAFETY EDUCATION OR TREATMENT  
13 PROGRAM PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (b) OF  
14 THIS SUBSECTION (7);

15 (II) THE PERSON HAS OTHERWISE COMPLIED WITH THE TERMS AND  
16 CONDITIONS OF HIS OR HER PROBATION; AND

17 (III) EARLY TERMINATION OF THE PERIOD OF PROBATION WILL NOT  
18 ENDANGER PUBLIC SAFETY.

19 (8) **Ignition interlock devices.** IN SENTENCING A PERSON  
20 PURSUANT TO THIS SECTION, COURTS ARE ENCOURAGED TO REQUIRE THE  
21 PERSON TO USE AN APPROVED IGNITION INTERLOCK DEVICE, AS DEFINED  
22 IN SECTION 42-2-132.5 (7) (a), AS A CONDITION OF BOND, PROBATION, AND  
23 PARTICIPATION IN PROGRAMS PURSUANT TO SECTION 18-1.3-106, C.R.S.

24 (9) **Previous convictions.** (a) FOR THE PURPOSES OF  
25 SUBSECTIONS (5) AND (6) OF THIS SECTION, A PERSON SHALL BE DEEMED  
26 TO HAVE A PREVIOUS CONVICTION FOR DUI, DUI PER SE, DWAI,  
27 HABITUAL USER, VEHICULAR HOMICIDE PURSUANT TO SECTION 18-3-106

1 (1) (b) (I), C.R.S., OR VEHICULAR ASSAULT PURSUANT TO SECTION  
2 18-3-205 (1) (b) (I), C.R.S., IF THE PERSON HAS BEEN CONVICTED UNDER  
3 THE LAWS OF THIS STATE OR UNDER THE LAWS OF ANY OTHER STATE, THE  
4 UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE  
5 UNITED STATES, OF AN ACT THAT, IF COMMITTED WITHIN THIS STATE,  
6 WOULD CONSTITUTE THE OFFENSE OF DUI, DUI PER SE, DWAI, HABITUAL  
7 USER, VEHICULAR HOMICIDE PURSUANT TO SECTION 18-3-106 (1) (b) (I),  
8 C.R.S., OR VEHICULAR ASSAULT PURSUANT TO SECTION 18-3-205 (1) (b)  
9 (I), C.R.S.

10 (b) (I) FOR SENTENCING PURPOSES CONCERNING CONVICTIONS FOR  
11 SECOND AND SUBSEQUENT OFFENSES, PRIMA FACIE PROOF OF A PERSON'S  
12 PREVIOUS CONVICTIONS SHALL BE ESTABLISHED WHEN:

13 (A) THE PROSECUTING ATTORNEY AND THE PERSON STIPULATE TO  
14 THE EXISTENCE OF THE PRIOR CONVICTION OR CONVICTIONS;

15 (B) THE PROSECUTING ATTORNEY PRESENTS TO THE COURT A REDACTED  
16 COPY OF THE PERSON'S DRIVING RECORD PROVIDED BY THE DEPARTMENT  
17 OF REVENUE OR BY A SIMILAR AGENCY IN ANOTHER STATE, WHICH RECORD  
18 CONTAINS A REFERENCE TO THE PREVIOUS CONVICTION OR CONVICTIONS;  
19 OR

20 (C) THE PROSECUTING ATTORNEY PRESENTS AN AUTHENTICATED  
21 COPY OF THE RECORD OF THE PREVIOUS CONVICTION OR JUDGMENT FROM  
22 A COURT OF RECORD OF THIS STATE OR FROM A COURT OF ANY OTHER  
23 STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO THE  
24 JURISDICTION OF THE UNITED STATES.

25 (II) THE COURT SHALL NOT PROCEED TO IMMEDIATE SENTENCING  
26 IF THE PROSECUTING ATTORNEY AND THE PERSON HAVE NOT STIPULATED  
27 TO PREVIOUS CONVICTIONS OR IF THE PROSECUTION HAS REQUESTED AN

1 OPPORTUNITY TO OBTAIN A DRIVING RECORD OR A COPY OF A COURT  
2 RECORD. THE PROSECUTING ATTORNEY SHALL NOT BE REQUIRED TO  
3 PLEAD OR PROVE ANY PREVIOUS CONVICTIONS AT TRIAL, AND THE COURT  
4 SHALL DETERMINE SENTENCING FOR CONVICTIONS FOR SECOND AND  
5 SUBSEQUENT OFFENSES.

6 (10) **Additional costs and surcharges.** IN ADDITION TO THE  
7 PENALTIES PRESCRIBED IN THIS SECTION:

8 (a) PERSONS CONVICTED OF DUI, DUI PER SE, DWAI, HABITUAL  
9 USER, AND UDD ARE SUBJECT TO THE COSTS IMPOSED BY SECTION  
10 24-4.1-119 (1) (c), C.R.S., RELATING TO THE CRIME VICTIM  
11 COMPENSATION FUND;

12 (b) PERSONS CONVICTED OF DUI, DUI PER SE, DWAI, AND  
13 HABITUAL USER ARE SUBJECT TO A SURCHARGE OF AT LEAST ONE  
14 HUNDRED DOLLARS BUT NO MORE THAN FIVE HUNDRED DOLLARS TO FUND  
15 PROGRAMS TO REDUCE THE NUMBER OF PERSISTENT DRUNK DRIVERS. THE  
16 SURCHARGE SHALL BE MANDATORY, AND THE COURT SHALL NOT HAVE  
17 DISCRETION TO SUSPEND OR WAIVE THE SURCHARGE; EXCEPT THAT THE  
18 COURT MAY SUSPEND OR WAIVE THE SURCHARGE IF THE COURT  
19 DETERMINES THAT A PERSON IS INDIGENT. MONEYS COLLECTED FOR THE  
20 SURCHARGE SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO  
21 SHALL CREDIT [REDACTED] THE AMOUNT COLLECTED TO THE PERSISTENT DRUNK  
22 DRIVER CASH FUND CREATED IN SECTION 42-3-303. [REDACTED]

23 (c) PERSONS CONVICTED OF DUI, DUI PER SE, DWAI, HABITUAL  
24 USER, AND UDD ARE SUBJECT TO A SURCHARGE OF TWENTY DOLLARS TO  
25 BE TRANSMITTED TO THE STATE TREASURER WHO SHALL DEPOSIT MONEYS  
26 COLLECTED FOR THE SURCHARGE IN THE COLORADO TRAUMATIC BRAIN  
27 INJURY TRUST FUND CREATED PURSUANT TO SECTION 26-1-309, C.R.S.;

1 (d) (I) PERSONS CONVICTED OF DUI, DUI PER SE, DWAI, AND  
2 HABITUAL USER ARE SUBJECT TO A SURCHARGE OF AT LEAST ONE DOLLAR  
3 BUT NO MORE THAN TEN DOLLARS FOR PROGRAMS TO FUND EFFORTS TO  
4 ADDRESS ALCOHOL AND SUBSTANCE ABUSE PROBLEMS AMONG PERSONS  
5 IN RURAL AREAS. THE SURCHARGE SHALL BE MANDATORY, AND THE  
6 COURT SHALL NOT HAVE DISCRETION TO SUSPEND OR WAIVE THE  
7 SURCHARGE; EXCEPT THAT THE COURT MAY SUSPEND OR WAIVE THE  
8 SURCHARGE IF THE COURT DETERMINES THAT A PERSON IS INDIGENT. ANY  
9 MONEYS COLLECTED FOR THE SURCHARGE SHALL BE TRANSMITTED TO THE  
10 STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE RURAL ALCOHOL  
11 AND SUBSTANCE ABUSE CASH FUND CREATED IN SECTION 25-1-217 (3),  
12 C.R.S.

13 (II) THIS PARAGRAPH (d) IS REPEALED, EFFECTIVE JULY 1, 2016,  
14 UNLESS THE GENERAL ASSEMBLY EXTENDS THE REPEAL OF THE RURAL  
15 ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT  
16 PROGRAM CREATED IN SECTION 25-1-217, C.R.S.


17 (11) **Additional probation.** IN ADDITION TO ANY OTHER  
18 PENALTY PROVIDED BY LAW, THE COURT MAY SENTENCE A PERSON WHO  
19 IS CONVICTED OF DUI, DUI PER SE, DWAI, HABITUAL USER, OR UDD TO  
20 A PERIOD OF PROBATION NOT TO EXCEED TWO YEARS FOR PURPOSES OF  
21 COMPLETING A LEVEL II ALCOHOL AND DRUG DRIVING SAFETY EDUCATION  
22 OR TREATMENT PROGRAM, AS DESCRIBED IN SECTION 42-4-1301.3 (3) (c)  
23 (IV). A COURT MAY ALSO SENTENCE A PERSON WHO IS TWICE OR MORE  
24 CONVICTED OF DUI, DUI PER SE, DWAI, HABITUAL USER, OR UDD TO A  
25 PERIOD OF PROBATION NOT TO EXCEED TWO ADDITIONAL YEARS TO  
26 MONITOR THE PERSON'S COMPLIANCE WITH COURT ORDERS. AS A  
27 CONDITION OF PROBATION, THE PERSON SHALL BE REQUIRED TO MAKE

1 RESTITUTION IN ACCORDANCE WITH THE PROVISIONS OF SECTION  
2 18-1.3-205, C.R.S.

3 (12) **Victim impact panels.** IN ADDITION TO ANY OTHER  
4 PENALTY PROVIDED BY LAW, THE COURT MAY SENTENCE A PERSON  
5 CONVICTED OF DUI, DUI PER SE, DWAI, HABITUAL USER, OR UDD TO  
6 ATTEND AND PAY FOR ONE APPEARANCE AT A VICTIM IMPACT PANEL  
7 APPROVED BY THE COURT, FOR WHICH THE FEE ASSESSED TO THE PERSON  
8 SHALL NOT EXCEED TWENTY-FIVE DOLLARS.

9 (13) **Alcohol and drug evaluation and supervision costs.** IN  
10 ADDITION TO ANY FINES, FEES, OR COSTS LEVIED AGAINST A PERSON  
11 CONVICTED OF DUI, DUI PER SE, DWAI, HABITUAL USER, OR UDD, THE  
12 JUDGE SHALL ASSESS EACH SUCH PERSON FOR THE COST OF THE  
13 PRESENTENCE OR POSTSENTENCE ALCOHOL AND DRUG EVALUATION AND  
14 SUPERVISION SERVICES.

15 (14) **Public service penalty.** IN ADDITION TO ANY OTHER  
16 PENALTIES PRESCRIBED IN THIS PART 13, THE COURT SHALL ASSESS AN  
17 AMOUNT, NOT TO EXCEED ONE HUNDRED TWENTY DOLLARS, UPON A  
18 PERSON REQUIRED TO PERFORM USEFUL PUBLIC SERVICE.

19   
20 **SECTION 3.** 42-3-303 (1) (c) (II), Colorado Revised Statutes, is  
21 amended, and the said 42-3-303 is further amended BY THE ADDITION  
22 OF THE FOLLOWING NEW PARAGRAPHS, to read:

23 **42-3-303. Persistent drunk driver cash fund - programs to**  
24 **deter persistent drunk drivers.** (1) There is hereby created in the state  
25 treasury the persistent drunk driver cash fund, which shall be composed  
26 of moneys collected for penalty surcharges under section 42-4-1301 (7)  
27 (d) (II). The moneys in such fund are subject to annual appropriation by

1 the general assembly:

2 (c) (II) The departments of transportation, revenue, and human  
3 services AND THE JUDICIAL BRANCH shall coordinate programs intended  
4 to accomplish the goals described in subparagraph (I) of this paragraph  
5 (c).

6 (e) TO ASSIST IN PROVIDING COURT-ORDERED ALCOHOL  
7 TREATMENT PROGRAMS FOR INDIGENT AND INCARCERATED OFFENDERS;

8 (f) TO ASSIST IN PROVIDING APPROVED IGNITION INTERLOCK  
9 DEVICES, AS DEFINED IN SECTION 42-2-132.5 (7) (a), FOR INDIGENT  
10 OFFENDERS; AND

11 (g) TO ASSIST IN PROVIDING CONTINUOUS MONITORING  
12 TECHNOLOGY OR DEVICES FOR INDIGENT OFFENDERS.

13 **SECTION 4.** The introductory portion to 42-4-1301.3 (2) (a) (I),  
14 Colorado Revised Statutes, is amended, and the said 42-4-1301.3 is  
15 further amended BY THE ADDITION OF A NEW SUBSECTION, to  
16 read:

17 **42-4-1301.3. Alcohol and drug driving safety program.**

18 (2) (a) (I) The sentence of any person subject to the provisions of section  
19 ~~42-4-1301 (7) (a) (II), (7) (a) (IV) (7) (b) (II), or (7) (b) (III)~~ 42-4-1307  
20 may be suspended to the extent provided for in said section if the  
21 offender:

22 (6) AN APPROVED ALCOHOL OR DRUG TREATMENT FACILITY THAT  
23 PROVIDES LEVEL I OR LEVEL II PROGRAMS AS PROVIDED IN PARAGRAPH (c)  
24 OF SUBSECTION (3) OF THIS SECTION SHALL NOT REQUIRE A PERSON TO  
25 REPEAT ANY PORTION OF AN ALCOHOL AND DRUG DRIVING SAFETY  
26 EDUCATION OR TREATMENT PROGRAM THAT HE OR SHE HAS  
27 SUCCESSFULLY COMPLETED WHILE HE OR SHE WAS IMPRISONED.



1           **SECTION 5.** 25-1-217 (3) (a), Colorado Revised Statutes, is  
2 amended to read:

3           **25-1-217. Rural alcohol and substance abuse prevention and**  
4 **treatment program - creation - administration - definitions - cash**  
5 **fund - repeal.** (3) (a) There is hereby created in the state treasury the  
6 rural alcohol and substance abuse cash fund, referred to in this section as  
7 the "fund", that shall consist of the rural youth alcohol and substance  
8 abuse prevention and treatment account, referred to in this section as the  
9 "youth account", and the rural detoxification account, referred to in this  
10 section as the "detoxification account". The fund shall be comprised of  
11 moneys collected from surcharges assessed pursuant to sections  
12 18-19-103.5, ~~42-4-1301 (7) (d) (IV)~~ 42-4-1307 (10) (d) (I), and  
13 42-4-1701 (4) (f), C.R.S., which moneys shall be divided equally between  
14 the youth account and the detoxification account, and any moneys  
15 credited to the fund pursuant to paragraph (b) of this subsection (3),  
16 which moneys shall be divided equally between the youth account and  
17 the detoxification account unless the grantee or donor specifies to which  
18 account the grant, gift, or donation shall be credited. The moneys in the  
19 fund shall be subject to annual appropriation by the general assembly to  
20 the division for the purpose of implementing the program. All interest  
21 derived from the deposit and investment of moneys in the fund shall  
22 remain in the fund. Any unexpended or unencumbered moneys  
23 remaining in the fund at the end of a fiscal year shall remain in the fund  
24 and shall not be transferred or credited to the general fund or another  
25 fund; except that any unexpended and unencumbered moneys remaining  
26 in the fund as of June 30, 2016, shall be credited to the general fund.

27           **SECTION 6.** 26-1-302 (8) (d), Colorado Revised Statutes, is

1 amended to read:

2 **26-1-302. Colorado traumatic brain injury trust fund board**  
3 **- creation - powers and duties.** (8) (d) The board shall use trust fund  
4 moneys collected pursuant to sections 30-15-402 (3), ~~42-4-1301 (7) (d)~~  
5 ~~(H)~~ 42-4-1307 (10) (c) , and 42-4-1701 (4) (e), C.R.S., to provide direct  
6 services to persons with traumatic brain injuries, support research, and  
7 support education grants to increase awareness and understanding of  
8 issues and needs related to traumatic brain injury.

9 **SECTION 7.** 26-1-304 (1), Colorado Revised Statutes, is  
10 amended to read:

11 **26-1-304. Services for persons with traumatic brain injuries**  
12 **- limitations - covered services.** (1) The board shall determine the  
13 percentage of moneys credited to the trust fund to be spent annually on  
14 direct services for persons with traumatic brain injuries; however, no less  
15 than fifty-five percent of the moneys annually credited to the trust fund  
16 pursuant to sections 30-15-402 (3), ~~42-4-1301 (7) (d)~~ ~~(H)~~ 42-4-1307 (10)  
17 (c), and 42-4-1701 (4) (e), C.R.S., shall be used to provide direct services  
18 to persons with traumatic brain injuries.

19 **SECTION 8.** 26-1-305, Colorado Revised Statutes, is amended  
20 to read:

21 **26-1-305. Education about traumatic brain injury.** The board  
22 shall determine the percentage of moneys credited to the trust fund to be  
23 spent annually on education related to traumatic brain injuries; however,  
24 no less than five percent of the moneys annually credited to the trust fund  
25 pursuant to sections 30-15-402 (3), ~~42-4-1301 (7) (d)~~ ~~(H)~~ 42-4-1307 (10)  
26 (c), and 42-4-1701 (4) (e), C.R.S., shall be used to provide education  
27 related to increasing the understanding of traumatic brain injury.

1           **SECTION 9.** 26-1-306 (1), Colorado Revised Statutes, is  
2 amended to read:

3           **26-1-306. Research related to treatment of traumatic brain**  
4 **injuries - grants.** (1) The board shall determine the percentage of  
5 moneys credited to the trust fund to be spent annually on research related  
6 to traumatic brain injuries; however, no less than twenty-five percent of  
7 the moneys annually credited to the trust fund pursuant to sections  
8 30-15-402 (3), ~~42-4-1301 (7) (d) (H)~~ 42-4-1307 (10) (c), and 42-4-1701  
9 (4) (e), C.R.S., shall be used to support research related to the treatment  
10 and understanding of traumatic brain injuries.

11           **SECTION 10.** 26-1-309 (1), Colorado Revised Statutes, is  
12 amended to read:

13           **26-1-309. Trust fund.** (1) There is hereby created in the state  
14 treasury the Colorado traumatic brain injury trust fund. The trust fund  
15 shall consist of any moneys collected from surcharges assessed pursuant  
16 to sections 30-15-402 (3), ~~42-4-1301 (7) (d) (H)~~ 42-4-1307 (10) (c), and  
17 42-4-1701 (4) (e), C.R.S. The moneys in the fund shall be subject to  
18 annual appropriation by the general assembly for the direct and indirect  
19 costs associated with the implementation of this part 3.

20           **SECTION 11.** 43-4-402 (1), Colorado Revised Statutes, is  
21 amended to read:

22           **43-4-402. Source of revenues - allocation of moneys.** (1) The  
23 general assembly shall appropriate moneys annually to the fund in the  
24 general appropriation bill. In addition to any other penalty imposed  
25 pursuant to ~~section 42-4-1301~~ SECTION 42-4-1307, C.R.S., every person  
26 who is convicted of, pleads guilty to, or receives a deferred sentence  
27 pursuant to section 18-1.3-102, C.R.S., for a violation of any of the

1 offenses specified in section 42-4-1301 (1) or (2), C.R.S., shall be  
2 required to pay seventy-five dollars, which shall be deposited into the  
3 fund, and fifteen dollars, which shall be deposited into the county  
4 treasury of the county in which the conviction occurred.

5 **SECTION 12. Specified effective date - applicability.** This act  
6 shall take effect July 1, 2010, and shall apply to offenses committed on  
7 or after said date.

8 **SECTION 13. Safety clause.** The general assembly hereby  
9 finds, determines, and declares that this act is necessary for the  
10 immediate preservation of the public peace, health, and safety.