

HB1317_L.002

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on State, Veterans, & Military Affairs.

HB13-1317 be amended as follows:

- 1 Amend printed bill, page 13, strike line 10 and substitute:
- 2 "(1) THE STATE LICENSING AUTHORITY SHALL DEVELOP AND MAINTAIN A
- 3 SEED-TO-SALE TRACKING SYSTEM TO ENSURE THAT NO MARIJUANA GROWN
- 4 OR PROCESSED BY A RETAIL MARIJUANA ESTABLISHMENT IS SOLD OR
- 5 OTHERWISE TRANSFERRED EXCEPT BY A RETAIL MARIJUANA STORE."
- 6 (2) THE STATE LICENSING AUTHORITY HAS THE AUTHORITY TO:".

- 7 Reletter succeeding subsections accordingly.

- 8 Page 14, line 26, strike "(1)" and substitute "(2)".

- 9 Page 17, after line 6, insert:
- 10 "(IX) REGULATION OF THE STORAGE OF, WAREHOUSES FOR, AND
- 11 TRANSPORTATION OF RETAIL MARIJUANA;
- 12 (X) SANITARY REQUIREMENTS FOR RETAIL MARIJUANA STORES,
- 13 INCLUDING BUT NOT LIMITED TO SANITARY REQUIREMENTS FOR THE
- 14 PREPARATION OF RETAIL MARIJUANA PRODUCTS;
- 15 (XI) RECORDS TO BE KEPT BY LICENSEES AND THE REQUIRED
- 16 AVAILABILITY OF THE RECORDS;
- 17 (XII) THE REPORTING AND TRANSMITTAL OF MONTHLY SALES TAX
- 18 PAYMENTS BY RETAIL MARIJUANA STORES;
- 19 (XIII) AUTHORIZATION FOR THE DEPARTMENT OF REVENUE TO
- 20 HAVE ACCESS TO LICENSING INFORMATION TO ENSURE SALES, EXCISE, AND
- 21 INCOME TAX PAYMENT AND THE EFFECTIVE ADMINISTRATION OF THIS
- 22 ARTICLE;".

- 23 Reletter succeeding subparagraphs accordingly.

- 24 Page 17, line 15, strike "(1)" and substitute "(2)".

- 25 Page 18, strike lines 7 through 11.

- 26 Reletter succeeding subparagraphs accordingly.

- 27 Page 18, strike lines 16 and 17.

- 28 Reletter succeeding subparagraphs accordingly.



- 1 Page 18, strike lines 21 through 26.
- 2 Reletter succeeding subparagraphs accordingly.
- 3 Page 19, line 8, strike "(1)" and substitute "(2)" and strike "MAY" and
- 4 substitute "SHALL".
- 5 Page 26, line 18, strike "13-____," and substitute "13-1317,".
- 6 Page 27, strike lines 4 through 6.
- 7 Reletter succeeding paragraphs accordingly.
- 8 Page 56, before line 23, insert:

9 **SECTION 5.** In Colorado Revised Statutes, 42-4-1301, amend
10 (1) (d), (2) (b), (4), (6) (a) introductory portion, and (6) (e); **repeal** (1) (c);
11 and **add** (6) (a) (IV), (6) (j), and (6) (k) as follows:

12 **42-4-1301. Driving under the influence - driving while**
13 **impaired - driving with excessive alcoholic content - definitions -**
14 **penalties.** (1) (c) ~~It is a misdemeanor for any person who is an habitual~~
15 ~~user of any controlled substance defined in section 18-18-102 (5), C.R.S.,~~
16 ~~to drive a motor vehicle, vehicle, or low-power scooter in this state.~~

17 (d) ~~For the purposes of this subsection (1) AS USED IN THIS~~
18 ~~SECTION, one or more drugs shall mean all substances defined as a MEANS~~
19 ~~ANY drug, AS DEFINED in section 27-80-203 (13), C.R.S., and all~~
20 ~~controlled substances ANY CONTROLLED SUBSTANCE, AS defined in~~
21 ~~section 18-18-102 (5), C.R.S., and glue-sniffing, aerosol inhalation, and~~
22 ~~the inhalation of any INHALED GLUE, AEROSOL, OR other toxic vapor or~~
23 ~~vapors, AS DEFINED IN SECTION 18-18-412, C.R.S.~~

24 (2) (b) In any prosecution for the offense of DUI per se, the
25 defendant shall be entitled to offer direct and circumstantial evidence to
26 show that there is a disparity between what the ANY tests show and other
27 facts so that the trier of fact could infer that the tests were in some way
28 defective or inaccurate. Such evidence may include testimony of
29 nonexpert witnesses relating to the absence of any or all of the common
30 symptoms or signs of intoxication for the purpose of impeachment of the
31 accuracy of the analysis of the person's blood or breath.

32 (4) No court shall accept a plea of guilty to a non-alcohol-related
33 or non-drug-related traffic offense or guilty to the offense of UDD from
34 a person charged with DUI OR DUI per se; ~~or habitual user; except that~~



1 the court may accept a plea of guilty to a non-alcohol-related or
2 non-drug-related traffic offense or to UDD upon a good faith
3 representation by the prosecuting attorney that the attorney could not
4 establish a prima facie case if the defendant were brought to trial on the
5 original alcohol-related or drug-related offense.

6 (6) (a) In any prosecution for DUI or DWAI, the defendant's BAC
7 OR DRUG CONTENT at the time of the commission of the alleged offense
8 or within a reasonable time thereafter gives rise to the following
9 presumptions or inferences:

10 (IV) IF AT SUCH TIME THE DRIVER'S BLOOD CONTAINED FIVE
11 NANOGRAMS OR MORE OF DELTA 9-TETRAHYDROCANNABINOL PER
12 MILLILITER IN WHOLE BLOOD, AS SHOWN BY ANALYSIS OF THE
13 DEFENDANT'S BLOOD, SUCH FACT GIVES RISE TO A PERMISSIBLE INFERENCE
14 THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF ONE OR MORE
15 DRUGS.

16 (e) **Involuntary blood test - admissibility.** Evidence acquired
17 through an involuntary blood test pursuant to section 42-4-1301.1 (3)
18 shall be admissible in any prosecution for DUI, DUI per se, DWAI,
19 ~~habitual user~~, or UDD, and in any prosecution for criminally negligent
20 homicide pursuant to section 18-3-105, C.R.S., vehicular homicide
21 pursuant to section 18-3-106 (1) (b), C.R.S., assault in the third degree
22 pursuant to section 18-3-204, C.R.S., or vehicular assault pursuant to
23 section 18-3-205 (1) (b), C.R.S.

24 (j) IN ANY TRIAL FOR A VIOLATION OF THIS SECTION, IF, AT THE
25 TIME OF THE ALLEGED OFFENSE, THE PERSON POSSESSED A VALID MEDICAL
26 MARIJUANA REGISTRY IDENTIFICATION CARD, AS DEFINED IN SECTION
27 25-1.5-106 (2) (e), C.R.S., ISSUED TO HIMSELF OR HERSELF, THE
28 PROSECUTION SHALL NOT USE SUCH FACT AS PART OF THE PROSECUTION'S
29 CASE IN CHIEF.

30 (k) IN ANY TRAFFIC STOP, THE DRIVER'S POSSESSION OF A VALID
31 MEDICAL MARIJUANA REGISTRY IDENTIFICATION CARD, AS DEFINED IN
32 SECTION 25-1.5-106 (2) (e), C.R.S., ISSUED TO HIMSELF OR HERSELF SHALL
33 NOT, IN THE ABSENCE OF OTHER CONTRIBUTING FACTORS, CONSTITUTE
34 PROBABLE CAUSE FOR A PEACE OFFICER TO REQUIRE THE DRIVER TO
35 SUBMIT TO AN ANALYSIS OF HIS OR HER BLOOD.

36 **SECTION 6.** In Colorado Revised Statutes, 18-3-106, **amend** (1)
37 (b) (II), (2) introductory portion, and (2) (c); and **add** (2) (d) as follows:

38 **18-3-106. Vehicular homicide.** (1) (b) (II) For the purposes of
39 this subsection (1), one or more drugs ~~shall mean all substances defined~~
40 ~~as a~~ MEANS ANY drug, AS DEFINED in section 27-80-203 (13), C.R.S., and
41 ~~all controlled substances~~ ANY CONTROLLED SUBSTANCE, AS defined in



1 section 18-18-102 (5), and ~~glue-sniffing, aerosol inhalation, or the~~
2 ~~inhalation~~ of any INHALED GLUE, AEROSOL, OR other toxic vapor or
3 vapors, as defined in section 18-18-412.

4 (2) In any prosecution for a violation of subsection (1) of this
5 section, the amount of alcohol in the defendant's blood or breath at the
6 time of the commission of the alleged offense, or within a reasonable time
7 thereafter, as shown by analysis of the defendant's blood or breath, shall
8 ~~give~~ GIVES rise to the following: ~~presumptions:~~

9 (c) If there was at such time 0.08 or more grams of alcohol per
10 one hundred milliliters of blood, or if there was at such time 0.08 or more
11 grams of alcohol per two hundred ten liters of breath, ~~it shall be presumed~~
12 SUCH FACT GIVES RISE TO THE PERMISSIBLE INFERENCE that the defendant
13 was under the influence of alcohol.

14 (d) IF AT SUCH TIME THE DRIVER'S BLOOD CONTAINED FIVE
15 NANOGRAMS OR MORE OF DELTA 9-TETRAHYDROCANNABINOL PER
16 MILLILITER IN WHOLE BLOOD, AS SHOWN BY ANALYSIS OF THE
17 DEFENDANT'S BLOOD, SUCH FACT GIVES RISE TO A PERMISSIBLE INFERENCE
18 THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF ONE OR MORE
19 DRUGS.

20 **SECTION 7.** In Colorado Revised Statutes, 18-3-205, **amend** (1)
21 (b) (II), (2) introductory portion, and (2) (c); and **add** (2) (d) as follows:

22 **18-3-205. Vehicular assault.** (1) (b) (II) For the purposes of this
23 subsection (1), one or more drugs shall ~~mean all substances defined as a~~
24 MEANS ANY drug, AS DEFINED in section 27-80-203 (13), C.R.S., and ~~all~~
25 ~~controlled substances~~ ANY CONTROLLED SUBSTANCE, AS defined in
26 section 18-18-102 (5), and ~~glue-sniffing, aerosol inhalation, or the~~
27 ~~inhalation~~ of any INHALED GLUE, AEROSOL, OR other toxic vapor or
28 vapors, as defined in section 18-18-412.

29 (2) In any prosecution for a violation of subsection (1) of this
30 section, the amount of alcohol in the defendant's blood or breath at the
31 time of the commission of the alleged offense, or within a reasonable time
32 thereafter, as shown by analysis of the defendant's blood or breath, shall
33 ~~give~~ GIVES rise to the following: ~~presumptions:~~

34 (c) If there was at such time 0.08 or more grams of alcohol per
35 one hundred milliliters of blood, or if there was at such time 0.08 or more
36 grams of alcohol per two hundred ten liters of breath, ~~it shall be presumed~~
37 SUCH FACT GIVES RISE TO THE PERMISSIBLE INFERENCE that the defendant
38 was under the influence of alcohol.

39 (d) IF AT SUCH TIME THE DRIVER'S BLOOD CONTAINED FIVE
40 NANOGRAMS OR MORE OF DELTA 9-TETRAHYDROCANNABINOL PER
41 MILLILITER IN WHOLE BLOOD, AS SHOWN BY ANALYSIS OF THE



1 DEFENDANT'S BLOOD, SUCH FACT GIVES RISE TO A PERMISSIBLE INFERENCE
2 THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF ONE OR MORE
3 DRUGS.

4 **SECTION 8.** In Colorado Revised Statutes, 42-1-102, **repeal**
5 (41.7) as follows:

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

8 (41.7) "~~Habitual user~~" shall incorporate by reference the offense
9 described in section ~~42-4-1301 (1) (c)~~.

10 **SECTION 9.** In Colorado Revised Statutes, 42-2-121, **amend** (2)
11 (b) and (5) (a) (III) as follows:

12 **42-2-121. Records to be kept by department - admission of**
13 **records in court.** (2) (b) The department shall also keep a separate file
14 of all abstracts of court records of dismissals of DUI, DUI per se, DWAI,
15 ~~habitual user~~, and UDD charges and all abstracts of records in cases
16 where the original charges were for DUI, DUI per se, DWAI, ~~habitual~~
17 ~~user~~, and UDD and the convictions were for nonalcohol- or
18 nondrug-related traffic offenses. This file shall be made available only to
19 criminal justice agencies, as defined in section 24-72-302 (3), C.R.S.

20 (5) (a) Upon application by a person, the department shall
21 expunge all records concerning a conviction of a person for UDD with a
22 BAC of at least 0.02 but not more than 0.05 and any records concerning
23 an administrative determination resulting in a revocation under section
24 42-2-126 (3) (b) or (3) (e) if:

25 (III) The person has not been convicted for any other DUI, DUI
26 per se, DWAI, ~~habitual user~~, or UDD offense that was committed while
27 such person was under twenty-one years of age and is not subject to any
28 other administrative determination resulting in a revocation under section
29 42-2-126 for any other occurrence while such person was under
30 twenty-one years of age;

31 **SECTION 10.** In Colorado Revised Statutes, **amend** 42-2-129 as
32 follows:

33 **42-2-129. Mandatory surrender of license or permit for**
34 **driving under the influence or with excessive alcoholic content.** Upon
35 a plea of guilty or nolo contendere, or a verdict of guilty by the court or
36 a jury, to DUI, OR DUI per se, or ~~habitual user~~, or, for a person under
37 twenty-one years of age, to DUI, DUI per se, DWAI, ~~habitual user~~; or
38 UDD, the court shall require the offender to immediately surrender the
39 offender's driver's, minor driver's, or temporary driver's license or
40 instruction permit to the court. The court shall forward to the department
41 a notice of plea or verdict, on the form prescribed by the department,

1 together with the offender's license or permit, not later than ten days after
2 the surrender of the license or permit. Any person who does not
3 immediately surrender the license or permit to the court, except for good
4 cause shown, commits a class 2 misdemeanor traffic offense.

5 **SECTION 11.** In Colorado Revised Statutes, 42-2-125, **amend**
6 (1) (b), (1) (g), and (1) (i) as follows:

7 **42-2-125. Mandatory revocation of license and permit.** (1) The
8 department shall immediately revoke the license or permit of any driver
9 or minor driver upon receiving a record showing that such driver has:

10 (b) Been convicted of driving a motor vehicle while under the
11 influence of a controlled substance, as defined in section 18-18-102 (5),
12 C.R.S.; ~~or while an habitual user of such a controlled substance;~~

13 (g) (I) Been twice convicted of any combination of DUI, DUI per
14 se, OR DWAI ~~or habitual user~~ for acts committed within a period of five
15 years;

16 (II) In the case of a minor driver, been convicted of DUI, DUI per
17 se, OR DWAI ~~or habitual user~~ committed while such driver was under
18 twenty-one years of age;

19 (i) Been convicted of DUI, DUI per se, OR DWAI ~~or habitual user~~
20 and has two previous convictions of any of such offenses. The license of
21 any driver shall be revoked for an indefinite period and shall only be
22 reissued upon proof to the department that said driver has completed a
23 level II alcohol and drug education and treatment program certified by the
24 unit in the department of human services that administers behavioral
25 health programs and services, including those related to mental health and
26 substance abuse, pursuant to section 42-4-1301.3 and that said driver has
27 demonstrated knowledge of the laws and driving ability through the
28 regular motor vehicle testing process. In no event shall such license be
29 reissued in less than two years.

30 **SECTION 12.** In Colorado Revised Statutes, 42-2-127, **amend**
31 (1) (a) and (6) (b); and **repeal** (5) (b) (II) as follows:

32 **42-2-127. Authority to suspend license - to deny license - type**
33 **of conviction - points.** (1) (a) Except as provided in paragraph (b) of
34 subsection (8) of this section, the department has the authority to suspend
35 the license of any driver who, in accordance with the schedule of points
36 set forth in this section, has been convicted of traffic violations resulting
37 in the accumulation of twelve points or more within any twelve
38 consecutive months or eighteen points or more within any twenty-four
39 consecutive months, or, in the case of a minor driver eighteen years of age
40 or older, who has accumulated nine points or more within any twelve
41 consecutive months, or twelve points or more within any twenty-four



1 consecutive months, or fourteen points or more for violations occurring
2 after reaching the age of eighteen years, or, in the case of a minor driver
3 under the age of eighteen years, who has accumulated more than five
4 points within any twelve consecutive months or more than six points for
5 violations occurring prior to reaching the age of eighteen years; except
6 that the accumulation of points causing the subjection to suspension of
7 the license of a chauffeur who, in the course of employment, has as a
8 principal duty the operation of a motor vehicle shall be sixteen points in
9 one year, twenty-four points in two years, or twenty-eight points in four
10 years, if all the points are accumulated while said chauffeur is in the
11 course of employment. Any provision of this section to the contrary
12 notwithstanding, the license of a chauffeur who is convicted of DUI, DUI
13 per se, DWAI, ~~habitual user~~, UDD, or leaving the scene of an accident
14 shall be suspended in the same manner as if the offense occurred outside
15 the course of employment. Whenever a minor driver under the age of
16 eighteen years receives a summons for a traffic violation, the minor's
17 parent or legal guardian or, if the minor is without parents or guardian,
18 the person who signed the minor driver's application for a license shall
19 immediately be notified by the court from which the summons was
20 issued.

21 (5) Point system schedule:

| 22 | Type of conviction | Points |
|----|-----------------------------------|--------|
| 23 | (b) (II) Habitual user | 12 |

24 (6) (b) For the purposes of this article, a plea of no contest
25 accepted by the court or the forfeiture of any bail or collateral deposited
26 to secure a defendant's appearance in court or the failure to appear in
27 court by a defendant charged with DUI, DUI per se, ~~habitual user~~, or
28 UDD who has been issued a summons and notice to appear pursuant to
29 section 42-4-1707 as evidenced by records forwarded to the department
30 in accordance with the provisions of section 42-2-124 shall be considered
31 as a conviction.

32 **SECTION 13.** In Colorado Revised Statutes, 42-2-132, **amend**
33 (2) (a) (III) and (2) (a) (IV) as follows:

34 **42-2-132. Period of suspension or revocation.** (2) (a) (III) In the
35 case of a minor driver whose license has been revoked as a result of one
36 conviction for DUI, DUI per se, DWAI, ~~habitual user~~, or UDD, the minor
37 driver, unless otherwise required after an evaluation made pursuant to
38 section 42-4-1301.3, must complete a level I alcohol and drug education
39 program certified by the unit in the department of human services that
40 administers behavioral health programs and services, including those
41 related to mental health and substance abuse.



1 (IV) Any person whose license or privilege to drive a motor
2 vehicle on the public highways has been revoked under section 42-2-125
3 (1) (g) (I) or (1) (i) or 42-2-203 where the revocation was due in part to
4 a DUI, DUI per se, OR DWAI ~~or habitual user~~ conviction shall be
5 required to present an affidavit stating that the person has obtained at the
6 person's own expense a signed lease agreement for the installation and
7 use of an approved ignition interlock device, as defined in section
8 42-2-132.5 (9) (a), in each motor vehicle on which the person's name
9 appears on the registration and any other vehicle that the person may
10 drive during the period of the interlock-restricted license.

11 **SECTION 14.** In Colorado Revised Statutes, 42-2-132.5, **amend**
12 (1) (a), (1) (c), and (4) (c) as follows:

13 **42-2-132.5. Mandatory and voluntary restricted licenses**
14 **following alcohol convictions - rules.** (1) **Persons required to hold an**
15 **interlock-restricted license.** The following persons shall be required to
16 hold an interlock-restricted license pursuant to this section for at least one
17 year following reinstatement prior to being eligible to obtain any other
18 driver's license issued under this article:

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

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

25 (4) **Persons who may acquire an interlock-restricted license**
26 **prior to serving a full-term revocation.** (c) In order to be eligible for
27 early reinstatement pursuant to this subsection (4), a person who has been
28 designated an habitual offender under the provisions of section 42-2-202
29 must have at least one conviction for DUI, DUI per se, OR DWAI ~~or~~
30 ~~habitual user~~ under section 42-4-1301, and no contributing violations
31 other than violations for driving under restraint under section 42-2-138
32 or reckless driving under section 42-4-1401.

33 **SECTION 15.** In Colorado Revised Statutes, 42-2-138, **amend**
34 (1) (a) and (1) (d) as follows:

35 **42-2-138. Driving under restraint - penalty.** (1) (a) Any person
36 who drives a motor vehicle or off-highway vehicle upon any highway of
37 this state with knowledge that the person's license or privilege to drive,
38 either as a resident or a nonresident, is under restraint for any reason other
39 than conviction of DUI, DUI per se, DWAI, ~~habitual user~~, or UDD is
40 guilty of a misdemeanor. A court may sentence a person convicted of this
41 misdemeanor to imprisonment in the county jail for a period of not more



1 than six months and may impose a fine of not more than five hundred
2 dollars.

3 (d) (I) A person who drives a motor vehicle or off-highway
4 vehicle upon any highway of this state with knowledge that the person's
5 license or privilege to drive, either as a resident or nonresident, is
6 restrained under section 42-2-126 (3), is restrained solely or partially
7 because of a conviction of DUI, DUI per se, DWAI, ~~habitual user~~; or
8 UDD, or is restrained in another state solely or partially because of an
9 alcohol-related driving offense is guilty of a misdemeanor and, upon
10 conviction thereof, shall be punished by imprisonment in the county jail
11 for not less than thirty days nor more than one year and, in the discretion
12 of the court, by a fine of not less than five hundred dollars nor more than
13 one thousand dollars. Upon a second or subsequent conviction, the person
14 shall be punished by imprisonment in the county jail for not less than
15 ninety days nor more than two years and, in the discretion of the court, by
16 a fine of not less than five hundred dollars nor more than three thousand
17 dollars. The minimum county jail sentence imposed by this subparagraph
18 (I) shall be mandatory, and the court shall not grant probation or a
19 suspended sentence thereof; but, in a case where the defendant is
20 convicted although the defendant established that he or she had to drive
21 the motor vehicle in violation of this subparagraph (I) because of an
22 emergency, the mandatory jail sentence, if any, shall not apply, and, for
23 a first conviction, the court may impose a sentence of imprisonment in the
24 county jail for a period of not more than one year and, in the discretion of
25 the court, a fine of not more than one thousand dollars, and, for a second
26 or subsequent conviction, the court may impose a sentence of
27 imprisonment in the county jail for a period of not more than two years
28 and, in the discretion of the court, a fine of not more than three thousand
29 dollars.

30 (II) In any trial for a violation of subparagraph (I) of this
31 paragraph (d), a duly authenticated copy of the record of the defendant's
32 former convictions and judgments for DUI, DUI per se, DWAI, ~~habitual~~
33 ~~user~~; or UDD or an alcohol-related offense committed in another state
34 from any court of record or a certified copy of the record of any denial or
35 revocation of the defendant's driving privilege under section 42-2-126 (3)
36 from the department shall be prima facie evidence of the convictions,
37 judgments, denials, or revocations and may be used in evidence against
38 the defendant. Identification photographs and fingerprints that are part of
39 the record of the former convictions, judgments, denials, or revocations
40 and the defendant's incarceration after sentencing for any of the former
41 convictions, judgments, denials, or revocations shall be prima facie



1 evidence of the identity of the defendant and may be used in evidence
2 against the defendant.

3 **SECTION 16.** In Colorado Revised Statutes, 42-2-202, **amend**
4 (2) (a) (I) as follows:

5 **42-2-202. Habitual offenders - frequency and type of**
6 **violations.** (2) (a) An habitual offender is a person having three or more
7 convictions of any of the following separate and distinct offenses arising
8 out of separate acts committed within a period of seven years:

9 (I) DUI, DUI per se, OR DWAI; ~~or habitual user;~~

10 **SECTION 17.** In Colorado Revised Statutes, 42-2-405, **amend**
11 (3) (a) as follows:

12 **42-2-405. Driver's license disciplinary actions - grounds for**
13 **denial - suspension - revocation - disqualification.** (3) For purposes of
14 the imposition of restraints and sanctions against commercial driving
15 privileges:

16 (a) A conviction for DUI, DUI per se, OR DWAI, ~~or habitual user,~~
17 or a substantially similar law of any other state pertaining to drinking and
18 driving, or an administrative determination of a violation of section
19 42-2-126 (3) (a) or (3) (b) shall be deemed driving under the influence;
20 and

21 **SECTION 18.** In Colorado Revised Statutes, 42-4-1301.1,
22 **amend** (2) (a) (I) and (2) (b) (I) as follows:

23 **42-4-1301.1. Expressed consent for the taking of blood, breath,**
24 **urine, or saliva sample - testing.** (2) (a) (I) A person who drives a
25 motor vehicle upon the streets and highways and elsewhere throughout
26 this state shall be required to take and complete, and to cooperate in the
27 taking and completing of, any test or tests of the person's breath or blood
28 for the purpose of determining the alcoholic content of the person's blood
29 or breath when so requested and directed by a law enforcement officer
30 having probable cause to believe that the person was driving a motor
31 vehicle in violation of the prohibitions against DUI, DUI per se, DWAI,
32 ~~habitual user;~~ or UDD. Except as otherwise provided in this section, if a
33 person who is twenty-one years of age or older requests that the test be a
34 blood test, then the test shall be of his or her blood; but, if the person
35 requests that a specimen of his or her blood not be drawn, then a
36 specimen of the person's breath shall be obtained and tested. A person
37 who is under twenty-one years of age shall be entitled to request a blood
38 test unless the alleged violation is UDD, in which case a specimen of the
39 person's breath shall be obtained and tested, except as provided in
40 subparagraph (II) of this paragraph (a).

41 (b) (I) Any person who drives any motor vehicle upon the streets



1 and highways and elsewhere throughout this state shall be required to
2 submit to and to complete, and to cooperate in the completing of, a test
3 or tests of such person's blood, saliva, and urine for the purpose of
4 determining the drug content within the person's system when so
5 requested and directed by a law enforcement officer having probable
6 cause to believe that the person was driving a motor vehicle in violation
7 of the prohibitions against DUI, OR DWAI or ~~habitual user~~ and when it
8 is reasonable to require such testing of blood, saliva, and urine to
9 determine whether such person was under the influence of, or impaired
10 by, one or more drugs, or one or more controlled substances, or a
11 combination of both alcohol and one or more drugs, or a combination of
12 both alcohol and one or more controlled substances.

13 **SECTION 19.** In Colorado Revised Statutes, 42-4-1307, **amend**
14 (3) (a) introductory portion, (5) (a) introductory portion, (5) (b)
15 introductory portion, (6) (a) introductory portion, (9) (a), (10) (a), (10)
16 (b), (10) (c), (10) (d) (I), (12), and (13) as follows:

17 **42-4-1307. Penalties for traffic offenses involving alcohol and**
18 **drugs - repeal.** (3) **First offenses - DUI and DUI per se.** (a) Except as
19 otherwise provided in subsections (5) and (6) of this section, a person
20 who is convicted of DUI OR DUI per se or ~~habitual user~~ shall be punished
21 by:

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

31 (b) If a person is convicted of DUI, DUI per se, OR DWAI or
32 ~~habitual user~~ and the violation occurred less than five years after the date
33 of a previous violation for which the person was convicted of DUI, DUI
34 per se, DWAI, ~~habitual user~~; vehicular homicide pursuant to section
35 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205
36 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to
37 section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the
38 person's driver's license was under restraint pursuant to section 42-2-138
39 (1) (d), the court shall not have discretion to employ any sentencing
40 alternatives described in section 18-1.3-106, C.R.S., during the minimum
41 period of imprisonment described in subparagraph (I) of paragraph (a) of



1 this subsection (5); except that a court may allow the person to participate
2 in a program pursuant to section 18-1.3-106 (1) (a) (II), (1) (a) (IV), or (1)
3 (a) (V), C.R.S., only if the program is available through the county in
4 which the person is imprisoned and only for the purpose of:

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

14 (9) **Previous convictions.** (a) For the purposes of subsections (5)
15 and (6) of this section, a person shall be deemed to have a previous
16 conviction for DUI, DUI per se, DWAI, ~~habitual user~~, vehicular homicide
17 pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to
18 section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked
19 license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or
20 driving while the person's driver's license was under restraint pursuant to
21 section 42-2-138 (1) (d), if the person has been convicted under the laws
22 of this state or under the laws of any other state, the United States, or any
23 territory subject to the jurisdiction of the United States, of an act that, if
24 committed within this state, would constitute the offense of DUI, DUI per
25 se, DWAI, ~~habitual user~~, vehicular homicide pursuant to section 18-3-106
26 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b),
27 C.R.S., aggravated driving with a revoked license pursuant to section
28 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the person's
29 driver's license was under restraint pursuant to section 42-2-138 (1) (d).

30 (10) **Additional costs and surcharges.** In addition to the
31 penalties prescribed in this section:

32 (a) Persons convicted of DUI, DUI per se, DWAI, ~~habitual user~~,
33 and UDD are subject to the costs imposed by section 24-4.1-119 (1) (c),
34 C.R.S., relating to the crime victim compensation fund;

35 (b) Persons convicted of DUI, DUI per se, AND DWAI and
36 ~~habitual user~~ are subject to a surcharge of at least one hundred dollars but
37 no more than five hundred dollars to fund programs to reduce the number
38 of persistent drunk drivers. The surcharge shall be mandatory, and the
39 court shall not have discretion to suspend or waive the surcharge; except
40 that the court may suspend or waive the surcharge if the court determines
41 that a person is indigent. Moneys collected for the surcharge shall be



1 transmitted to the state treasurer, who shall credit the amount collected to
2 the persistent drunk driver cash fund created in section 42-3-303.

3 (c) Persons convicted of DUI, DUI per se, DWAI, ~~habitual user~~;
4 and UDD are subject to a surcharge of twenty dollars to be transmitted to
5 the state treasurer who shall deposit moneys collected for the surcharge
6 in the Colorado traumatic brain injury trust fund created pursuant to
7 section 26-1-309, C.R.S.;

8 (d) (I) Persons convicted of DUI, DUI per se, AND DWAI and
9 ~~habitual user~~ are subject to a surcharge of at least one dollar but no more
10 than ten dollars for programs to fund efforts to address alcohol and
11 substance abuse problems among persons in rural areas. The surcharge
12 shall be mandatory, and the court shall not have discretion to suspend or
13 waive the surcharge; except that the court may suspend or waive the
14 surcharge if the court determines that a person is indigent. Any moneys
15 collected for the surcharge shall be transmitted to the state treasurer, who
16 shall credit the same to the rural alcohol and substance abuse cash fund
17 created in section 27-80-117 (3), C.R.S.

18 (12) **Victim impact panels.** In addition to any other penalty
19 provided by law, the court may sentence a person convicted of DUI, DUI
20 per se, DWAI, ~~habitual user~~, or UDD to attend and pay for one
21 appearance at a victim impact panel approved by the court, for which the
22 fee assessed to the person shall not exceed twenty-five dollars.

23 (13) **Alcohol and drug evaluation and supervision costs.** In
24 addition to any fines, fees, or costs levied against a person convicted of
25 DUI, DUI per se, DWAI, ~~habitual user~~, or UDD, the judge shall assess
26 each such person for the cost of the presentence or postsentence alcohol
27 and drug evaluation and supervision services.

28 **SECTION 20.** In Colorado Revised Statutes, 42-4-1702, **amend**
29 (1) as follows:

30 **42-4-1702. Alcohol- or drug-related traffic offenses - collateral**
31 **attack.** (1) ~~Except as otherwise provided in paragraph (b) of this~~
32 ~~subsection (1),~~ No person against whom a judgment has been entered for
33 DUI, DUI per se, DWAI, ~~habitual user~~, or UDD shall collaterally attack
34 the validity of that judgment unless such attack is commenced within six
35 months after the date of entry of the judgment.

36 **SECTION 21.** In Colorado Revised Statutes, 42-4-1705, **amend**
37 (1) (c) as follows:

38 **42-4-1705. Person arrested to be taken before the proper**
39 **court.** (1) Whenever a person is arrested for any violation of this article
40 punishable as a misdemeanor, the arrested person shall be taken without
41 unnecessary delay before a county judge who has jurisdiction of such



1 offense as provided by law, in any of the following cases:

2 (c) When the person is arrested and charged with DUI, DUI per
3 se, ~~habitual user~~, or UDD;

4 **SECTION 22.** In Colorado Revised Statutes, 42-4-1715, **amend**
5 (1) (b) (II) and (4) (a) (II) as follows:

6 **42-4-1715. Convictions, judgments, and charges recorded -**
7 **public inspection.** (1) (b) (II) Upon receiving a request for
8 expungement, the court may delay consideration of such request until
9 sufficient time has elapsed to ensure that the person is not convicted for
10 any additional offense of DUI, DUI per se, DWAI, ~~habitual user~~, or UDD
11 committed while the person was under twenty-one years of age.

12 (4) (a) Every court of record shall also forward a like report to the
13 department:

14 (II) Upon the dismissal of a charge for DUI, DUI per se, DWAI,
15 ~~habitual user~~, or UDD or if the original charge was for DUI, DUI per se,
16 DWAI, ~~habitual user~~, or UDD and the conviction was for a nonalcohol-
17 or nondrug-related traffic offense.

18 **SECTION 23.** In Colorado Revised Statutes, 42-7-408, **amend**
19 (1) (c) (I) as follows:

20 **42-7-408. Proof of financial responsibility - methods of giving**
21 **proof - duration - exception.** (1) (c) Notwithstanding the three-year
22 requirement in paragraph (b) of this subsection (1):

23 (I) If an insured has been found guilty of DUI, DUI per se, OR
24 DWAI or ~~habitual user~~ or if the insured's license has been revoked
25 pursuant to section 42-2-126, other than a revocation under section
26 42-2-126 (3) (b) or (3) (e), only one time and no accident was involved
27 in such offense, proof of financial responsibility for the future shall be
28 required to be maintained only for as long as the insured's driving
29 privilege is ordered to be under restraint, up to a maximum of three years.
30 The time period for maintaining the future proof of liability insurance
31 shall begin at the time the driver reinstates his or her driving privilege.

32 **SECTION 24.** In Colorado Revised Statutes, 40-10.1-110,
33 **amend** (3) (c) (I) as follows:

34 **40-10.1-110. Criminal history record check.** (3) An individual
35 whose criminal history record is checked pursuant to this section is
36 disqualified and prohibited from driving motor vehicles for the motor
37 carrier described in subsection (1) of this section if the criminal history
38 record check reflects that:

39 (c) Within the two years immediately preceding the date the
40 criminal history record check is completed, the individual was:

41 (I) Convicted in this state of driving under the influence, as

- 1 defined in section 42-4-1301 (1) (f), C.R.S.; driving with excessive
- 2 alcoholic content, as described in section 42-4-1301 (2) (a), C.R.S.; OR
- 3 driving while ability impaired, as defined in section 42-4-1301 (1) (g),
- 4 C.R.S.; ~~or driving while an habitual user of a controlled substance, as~~
- 5 ~~described in section 42-4-1301 (1) (c), C.R.S.; or".~~

- 6 Renumber succeeding sections accordingly.

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