

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 13-0646.01 Richard Sweetman x4333

HOUSE BILL 13-1114

HOUSE SPONSORSHIP

Waller and Fields,

SENATE SPONSORSHIP

(None),

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PENALTIES FOR PERSONS WHO DRIVE WHILE UNDER THE**
102 **INFLUENCE OF ALCOHOL OR DRUGS.**

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>.)

In any DUI prosecution, if at the time of driving or within a reasonable time thereafter, the driver's blood contains 5 nanograms or more of delta 9-tetrahydrocannabinol per milliliter in whole blood, as shown by analysis of the defendant's blood, such fact gives rise to a permissible inference that the defendant was under the influence of one

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.*

or more drugs.

Under current law, in any prosecution for vehicular homicide or vehicular assault, if at the time of the commission of the alleged offense, or within a reasonable time thereafter, as shown by analysis of the defendant's blood or breath, there was 0.08 or more grams of alcohol per 100 milliliters of blood, or if there was at such time 0.08 or more grams of alcohol per 210 liters of breath, it is presumed that the defendant was under the influence of alcohol. The bill removes this presumption and states instead that such fact gives rise to a permissible inference that the defendant was under the influence of alcohol.

The bill removes instances of the term "habitual user" from the traffic code.

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

2 **SECTION 1.** In Colorado Revised Statutes, 42-4-1301, **amend**
3 (1) (d), (2) (b), (4), and (6) (e); **repeal** (1) (c); and **add** (6) (a) (IV) as
4 follows:

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

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

17 (2) (b) In any prosecution for the offense of DUI per se, the
18 defendant shall be entitled to offer direct and circumstantial evidence to
19 show that there is a disparity between what ~~the~~ ANY tests show and other

1 facts so that the trier of fact could infer that the tests were in some way
2 defective or inaccurate. Such evidence may include testimony of
3 nonexpert witnesses relating to the absence of any or all of the common
4 symptoms or signs of intoxication for the purpose of impeachment of the
5 accuracy of the analysis of the person's blood or breath.

6 (4) No court shall accept a plea of guilty to a non-alcohol-related
7 or non-drug-related traffic offense or guilty to the offense of UDD from
8 a person charged with DUI OR DUI per se; ~~or habitual user~~; except that
9 the court may accept a plea of guilty to a non-alcohol-related or
10 non-drug-related traffic offense or to UDD upon a good faith
11 representation by the prosecuting attorney that the attorney could not
12 establish a prima facie case if the defendant were brought to trial on the
13 original alcohol-related or drug-related offense.

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

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

24 (e) **Involuntary blood test - admissibility.** Evidence acquired
25 through an involuntary blood test pursuant to section 42-4-1301.1 (3)
26 shall be admissible in any prosecution for DUI, DUI per se, DWAI,
27 ~~habitual user~~, or UDD, and in any prosecution for criminally negligent

1 homicide pursuant to section 18-3-105, C.R.S., vehicular homicide
2 pursuant to section 18-3-106 (1) (b), C.R.S., assault in the third degree
3 pursuant to section 18-3-204, C.R.S., or vehicular assault pursuant to
4 section 18-3-205 (1) (b), C.R.S.

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

7 **18-3-106. Vehicular homicide.** (1) (b) (II) For the purposes of
8 this subsection (1), one or more drugs ~~shall mean all substances defined~~
9 ~~as a~~ MEANS ANY drug, AS DEFINED in section 27-80-203 (13), C.R.S., ~~and~~
10 ~~all controlled substances~~ ANY CONTROLLED SUBSTANCE, AS defined in
11 section 18-18-102 (5), and ~~glue-sniffing, aerosol inhalation, or the~~
12 ~~inhalation of~~ any INHALED GLUE, AEROSOL, OR other toxic vapor or
13 vapors, as defined in section 18-18-412.

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

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

24 (d) IF AT SUCH TIME THE DRIVER'S BLOOD CONTAINED FIVE
25 NANOGRAMS OR MORE OF DELTA 9-TETRAHYDROCANNABINOL PER
26 MILLILITER IN WHOLE BLOOD, AS SHOWN BY ANALYSIS OF THE
27 DEFENDANT'S BLOOD, SUCH FACT GIVES RISE TO A PERMISSIBLE INFERENCE

1 THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF ONE OR MORE
2 DRUGS.

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

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

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

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

22 (d) IF AT SUCH TIME THE DRIVER'S BLOOD CONTAINED FIVE
23 NANOGRAMS OR MORE OF DELTA 9-TETRAHYDROCANNABINOL PER
24 MILLILITER IN WHOLE BLOOD, AS SHOWN BY ANALYSIS OF THE
25 DEFENDANT'S BLOOD, SUCH FACT GIVES RISE TO A PERMISSIBLE INFERENCE
26 THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF ONE OR MORE
27 DRUGS.

1 **SECTION 4.** In Colorado Revised Statutes, 42-1-102, **repeal**
2 (41.7) as follows:

3 **42-1-102. Definitions.** As used in articles 1 to 4 of this title,
4 unless the context otherwise requires:

5 (41.7) "~~Habitual user~~" ~~shall incorporate by reference the offense~~
6 ~~described in section 42-4-1301 (1) (c).~~

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

9 **42-2-121. Records to be kept by department - admission of**
10 **records in court.** (2) (b) The department shall also keep a separate file
11 of all abstracts of court records of dismissals of DUI, DUI per se, DWAI,
12 ~~habitual user~~, and UDD charges and all abstracts of records in cases
13 where the original charges were for DUI, DUI per se, DWAI, ~~habitual~~
14 ~~user~~, and UDD and the convictions were for nonalcohol- or
15 nondrug-related traffic offenses. This file shall be made available only to
16 criminal justice agencies, as defined in section 24-72-302 (3), C.R.S.

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

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

1 **SECTION 6.** In Colorado Revised Statutes, **amend** 42-2-129 as
2 follows:

3 **42-2-129. Mandatory surrender of license or permit for**
4 **driving under the influence or with excessive alcoholic content.** Upon
5 a plea of guilty or nolo contendere, or a verdict of guilty by the court or
6 a jury, to DUI, OR DUI per se, ~~or habitual user~~, or, for a person under
7 twenty-one years of age, to DUI, DUI per se, DWAI, ~~habitual user~~, or
8 UDD, the court shall require the offender to immediately surrender the
9 offender's driver's, minor driver's, or temporary driver's license or
10 instruction permit to the court. The court shall forward to the department
11 a notice of plea or verdict, on the form prescribed by the department,
12 together with the offender's license or permit, not later than ten days after
13 the surrender of the license or permit. Any person who does not
14 immediately surrender the license or permit to the court, except for good
15 cause shown, commits a class 2 misdemeanor traffic offense.

16 **SECTION 7.** In Colorado Revised Statutes, 42-2-125, **amend** (1)
17 (b), (1) (g), and (1) (i) as follows:

18 **42-2-125. Mandatory revocation of license and permit.** (1) The
19 department shall immediately revoke the license or permit of any driver
20 or minor driver upon receiving a record showing that such driver has:

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

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

27 (II) In the case of a minor driver, been convicted of DUI, DUI per

1 se, OR DWAI ~~or habitual user~~ committed while such driver was under
2 twenty-one years of age;

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

14 **SECTION 8.** In Colorado Revised Statutes, 42-2-127, **amend** (1)
15 (a) and (6) (b); and **repeal** (5) (b) (II) as follows:

16 **42-2-127. Authority to suspend license - to deny license - type**
17 **of conviction - points.** (1) (a) Except as provided in paragraph (b) of
18 subsection (8) of this section, the department has the authority to suspend
19 the license of any driver who, in accordance with the schedule of points
20 set forth in this section, has been convicted of traffic violations resulting
21 in the accumulation of twelve points or more within any twelve
22 consecutive months or eighteen points or more within any twenty-four
23 consecutive months, or, in the case of a minor driver eighteen years of age
24 or older, who has accumulated nine points or more within any twelve
25 consecutive months, or twelve points or more within any twenty-four
26 consecutive months, or fourteen points or more for violations occurring
27 after reaching the age of eighteen years, or, in the case of a minor driver

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

19 (5) Point system schedule:

20	Type of conviction	Points
21	(b) (II) Habitual user	12

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

1 in accordance with the provisions of section 42-2-124 shall be considered
2 as a conviction.

3 **SECTION 9.** In Colorado Revised Statutes, 42-2-132, **amend** (2)
4 (a) (III) and (2) (a) (IV) as follows:

5 **42-2-132. Period of suspension or revocation.** (2) (a) (III) In the
6 case of a minor driver whose license has been revoked as a result of one
7 conviction for DUI, DUI per se, DWAI, ~~habitual user~~, or UDD, the minor
8 driver, unless otherwise required after an evaluation made pursuant to
9 section 42-4-1301.3, must complete a level I alcohol and drug education
10 program certified by the unit in the department of human services that
11 administers behavioral health programs and services, including those
12 related to mental health and substance abuse.

13 (IV) Any person whose license or privilege to drive a motor
14 vehicle on the public highways has been revoked under section 42-2-125
15 (1) (g) (I) or (1) (i) or 42-2-203 where the revocation was due in part to
16 a DUI, DUI per se, OR DWAI ~~or habitual user~~ conviction shall be
17 required to present an affidavit stating that the person has obtained at the
18 person's own expense a signed lease agreement for the installation and
19 use of an approved ignition interlock device, as defined in section
20 42-2-132.5 (9) (a), in each motor vehicle on which the person's name
21 appears on the registration and any other vehicle that the person may
22 drive during the period of the interlock-restricted license.

23 **SECTION 10.** In Colorado Revised Statutes, 42-2-132.5, **amend**
24 (1) (a), (1) (c), and (4) (c) as follows:

25 **42-2-132.5. Mandatory and voluntary restricted licenses**
26 **following alcohol convictions - rules.** (1) **Persons required to hold an**
27 **interlock-restricted license.** The following persons shall be required to

1 hold an interlock-restricted license pursuant to this section for at least one
2 year following reinstatement prior to being eligible to obtain any other
3 driver's license issued under this article:

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

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

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

18 **SECTION 11.** In Colorado Revised Statutes, 42-2-138, **amend**
19 (1) (a) and (1) (d) as follows:

20 **42-2-138. Driving under restraint - penalty.** (1) (a) Any person
21 who drives a motor vehicle or off-highway vehicle upon any highway of
22 this state with knowledge that the person's license or privilege to drive,
23 either as a resident or a nonresident, is under restraint for any reason other
24 than conviction of DUI, DUI per se, DWAI, ~~habitual user~~, or UDD is
25 guilty of a misdemeanor. A court may sentence a person convicted of this
26 misdemeanor to imprisonment in the county jail for a period of not more
27 than six months and may impose a fine of not more than five hundred

1 dollars.

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

1 dollars.

2 (II) In any trial for a violation of subparagraph (I) of this
3 paragraph (d), a duly authenticated copy of the record of the defendant's
4 former convictions and judgments for DUI, DUI per se, DWAI, ~~habitual~~
5 ~~user~~, or UDD or an alcohol-related offense committed in another state
6 from any court of record or a certified copy of the record of any denial or
7 revocation of the defendant's driving privilege under section 42-2-126 (3)
8 from the department shall be prima facie evidence of the convictions,
9 judgments, denials, or revocations and may be used in evidence against
10 the defendant. Identification photographs and fingerprints that are part of
11 the record of the former convictions, judgments, denials, or revocations
12 and the defendant's incarceration after sentencing for any of the former
13 convictions, judgments, denials, or revocations shall be prima facie
14 evidence of the identity of the defendant and may be used in evidence
15 against the defendant.

16 **SECTION 12.** In Colorado Revised Statutes, 42-2-202, **amend**
17 (2) (a) (I) as follows:

18 **42-2-202. Habitual offenders - frequency and type of**
19 **violations.** (2) (a) An habitual offender is a person having three or more
20 convictions of any of the following separate and distinct offenses arising
21 out of separate acts committed within a period of seven years:

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

23 **SECTION 13.** In Colorado Revised Statutes, 42-2-405, **amend**
24 (3) (a) as follows:

25 **42-2-405. Driver's license disciplinary actions - grounds for**
26 **denial - suspension - revocation - disqualification.** (3) For purposes of
27 the imposition of restraints and sanctions against commercial driving

1 privileges:

2 (a) A conviction for DUI, DUI per se, OR DWAI, ~~or habitual user,~~
3 or a substantially similar law of any other state pertaining to drinking and
4 driving, or an administrative determination of a violation of section
5 42-2-126 (3) (a) or (3) (b) shall be deemed driving under the influence;
6 and

7 **SECTION 14.** In Colorado Revised Statutes, 42-4-1301.1,
8 **amend** (2) (a) (I) and (2) (b) (I) as follows:

9 **42-4-1301.1. Expressed consent for the taking of blood, breath,**
10 **urine, or saliva sample - testing.** (2) (a) (I) A person who drives a
11 motor vehicle upon the streets and highways and elsewhere throughout
12 this state shall be required to take and complete, and to cooperate in the
13 taking and completing of, any test or tests of the person's breath or blood
14 for the purpose of determining the alcoholic content of the person's blood
15 or breath when so requested and directed by a law enforcement officer
16 having probable cause to believe that the person was driving a motor
17 vehicle in violation of the prohibitions against DUI, DUI per se, DWAI,
18 ~~habitual user,~~ or UDD. Except as otherwise provided in this section, if a
19 person who is twenty-one years of age or older requests that the test be a
20 blood test, then the test shall be of his or her blood; but, if the person
21 requests that a specimen of his or her blood not be drawn, then a
22 specimen of the person's breath shall be obtained and tested. A person
23 who is under twenty-one years of age shall be entitled to request a blood
24 test unless the alleged violation is UDD, in which case a specimen of the
25 person's breath shall be obtained and tested, except as provided in
26 subparagraph (II) of this paragraph (a).

27 (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 15.** 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

1 license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or
2 driving while the person's driver's license was under restraint pursuant to
3 section 42-2-138 (1) (d), shall be punished by:

4 (b) If a person is convicted of DUI, DUI per se, OR DWAI ~~or~~
5 ~~habitual user~~ and the violation occurred less than five years after the date
6 of a previous violation for which the person was convicted of DUI, DUI
7 per se, DWAI, ~~habitual user~~, vehicular homicide pursuant to section
8 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205
9 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to
10 section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the
11 person's driver's license was under restraint pursuant to section 42-2-138
12 (1) (d), the court shall not have discretion to employ any sentencing
13 alternatives described in section 18-1.3-106, C.R.S., during the minimum
14 period of imprisonment described in subparagraph (I) of paragraph (a) of
15 this subsection (5); except that a court may allow the person to participate
16 in a program pursuant to section 18-1.3-106 (1) (a) (II), (1) (a) (IV), or (1)
17 (a) (V), C.R.S., only if the program is available through the county in
18 which the person is imprisoned and only for the purpose of:

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

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

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

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

22 (b) Persons convicted of DUI, DUI per se, AND DWAI ~~and~~
23 ~~habitual user~~ are subject to a surcharge of at least one hundred dollars but
24 no more than five hundred dollars to fund programs to reduce the number
25 of persistent drunk drivers. The surcharge shall be mandatory, and the
26 court shall not have discretion to suspend or waive the surcharge; except
27 that the court may suspend or waive the surcharge if the court determines

1 that a person is indigent. Moneys collected for the surcharge shall be
2 transmitted to the state treasurer, who shall credit the amount collected to
3 the persistent drunk driver cash fund created in section 42-3-303.

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

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

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

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

1 and drug evaluation and supervision services.

2 **SECTION 16.** In Colorado Revised Statutes, 42-4-1702, **amend**
3 (1) as follows:

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

10 **SECTION 17.** In Colorado Revised Statutes, 42-4-1705, **amend**
11 (1) (c) as follows:

12 **42-4-1705. Person arrested to be taken before the proper**
13 **court.** (1) Whenever a person is arrested for any violation of this article
14 punishable as a misdemeanor, the arrested person shall be taken without
15 unnecessary delay before a county judge who has jurisdiction of such
16 offense as provided by law, in any of the following cases:

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

19 **SECTION 18.** In Colorado Revised Statutes, 42-4-1715, **amend**
20 (1) (b) (II) and (4) (a) (II) as follows:

21 **42-4-1715. Convictions, judgments, and charges recorded -**
22 **public inspection.** (1) (b) (II) Upon receiving a request for
23 expungement, the court may delay consideration of such request until
24 sufficient time has elapsed to ensure that the person is not convicted for
25 any additional offense of DUI, DUI per se, DWAI, ~~habitual user,~~ or UDD
26 committed while the person was under twenty-one years of age.

27 (4) (a) Every court of record shall also forward a like report to the

1 department:

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

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

8 **42-7-408. Proof of financial responsibility - methods of giving**
9 **proof - duration - exception.** (1) (c) Notwithstanding the three-year
10 requirement in paragraph (b) of this subsection (1):

11 (I) If an insured has been found guilty of DUI, DUI per se, OR
12 DWAI or ~~habitual user~~ or if the insured's license has been revoked
13 pursuant to section 42-2-126, other than a revocation under section
14 42-2-126 (3) (b) or (3) (e), only one time and no accident was involved
15 in such offense, proof of financial responsibility for the future shall be
16 required to be maintained only for as long as the insured's driving
17 privilege is ordered to be under restraint, up to a maximum of three years.
18 The time period for maintaining the future proof of liability insurance
19 shall begin at the time the driver reinstates his or her driving privilege.

20 **SECTION 20.** In Colorado Revised Statutes, 40-10.1-110,
21 **amend** (3) (c) (I) as follows:

22 **40-10.1-110. Criminal history record check.** (3) An individual
23 whose criminal history record is checked pursuant to this section is
24 disqualified and prohibited from driving motor vehicles for the motor
25 carrier described in subsection (1) of this section if the criminal history
26 record check reflects that:

27 (c) Within the two years immediately preceding the date the

1 criminal history record check is completed, the individual was:

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

8 **SECTION 21. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.