

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 14-0583.01 Richard Sweetman x4333

HOUSE BILL 14-1036

HOUSE SPONSORSHIP

Waller and Saine,

SENATE SPONSORSHIP

(None),

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING DRUNK DRIVING OFFENSES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, a DUI, DUI per se, or DWAI is a misdemeanor offense. The bill makes such an offense a class 4 felony if:

- ! The violation occurred not more than 7 years after the first of 2 prior convictions for DWAI, DUI, or DUI per se; vehicular homicide; or vehicular assault; or
- ! The violation occurred after 3 prior convictions for DWAI, DUI, or DUI per se; vehicular homicide; or vehicular

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.

assault.

The bill repeals provisions relating to the crime of aggravated driving with a revoked license when the offender also commits DUI, DUI per se, or DWAI as part of the same criminal episode.

The bill makes conforming amendments.

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

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

5 **42-4-1301. Driving under the influence - driving while**
6 **impaired - driving with excessive alcoholic content - definitions -**
7 **penalties.** (1) (a) ~~It is a misdemeanor for any~~ A person who is DRIVES A
8 MOTOR VEHICLE OR VEHICLE under the influence of alcohol or one or
9 more drugs, or a combination of both alcohol and one or more drugs, ~~to~~
10 ~~drive a motor vehicle or vehicle~~ IS GUILTY OF DRIVING UNDER THE
11 INFLUENCE. DRIVING UNDER THE INFLUENCE IS A MISDEMEANOR, BUT IT
12 IS A CLASS 4 FELONY IF:

13 (I) THE VIOLATION OCCURRED NOT MORE THAN SEVEN YEARS
14 AFTER THE FIRST OF TWO PRIOR CONVICTIONS, UPON CHARGES
15 SEPARATELY BROUGHT AND TRIED AND ARISING OUT OF SEPARATE AND
16 DISTINCT CRIMINAL EPISODES, FOR DWAI, DUI, OR DUI PER SE;
17 VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106(1)(b), C.R.S.;

18 VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b), C.R.S.;

19 OR ANY COMBINATION THEREOF; OR

20 (II) THE VIOLATION OCCURRED AFTER THREE PRIOR CONVICTIONS,
21 UPON CHARGES SEPARATELY BROUGHT AND TRIED AND ARISING OUT OF
22 SEPARATE AND DISTINCT CRIMINAL EPISODES, FOR DWAI, DUI, OR DUI
23 PER SE; VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106(1)(b),

1 C.R.S.; VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b),
2 C.R.S.; OR ANY COMBINATION THEREOF.

3 (b) ~~It is a misdemeanor for any~~ A person who ~~is~~ DRIVES A MOTOR
4 VEHICLE OR VEHICLE WHILE impaired by alcohol or by one or more drugs,
5 or by a combination of alcohol and one or more drugs, ~~to drive a motor~~
6 ~~vehicle or vehicle~~ IS GUILTY OF DRIVING WHILE ABILITY IMPAIRED.
7 DRIVING WHILE ABILITY IMPAIRED IS A MISDEMEANOR, BUT IT IS A CLASS
8 4 FELONY IF:

9 (I) THE VIOLATION OCCURRED NOT MORE THAN SEVEN YEARS
10 AFTER THE FIRST OF TWO PRIOR CONVICTIONS, UPON CHARGES
11 SEPARATELY BROUGHT AND TRIED AND ARISING OUT OF SEPARATE AND
12 DISTINCT CRIMINAL EPISODES, FOR DWAI, DUI, OR DUI PER SE;
13 VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b), C.R.S.;
14 VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b), C.R.S.;
15 OR ANY COMBINATION THEREOF; OR

16 (II) THE VIOLATION OCCURRED AFTER THREE PRIOR CONVICTIONS,
17 UPON CHARGES SEPARATELY BROUGHT AND TRIED AND ARISING OUT OF
18 SEPARATE AND DISTINCT CRIMINAL EPISODES, FOR DWAI, DUI, OR DUI
19 PER SE; VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b),
20 C.R.S.; VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b),
21 C.R.S.; OR ANY COMBINATION THEREOF.

22 (j) FOR THE PURPOSES OF THIS SECTION, A PERSON SHALL BE
23 DEEMED TO HAVE A PRIOR CONVICTION FOR DUI, DUI PER SE, OR DWAI;
24 VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b), C.R.S.;
25 OR VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b),
26 C.R.S., IF THE PERSON HAS BEEN CONVICTED UNDER THE LAWS OF THIS
27 STATE OR UNDER THE LAWS OF ANY OTHER STATE, THE UNITED STATES,

1 OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES,
2 OF AN ACT THAT, IF COMMITTED WITHIN THIS STATE, WOULD CONSTITUTE
3 ANY OF THESE OFFENSES. SUCH PRIOR CONVICTIONS SHALL BE SET FORTH
4 IN APT WORDS IN THE INDICTMENT OR INFORMATION.

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

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

16 (B) IF THE COURT SENTENCES THE DEFENDANT TO THE
17 DEPARTMENT OF CORRECTIONS FOR A FELONY DUI, DUI PER SE, OR DWAI
18 OFFENSE, IT MUST DETERMINE THAT INCARCERATION IS THE MOST
19 SUITABLE OPTION GIVEN THE FACTS AND CIRCUMSTANCES OF THE CASE,
20 INCLUDING THE DEFENDANT'S WILLINGNESS TO PARTICIPATE IN
21 TREATMENT AND THE DEFENDANT'S OPPORTUNITY TO HAVE PARTICIPATED
22 IN A DUI COURT. ADDITIONALLY, THE COURT MUST DETERMINE THAT ALL
23 OTHER REASONABLE AND APPROPRIATE SANCTIONS AND RESPONSES TO
24 THE VIOLATION THAT ARE AVAILABLE TO THE COURT HAVE BEEN TRIED
25 AND HAVE FAILED, DO NOT APPEAR LIKELY TO BE SUCCESSFUL IF TRIED, OR
26 PRESENT AN UNACCEPTABLE RISK TO PUBLIC SAFETY.

27 (C) IN MAKING THE DETERMINATION DESCRIBED IN

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

13 (2) (a) ~~It is a misdemeanor for any~~ A person to ~~drive~~ WHO DRIVES
14 a motor vehicle or vehicle when the person's BAC is 0.08 or more at the
15 time of driving or within two hours after driving COMMITS DUI PER SE.
16 During a trial, if the state's evidence raises the issue, or if a defendant
17 presents some credible evidence, that the defendant consumed alcohol
18 between the time that the defendant stopped driving and the time that
19 testing occurred, such issue shall be an affirmative defense, and the
20 prosecution must establish beyond a reasonable doubt that the minimum
21 0.08 blood or breath alcohol content required in this paragraph (a) was
22 reached as a result of alcohol consumed by the defendant before the
23 defendant stopped driving. DUI PER SE IS A MISDEMEANOR, BUT IT IS A
24 CLASS 4 FELONY IF:

25 (I) THE VIOLATION OCCURRED NOT MORE THAN SEVEN YEARS
26 AFTER THE FIRST OF TWO PRIOR CONVICTIONS, UPON CHARGES
27 SEPARATELY BROUGHT AND TRIED AND ARISING OUT OF SEPARATE AND

1 DISTINCT CRIMINAL EPISODES, FOR DWAI, DUI, OR DUI PER SE;
2 VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1) (b), C.R.S.;
3 VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1) (b), C.R.S.;
4 OR ANY COMBINATION THEREOF; OR

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

11 (a.5) ~~(f) It is a class A traffic infraction for any person under~~
12 ~~twenty-one years of age to drive a motor vehicle or vehicle when the~~
13 ~~person's BAC, as shown by analysis of the person's breath, is at least 0.02~~
14 ~~but not more than 0.05 at the time of driving or within two hours after~~
15 ~~driving. The court, upon sentencing a defendant pursuant to this~~
16 ~~subparagraph (f), may, in addition to any penalty imposed under a class~~
17 ~~A traffic infraction, order that the defendant perform up to twenty-four~~
18 ~~hours of useful public service, subject to the conditions and restrictions~~
19 ~~of section 18-1.3-507, C.R.S., and may further order that the defendant~~
20 ~~submit to and complete an alcohol evaluation or assessment, an alcohol~~
21 ~~education program, or an alcohol treatment program at such defendant's~~
22 ~~own expense.~~

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

25 (d) (I) IT IS A CLASS A TRAFFIC INFRACTION FOR ANY PERSON
26 UNDER TWENTY-ONE YEARS OF AGE TO DRIVE A MOTOR VEHICLE OR
27 VEHICLE WHEN THE PERSON'S BAC, AS SHOWN BY ANALYSIS OF THE

1 PERSON'S BREATH, IS AT LEAST 0.02 BUT NOT MORE THAN 0.05 AT THE
2 TIME OF DRIVING OR WITHIN TWO HOURS AFTER DRIVING. THE COURT,
3 UPON SENTENCING A DEFENDANT PURSUANT TO THIS SUBPARAGRAPH (I),
4 MAY ORDER, IN ADDITION TO ANY PENALTY IMPOSED UNDER A CLASS A
5 TRAFFIC INFRACTION, THAT THE DEFENDANT PERFORM UP TO
6 TWENTY-FOUR HOURS OF USEFUL PUBLIC SERVICE, SUBJECT TO THE
7 CONDITIONS AND RESTRICTIONS OF SECTION 18-1.3-507, C.R.S., AND MAY
8 FURTHER ORDER THAT THE DEFENDANT SUBMIT TO AND COMPLETE AN
9 ALCOHOL EVALUATION OR ASSESSMENT, AN ALCOHOL EDUCATION
10 PROGRAM, OR AN ALCOHOL TREATMENT PROGRAM AT SUCH DEFENDANT'S
11 OWN EXPENSE.

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

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

18 **42-4-1307. Penalties for traffic offenses involving alcohol and**
19 **drugs - legislative declaration - definitions - repeal. (2) Definitions.**

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

21 (a) "APPROVED IGNITION INTERLOCK DEVICE" MEANS A DEVICE
22 APPROVED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
23 THAT IS INSTALLED IN A MOTOR VEHICLE AND THAT MEASURES THE
24 BREATH ALCOHOL CONTENT OF THE DRIVER BEFORE A VEHICLE IS STARTED
25 AND THAT PERIODICALLY REQUIRES ADDITIONAL BREATH SAMPLES DURING
26 VEHICLE OPERATION. THE DEVICE MAY NOT ALLOW A MOTOR VEHICLE TO
27 BE STARTED OR TO CONTINUE NORMAL OPERATION IF THE DEVICE

1 MEASURES AN ALCOHOL LEVEL ABOVE THE LEVEL ESTABLISHED BY THE
2 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

3 ~~(a)~~ (b) "Conviction" means a verdict of guilty by a judge or jury
4 or a plea of guilty or nolo contendere that is accepted by the court for an
5 offense or adjudication for an offense that would constitute a criminal
6 offense if committed by an adult. "Conviction" also includes having
7 received a deferred judgment and sentence or deferred adjudication;
8 except that a person shall not be deemed to have been convicted if the
9 person has successfully completed a deferred sentence or deferred
10 adjudication.

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

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

25 ~~(d)~~ (e) "UDD" shall have the same meaning as provided in section
26 42-1-102 (109.7).

27 (5) **Second offenses.** (a) Except as otherwise provided in

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

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

24 (6) **Third and subsequent offenses.** (a) EXCEPT AS PROVIDED IN
25 SECTION 42-4-1301 (1) (a) (I), (1) (a) (II), (1) (b) (I), (1) (b) (II), (2) (a) (I),
26 AND (2) (a) (II), a person who is convicted of DUI, DUI per se, or DWAI
27 who, at the time of sentencing, has two or more prior convictions of DUI,

1 DUI per se, DWAI, vehicular homicide pursuant to section 18-3-106 (1)
2 (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S.,
3 ~~aggravated driving with a revoked license pursuant to section 42-2-206~~
4 ~~(1) (b) (I) (A) or (1) (b) (I) (B)~~; or driving while the person's driver's
5 license was under restraint pursuant to section 42-2-138 (1) (d) ~~shall~~ WILL
6 be punished by:

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

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

18 (b) The court:

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

22 (c) (I) ~~The court may impose all or part of the suspended sentence~~
23 ~~described in subparagraph (IV) of paragraph (a) of subsection (5) of this~~
24 ~~section or subparagraph (IV) of paragraph (a) of subsection (6) of this~~
25 ~~section at any time during the period of probation if the person violates~~
26 ~~a condition of his or her probation. During the period of imprisonment,~~
27 ~~the person shall continue serving the probation sentence with no reduction~~

1 ~~in time for the sentence to probation. A cumulative period of~~
2 ~~imprisonment imposed pursuant to this paragraph (c) shall not exceed one~~
3 ~~year~~ IN IMPOSING A SENTENCE OF IMPRISONMENT PURSUANT TO
4 PARAGRAPH (a) OF THIS SUBSECTION (7), THE COURT SHALL CONSIDER THE
5 NATURE OF THE VIOLATION, THE REPORT OR TESTIMONY OF THE
6 PROBATION DEPARTMENT, THE IMPACT ON PUBLIC SAFETY, THE PROGRESS
7 OF THE PERSON IN ANY COURT-ORDERED ALCOHOL AND DRUG DRIVING
8 SAFETY EDUCATION OR TREATMENT PROGRAM, AND ANY OTHER
9 INFORMATION THAT MAY ASSIST THE COURT IN PROMOTING THE PERSON'S
10 COMPLIANCE WITH THE CONDITIONS OF HIS OR HER PROBATION.

11 (II) ~~In imposing a sentence of imprisonment pursuant to~~
12 ~~subparagraph (I) of this paragraph (c), the court shall consider the nature~~
13 ~~of the violation, the report or testimony of the probation department, the~~
14 ~~impact on public safety, the progress of the person in any court-ordered~~
15 ~~alcohol and drug driving safety education or treatment program, and any~~
16 ~~other information that may assist the court in promoting the person's~~
17 ~~compliance with the conditions of his or her probation.~~ Any imprisonment
18 imposed upon a person by the court pursuant to ~~subparagraph (I) of this~~
19 ~~paragraph (c) shall~~ PARAGRAPH (a) OF THIS SUBSECTION (7) MUST be
20 imposed in a manner that promotes the person's compliance with the
21 conditions of his or her probation and not merely as a punitive measure.

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

27 (9) **Previous convictions.** (a) For the purposes of subsections (5)

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

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

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

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

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

26 (d) ~~Any probation imposed for a conviction under section~~
27 ~~42-2-206 may run concurrently with any probation required by this~~

1 section; and

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

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

6 **42-2-206. Driving after revocation prohibited.** (1) (b) (I) A
7 person commits the crime of aggravated driving with a revoked license
8 if he or she is found to be an habitual offender and thereafter operates a
9 motor vehicle in this state while the revocation of the department
10 prohibiting such operation is in effect and, as a part of the same criminal
11 episode, also commits any of the following offenses:

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

13 (B) ~~DWAI;~~

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

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

20 (B) ~~The court shall impose all of the penalties for the~~
21 ~~alcohol-related driving offense, as such penalties are described in section~~
22 ~~42-4-1307;~~

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

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

27 and

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

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

5 **42-1-102. Definitions.** As used in articles 1 to 4 of this title,
6 unless the context otherwise requires:

7 (109.7) "UDD" means underage drinking and driving, and use of
8 the term shall incorporate by reference the offense described in ~~section~~
9 ~~42-4-1301 (2) (a.5)~~ SECTION 42-4-1301 (2) (d).

10 **SECTION 5.** In Colorado Revised Statutes, 42-2-125, **amend**
11 (2.5) introductory portion as follows:

12 **42-2-125. Mandatory revocation of license and permit.**

13 (2.5) The period of revocation under paragraph (g.5) of subsection (1) of
14 this section for a person who is less than twenty-one years of age at the
15 time of the offense and who is convicted of driving with an alcohol
16 content of at least 0.02 but not more than 0.05 under ~~section 42-4-1301~~
17 ~~(2) (a.5)~~ SECTION 42-4-1301 (2) (d) is as follows:

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

20 **42-4-1701. Traffic offenses and infractions classified -**

21 **penalties - penalty and surcharge schedule - repeal.** (4) (a) (I) Except

22 as provided in paragraph (c) of subsection (5) of this section, every

23 person who is convicted of, who admits liability for, or against whom a

24 judgment is entered for a violation of any provision of this title to which

25 paragraph (a) or (b) of subsection (5) of this section apply shall be fined

26 or penalized, and have a surcharge levied thereon pursuant to sections

27 24-4.1-119 (1) (f) and 24-4.2-104 (1) (b) (I), C.R.S., in accordance with

1 the penalty and surcharge schedule set forth in sub-subparagraphs (A) to
 2 (P) of this subparagraph (I); or, if no penalty or surcharge is specified in
 3 the schedule, the penalty for class A and class B traffic infractions ~~shall~~
 4 ~~be~~ IS fifteen dollars, and the surcharge ~~shall be~~ IS four dollars. These
 5 penalties and surcharges ~~shall~~ apply whether the defendant acknowledges
 6 the defendant's guilt or liability in accordance with the procedure set forth
 7 by paragraph (a) of subsection (5) of this section or is found guilty by a
 8 court of competent jurisdiction or has judgment entered against the
 9 defendant by a county court magistrate. Penalties and surcharges for
 10 violating specific sections ~~shall be~~ ARE as follows:

11 (N) **Other offenses:**

12	42-4-1301 (2)(a.5) 42-4-1301 (2) (d)	\$ 100.00	\$ 16.00
13	42-4-1305	50.00	16.00
14	42-4-1402	150.00	16.00
15	42-4-1403	30.00	6.00
16	42-4-1404	15.00	6.00
17	42-4-1406	35.00	10.00
18	42-4-1407 (3)(a)	35.00	10.00
19	42-4-1407 (3)(b)	100.00	30.00
20	42-4-1407 (3)(c)	500.00	200.00
21	42-4-314	35.00	10.00
22	42-4-1408	15.00	6.00
23	42-4-1414 (2)(a)	500.00	156.00
24	42-4-1414 (2)(b)	1,000.00	312.00
25	42-4-1414 (2)(c)	5,000.00	1,560.00
26	42-4-1416 (3)	75.00	4.00
27	42-20-109 (2)	250.00	66.00

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

10 **SECTION 7. Potential appropriation.** Pursuant to section
11 2-2-703, Colorado Revised Statutes, any bill that results in a net increase
12 in periods of imprisonment in the state correctional facilities must include
13 an appropriation of moneys that is sufficient to cover any increased
14 capital construction and operational costs for the first five fiscal years in
15 which there is a fiscal impact. Because this act may increase periods of
16 imprisonment, this act may require a five-year appropriation.

17 **SECTION 8. Act subject to petition - effective date -**
18 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
19 the expiration of the ninety-day period after final adjournment of the
20 general assembly (August 6, 2014, if adjournment sine die is on May 7,
21 2014); except that, if a referendum petition is filed pursuant to section 1
22 (3) of article V of the state constitution against this act or an item, section,
23 or part of this act within such period, then the act, item, section, or part
24 will not take effect unless approved by the people at the general election
25 to be held in November 2014 and, in such case, will take effect on the
26 date of the official declaration of the vote thereon by the governor.

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