

**Schedule 13**  
**Change Request for FY 08-09 Budget Request Cycle**

Request Title: Decision Item FY 08-09  Base Reduction Item FY 08-09  Supplemental FY 07-08  Budget Request Amendment FY 08-09   
 Department: HB 06-1171 Persistent Drunk Driver Cash Fund Spending Authority  
 Priority Number: SBA-8 Dept. Approval by: *Regina D. [Signature]* Date: 2/14/08  
 OSPB Approval: *[Signature]* Date: 2/19/08

	Fund	1	2	3	4	5	6	7	8	9	10
		Prior-Year Actual FY 06-07	Appropriation FY 07-08	Supplemental Request FY 07-08	Total Revised Request FY 07-08	Base Request FY 08-09	Decision/Base Reduction FY 08-09	November 1 Request FY 08-09	Budget Amendment FY 08-09	Total Revised Request FY 08-09	Change from Base (Column 5) FY 09-10
<b>Total of All Line Items</b>	<b>Total</b>	480,654	733,675	0	733,675	733,675	0	733,675	312,733	1,046,408	312,733
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	474,866	590,460	0	590,460	590,460	0	590,460	312,733	903,193	312,733
	CFE	0	143,215	0	143,215	143,215	0	143,215	0	143,215	0
	FF	0	0	0	0	0	0	0	0	0	0
	FB	5,788	0	0	0	0	0	0	0	0	0
	MCF	0	0	0	0	0	0	0	0	0	0
	MGF	0	0	0	0	0	0	0	0	0	0
	NGF	0	0	0	0	0	0	0	0	0	0
(8) Mental Health & Alcohol & Drug Abuse Services											
(D) Alcohol & Drug Abuse Division	<b>Total</b>	480,654	733,675	0	733,675	733,675	0	733,675	312,733	1,046,408	312,733
(2) Community Programs	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
(b) Prevention and Intervention	GF	0	0	0	0	0	0	0	0	0	0
Persistent Drunk Driver Programs	GFE	0	0	0	0	0	0	0	0	0	0
	CF	474,866	590,460	0	590,460	590,460	0	590,460	312,733	903,193	312,733
	CFE	0	143,215	0	143,215	143,215	0	143,215	0	143,215	0
	FF	0	0	0	0	0	0	0	0	0	0
	FB	5,788	0	0	0	0	0	0	0	0	0
	MCF	0	0	0	0	0	0	0	0	0	0
	MGF	0	0	0	0	0	0	0	0	0	0
	NGF	0	0	0	0	0	0	0	0	0	0

Letternote revised text:

Cash Fund name/number, Federal Fund Grant name: Persistent Drunk Driver Cash Fund 11Y

IT Request:  Yes  No

Request Affects Other Departments:  Yes  No

If Yes, List Other Departments Here: Revenue, Transportation, Judicial

**CHANGE REQUEST for FY 08-09 BUDGET REQUEST CYCLE**

Department:	Colorado Department of Human Services
Priority Number:	SBA-8
Change Request Title:	HB 06-1171 Persistent Drunk Driver Cash Fund Spending Authority

**SELECT ONE (click on box):**

- Decision Item FY 08-09
- Base Reduction Item FY 08-09
- Supplemental Request FY 06-07
- Budget Request Amendment FY 08-09

**SELECT ONE (click on box):**

Supplemental or Budget Request Amendment Criterion:

- Not a Supplemental or Budget Request Amendment
- An emergency
- A technical error which has a substantial effect on the operation of the program
- New data resulting in substantial changes in funding needs
- Unforeseen contingency such as a significant workload change

Short Summary of Request:

HB 06-1171 as amended provided \$312,733 Cash Funds to the Department of Human Services in FY 2007-08 and FY 2008-09 to pay a portion of the costs for intervention and treatment services for the persistent drunk driver who is unable to pay for the required services.

The Persistent Drunk Driver Committee has agreed to implement a voucher program to pay for education/treatment programs and ignition interlock devices effective July 1, 2008. This request increases the Cash Funds spending authority pursuant to statute.

Background and Appropriation History:

The Legislative Council Staff Fiscal Note dated March 27, 2006 was amended by the House Appropriations Committee on April 7, 2006 and the House Second Reading on April 11, 2006 and by the Senate Judiciary Committee on April 24, 2006. The following is a summary of the amendments:

- The House Appropriations Committee amendment made the following changes: (1) authorized the Judicial Department to receive up to 5.0 percent of the Persistent Drunk Driver Cash Fund's (PDDCF) revenues; and (2) added an appropriations clause which appropriated \$124,540 cash funds from the Persistent Drunk Driver

Cash Fund to the Department of Human Services and appropriated \$21,253 cash funds from the Persistent Drunk Driver Cash Fund and 0.2 FTE to the Judicial Department in FY 2006-07.

- The House Second Reading amendment eliminated the change, which lowered the blood alcohol content (BAC) level used to identify a persistent drunk driver (PDD) from 0.20 to 0.17 or more grams of alcohol per one hundred milliliters of blood for criminal penalties. This eliminated the expenditure impact to the Judicial Department.
- The Senate Judiciary Committee amendment did the following: (1) added back the definition of persistent drunk driver at a 0.17 or more grams of alcohol per one hundred milliliters of blood or 0.17 or more grams of alcohol per two hundred ten liters of breath at the time of driving in defining a persistent drunk driver for purposes of treatment and intervention; (2) delayed the date of the Department of Human Services payment for costs of intervention or treatment until July 1, 2007; and (3) eliminated the appropriations clause.

The Governor signed the bill into law of June 1, 2006. HB 06-1171 was effective as of January 1, 2007.

**Colorado Legislative Council Staff- State and Local Final Fiscal Impact Summary dated July 18, 2006**

<b>Fiscal Impact Summary</b>	<b>FY 2006/07</b>	<b>FY 2007/08</b>	<b>FY 2008/09</b>
State Revenues			
Cash Funds			
Persistent Drunk Driver Cash Fund	\$124,540	\$312,733	\$312,733
Cash funds – Highway Users Tax Fund (HUTF)	\$0	\$65,770	\$65,770
State Expenditures			
Cash Funds			
Driver’s License Administrative Revocation Account/HUTF			\$106,839
Persistent Drunk Driver Cash Fund	\$0	\$312,733	\$312,733
FTE Position Change	0.0 FTE	0.0 FTE	2.6 FTE
<b>Effective Date:</b> The Governor signed the bill into law on June 1, 2006, and it is effective January 1, 2007.			
<b>Appropriation Summary for FY 2006/07:</b> None required.			
<b>Local Government Impact:</b> Increase HUTF revenue from fees, 35% of which is distributed to counties and municipalities for highway purposes.			

HB 06-1171 increases the minimum surcharge for all alcohol and drug-related traffic offenses from \$25 to \$50. The actual increase in surcharge revenue is dependent on the number of drivers convicted of drunk driving offenses.

Also, under current law, a person designated as a persistent drunk driver must drive under a restricted driver's license that requires an approved ignition interlock device for at least two years after a period of suspension. Driver's license fees are imposed by the Department of Revenue (DOR) and the revenue is credited to the Highway Users Tax Fund.

The bill increases state revenue from additional surcharges and fees collected by the courts and the DOR and estimates a total revenue increase of \$378,503 (\$312,733 Persistent Drunk Driver Cash Fund and \$65,770 Highway Users Tax Fund) in FY 2007-08 and thereafter.

General Description of Request:

The appropriation for HB 06-1171 should have been included in the FY 2007-08 continuation base but was inadvertently omitted. As a result, the Department is currently out of compliance with Section 42-3-303-(d) C.R.S.

The Department is requesting spending authority to pay the costs incurred by the Department concerning persistent drunk drivers. The bill lowers the blood alcohol content (BAC) level used to identify a persistent drunk driver from 0.20 to 0.17 or more grams of alcohol per one hundred milliliters of blood and also:

- requires a driver convicted of an alcohol-related traffic offense with a 0.17 BAC level to hold a restricted license for at least 1 year, complete a level II alcohol and drug education and treatment program, and drive with an ignition interlock device for 2 years;
- authorizes the use of funds in the Persistent Drunk Driver Cash fund to pay for a portion of the costs for intervention or treatment services for a PDD, on and after July 1, 2007, who is unable to pay for the intervention or treatment;

- increases the minimum surcharge for alcohol and drug-related traffic offenses to \$50 and prohibits a court from reducing or suspending the surcharge except if the court determines that a defendant is indigent; and
- prohibits a court from accepting a guilty plea to another offense for attempting to circumvent the proper use of an ignition interlock device (except the court may accept guilty plea to another offense if the prosecuting attorney was not able to establish a prima facie case).

The Persistent Drunk Driver Committee, established under Section 42-3-303 (1)(c)(II), C.R.S. (2007) is comprised of members from the Departments of Transportation, Revenue and Human Services (Judicial is also included in the meetings) have agreed to implement a voucher program to process payments for DUI treatment/intervention services and mandatory ignition interlock fees effective July 1, 2008.

Funds will be allocated to the twenty-one judicial districts and Denver based on district size and percentage of PDD offenders. Eligible offenders will receive a voucher from the probation officer and will redeem the voucher for required services (either Level II treatment or ignition interlock device) at a designated provider.

The allocation is based on an algorithm that factors in the percentage of offenders who have a blood alcohol content of .17 or greater and no prior DUI offenses and the number of offenders who have prior offenses for DUI. This calculation gives each district a rank score that is applied to the amount of funding available. Individual eligibility will be determined based on the following criteria:

- PDD offender with a triggering offense on or after January 1, 2007, adjusted to July 1, 2008 due to the lack of spending authority,
- Demonstrated financial need of the offender based on existing guidelines established by the Office of the State Court Administrator (Probation), and
- The Offender is required to be on probation.

Each voucher is worth \$150. This amount is based on the estimated individual start-up and first month cost for the Level II education/treatment program and the ignition

interlock device. An eligible offender could receive a voucher for education/treatment services and/or ignition interlock cost. The provider submits the redeemed voucher to the judicial district for payment. The Department will transfer monies through an interagency agreement to the Judicial Branch to fund the voucher reimbursement.

Consequences if Not Funded:

This request is for increased PDDCF spending authority. If the request is not approved, the Department will continue to be out of compliance and at legal risk because the PDD Committee will have to further delay the implementation of the bill.

Calculations for Request:

**Revenue Estimates for FY 2006-07 (Prepared by the Colorado Judicial Branch April 25, 2006)**

Year 1 (FY 2006-07)											
Description	Estimated Convictions	Per Cent Non-Indigent	Number of Non-Indigent	Number Assessed \$50 or more	Number Previously Assessed \$25	Additional \$25 assessed on those formerly assessed at \$25 (new minimum = \$50)	Number previously not assessed, now assessed \$50 minimum.	Amount, previously assessed zero, now assessed at \$50 minimum	Total Amount: New Assessments	Estimated Collection Rate	Estimated Revenue
DUI, DWAI	14,456	85%	12,288	2,948	7,609	\$ 190,225	1,730.6	\$ 86,530	\$ 276,775	45%	\$ 124,540
<b>Total YEAR 1</b>	<b>14,456</b>										<b>\$ 124,540</b>

**Revenue Estimates for FY 2007-08 (Prepared by the Colorado Judicial Branch April 25, 2006)**

STATE OF COLORADO FY 08-09 BUDGET REQUEST CYCLE: Department of Human Services

FY 2007-08											
Description	Estimated Convictions	Per Cent Non-Indigent	Number of Non-Indigent	Number Assessed \$50 or more	Number Previously Assessed \$25	Additional \$25 assessed on those formerly assessed at \$25 (new minimum = \$50)	Number previously not assessed, now assessed \$50 minimum.	Amount, previously assessed zero, now assessed at \$50 minimum	Total Amount: New Assessments	Estimated Collection Rate	Estimated Revenue
DUI, DWAI	28,912	85%	24,575	5,896	15,218	\$ 380,450	3,461	\$ 173,050	\$ 553,500	45%	\$ 249,075
<b>Subtotal New Collections</b>	<b>28,912</b>										<b>\$ 249,075</b>
FY 2007-08 Additional Collections on Year 1 Sentences											
Description									Year 1 New Assessments	Estimated Collection Rate	Estimated Revenue
DUI, DWAI									\$ 276,775	23%	\$ 63,658
<b>Subtotal Collections from Year 1 Sentences</b>											<b>\$ 63,658</b>
<b>Total</b>											<b>\$ 312,733</b>

Line Item Request Detail

Summary of Request FY 2008-09	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE
Total Request	\$312,733	\$0	\$312,733	\$0	\$0	0.0
(8) Mental Health & Alcohol and Drug Abuse Services (D) Alcohol and Drug Abuse Division						
(2) Community Programs (b) Prevention and Intervention Persistent Drunk Driver Programs	\$312,733	\$0	\$312,733	\$0	\$0	0.0

Summary of Request FY 2009-10*	Total Funds	General	Cash Funds	Cash Funds	Federal	FTE
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STATE OF COLORADO FY 08-09 BUDGET REQUEST CYCLE: Department of Human Services

		Fund		Exempt	Funds	
Total Request	\$312,733	\$0	\$312,733	\$0	\$0	0.0
(8) Mental Health & Alcohol and Drug Abuse Services						
(D) Alcohol and Drug Abuse Division						
(2) Community Programs						
(b) Prevention and Intervention						
Persistent Drunk Driver Programs	\$312,733	\$0	\$312,733	\$0	\$0	0.0

\* Data is not available to project FY 2009-10 since HB 06-1171 has not been implemented due to lack of spending authority.

Assumptions for Calculations:

The following assumptions were used in developing the FY 2008-09 revenue forecast:

- 28,912 convictions per year based on FY 2004-05 actual number
- 15% of defendants will be indigent with no expectation of collection
- 5,896 defendants have historically been assessed \$50.00 or more
- 15,218 defendants have historically been assessed \$25.00 and will now be assessed \$50.00 (the new statutory minimum)
- 3,461 cases have not been assessed historically and will now be assessed the new minimum of \$50.00
- 23% will be added from Year 1 assessments

Projected Number of Convictions	FY 2006-07	FY 2008-09
Total Estimated Convictions	14,456	28,912
Number of Non-Indigent Convictions Currently Assessed \$50 or more	2,948	5,896
Number of Non-Indigent Convictions Previously Assessed \$25	7,609	15,218
Number of Non-Indigent Convictions Not Assessed \$50	<u>1,731</u>	<u>3,461</u>
Total Number of Non-Indigent Convictions	12,288	24,575

The projected revenue is the sum of the number of non-indigent convictions previously assessed \$25 multiplied by \$25 plus the number of non-indigent convictions not assessed \$50 multiplied by \$50 adjusted by the estimated collection rate.

**Cash Fund Status for Persistent Drunk Driver Cash Fund**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
Beginning Fund Balance as of July 1	\$582,372	\$302,266	\$711,566	\$839,343	\$962,250
Expenditures	\$1,044,264	\$922,263	\$793,326	\$1,021,389	\$1,310,332
Revenue	\$764,158	\$1,331,563	\$921,103	\$1,144,296	\$1,144,296
Ending Fund Balance as of June 30	\$302,266	\$711,566	\$839,343	\$962,250	\$796,214

Impact on Other Government Agencies:

This request impacts the Department of Revenue – Motor Vehicle Division, the Department of Transportation and the Judicial Branch-Office of the State Court Administrator.

The Persistent Drunk Driver Act of 1998 (HB 98-1334) stipulated that the departments of transportation, revenue, and humans services shall coordinate programs intended to accomplish the goals of the fund. Subsequent to this legislation an interagency agreement was developed between the three designated state agencies for the purpose of coordination of activities and further established the PDD committee to oversee and direct the fund. The responsibilities as outlined in the statute and the interagency agreement are carried out jointly by all members, both voting and non-voting.

Generally speaking, the role of the Alcohol and Drug Abuse Division (ADAD) relates to oversight of licensed treatment services directed to the impaired driving offender. The Department of Transportation’s role relates to highway safety initiatives and expertise in public relations. The Department of Revenue’s role involves administrative driver's license sanctions for impaired driving offenders and Judicial is responsible for the evaluation, sentencing and supervision of impaired driving offenders.

Responsibilities as it relates to the implementation of HB 06-1171 falls primarily upon the ADAD and Judicial since the financial assistance to PDD offenders in need is for treatment and interventions.

Cost Benefit Analysis:

A cost benefit analysis is not required since this request is a technical adjustment and, therefore, not dependent on said analysis.

Implementation Schedule:

Task	Month/Year
HB 06-1171 approved by the Governor	June 2006
Original implementation date	July 2007
Late budget amendment requested by the Department	January 2008
Late budget amendment approved by the Joint Budget Committee	April 2008
Interagency agreement signed by CDHS and the Judicial Branch –Voucher processing and payment	June 2008
Vouchers issued to indigent PDD offenders	July 2008

Statutory and Federal Authority:

42-3-303. Persistent drunk driver cash fund - programs to deter persistent drunk drivers. (d) On and after July 1, 2007, to pay a portion of the costs for intervention or treatment services required under sections 42-2-125, 42-2-126, 42-2-132, 42-2-132.5, and 42-4-1301.3 for a persistent drunk driver, as defined in section 42-1-102 (68.5), who is unable to pay for the required intervention or treatment services.

42-3-303. Persistent drunk driver cash fund - programs to deter persistent drunk drivers. (1)(c)(II) The departments of transportation, revenue, and human services shall coordinate programs intended to accomplish the goals described in subparagraph (I) of this paragraph (c).

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

Performance Measures:

This program supports the Department's objectives regarding:

Prevention: Prevent the need for higher levels of service by providing effective intervention and prevention in the areas of treatment, education, life skills, and/or vocational training.

Department Measure: Increase the percent of clients/consumers showing improved functioning after receiving prevention or intervention services.