

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

BILL 5

LLS NO. 17-0132.02 Richard Sweetman x4333

INTERIM COMMITTEE BILL

Committee on Cost-benefit Analysis of Legalized Marijuana in
Colorado

A BILL FOR AN ACT

101 CONCERNING THE CRIMINAL OFFENSE OF DRIVING WHILE
102 INTOXICATED.

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>.)

Committee on Cost-benefit Analysis of Legalized Marijuana in Colorado. The bill adds new subcategories to the existing criminal offenses of driving under the influence of alcohol or drugs (DUI) and driving while ability impaired (DWAI) to indicate, to the extent possible, whether the offender drove while under the influence of:

- Alcohol;

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.

- Alcohol and one or more drugs for which the person possesses a valid prescription;
- One or more drugs for which the person possesses a valid prescription;
- Alcohol and marijuana;
- Marijuana;
- Marijuana, when the person possesses a medical marijuana registry identification card;
- Marijuana and one or more drugs for which the person possesses a valid prescription;
- One or more drugs for which the person does not possess a valid prescription;
- Marijuana and one or more drugs for which the person does not possess a valid prescription; or
- Alcohol, marijuana, and one or more other drugs.

To the extent possible, a peace officer issuing a summons or complaint for DUI or DWAI shall indicate the nature of the offense by citing the appropriate subcategory.

To the extent possible, a peace officer issuing a summons or complaint involving a DUI per se offense shall include in the summons or complaint information indicating whether the offender, in addition to having an excessive BAC, appeared to be under the influence of:

- Marijuana;
- Marijuana, when the person possesses a medical marijuana registry identification card;
- One or more drugs for which the person possesses a valid prescription; or
- One or more drugs for which the person does not possess a valid prescription.

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), (1)(h), and (1)(i); and **add** (2)(e) as follows:

4 **42-4-1301. Driving under the influence - driving while**
 5 **impaired - driving with excessive alcoholic content - definitions -**
 6 **penalties.** (1) (a) (I) A person ~~who drives a motor vehicle or vehicle~~
 7 ~~under the influence of alcohol or one or more drugs, or a combination of~~
 8 ~~both alcohol and one or more drugs,~~ commits driving under the influence

1 IF HE OR SHE DRIVES A MOTOR VEHICLE OR VEHICLE WHILE UNDER THE
2 INFLUENCE OF:

3 (A) ALCOHOL;

4 (B) ALCOHOL AND ONE OR MORE DRUGS FOR WHICH THE PERSON
5 POSSESSES A VALID PRESCRIPTION;

6 (C) ONE OR MORE DRUGS FOR WHICH THE PERSON POSSESSES A
7 VALID PRESCRIPTION;

8 (D) ALCOHOL AND MARIJUANA;

9 (E) MARIJUANA;

10 (F) MARIJUANA, WHEN THE PERSON POSSESSES A MEDICAL
11 MARIJUANA REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO
12 SECTION 25-1.5-106;

13 (G) MARIJUANA AND ONE OR MORE DRUGS FOR WHICH THE PERSON
14 POSSESSES A VALID PRESCRIPTION;

15 (H) ONE OR MORE DRUGS FOR WHICH THE PERSON DOES NOT
16 POSSESS A VALID PRESCRIPTION;

17 (I) MARIJUANA AND ONE OR MORE DRUGS FOR WHICH THE PERSON
18 DOES NOT POSSESS A VALID PRESCRIPTION; OR

19 (J) ALCOHOL, MARIJUANA, AND ONE OR MORE OTHER DRUGS.

20 (II) Driving under the influence is a misdemeanor, but it is a class
21 4 felony if the violation occurred after three or more prior convictions,
22 arising out of separate and distinct criminal episodes, for DUI, DUI per
23 se, or DWAI; vehicular homicide, as described in section 18-3-106 (1)(b);
24 ~~C.R.S.~~; vehicular assault, as described in section 18-3-205 (1)(b); ~~C.R.S.~~;
25 or any combination thereof.

26 (b) (I) A person ~~who drives a motor vehicle or vehicle while~~
27 ~~impaired by alcohol or by one or more drugs, or by a combination of~~

1 ~~alcohol and one or more drugs~~, commits driving while ability impaired IF
2 HE OR SHE DRIVES A MOTOR VEHICLE OR VEHICLE WHILE IMPAIRED BY:

- 3 (A) ALCOHOL;
- 4 (B) ALCOHOL AND ONE OR MORE DRUGS FOR WHICH THE PERSON
5 POSSESSES A VALID PRESCRIPTION;
- 6 (C) ONE OR MORE DRUGS FOR WHICH THE PERSON POSSESSES A
7 VALID PRESCRIPTION;
- 8 (D) ALCOHOL AND MARIJUANA;
- 9 (E) MARIJUANA;
- 10 (F) MARIJUANA, WHEN THE PERSON POSSESSES A MEDICAL
11 MARIJUANA REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO
12 SECTION 25-1.5-106;
- 13 (G) MARIJUANA AND ONE OR MORE DRUGS FOR WHICH THE PERSON
14 POSSESSES A VALID PRESCRIPTION;
- 15 (H) ONE OR MORE DRUGS FOR WHICH THE PERSON DOES NOT
16 POSSESS A VALID PRESCRIPTION;
- 17 (I) MARIJUANA AND ONE OR MORE DRUGS FOR WHICH THE PERSON
18 DOES NOT POSSESS A VALID PRESCRIPTION; OR
- 19 (J) ALCOHOL, MARIJUANA, AND ONE OR MORE OTHER DRUGS.

20 (II) Driving while ability impaired is a misdemeanor, but it is a
21 class 4 felony if the violation occurred after three or more prior
22 convictions, arising out of separate and distinct criminal episodes, for
23 DUI, DUI per se, or DWAI; vehicular homicide, as described in section
24 18-3-106 (1)(b); ~~C.R.S.~~; vehicular assault, as described in section
25 18-3-205 (1)(b); ~~C.R.S.~~; or any combination thereof.

26 (h) Pursuant to section 16-2-106, ~~C.R.S.~~, in charging the offense
27 of DUI, it shall be sufficient to describe the offense charged as "drove a

1 vehicle under the influence of alcohol or drugs or both". TO THE EXTENT
2 POSSIBLE, THE PEACE OFFICER ISSUING THE SUMMONS OR COMPLAINT
3 SHALL INDICATE THE NATURE OF THE OFFENSE BY CITING THE
4 APPROPRIATE SUB-SUBPARAGRAPH OF SUBSECTION (1)(a)(I) OF THIS
5 SECTION.

6 (i) Pursuant to section 16-2-106, ~~C.R.S.~~, in charging the offense
7 of DWAI, it shall be sufficient to describe the offense charged as "drove
8 a vehicle while impaired by alcohol or drugs or both". TO THE EXTENT
9 POSSIBLE, THE PEACE OFFICER ISSUING THE SUMMONS OR COMPLAINT
10 SHALL INDICATE THE NATURE OF THE OFFENSE BY CITING THE
11 APPROPRIATE SUB-SUBPARAGRAPH OF SUBSECTION (1)(b)(I) OF THIS
12 SECTION.

13 (2) (e) TO THE EXTENT POSSIBLE, A PEACE OFFICER ISSUING A
14 SUMMONS OR COMPLAINT INVOLVING A DUI PER SE OFFENSE SHALL
15 INCLUDE IN THE SUMMONS OR COMPLAINT INFORMATION INDICATING
16 WHETHER THE OFFENDER, IN ADDITION TO HAVING AN EXCESS BAC,
17 APPEARED TO BE UNDER THE INFLUENCE OF:

18 (I) MARIJUANA;

19 (II) MARIJUANA, WHEN THE PERSON POSSESSES A MEDICAL
20 MARIJUANA REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO
21 SECTION 25-1.5-106;

22 (III) ONE OR MORE DRUGS FOR WHICH THE PERSON POSSESSES A
23 VALID PRESCRIPTION; OR

24 (IV) ONE OR MORE DRUGS FOR WHICH THE PERSON DOES NOT
25 POSSESS A VALID PRESCRIPTION.

26 **SECTION 2. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.