

HOUSE FLOOR AMENDMENT

Second Reading

BY REPRESENTATIVE Weissman

1 Amend printed bill, page 26, after line 8, insert:

2 **"SECTION 36.** In Colorado Revised Statutes, 42-4-1301, **amend**
3 (1)(a), (1)(b), and (2)(a) **as they will become effective March 1, 2022,**
4 as follows:

5 **42-4-1301. Driving under the influence - driving while**
6 **impaired - driving with excessive alcoholic content - definitions -**
7 **penalties.** (1) (a) A person who drives a motor vehicle or vehicle under
8 the influence of alcohol or one or more drugs, or a combination of both
9 alcohol and one or more drugs, commits driving under the influence.
10 Driving under the influence is a ~~traffic~~ misdemeanor, but it is a class 4
11 felony if the violation occurred after three or more prior convictions,
12 arising out of separate and distinct criminal episodes, for DUI, DUI per
13 se, or DWAI; vehicular homicide, as described in section 18-3-106 (1)(b);
14 vehicular assault, as described in section 18-3-205 (1)(b); or any
15 combination thereof.

16 (b) A person who drives a motor vehicle or vehicle while impaired
17 by alcohol or by one or more drugs, or by a combination of alcohol and
18 one or more drugs, commits driving while ability impaired. Driving while
19 ability impaired is a ~~traffic~~ misdemeanor, but it is a class 4 felony if the
20 violation occurred after three or more prior convictions, arising out of
21 separate and distinct criminal episodes, for DUI, DUI per se, or DWAI;
22 vehicular homicide, as described in section 18-3-106 (1)(b); vehicular
23 assault, as described in section 18-3-205 (1)(b); or any combination
24 thereof.

25 (2) (a) A person who drives a motor vehicle or vehicle when the
26 person's BAC is 0.08 or more at the time of driving or within two hours
27 after driving commits DUI per se. During a trial, if the state's evidence
28 raises the issue, or if a defendant presents some credible evidence, that
29 the defendant consumed alcohol between the time that the defendant
30 stopped driving and the time that testing occurred, such issue shall be an
31 affirmative defense, and the prosecution must establish beyond a
32 reasonable doubt that the minimum 0.08 blood or breath alcohol content
33 required in this subsection (2)(a) was reached as a result of alcohol
34 consumed by the defendant before the defendant stopped driving. DUI
35 per se is a ~~traffic~~ misdemeanor, but it is a class 4 felony if the violation
36 occurred after three or more prior convictions, arising out of separate and
37 distinct criminal episodes, for DUI, DUI per se, or DWAI; vehicular
38 homicide, as described in section 18-3-106 (1)(b); vehicular assault, as
39 described in section 18-3-205 (1)(b); or any combination thereof.".

40 Renumber succeeding sections accordingly.

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