

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 23-0557.01 Jed Franklin x5484

HOUSE BILL 23-1102

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A BILL FOR AN ACT

101 **CONCERNING THE HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED**
102 **DRIVING ENFORCEMENT PROGRAM.**

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://leg.colorado.gov>.)

Under existing law, the office of transportation safety within the office of the executive director of the department of transportation (department) receives funding from money remaining in the law enforcement assistance fund after two required annual appropriations are made to provide funding to local governments that have established a qualified drunk driving prevention enforcement program. However, the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
2nd Reading Unamended
April 28, 2023

HOUSE
3rd Reading Unamended
April 17, 2023

HOUSE
Amended 2nd Reading
April 14, 2023

department has not received funding from the first-time drunk driving offender account since state fiscal year 2020-2021.

The bill expands these programs to include both alcohol and drug impaired driving and requires the general assembly to annually appropriate \$1.5 million from the marijuana tax cash fund to the department for allocation to local governments that implement high-visibility alcohol and drug impaired driving enforcement.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Colorado is required to provide funding for alcohol and drug
5 impaired driving enforcement pursuant to state law;

6 (b) Existing funding for alcohol and drug impaired driving
7 programs is decreasing, and the department of transportation anticipates
8 that money for alcohol and drug impaired driving enforcement will be
9 exhausted by the end of state fiscal year 2023-2024;

10 (c) Existing funding through the first time drunk driving offender
11 account and the law enforcement assistance fund for the prevention of
12 drunken driving prioritizes programs that provide ignition locks,
13 breathalyzer analysis, blood testing, and impaired driving public
14 education ahead of high-visibility impaired driving enforcement;

15 (d) In Colorado, alcohol and drug impaired driving enforcement
16 requires twelve episodes of statewide high-visibility enforcement funded
17 by the department of transportation pursuant to section 901 of article 4 of
18 title 43. In state fiscal year 2020-2021, the twelve enforcement episodes
19 resulted in over seven thousand impaired driving arrests;

20 (e) In calendar year 2022, the department of transportation
21 reported seven hundred thirty-six traffic fatalities. Of these, two hundred
22 seventy-one fatalities involved a suspected impaired driver, which is an

1 increase of fifty-four percent from one hundred seventy-six impaired
2 driving fatalities in calendar year 2019; and

3 (f) Without the existing funding, many local governments will not
4 have the ability to pay for increased high-visibility alcohol and drug
5 impaired driving enforcement during high-risk times of the year,
6 including Memorial Day, Independence Day, and New Year's Eve.

7 (2) Therefore, it is in the best interest for the safety and welfare
8 of Coloradans to prioritize state funding for alcohol and drug impaired
9 driving enforcement.

10 **SECTION 2.** In Colorado Revised Statutes, **amend** 43-4-901 as
11 follows:

12 **43-4-901. High-visibility alcohol and drug impaired driving**
13 **enforcement.** The department of transportation, in implementing the
14 strategic transportation project investment program, shall, as a priority,
15 ~~increase to~~ COORDINATE AT LEAST twelve episodes annually ~~the number~~
16 of high-visibility ~~drunk~~ ALCOHOL AND DRUG IMPAIRED driving ~~law~~
17 enforcement episodes that the department oversees. The high-visibility
18 ~~drunk~~ ALCOHOL AND DRUG IMPAIRED driving ~~law~~ enforcement episodes
19 required by this section ~~shall~~ MUST be ~~independent of, and in addition to,~~
20 COORDINATED WITH the ~~drunk~~ ALCOHOL AND DRUG IMPAIRED driving
21 prevention ~~and law~~ enforcement program described in part 4 of this
22 ~~article~~ ARTICLE 4.

23 **SECTION 3.** In Colorado Revised Statutes, **add** 43-4-902 and
24 43-4-903 as follows:

25 **43-4-902. Local high-visibility alcohol and drug impaired**
26 **driving enforcement - qualified program - report - rules.** (1) ANY
27 MUNICIPALITY, CITY AND COUNTY, OR COUNTY THAT ESTABLISHES A

1 QUALIFIED PROGRAM TO SUPPORT HIGH-VISIBILITY ALCOHOL AND DRUG
2 IMPAIRED DRIVING ENFORCEMENT AND ENFORCE THE LAWS PERTAINING TO
3 ALCOHOL- AND DRUG-RELATED TRAFFIC OFFENSES IS ELIGIBLE TO RECEIVE
4 MONEY PURSUANT TO THIS PART 9 FOR HIGH-VISIBILITY ALCOHOL AND
5 DRUG IMPAIRED DRIVING ENFORCEMENT.

6 (2) (a) THE DEPARTMENT OF TRANSPORTATION SHALL ALLOCATE
7 NOT LESS THAN THIRTY PERCENT AND NOT MORE THAN FIFTY PERCENT OF
8 THE MONEY ALLOCATED TO THE OFFICE OF TRANSPORTATION SAFETY IN
9 THE DEPARTMENT OF TRANSPORTATION PURSUANT TO SECTION 43-4-903
10 TO COUNTIES THAT HAVE ESTABLISHED A QUALIFIED HIGH-VISIBILITY
11 ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION ENFORCEMENT
12 PROGRAM.

13 (b) THE DEPARTMENT OF TRANSPORTATION SHALL ALLOCATE NOT
14 LESS THAN FIFTY PERCENT AND NOT MORE THAN SEVENTY PERCENT OF THE
15 MONEY ALLOCATED TO THE OFFICE OF TRANSPORTATION SAFETY IN THE
16 DEPARTMENT OF TRANSPORTATION PURSUANT TO SECTION 43-4-903 TO
17 MUNICIPALITIES AND CITIES AND COUNTIES THAT HAVE ESTABLISHED A
18 QUALIFIED HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING
19 PREVENTION ENFORCEMENT PROGRAM.

20 (3) THE OFFICE OF TRANSPORTATION SAFETY IN THE DEPARTMENT
21 OF TRANSPORTATION SHALL PROMULGATE RULES FOR THE
22 ADMINISTRATION OF THIS SECTION. AT A MINIMUM, THE RULES MUST:

23 (a) ESTABLISH THE MINIMUM REQUIREMENTS FOR A QUALIFIED
24 PROGRAM;

25 (b) ESTABLISH THE PROCESS FOR AWARDED AND ALLOCATING
26 MONEY TO COUNTIES, CITIES AND COUNTIES, AND MUNICIPALITIES
27 PURSUANT TO THIS SECTION; ■

1 (c) PERMIT QUALIFIED PROGRAMS TO USE MONEY AWARDED
2 PURSUANT TO THIS SECTION TO EDUCATE THE PUBLIC AND INFORM
3 COMMUNITIES ABOUT ALCOHOL- AND DRUG-RELATED TRAFFIC OFFENSES
4 TO SUPPORT HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING
5 ENFORCEMENT EPISODES;

6 (d) REQUIRE LAW ENFORCEMENT AGENCIES TO SUBMIT TO THE
7 OFFICE OF TRANSPORTATION SAFETY THE WRITTEN POLICIES AND
8 PROCEDURES DESCRIBED IN SECTION 24-31-309 (6);

9 (e) REQUIRE LAW ENFORCEMENT AGENCIES TO CERTIFY TO THE
10 OFFICE OF TRANSPORTATION SAFETY THAT THE AGENCIES HAVE COMPLIED
11 WITH THE REPORTING REQUIREMENTS OF SECTION 24-31-903 (2);

12 (f) PROHIBIT A LAW ENFORCEMENT AGENCY AND A PEACE OFFICER
13 FROM REQUIRING A PEACE OFFICER TO ISSUE A SPECIFIED NUMBER OF
14 CITATIONS TO INDIVIDUALS STOPPED DURING A HIGH-VISIBILITY ALCOHOL
15 AND IMPAIRED DRIVING PREVENTION EPISODE DURING A SPECIFIED PERIOD
16 OF TIME; AND

17 (g) REQUIRE A LAW ENFORCEMENT AGENCY AND A PEACE OFFICER
18 TO:

19 (I) SATISFACTORILY COMPLETE ANNUAL IN-SERVICE TRAINING
20 REQUIRED BY SECTION 24-31-315 FOR PEACE OFFICERS CONDUCTING
21 HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION
22 ENFORCEMENT EPISODES;

23 (II) FOR AGENCIES CONDUCTING HIGH-VISIBILITY ALCOHOL AND
24 DRUG IMPAIRED DRIVING PREVENTION ENFORCEMENT EPISODE
25 CHECKPOINTS, IMPLEMENT A RECOGNIZABLE PATTERN BY WHICH VEHICLES
26 ARE STOPPED DURING A HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED
27 DRIVING PREVENTION ENFORCEMENT EPISODE TO PREVENT A

1 BIAS-MOTIVATED STOP; AND

2 (III) LOCATE A HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED
3 DRIVING PREVENTION ENFORCEMENT EPISODE IN A GENERAL AREA WHERE
4 AN EXPECTED CONCENTRATION OF ALCOHOL AND DRUG IMPAIRED DRIVING
5 CRASHES ARE LIKELY TO OCCUR OR ORIGINATE.

6 (4) NO MONEY MAY BE ALLOCATED PURSUANT TO THIS SECTION TO
7 ANY LAW ENFORCEMENT AGENCY THAT IS SUBJECT TO A
8 JUDICIALLY-ORDERED CONSENT DECREE.

9 (5) THE OFFICE OF TRANSPORTATION SAFETY IN THE DEPARTMENT
10 OF TRANSPORTATION, IN COLLABORATION WITH THE DEPARTMENT OF
11 PUBLIC SAFETY, SHALL CREATE AND PUBLISH AN ANNUAL REPORT WITH
12 THE FOLLOWING INFORMATION:

13 (a) THE PARTICIPATING AGENCIES CONDUCTING ANY
14 HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION
15 ENFORCEMENT EPISODES;

16 (b) THE TIME, DATE, DURATION, AND LOCATION OF EACH
17 HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION
18 ENFORCEMENT EPISODE;

19 (c) THE PERCEIVED DEMOGRAPHIC INFORMATION OF EACH
20 INDIVIDUAL CONTACTED WHO IS ASKED TO COMPLETE FURTHER
21 INVESTIGATION DURING EACH HIGH-VISIBILITY ALCOHOL AND DRUG
22 IMPAIRED DRIVING PREVENTION ENFORCEMENT EPISODE, AS REQUIRED BY
23 SECTION 24-31-309 (3.5)(a); AND

24 (d) THE RESULT OF THE CONTACT WITH EACH INDIVIDUAL WHO IS
25 ASKED TO COMPLETE FURTHER INVESTIGATION, INCLUDING IF AN ARREST
26 WAS MADE AND THE OFFENSE NOTED IN THE WARNING OR CITATION OR FOR
27 WHICH AN ARREST WAS MADE, AS REQUIRED BY SECTION 24-31-309

1 (3.5)(g).

2 (6) ANY LAW ENFORCEMENT AGENCY THAT DOES NOT COMPLY
3 WITH, OR THAT HAS ENGAGED A PEACE OFFICER WHO DOES NOT COMPLY
4 WITH THE REQUIREMENTS OF THIS SECTION, OR THE RULES, REGULATIONS,
5 GUIDELINES, OR FUNDING TERMS ISSUED BY THE OFFICE OF
6 TRANSPORTATION SAFETY IN ADMINISTERING THE HIGH-VISIBILITY
7 ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION ENFORCEMENT
8 PROGRAM, OR DOES NOT COMPLY WITH OTHER APPLICABLE LAW, IS
9 SUBJECT TO SUSPENSION OF ITS FUNDING RECEIVED PURSUANT TO THE
10 HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION
11 ENFORCEMENT PROGRAM AND MAY BE REQUIRED TO RETURN THE MONEY.

12 (7) THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION TO
13 ENFORCE THE PROVISIONS OF THIS SECTION.

14 **43-4-903. High-visibility alcohol and drug impaired driving**
15 **enforcement funding.** FOR STATE FISCAL YEARS COMMENCING ON AND
16 AFTER JULY 1, 2023, THE TRANSPORTATION COMMISSION SHALL
17 ANNUALLY ALLOCATE FROM THE STATE HIGHWAY FUND TO THE OFFICE OF
18 TRANSPORTATION SAFETY IN THE DEPARTMENT OF TRANSPORTATION ONE
19 MILLION FIVE HUNDRED THOUSAND DOLLARS FOR HIGH-VISIBILITY
20 ALCOHOL AND DRUG IMPAIRED DRIVING ENFORCEMENT DESCRIBED IN THIS
21 PART 9.

22 **SECTION 4.** In Colorado Revised Statutes, 42-2-132, **amend**
23 (4)(b)(II)(B) as follows:

24 **42-2-132. Period of suspension or revocation.** (4) (b) The
25 department shall transmit the restoration fees collected under this
26 subsection (4) to the state treasurer, who shall credit:

27 (II) (B) The ~~moneys~~ MONEY in the account ~~shall be~~ IS subject to

1 annual appropriation by the general assembly on and after January 1,
2 2009, first to the department of revenue to pay its costs associated with
3 the implementation of House Bill 08-1194, as enacted in 2008, and to pay
4 its costs associated with the implementation of House Bill 13-1240,
5 enacted in 2013; second, to the department of revenue to pay a portion of
6 the costs for an ignition interlock device as described by section
7 42-2-132.5 (4)(a)(II)(C) for a first time drunk OR IMPAIRED driving
8 offender who is unable to pay the costs of the device; third, to the
9 department of revenue to pay a portion of the costs for an ignition
10 interlock device for a persistent drunk OR IMPAIRED driver who is unable
11 to pay the costs of the device and who installs the ignition interlock
12 device on his or her vehicle on or after January 1, 2014. ~~and then to~~
13 ~~provide two million dollars to the department of transportation for high-~~
14 ~~visibility drunk driving enforcement pursuant to section 43-4-901, C.R.S.;~~
15 Any ~~moneys~~ MONEY in the account not expended for these purposes may
16 be invested by the state treasurer as provided by law. All interest and
17 income derived from the investment and deposit of ~~moneys~~ MONEY in the
18 account shall be credited to the account. At the end of each fiscal year,
19 any unexpended and unencumbered ~~moneys~~ MONEY remaining in the
20 account shall remain in the account and shall not be credited or
21 transferred to the general fund, the highway users tax fund, or another
22 fund.

23 **SECTION 5.** In Colorado Revised Statutes, 43-4-402, **amend**
24 (2)(a) as follows:

25 **43-4-402. Source of revenues - allocation of money - special**
26 **account created.** (2) (a) The general assembly shall make an annual
27 appropriation out of the money in the fund to the department of public

1 health and environment in an amount sufficient to pay for the costs of
2 evidential breath alcohol testing, including any education needs
3 associated with testing, and implied consent specialists, the costs of which
4 were previously paid out of the highway users tax fund. The general
5 assembly shall also make an annual appropriation out of the money in the
6 fund to the Colorado bureau of investigation to pay for the costs of
7 toxicology laboratory services, including any education needs associated
8 with the services. Of the money remaining in the fund, eighty percent
9 shall be deposited in a special ~~drunken~~ ALCOHOL AND DRUG IMPAIRED
10 driving account in the fund, which account is created, and be available
11 immediately, without further appropriation, for allocation by the
12 transportation commission to the office of transportation safety. The
13 office of transportation safety shall allocate the money in accordance with
14 the provisions of section 43-4-404 (1) and (2). The remaining twenty
15 percent shall be appropriated by the general assembly to the OFFICE OF
16 behavioral health ~~administration~~ in the department of human services,
17 which shall use the money for the purposes stated in section 43-4-404 (3).
18 The office of transportation safety and the OFFICE OF behavioral health
19 ~~administration~~ in the department of human services may use amounts
20 from the money allocated or appropriated to them ~~by~~ PURSUANT TO this
21 subsection (2) as necessary for the purpose of paying the costs incurred
22 by the office of transportation safety and the OFFICE OF behavioral health
23 ~~administration~~ in administering the programs established pursuant to this
24 part 4; except that ~~neither~~ the office of transportation safety ~~nor~~ AND the
25 OFFICE OF behavioral health ~~administration~~ may NOT use for the purposes
26 of this part 4 an amount exceeding eight percent of the money allocated
27 or appropriated.

1 **SECTION 6.** In Colorado Revised Statutes, **amend** 43-4-403 as
2 follows:

3 **43-4-403. Alcohol and drug and impaired driving prevention**
4 **enforcement program - minimum requirements.** Any municipality, city
5 and county, or county which establishes a qualified program to coordinate
6 efforts to prevent ~~drunken~~ ALCOHOL AND DRUG IMPAIRED driving and
7 enforce the laws pertaining to alcohol- and drug-related traffic offenses
8 shall be eligible to receive ~~moneys~~ MONEY from the fund. The minimum
9 requirements for such a qualified program shall be established by rules
10 and regulations promulgated by the office of transportation safety in the
11 department of transportation, which rules and regulations shall provide
12 for programs, including but not limited to, programs to educate the public
13 regarding alcohol- and drug-related traffic offenses.

14 **SECTION 7.** In Colorado Revised Statutes, 43-4-404, **amend** (1)
15 and (2) as follows:

16 **43-4-404. Formula for allocation of money - rules.** (1) The
17 office of transportation safety shall allocate not less than thirty percent
18 and not more than fifty percent of the ~~moneys~~ MONEY allocated to the
19 office pursuant to section 43-4-402 (2) to counties that have established
20 a qualified ~~drunken~~ ALCOHOL AND DRUG IMPAIRED driving prevention and
21 ~~law~~ enforcement program. The intent of the general assembly is that ~~these~~
22 ~~moneys~~ ~~be~~ THIS MONEY IS expended in a manner that will improve
23 enforcement of ~~drunken~~ ALCOHOL AND DRUG IMPAIRED driving laws. To
24 this end, rules for the distribution of ~~these moneys~~ THIS MONEY shall be
25 developed by the office of transportation safety. All ~~moneys~~ MONEY
26 appropriated ~~hereunder shall~~ MUST be used for ~~drunken~~ ALCOHOL AND
27 DRUG IMPAIRED driving prevention and ~~law~~ enforcement improvement by

1 counties and not for statewide programs.

2 (2) The office of transportation safety shall allocate not less than
3 fifty percent and not more than seventy percent of the ~~moneys~~ MONEY to
4 municipalities and ~~city~~ CITIES and counties that have established a
5 qualified ~~drunken~~ ALCOHOL AND DRUG IMPAIRED driving prevention and
6 ~~law~~ enforcement program. The intent of the general assembly is that ~~these~~
7 ~~moneys~~ ~~be~~ THIS MONEY IS expended in a manner that will improve
8 enforcement of ~~drunken~~ ALCOHOL AND DRUG IMPAIRED driving laws. To
9 this end, rules for the distribution of ~~these moneys~~ THIS MONEY shall be
10 developed by the office of transportation safety. The office shall report
11 annually to the transportation legislation review committee on the
12 distribution and expenditure of ~~these funds~~ THIS MONEY and the nature
13 and purpose of the programs. All ~~moneys~~ MONEY appropriated hereunder
14 shall be used for ~~drunken~~ ALCOHOL AND DRUG IMPAIRED driving
15 prevention and ~~law~~ enforcement improvement by municipalities and ~~city~~
16 CITIES and counties and not for statewide programs.

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