

CHAPTER 241

MOTOR VEHICLES AND TRAFFIC REGULATION

SENATE BILL 00-018

BY SENATORS Dyer, Musgrave, Powers, and Weddig;
also REPRESENTATIVES Gotlieb, Hagedorn, Mace, May, Swenson, Coleman, Gagliardi, and S. Williams.

AN ACT

CONCERNING THE IGNITION INTERLOCK PROGRAM, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 42-2-126.1 (1.5) and (8), Colorado Revised Statutes, are amended to read:

42-2-126.1. Probationary licenses for persons convicted of alcohol-related driving offenses - ignition interlock devices - fees - interlock fund created - violations of probationary license - repeal. (1.5) No person who has been convicted on two or more occasions of an offense under section ~~42-4-1301 (1) (a)~~ 42-4-1301 (1) (a), (1) (b), or (2) (a) for offenses committed within a period of five years shall be eligible for a probationary license pursuant to this section until such person's license has been revoked for a period of at least one year during which the person has no violations under this title.

(8) This section is repealed, effective ~~July 1, 2000~~ JANUARY 1, 2001.

SECTION 2. 42-2-125 (1) (g) and (2.4), Colorado Revised Statutes, are amended to read:

42-2-125. Mandatory revocation of license and permit. (1) The department shall immediately revoke the license or permit of any driver, minor driver, or provisional driver upon receiving a record showing that such driver has:

(g) (I) ~~In the case of an adult driver~~ Been twice convicted of any offense provided for in section 42-4-1301 (1) or (2) (a) for acts committed within a period of five years;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(II) In the case of a minor driver or a provisional driver, been convicted of ~~one or two offenses~~ AN OFFENSE under section 42-4-1301 (1) or (2) (a) committed while such driver was under twenty-one years of age;

(2.4) After the expiration of the period of revocation pursuant to this section and any subsequently imposed periods of revocation, any person whose license is revoked ~~because of a violation of section 42-4-1301 (1) (a) or (2) (a) which violation occurred within five years after the date of a previous violation for which there was a conviction under section 42-4-1301 (1) (a) or (2) (a)~~ UNDER SUBPARAGRAPH (I) OF PARAGRAPH (g) OR PARAGRAPH (i) OF SUBSECTION (1) OF THIS SECTION shall be required to have a restricted license pursuant to the provisions of section 42-2-132.5.

SECTION 3. 42-2-132 (2) (a) (IV), Colorado Revised Statutes, is amended to read:

42-2-132. Period of suspension or revocation. (2) (a) (IV) Any person whose license or privilege to drive a motor vehicle on the public highways has been ~~suspended because such person has been convicted on two or more occasions of an offense under section 42-4-1301 (1) (a) or (2) (a) which offenses were committed within a period of five years~~ REVOKED UNDER SECTION 42-2-125 (1) (g) (I) OR (1) (i) OR 42-2-203 WHERE THE REVOCATION WAS DUE IN PART TO A VIOLATION OF SECTION 42-4-1301 shall be required to present an affidavit stating that the person has obtained at the person's own expense a signed lease agreement for the installation and use of an approved ignition interlock device, as defined in section ~~42-2-126.1 (6)~~ 42-2-132.5 (6), in each motor vehicle on which the person's name appears on the registration and any other vehicle that the person may drive during the period of the restricted license and a copy of each signed lease agreement.

SECTION 4. 42-2-132.5 (1) and (2), Colorado Revised Statutes, are amended to read:

42-2-132.5. Restricted licenses following alcohol conviction. (1) ~~Following the period of revocation pursuant to subsection (5) of this section or section 42-2-125 and any subsequently imposed period of revocation, any person who has been convicted on two or more occasions of an offense under section 42-4-1301 (1) (a) or (2) (a) which offenses were committed within a period of five years~~ THE FOLLOWING PERSONS shall be required to hold a restricted license pursuant to this section for at least one year prior to being eligible to obtain any other driver's license issued under this article:

(a) ANY PERSON WHO HAS BEEN CONVICTED ON TWO OR MORE OCCASIONS OF AN OFFENSE UNDER SECTION 42-4-1301 (1) (a) OR (2) (a) WHICH OFFENSES WERE COMMITTED WITHIN A PERIOD OF FIVE YEARS AND ONE OF THE OFFENSES OCCURRED ON OR AFTER JULY 1, 1999, AND ON OR BEFORE JUNE 30, 2000;

(b) ANY PERSON WHOSE PRIVILEGE TO DRIVE WAS REVOKED PURSUANT TO SECTION 42-2-125 (1) (g) (I) OR (1) (i) AND ONE OF THE OFFENSES GIVING RISE TO THE REVOCATION OCCURRED ON OR AFTER JULY 1, 2000;

(c) ANY PERSON WHOSE PRIVILEGE TO DRIVE WAS REVOKED UNDER SECTION

42-2-203 WHERE THE REVOCATION WAS DUE IN PART BECAUSE OF A VIOLATION OF 42-4-1301 AND ONE OF THE OFFENSES GIVING RISE TO THE REVOCATION OCCURRED ON OR AFTER JULY 1, 2000; OR

(d) ANY PERSON WHOSE PRIVILEGE TO DRIVE WAS REVOKED PURSUANT TO SUBSECTION (5) OF THIS SECTION.

~~(2) Following the period of revocation pursuant to subsection (5) of this section or section 42-2-125 and any subsequently imposed period of revocation, any person who has been convicted of an offense under section 42-4-1301 (1) (a) or (2) (a) which offense was not committed within a period of five years of an offense under section 42-4-1301 (1) (a) or (2) (a) shall be required to hold a restricted license pursuant to this section for at least six months prior to being eligible to obtain any other driver's license issued under this article.~~

SECTION 5. 42-2-132.5 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-2-132.5. Restricted licenses following alcohol conviction.

(3) (a.5) (I) NOTWITHSTANDING THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (3), THE DEPARTMENT SHALL ISSUE A RESTRICTED LICENSE TO ANY PERSON WHO IS REQUIRED TO HOLD A RESTRICTED LICENSE PURSUANT TO SUBSECTION (1) OF THIS SECTION WHO IS NOT THE REGISTERED OWNER OR CO-OWNER OF A MOTOR VEHICLE IF THE PERSON SUBMITS AN AFFIDAVIT STATING THAT THE PERSON IS NOT THE OWNER OR CO-OWNER OF ANY MOTOR VEHICLE AND HAS NO ACCESS TO A MOTOR VEHICLE IN WHICH TO INSTALL AN APPROVED IGNITION INTERLOCK DEVICE.

(II) ANY RESTRICTED LICENSE ISSUED PURSUANT TO THIS PARAGRAPH (a.5) SHALL REQUIRE THAT IF THE LICENSE HOLDER BECOMES AN OWNER OR CO-OWNER OF A MOTOR VEHICLE OR OTHERWISE HAS ACCESS TO A MOTOR VEHICLE IN WHICH AN APPROVED IGNITION INTERLOCK DEVICE MAY BE INSTALLED, HE OR SHE SHALL SUBMIT TO THE DEPARTMENT A SIGNED LEASE AGREEMENT FOR THE INSTALLATION AND USE OF AN APPROVED IGNITION INTERLOCK DEVICE ON SUCH VEHICLE FOR A PERIOD EQUAL TO THE REMAINING PERIOD OF THE RESTRICTED LICENSE.

SECTION 6. Repeal. 42-2-132.5 (4) (a) and (4) (b), Colorado Revised Statutes, are repealed as follows:

~~**42-2-132.5. Restricted licenses following alcohol conviction.** (4) (a) The leasing agency for any approved ignition interlock device shall remit a filing fee in the amount of thirty-three dollars for each person leasing a device to cover program start-up and operational costs incurred by the department and the department of public health and environment. The leasing agency shall remit the fees to the state treasurer, who shall credit the fees to the interlock fund, created in section 42-2-126.1 (2.5).~~

~~(b) Notwithstanding the amount specified for the fee in paragraph (a) of this subsection (3), the executive director of the department by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are~~

sufficiently reduced, the executive director of the department by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4), C.R.S.

SECTION 7. 42-4-1301 (9) (g) (III), Colorado Revised Statutes, is amended to read:

42-4-1301. Driving under the influence - driving while impaired - driving with excessive alcoholic content - tests - penalties - useful public service program - alcohol and drug driving safety program. (9) (g) (III) (A) A person convicted of a violation of ~~paragraph (a)~~ PARAGRAPH (a) OR (b) of subsection (1) or of paragraph (a) of subsection (2) of this section, which violation occurred ON OR AFTER JULY 1, 2000, AND within five years after the date of a previous violation for which there was a conviction under ~~paragraph (a)~~ PARAGRAPH (a) OR (b) of subsection (1) or paragraph (a) of subsection (2) of this section, shall be required to obtain a restricted license pursuant to the provisions of section 42-2-132.5 for a period of not less than one year after reinstatement.

~~(B) A person convicted of a violation of paragraph (a) of subsection (1) or of paragraph (a) of subsection (2) of this section, which violation did not occur within five years after the date of a previous violation for which there was a conviction under paragraph (a) of subsection (1) or paragraph (a) of subsection (2) of this section, shall be required to obtain a restricted license pursuant to the provisions of section 42-2-132.5 for a period of not less than six months after reinstatement.~~

SECTION 8. 42-2-116 (6), Colorado Revised Statutes, is amended, and the said 42-2-116 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

42-2-116. Restricted license. (6) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (6), any person who violates any provision of this section commits a class A traffic infraction.

(b) ANY PERSON WHOSE PRIVILEGE TO DRIVE IS RESTRICTED TO THE OPERATION OF A MOTOR VEHICLE IN WHICH AN APPROVED IGNITION INTERLOCK DEVICE IS INSTALLED PURSUANT TO SECTION 42-2-132.5, WHO OPERATES A MOTOR VEHICLE OTHER THAN A MOTOR VEHICLE IN WHICH AN APPROVED IGNITION INTERLOCK DEVICE IS INSTALLED OR WHO CIRCUMVENTS OR ATTEMPTS TO CIRCUMVENT THE PROPER USE OF AN APPROVED IGNITION INTERLOCK DEVICE COMMITS A CLASS 1 TRAFFIC MISDEMEANOR.

(7) WHENEVER A PEACE OFFICER ISSUES A CITATION PURSUANT TO PARAGRAPH (b) OF SUBSECTION (6) OF THIS SECTION, THE PEACE OFFICER SHALL IMMEDIATELY CONFISCATE THE LICENSE, SHALL FILE AN INCIDENT REPORT ON A FORM PROVIDED BY THE DEPARTMENT, AND SHALL NOT PERMIT THE DRIVER TO CONTINUE TO OPERATE THE MOTOR VEHICLE.

(8) NO COURT SHALL ACCEPT A PLEA OF GUILTY TO ANOTHER OFFENSE FROM A PERSON CHARGED WITH A VIOLATION OF SUBSECTION (6) (a) OF THIS SECTION; EXCEPT THAT THE COURT MAY ACCEPT A PLEA OF GUILTY TO ANOTHER OFFENSE UPON A GOOD FAITH REPRESENTATION BY THE PROSECUTING ATTORNEY THAT THE ATTORNEY COULD NOT ESTABLISH A PRIMA FACIE CASE IF THE DEFENDANT WERE BROUGHT TO TRIAL ON

THE OFFENSE.

SECTION 9. 42-2-126.3 (1) and (2), Colorado Revised Statutes, are amended to read:

42-2-126.3. Tampering with an ignition interlock device. (1) No person may intercept, bypass, or interfere with or aid any other person in intercepting, bypassing, or interfering with an ignition interlock device for the purpose of preventing or hindering the lawful operation or purpose of the ignition interlock device REQUIRED under section 42-2-126.1 OR 42-2-132.5.

(2) No person may drive a motor vehicle in which an ignition interlock device is installed pursuant to section 42-2-126.1 OR 42-2-132.5 if the person has knowledge that any person has intercepted, bypassed, or interfered with the ignition interlock device.

SECTION 10. 42-2-132.5 (3), (4) (c), and (5), Colorado Revised Statutes, are amended, and the said 42-2-132.5 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

42-2-132.5. Mandatory and voluntary restricted licenses following alcohol conviction - repeal. (1.5) (a) A PERSON WHOSE PRIVILEGE TO DRIVE HAS BEEN REVOKED FOR MORE THAN ONE YEAR BECAUSE OF A VIOLATION OF ANY PROVISION OF SECTION 42-4-1301 (1) (a), (1) (b), OR (2) OR HAS BEEN REVOKED FOR MORE THAN ONE YEAR UNDER ANY PROVISION OF SECTION 42-2-126 MAY VOLUNTARILY APPLY FOR AN EARLY REINSTATEMENT WITH A RESTRICTED LICENSE UNDER THE PROVISIONS OF THIS SECTION AFTER THE PERSON'S PRIVILEGE TO DRIVE HAS BEEN REVOKED FOR ONE YEAR. THE RESTRICTIONS IMPOSED PURSUANT TO THIS SECTION SHALL REMAIN IN EFFECT FOR THE LONGER OF ONE YEAR OR THE TOTAL TIME PERIOD REMAINING ON THE LICENSE RESTRAINT PRIOR TO EARLY REINSTATEMENT.

(b) (I) TO BE ELIGIBLE FOR EARLY REINSTATEMENT WITH A RESTRICTED LICENSE PURSUANT TO THIS SUBSECTION (1.5), A PERSON MUST HAVE SATISFIED ALL CONDITIONS FOR REINSTATEMENT IMPOSED BY LAW INCLUDING TIME PERIODS FOR NON-ALCOHOL-RELATED RESTRAINTS; EXCEPT THAT A PERSON WHOSE LICENSE WAS RESTRAINED PURSUANT TO SECTION 42-2-138 MAY BE ELIGIBLE FOR EARLY REINSTATEMENT UNDER THIS SECTION SO LONG AS THE RESTRAINT WAS CAUSED IN PART BY DRIVING ACTIVITY OCCURRING AFTER AN ALCOHOL-RELATED OFFENSE AND THE LENGTH OF ANY LICENSE RESTRICTION UNDER THIS SECTION INCLUDES THE PERIOD OF RESTRAINT UNDER SECTION 42-2-138.

(II) BEFORE BEING ELIGIBLE FOR EARLY REINSTATEMENT WITH A RESTRICTED LICENSE UNDER THIS SECTION, A PERSON MUST PROVIDE PROOF OF FINANCIAL RESPONSIBILITY TO THE DEPARTMENT PURSUANT TO THE REQUIREMENTS OF THE "MOTOR VEHICLE FINANCIAL RESPONSIBILITY ACT", ARTICLE 7 OF THIS TITLE. SUCH PERSON MUST MAINTAIN SUCH PROOF OF FINANCIAL RESPONSIBILITY WITH THE DEPARTMENT FOR THE LONGER OF THREE YEARS OR THE PERIOD THAT THE PERSON'S LICENSE IS RESTRICTED UNDER THIS SECTION.

(c) NO PERSON WHO HAS BEEN DESIGNATED AN HABITUAL OFFENDER UNDER THE PROVISIONS OF SECTION 42-2-202 FOR ANY OFFENSE OTHER THAN A VIOLATION OF

SECTION 42-4-1301, 42-2-138, OR 42-4-1401 SHALL BE ELIGIBLE FOR A RESTRICTED LICENSE PURSUANT TO THIS SUBSECTION (1.5).

(d) (I) ANY PERSON WHO WAS ISSUED A PROBATIONARY LICENSE REQUIRING THE USE OF AN APPROVED IGNITION INTERLOCK DEVICE PRIOR TO JANUARY 1, 2001, IS ELIGIBLE FOR EARLY REINSTATEMENT WITH A RESTRICTED LICENSE PURSUANT TO THIS SUBSECTION (1.5). SUCH A PROBATIONARY LICENSE SHALL REMAIN IN EFFECT UNTIL THE NEXT ANNUAL PROBATIONARY LICENSE RENEWAL HEARING. BASED UPON FINDINGS AT THE HEARING, INCLUDING AGGRAVATING AND MITIGATING FACTORS, THE HEARING OFFICER MAY ORDER THAT THE PERIOD OF RESTRICTION BE:

(A) EQUAL TO THE PERIOD OF TIME THAT THE PERSON WAS TO HAVE A PROBATIONARY LICENSE;

(B) LESS THAN THE PERIOD OF TIME THAT THE PERSON WAS TO HAVE A PROBATIONARY LICENSE, BUT THE PERIOD OF TIME THAT THE PERSON HAS HELD A PROBATIONARY LICENSE AND A RESTRICTED LICENSE SHALL NOT BE LESS THAN THE TOTAL PERIOD OF RESTRAINT REQUIRED PRIOR TO THE ISSUANCE OF THE PROBATIONARY LICENSE; OR

(C) EXTENDED FOR A PERIOD OF UP TO TWELVE MONTHS BEYOND THE PERIOD OF TIME THAT THE PERSON WAS TO HAVE A PROBATIONARY LICENSE.

(II) THIS PARAGRAPH (d) IS REPEALED, EFFECTIVE JULY 1, 2002.

(3) (a) The department shall issue a restricted license under this section if the department receives from ~~the~~ A person DESCRIBED IN SUBSECTION (1) OR (1.5) OF THIS SECTION an affidavit stating that the person has obtained at the person's own expense a signed lease agreement for the installation and use of an approved ignition interlock device ~~as defined in section 42-2-126.1 (6)~~ in each motor vehicle on which the person's name appears on the registration and any other vehicle that the person may drive during the period of the restricted license. A copy of each signed lease agreement shall be attached to the affidavit.

(b) The terms of the restricted license shall include that the person shall not drive a motor vehicle other than a vehicle in which an approved ignition interlock device ~~as defined by section 42-2-126.1 (6)~~ is installed.

(c) THE DEPARTMENT SHALL NOT ISSUE A LICENSE UNDER THIS SECTION THAT WOULD AUTHORIZE OPERATION OF A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 42-2-402 (4) UNTIL THE RESTRICTION CREATED BY THIS SECTION HAS EXPIRED.

(4) (c) THE LEASING AGENCY FOR ANY APPROVED IGNITION INTERLOCK DEVICE SHALL PROVIDE MONTHLY MONITORING REPORTS FOR THE DEVICE TO THE DEPARTMENT TO MONITOR COMPLIANCE WITH THE PROVISIONS OF THIS SECTION. The leasing agency shall check the device at least once every sixty days to ensure that the device is operating and that there has been no tampering with the device. If the leasing agency detects that there has been tampering with the device, the leasing agency shall notify the department of that fact within five days of the detection.

~~(5) (a) The license of any person who has obtained a restricted license under the provisions of this section who violates the terms of the restricted license or who tampers with or disconnects an interlock device shall be revoked for a period of not less than one year from the date that the department receives evidence that the terms of the restricted license have been violated or the interlock device has been tampered with or disconnected. The person shall be entitled to a hearing on the license revocation.~~ UPON RECEIPT OF A CONVICTION UNDER SECTION 42-2-116 (6) (b), THE DEPARTMENT SHALL REVOKE ANY LICENSE OF SUCH PERSON ISSUED UNDER THIS SECTION AND SHALL NOT REINSTATE THE LICENSE FOR A PERIOD OF THE LONGER OF ONE YEAR OR THE REMAINING PERIOD OF LICENSE RESTRAINT IMPOSED PRIOR TO THE ISSUANCE OF A LICENSE PURSUANT TO THIS SECTION. A PERSON SHALL BE ENTITLED TO A HEARING ON THE QUESTION OF WHETHER THE REVOCATION IS SUSTAINED AND THE LENGTH OF THE INELIGIBILITY.

(b) UPON RECEIPT OF A RECORD OTHER THAN A CONVICTION DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (5) FROM ANY COURT OR PEACE OFFICER INDICATING THAT ANY PERSON WHO IS SUBJECT TO THE RESTRICTIONS OF THIS SECTION HAS OPERATED A MOTOR VEHICLE OTHER THAN A VEHICLE IN WHICH AN APPROVED IGNITION INTERLOCK DEVICE IS INSTALLED OR HAS CIRCUMVENTED OR ATTEMPTED TO CIRCUMVENT THE PROPER USE OF AN APPROVED IGNITION INTERLOCK DEVICE, THE DEPARTMENT MAY REVOKE ANY LICENSE OF SUCH PERSON ISSUED UNDER THIS SECTION AND NOT REINSTATE THE LICENSE FOR A PERIOD OF THE LONGER OF ONE YEAR OR THE REMAINING PERIOD OF LICENSE RESTRAINT IMPOSED PRIOR TO THE ISSUANCE OF A LICENSE PURSUANT TO THIS SECTION. A PERSON SHALL BE ENTITLED TO A HEARING ON THE QUESTION OF WHETHER THE LICENSE SHOULD BE REVOKED AND THE LENGTH OF THE INELIGIBILITY.

(c) IF A LEASE FOR AN APPROVED IGNITION INTERLOCK DEVICE IS TERMINATED FOR ANY REASON PRIOR TO THE EXPIRATION OF THE PERIOD OF THE RESTRICTION AND NO OTHER SUCH LEASE HAS BEEN PROVIDED BY THE LICENSEE, THE DEPARTMENT SHALL NOTIFY THE LICENSEE THAT THE LICENSE SHALL BE SUSPENDED UNLESS AND UNTIL A NEW SIGNED LEASE AGREEMENT FOR THE REMAINING PERIOD OF THE RESTRICTION IS FILED WITH THE DEPARTMENT.

(d) IF THE MONTHLY MONITORING REPORTS REQUIRED BY PARAGRAPH (c) OF SUBSECTION (4) OF THIS SECTION SHOW THAT THE APPROVED IGNITION INTERLOCK DEVICE PREVENTED THE OPERATION OF THE VEHICLE DUE TO EXCESSIVE BLOOD ALCOHOL CONTENT IN THREE OF ANY TWELVE CONSECUTIVE REPORTING PERIODS, THE RESTRICTION ON THE PERSON'S LICENSE SHALL BE EXTENDED FOR AN ADDITIONAL TWELVE MONTHS AFTER THE EXPIRATION OF THE EXISTING RESTRICTION. THE DEPARTMENT SHALL NOTIFY THE PERSON THAT THE IGNITION INTERLOCK RESTRICTION PROVISION IS BEING EXTENDED AND THAT ANY LICENSE SHALL BE SUSPENDED UNLESS THE PERSON PROVIDES A NEW SIGNED LEASE AGREEMENT FOR THE USE OF AN APPROVED IGNITION INTERLOCK DEVICE FOR THE EXTENDED PERIOD. THE PERSON SHALL BE ENTITLED TO A HEARING ON THE EXTENSION OF THE RESTRICTION. BASED UPON FINDINGS AT THE HEARING, INCLUDING AGGRAVATING AND MITIGATING FACTORS, THE HEARING OFFICE MAY SUSTAIN THE EXTENSION, RESCIND THE EXTENSION, OR REDUCE THE PERIOD OF EXTENSION.

(6) THE DEPARTMENT MAY PROMULGATE RULES TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

(7) (a) FOR THE PURPOSES OF THIS SECTION, "APPROVED IGNITION INTERLOCK DEVICE" MEANS A DEVICE APPROVED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT THAT IS INSTALLED IN A MOTOR VEHICLE AND THAT MEASURES THE BREATH ALCOHOL CONTENT OF THE DRIVER BEFORE A VEHICLE IS STARTED AND THAT PERIODICALLY REQUIRES ADDITIONAL BREATH SAMPLES DURING VEHICLE OPERATION. THE DEVICE MAY NOT ALLOW A MOTOR VEHICLE TO BE STARTED OR TO CONTINUE NORMAL OPERATION IF THE DEVICE MEASURES AN ALCOHOL LEVEL ABOVE THE LEVEL ESTABLISHED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(b) THE STATE BOARD OF HEALTH MAY PROMULGATE RULES TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION (7) CONCERNING APPROVED IGNITION INTERLOCK DEVICES.

SECTION 11. 42-2-205 (1) (a), Colorado Revised Statutes, is amended to read:

42-2-205. Prohibition. (1) No license to operate motor vehicles in this state shall be issued to an habitual offender, nor shall an habitual offender operate a motor vehicle in this state:

(a) For a period of five years from the date of the order of the department finding such person to be an habitual offender EXCEPT AS MAY BE PERMITTED BY SECTION 42-2-132.5; and

SECTION 12. 42-2-138 (1) (b), (1) (e), and (3), Colorado Revised Statutes, are amended to read:

42-2-138. Driving under restraint - penalty. (1) (b) Upon a second or subsequent conviction under paragraph (a) of this subsection (1) within five years after the first conviction thereunder, in addition to the penalty prescribed in said paragraph (a) of this subsection (1), EXCEPT AS MAY BE PERMITTED BY SECTION 42-2-132.5, the defendant shall not be eligible to be issued a driver's, minor driver's, or provisional driver's license or extended any driving privilege in this state for a period of three years after such second or subsequent conviction.

(e) Upon a second or subsequent conviction under subparagraph (I) of paragraph (d) of this subsection (1) within five years after the first conviction thereunder, in addition to the penalty prescribed in said subparagraph (I), EXCEPT AS MAY BE PERMITTED BY SECTION 42-2-132.5, the defendant shall not be eligible to be issued a driver's, minor driver's, or provisional driver's license or extended any driving privilege in this state for a period of four years after such second or subsequent conviction.

(3) The department, upon receiving a record of conviction or accident report of any person for an offense committed while operating a motor vehicle, shall immediately examine its files to determine if the license or operating privilege of such person has been suspended or revoked. If it appears that said offense was committed while the license or operating privilege of such person was revoked or suspended, EXCEPT AS PERMITTED BY SECTION 42-2-132.5, the department shall not issue a new license or grant any driving privileges for an additional period of one year after the date such person would otherwise have been entitled to apply for a new license or for reinstatement of a suspended license and shall notify the district attorney in the county

where such violation occurred and request prosecution of such person under subsection (1) of this section.

SECTION 13. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the interlock fund not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2000, the sum of twenty thousand eight hundred fifty-three dollars (\$20,853), or so much thereof as may be necessary, for the implementation of this act.

SECTION 14. Effective date - applicability. Sections 1 through 9 and sections 13 and 14 of this act shall take effect July 1, 2000, and shall apply to offenses committed on or after said date. Sections 10 through 12 of this act shall take effect January 1, 2001, and shall apply to applications received on and after said date.

SECTION 15. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 26, 2000