

CHAPTER 361

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 13-1240

BY REPRESENTATIVE(S) Young, Duran, Fields, Foote, Hullinghorst, Labuda, Lee, Levy, McLachlan, Mitsch Bush, Pabon, Peniston, Rosenthal, Salazar, Tyler;
also SENATOR(S) King, Aguilar, Heath, Kefalas, Kerr, Newell, Todd, Morse.

AN ACT

**CONCERNING PENALTIES FOR PERSISTENT DRUNK DRIVERS, AND, IN CONNECTION THEREWITH,
MAKING AN APPROPRIATION.**

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

SECTION 1. In Colorado Revised Statutes, 42-2-132.5, **amend** (1) (b), (4) (a) (I), and (4) (a) (II) (C) as follows:

42-2-132.5. Mandatory and voluntary restricted licenses following alcohol convictions - rules. (1) **Persons required to hold an interlock-restricted license.** The following persons shall be required to hold an interlock-restricted license pursuant to this section for at least one year following reinstatement prior to being eligible to obtain any other driver's license issued under this article:

(b) A person whose license has been revoked for excess BAC pursuant to the provisions of section 42-2-126 when the person's BAC was ~~0.17 or more~~ 0.15 OR MORE at the time of driving or within two hours after driving or whose driving record otherwise indicates a designation of persistent drunk driver as defined in section 42-1-102 (68.5);

(4) **Persons who may acquire an interlock-restricted license prior to serving a full-term revocation.** (a) (I) A person whose privilege to drive has been revoked for one year or more because of a DUI, DUI per se, or DWAI conviction or has been revoked for one year or more for excess BAC ~~or refusal~~ under any provision of section 42-2-126 may apply for an early reinstatement with an interlock-restricted license under the provisions of this section after the person's privilege to drive has been revoked for ~~one year~~ ONE MONTH; EXCEPT THAT A PERSON WHO IS LESS THAN TWENTY-ONE YEARS OF AGE AT THE TIME OF THE OFFENSE MAY NOT APPLY FOR

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

EARLY REINSTATEMENT UNTIL HIS OR HER LICENSE HAS BEEN REVOKED FOR ONE YEAR. A PERSON WHOSE PRIVILEGE TO DRIVE HAS BEEN REVOKED FOR ONE YEAR OR MORE BECAUSE OF A REFUSAL MAY APPLY FOR AN EARLY REINSTATEMENT WITH AN INTERLOCK-RESTRICTED LICENSE UNDER THE PROVISIONS OF THIS SECTION AFTER THE PERSON'S PRIVILEGE TO DRIVE HAS BEEN REVOKED FOR TWO MONTHS; EXCEPT THAT A PERSON WHO IS LESS THAN TWENTY-ONE YEARS OF AGE AT THE TIME OF THE OFFENSE MAY NOT APPLY FOR EARLY REINSTATEMENT UNTIL HIS OR HER LICENSE HAS BEEN REVOKED FOR ONE YEAR. Except for first-time offenders as provided in subparagraph (II) of this paragraph (a) or for persistent drunk drivers as provided in subsection (3) of this section, 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.

(II) (C) **Financial assistance for first-time offenders and persistent drunk drivers.** The department shall establish a program to assist persons who apply for an interlock-restricted license pursuant to this subparagraph (II) OR PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (4) and who are unable to pay the full cost of an approved ignition interlock device. The program shall be funded from the first time drunk driving offender account in the highway users tax fund established pursuant to section 42-2-132 (4) (b) (II).

SECTION 2. In Colorado Revised Statutes, 42-1-102, **amend** (68.5) as follows:

42-1-102. Definitions. As used in articles 1 to 4 of this title, unless the context otherwise requires:

(68.5) (a) "Persistent drunk driver" means any person who:

(I) Has been convicted of or had his or her driver's license revoked for two or more alcohol-related driving violations;

(II) ~~who~~ Continues to drive after a driver's license or driving privilege restraint has been imposed for one or more alcohol-related driving offenses;

(III) ~~or who~~ Drives a motor vehicle while the amount of alcohol in such person's blood, as shown by analysis of the person's blood or breath, was ~~0.17 or more~~ 0.15 OR MORE grams of alcohol per one hundred milliliters of blood or ~~0.17 or more~~ 0.15 OR MORE grams of alcohol per two hundred ten liters of breath at the time of driving or within two hours after driving; OR

(IV) REFUSES TO TAKE OR COMPLETE, OR TO COOPERATE IN THE COMPLETING OF, A TEST OF HIS OR HER BLOOD, BREATH, SALIVA, OR URINE AS REQUIRED BY SECTION 18-3-106 (4) OR 18-3-205 (4), C.R.S., OR SECTION 42-4-1301.1 (2).

(b) Nothing in this subsection (68.5) shall be interpreted to affect the penalties imposed under this title for multiple alcohol- or drug-related driving offenses, including, but not limited to, penalties imposed for violations under sections 42-2-125 (1) (g) and (1) (i) and 42-2-202 (2).

SECTION 3. In Colorado Revised Statutes, 42-2-126, **amend** (4) (d) (II) (A) as follows:

42-2-126. Revocation of license based on administrative determination.

(4) **Multiple restraints and conditions on driving privileges.** (d) (II) (A) If a person was determined to be driving with excess BAC and the person had a BAC that was ~~0.17 or more~~ 0.15 OR MORE or if the person's driving record otherwise indicates a designation as a persistent drunk driver as defined in section 42-1-102 (68.5), the department shall require the person to complete a level II alcohol and drug education and treatment program certified by the unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse, pursuant to section 42-4-1301.3 as a condition to restoring driving privileges to the person and, upon the restoration of driving privileges, shall require the person to hold a restricted license requiring the use of an ignition interlock device pursuant to section 42-2-132.5 (1) (b).

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

42-2-132. Period of suspension or revocation. (2) (a) (II) (B) If the person was determined to be in violation of section 42-2-126 (3) (a) and the person had a BAC that was ~~0.17 or more~~ 0.15 OR MORE at the time of driving or within two hours after driving, or if the person's driving record otherwise indicates a designation as a persistent drunk driver as defined in section 42-1-102 (68.5), the department shall require the person to complete a level II alcohol and drug education and treatment program certified by the unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse, pursuant to section 42-4-1301.3, AND, UPON THE RESTORATION OF DRIVING PRIVILEGES, SHALL REQUIRE THE PERSON TO HOLD A RESTRICTED LICENSE REQUIRING THE USE OF AN IGNITION INTERLOCK DEVICE PURSUANT TO SECTION 42-2-132.5 (1) (b).

(4) (b) All restoration fees collected pursuant to this subsection (4) shall be transmitted to the state treasurer, who shall credit:

(II) (B) The moneys in the account shall be subject to annual appropriation by the general assembly on and after January 1, 2009, first to the department of revenue to pay its costs associated with the implementation of House Bill 08-1194, as enacted ~~at the second~~ IN 2008, ~~regular session, of the sixty-sixth general assembly~~ AND TO PAY ITS COSTS ASSOCIATED WITH THE IMPLEMENTATION OF HOUSE BILL 13-1240, ENACTED IN 2013; second, to the department of revenue to pay a portion of the costs for an ignition interlock device as described by section 42-2-132.5 (4) (a) (II) (C) for a first time drunk driving offender who is unable to pay the costs of the device; THIRD, TO THE DEPARTMENT OF REVENUE TO PAY A PORTION OF THE COSTS FOR AN IGNITION INTERLOCK DEVICE FOR A PERSISTENT DRUNK DRIVER WHO IS UNABLE TO PAY THE COSTS OF THE DEVICE AND WHO INSTALLS THE IGNITION INTERLOCK DEVICE ON HIS OR HER VEHICLE ON OR AFTER JANUARY 1, 2014; and then to provide two million dollars to the department of transportation for high visibility drunk driving enforcement pursuant to section 43-4-901, C.R.S. Any moneys in the account not expended for these purposes may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the account shall be credited to the account. At the end of each fiscal year, any unexpended and unencumbered moneys remaining in the account shall remain in the account and shall not be credited or transferred to the general fund,

the highway users tax fund, or another fund.

SECTION 5. In Colorado Revised Statutes, 42-2-126, **amend** (3) (c) (I), (4) (a) (I), (4) (a) (III), and (4) (b) (I); and **add** (4) (a) (V) as follows:

42-2-126. Revocation of license based on administrative determination.

(3) **Revocation of license. (c) Refusal. (I)** EXCEPT AS PROVIDED IN SECTION 42-2-132.5 (4), the department shall revoke the license of a person for refusal for one year for a first violation, two years for a second violation, and three years for a third or subsequent violation; except that the period of revocation shall be at least three years if the person was driving a commercial motor vehicle that was transporting hazardous materials as defined in section 42-2-402 (7).

(4) **Multiple restraints and conditions on driving privileges. (a) (I)** Except as otherwise provided in this paragraph (a), a revocation imposed pursuant to this section FOR AN OFFENSE COMMITTED BEFORE JANUARY 1, 2014, shall run consecutively and not concurrently with any other revocation imposed pursuant to this section.

(III) (A) If a license is revoked for refusal FOR AN OFFENSE COMMITTED BEFORE JANUARY 1, 2014, the revocation shall not run concurrently, in whole or in part, with any previous or subsequent suspensions, revocations, or denials that may be provided for by law, including but not limited to any suspension, revocation, or denial that results from a conviction of criminal charges arising out of the same occurrence for a violation of section 42-4-1301. ~~Any revocation for refusal shall not preclude other action that the department is required to take in the administration of this title.~~

(B) IF A LICENSE IS REVOKED FOR REFUSAL FOR AN OFFENSE COMMITTED ON OR AFTER JANUARY 1, 2014, AND THE PERSON IS ALSO CONVICTED ON CRIMINAL CHARGES ARISING OUT OF THE SAME OCCURRENCE FOR DUI, DUI PER SE, DWAI, OR UDD, BOTH THE REVOCATION UNDER THIS SECTION AND ANY SUSPENSION, REVOCATION, CANCELLATION, OR DENIAL THAT RESULTS FROM THE CONVICTION SHALL BE IMPOSED, BUT THE PERIODS SHALL RUN CONCURRENTLY. THE TOTAL PERIOD OF REVOCATION, SUSPENSION, CANCELLATION, OR DENIAL SHALL NOT EXCEED THE LONGER OF THE TWO PERIODS.

(V) ANY REVOCATION FOR REFUSAL SHALL NOT PRECLUDE OTHER ACTION THAT THE DEPARTMENT IS REQUIRED TO TAKE IN THE ADMINISTRATION OF THIS TITLE.

(b) (I) The periods of revocation specified in subsection (3) of this section are intended to be minimum periods of revocation for the described conduct. EXCEPT AS DESCRIBED IN SECTION 42-2-132.5, a license shall not be restored under any circumstances, and a probationary license shall not be issued, during the revocation period.

SECTION 6. In Colorado Revised Statutes, 42-2-132, **amend** (4) (b) (II) (B) as follows:

42-2-132. Period of suspension or revocation. (4) (b) All restoration fees collected pursuant to this subsection (4) shall be transmitted to the state treasurer,

who shall credit:

(II) (B) The moneys in the account shall be subject to annual appropriation by the general assembly on and after January 1, 2009, first to the department of revenue to pay its costs associated with the implementation of House Bill 08-1194, as enacted ~~at the second~~ IN 2008, ~~regular session, of the sixty-sixth general assembly~~ AND TO PAY ITS COSTS ASSOCIATED WITH THE IMPLEMENTATION OF HOUSE BILL 13-1240, ENACTED IN 2013; second, to the department of revenue to pay a portion of the costs for an ignition interlock device as described by section 42-2-132.5 (4) (a) (II) (C) for a first time drunk driving offender who is unable to pay the costs of the device; and then to provide two million dollars to the department of transportation for high visibility drunk driving enforcement pursuant to section 43-4-901, C.R.S. Any moneys in the account not expended for these purposes may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the account shall be credited to the account. At the end of each fiscal year, any unexpended and unencumbered moneys remaining in the account shall remain in the account and shall not be credited or transferred to the general fund, the highway users tax fund, or another fund.

SECTION 7. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the first time drunk driving offender account in the highway users tax fund created in section 42-2-132 (4) (b) (II) (A), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2013, the sum of \$126,834 and 1.0 FTE, or so much thereof as may be necessary, for the implementation of this act as follows:

(a) \$100,120 and 1.0 FTE for personal services, temporary staff, operating expenses, and forms adjustment; and

(b) \$26,714 for the purchase of computer center services.

(2) In addition to any other appropriation, there is hereby appropriated to the governor - lieutenant governor - state planning and budgeting, for the fiscal year beginning July 1, 2013, the sum of \$26,714, or so much thereof as may be necessary, for allocation to the office of information technology, for the provision of computer center services for the department of revenue related to the implementation of this act. Said sum is from reappropriated funds received from the department of revenue out of the appropriation made in paragraph (b) of subsection (1) of this section.

SECTION 8. Effective date. This act takes effect upon passage; except that sections 1, 2, 3, 4, and 5 of this act take effect on January 1, 2014.

SECTION 9. 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 28, 2013