

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 18-1216.01 Jerry Barry x4341

SENATE BILL 18-257

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SENATE SPONSORSHIP

Priola,

HOUSE SPONSORSHIP

(None),

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Senate Committees

State, Veterans, & Military Affairs

House Committees

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A BILL FOR AN ACT

101 CONCERNING AN INCREASE IN THE PENALTY FOR DRIVING UNDER  
102 RESTRAINT.

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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 current law, the penalty for driving under restraint due to a first alcohol-related offense is imprisonment in the county jail for not less than 30 days to not more than one year and a fine of not less than \$500 to not more than \$1,000. The bill increases the minimum penalty to not less than 60 days and not less than \$1,000 to not more than \$2,000.

Under current law, the penalty for driving under restraint due to a

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

second or subsequent alcohol-related offense is imprisonment in the county jail for not less than 90 days to not more than 2 years and a fine of not less than \$500 to not more than \$2,000. The bill increases the minimum penalty to not less than 120 days and not less than \$2,000 to not more than \$4,000.

If a person drives negligently while under restraint due to an alcohol-related offense and the person's conduct is a proximate cause of another person's death, the person commits a class 5 felony.

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

2 **SECTION 1.** In Colorado Revised Statutes, 42-2-138, **amend**  
3 (1)(d)(I) as follows:

4 **42-2-138. Driving under restraint - penalty.** (1) (d) (I) (A) A  
5 person who drives a motor vehicle or off-highway vehicle upon any  
6 highway of this state with knowledge that the person's license or privilege  
7 to drive, either as a resident or nonresident, is restrained under section  
8 42-2-126 (3), is restrained solely or partially because of a conviction of  
9 DUI, DUI per se, DWAI, or UDD, or is restrained in another state solely  
10 or partially because of an alcohol-related driving offense is guilty of a  
11 misdemeanor and, upon conviction thereof, shall be punished by  
12 imprisonment in the county jail for not less than ~~thirty~~ SIXTY days nor  
13 more than one year and, in the discretion of the court, by a fine of not less  
14 than ~~five hundred~~ ONE THOUSAND dollars nor more than ~~one~~ TWO  
15 thousand dollars. Upon a second or subsequent conviction, the person  
16 shall be punished by imprisonment in the county jail for not less than  
17 ~~ninety~~ ONE HUNDRED TWENTY days nor more than two years and, in the  
18 discretion of the court, by a fine of not less than ~~five hundred~~ TWO  
19 THOUSAND dollars nor more than ~~three~~ FOUR thousand dollars. The  
20 minimum county jail sentence imposed by this ~~subparagraph (I)~~ shall be  
21 SUBSECTION (1)(d)(I) IS mandatory, and the court shall not grant probation

1 or a suspended sentence thereof; but, in a case where the defendant is  
2 convicted although the defendant established that he or she had to drive  
3 the motor vehicle in violation of this ~~subparagraph (I)~~ SUBSECTION  
4 (1)(d)(I) because of an emergency, the mandatory jail sentence, if any,  
5 ~~shall~~ DOES not apply, and, for a first conviction, the court may impose a  
6 sentence of imprisonment in the county jail for a period of not more than  
7 one year and, in the discretion of the court, a fine of not more than one  
8 thousand dollars, and, for a second or subsequent conviction, the court  
9 may impose a sentence of imprisonment in the county jail for a period of  
10 not more than two years and, in the discretion of the court, a fine of not  
11 more than three thousand dollars.

12 (B) NOTWITHSTANDING THE PENALTIES DESCRIBED IN SUBSECTION  
13 (1)(d)(I)(A) OF THIS SECTION, IF A PERSON DRIVES A MOTOR VEHICLE OR  
14 OFF-HIGHWAY VEHICLE UPON ANY HIGHWAY OF THIS STATE IN A  
15 NEGLIGENT MANNER WITH KNOWLEDGE THAT THE PERSON'S LICENSE OR  
16 PRIVILEGE TO DRIVE, EITHER AS A RESIDENT OR NONRESIDENT, IS  
17 RESTRAINED UNDER SECTION 42-2-126 (3), IS RESTRAINED SOLELY OR  
18 PARTIALLY BECAUSE OF A CONVICTION OF DUI, DUI PER SE, DWAI, OR  
19 UDD, OR IS RESTRAINED IN ANOTHER STATE SOLELY OR PARTIALLY  
20 BECAUSE OF AN ALCOHOL-RELATED DRIVING OFFENSE, AND SUCH  
21 CONDUCT IS A PROXIMATE CAUSE OF THE DEATH OF ANOTHER, THE PERSON  
22 COMMITS A CLASS 5 FELONY AND SHALL BE PUNISHED IN ACCORDANCE  
23 WITH SECTION 18-1.3-401.

24 **SECTION 2. Potential appropriation.** Pursuant to section  
25 2-2-703, C.R.S., any bill that results in a net increase in periods of  
26 imprisonment in state correctional facilities must include an appropriation  
27 of money that is sufficient to cover any increased capital construction, any

1 operational costs, and increased parole costs that are the result of the bill  
2 for the department of corrections in each of the first five years following  
3 the effective date of the bill. Because this act may increase periods of  
4 imprisonment, this act may require a five-year appropriation.

5 **SECTION 3. Act subject to petition - effective date -**  
6 **applicability.** (1) This act takes effect September 1, 2018; except that,  
7 if a referendum petition is filed pursuant to section 1 (3) of article V of  
8 the state constitution against this act or an item, section, or part of this act  
9 within the ninety-day period after final adjournment of the general  
10 assembly, then the act, item, section, or part will not take effect unless  
11 approved by the people at the general election to be held in November  
12 2018 and, in such case, will take effect on the date of the official  
13 declaration of the vote thereon by the governor.

14 (2) This act applies to offenses committed on or after the  
15 applicable effective date of this act.