

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

INTRODUCED

LLS NO. 24-0743.01 Conrad Imel x2313

HOUSE BILL 24-1135

HOUSE SPONSORSHIP

Soper and Snyder, Bird, Evans

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House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING OFFENSES RELATED TO REQUIREMENTS FOR OPERATING**
102 **A VEHICLE.**

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, it is a class A traffic infraction to operate a commercial motor vehicle without a commercial driver's license, to operate a commercial motor vehicle if the operator is under 21 years of age, or to drive a commercial motor vehicle if the person has more than one driver's license. The bill makes each a class 1 misdemeanor; except that, if a person presents a valid commercial driver's license to the court

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.

within 30 days, the offense is a class A traffic infraction.

The bill creates the offense of unlawful direction to operate a commercial motor vehicle. An employer who knowingly authorizes or permits an employee to operate a commercial motor vehicle without a commercial driver's license, or permits an employee who is under 21 years of age to operate a commercial motor vehicle, commits unlawful direction to operate a commercial motor vehicle, a class 1 misdemeanor traffic offense.

The bill requires a driver to comply with a search warrant to conduct a blood draw. Failure to comply with a warrant to conduct a blood draw is a misdemeanor; except that it is a class 4 felony if the violation occurred after 3 or more prior convictions, arising out of separate and distinct criminal episodes, for driving under the influence (DUI), DUI per se, or driving while ability impaired (collectively, impaired driving offenses); vehicular homicide; vehicular assault; or any combination thereof. A driver who fails to comply with a warrant to conduct a blood draw is subject to the same criminal penalties as for DUI.

Under existing law, a person whose privilege to drive was revoked for multiple convictions for any combination of impaired driving offenses must have an interlock-restricted license for 2 to 5 years. The bill requires a person whose privilege to drive was revoked following a conviction for a DUI or DUI per se to hold an interlock-restricted license for at least:

- 2 years, if the DUI or DUI per se conviction is a second conviction for any combination of impaired driving offenses;
- 3 years, if the DUI or DUI per se conviction is a third conviction for any combination of impaired driving offenses; and
- 4 years, if the DUI or DUI per se conviction is a fourth conviction for any combination of impaired driving offenses.

Under existing law, a persistent drunk driver is required to hold the interlock-restricted license for at least 2 years following reinstatement. The bill requires a persistent drunk driver to hold an interlock-restricted license for at least 3 years following a second violation for refusal to take or complete a test for the purpose of determining the alcoholic content of the driver's blood or breath upon a law enforcement officer's request.

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

2 **SECTION 1.** In Colorado Revised Statutes, 42-2-404, **amend** (3)

3 as follows:

4 **42-2-404. Commercial driver's license - limitations - unlawful**

1 **direction to operate a commercial motor vehicle - rules.** (3) (a) In
2 addition to any applicable federal penalty concerning commercial motor
3 vehicle operators, any person who violates subsection (1) or (2) of this
4 section, or any rule or regulation promulgated by the department pursuant
5 to this part 4, commits a CLASS 1 MISDEMEANOR TRAFFIC OFFENSE;
6 EXCEPT THAT, IF A PERSON WHO VIOLATES SUBSECTION (1) OR (2) OF THIS
7 SECTION PRESENTS A VALID COMMERCIAL DRIVER'S LICENSE TO THE COURT
8 WITHIN THIRTY DAYS AFTER THE DATE OF THE VIOLATION OR AT THE
9 PERSON'S FIRST SCHEDULED COURT APPEARANCE, THE PERSON, IF
10 CONVICTED, IS GUILTY OF A class A traffic infraction.

11 (b) AN EMPLOYER OR AN OFFICER OR AGENT OF AN EMPLOYER WHO
12 KNOWINGLY AUTHORIZES OR PERMITS AN EMPLOYEE TO VIOLATE
13 SUBSECTION (1) OF THIS SECTION COMMITS UNLAWFUL DIRECTION TO
14 OPERATE A COMMERCIAL MOTOR VEHICLE. UNLAWFUL DIRECTION TO
15 OPERATE A COMMERCIAL MOTOR VEHICLE IS A CLASS 1 MISDEMEANOR
16 TRAFFIC OFFENSE.

17 **SECTION 2.** In Colorado Revised Statutes, **add** 42-4-1301.5 as
18 follows:

19 **42-4-1301.5. Failure to comply with a warrant to conduct a**
20 **blood draw of a driver - penalty.** (1) IF A LAW ENFORCEMENT OFFICER
21 WHO HAS PROBABLE CAUSE TO BELIEVE THAT A PERSON WAS DRIVING A
22 MOTOR VEHICLE IN VIOLATION OF THE PROHIBITIONS AGAINST DUI, DUI
23 PER SE, DWAI, OR UDD REQUESTS A SEARCH WARRANT TO CONDUCT A
24 BLOOD DRAW FOR THE PURPOSE OF DETERMINING THE ALCOHOLIC
25 CONTENT OF THE DRIVER'S BLOOD, THE DRIVER SHALL COMPLY WITH THE
26 JUDICIALLY AUTHORIZED SEARCH WARRANT TO CONDUCT A BLOOD DRAW.

27 (2) A DRIVER WHO VIOLATES SUBSECTION (1) OF THIS SECTION

1 COMMITTS FAILURE TO COMPLY WITH A WARRANT TO CONDUCT A BLOOD
2 DRAW OF A DRIVER.

3 (3) FAILURE TO COMPLY WITH A WARRANT TO CONDUCT A BLOOD
4 DRAW OF A DRIVER IS A MISDEMEANOR; EXCEPT THAT IT IS A CLASS 4
5 FELONY IF THE VIOLATION OCCURRED AFTER THREE OR MORE PRIOR
6 CONVICTIONS, ARISING OUT OF SEPARATE AND DISTINCT CRIMINAL
7 EPISODES, FOR DUI, DUI PER SE, FAILURE TO COMPLY WITH A WARRANT
8 TO CONDUCT A BLOOD DRAW OF A DRIVER, OR DWAI; VEHICULAR
9 HOMICIDE, AS DESCRIBED IN SECTION 18-3-106 (1)(b); VEHICULAR
10 ASSAULT, AS DESCRIBED IN SECTION 18-3-205 (1)(b); OR ANY
11 COMBINATION THEREOF. FAILURE TO COMPLY WITH A WARRANT TO
12 CONDUCT A BLOOD DRAW OF A DRIVER SHALL BE PUNISHED IN
13 ACCORDANCE WITH SECTION 42-4-1307.

14 **SECTION 3.** In Colorado Revised Statutes, 42-4-1307, **amend**
15 (3)(a) introductory portion, (3)(b), (5)(a) introductory portion, (5)(b)
16 introductory portion, (6)(a) introductory portion, (6)(c) introductory
17 portion, (6)(c)(I), (6.5)(a), (6.5)(d), (6.5)(e), (9)(a), and (13)(a); and **add**
18 (2)(d.5) as follows:

19 **42-4-1307. Penalties for traffic offenses involving alcohol and**
20 **drugs - legislative declaration - definitions - repeal. (2) Definitions.**

21 As used in this section, unless the context otherwise requires:

22 (d.5) "FAILURE TO COMPLY WITH A WARRANT TO CONDUCT A
23 BLOOD DRAW OF A DRIVER" MEANS THE OFFENSE OF FAILURE TO COMPLY
24 WITH A WARRANT TO CONDUCT A BLOOD DRAW OF A DRIVER DESCRIBED
25 IN SECTION 42-4-1301.5.

26 (3) **First offenses - DUI and DUI per se.** (a) Except as otherwise
27 provided in subsections (5) and (6) of this section, a person who is

1 convicted of DUI, ~~or~~ DUI per se, OR FAILURE TO COMPLY WITH A
2 WARRANT TO CONDUCT A BLOOD DRAW OF A DRIVER shall be punished by:

3 (b) Notwithstanding the provisions of ~~subparagraph (f) of~~
4 ~~paragraph (a) of this subsection (3)~~ SUBSECTION (3)(a)(I) OF THIS
5 SECTION, and except as described in ~~paragraphs (a) and (b) of subsection~~
6 ~~(5) and paragraph (a) of subsection (6)~~ SUBSECTIONS (5)(a), (5)(b), AND
7 (6) of this section, a person who is convicted of DUI, ~~or~~ DUI per se, OR
8 FAILURE TO COMPLY WITH A WARRANT TO CONDUCT A BLOOD DRAW OF A
9 DRIVER when the person's BAC was 0.20 or more at the time of driving
10 or within two hours after driving shall be punished by imprisonment in
11 the county jail for at least ten days but not more than one year; except that
12 the court shall have the discretion to employ the sentencing alternatives
13 described in section 18-1.3-106. ~~C.R.S.~~

14 (5) **Second offenses.** (a) Except as otherwise provided in
15 subsection (6) of this section, a person who is convicted of DUI, DUI per
16 se, FAILURE TO COMPLY WITH A WARRANT TO CONDUCT A BLOOD DRAW OF
17 A DRIVER, or DWAI who, at the time of sentencing, has a prior conviction
18 of DUI, DUI per se, FAILURE TO COMPLY WITH A WARRANT TO CONDUCT
19 A BLOOD DRAW OF A DRIVER, DWAI, vehicular homicide pursuant to
20 section 18-3-106 (1)(b), vehicular assault pursuant to section 18-3-205
21 (1)(b), aggravated driving with a revoked license pursuant to section
22 42-2-206 (1)(b)(I)(A) or (1)(b)(I)(B), as that crime existed before August
23 5, 2015, or driving while the person's driver's license was under restraint
24 pursuant to section 42-2-138 (1)(d), shall be punished by:

25 (b) If a person is convicted of DUI, DUI per se, FAILURE TO
26 COMPLY WITH A WARRANT TO CONDUCT A BLOOD DRAW OF A DRIVER, or
27 DWAI and the violation occurred less than five years after the date of a

1 previous violation for which the person was convicted of DUI, DUI per
2 se, FAILURE TO COMPLY WITH A WARRANT TO CONDUCT A BLOOD DRAW OF
3 A DRIVER, DWAI, vehicular homicide pursuant to section 18-3-106 (1)(b),
4 ~~€R.S.~~, vehicular assault pursuant to section 18-3-205 (1)(b), ~~€R.S.~~,
5 aggravated driving with a revoked license pursuant to section 42-2-206
6 (1)(b)(I)(A) or (1)(b)(I)(B), as that crime existed before August 5, 2015,
7 or driving while the person's driver's license was under restraint pursuant
8 to section 42-2-138 (1)(d), the court does not have discretion to employ
9 any sentencing alternatives described in section 18-1.3-106, ~~€R.S.~~,
10 during the minimum period of imprisonment described in ~~subparagraph~~
11 ~~(f) of paragraph (a) of this subsection (5)~~ SUBSECTION (5)(a)(I) OF THIS
12 SECTION; except that a court may allow the person to participate in a
13 program pursuant to section 18-1.3-106 (1)(a)(II), (1)(a)(IV), or (1)(a)(V)
14 ~~€R.S.~~, only if the program is available through the county in which the
15 person is imprisoned and only for the purpose of:

16 (6) **Third and subsequent offenses.** (a) Except as provided in
17 section 42-4-1301 (1)(a), (1)(b), and (2)(a), a person who is convicted of
18 DUI, DUI per se, FAILURE TO COMPLY WITH A WARRANT TO CONDUCT A
19 BLOOD DRAW OF A DRIVER, or DWAI who, at the time of sentencing, has
20 two or more prior convictions of DUI, DUI per se, FAILURE TO COMPLY
21 WITH A WARRANT TO CONDUCT A BLOOD DRAW OF A DRIVER, DWAI,
22 vehicular homicide pursuant to section 18-3-106 (1)(b), vehicular assault
23 pursuant to section 18-3-205 (1)(b), aggravated driving with a revoked
24 license pursuant to section 42-2-206 (1)(b)(I)(A) or (1)(b)(I)(B), as that
25 crime existed before August 5, 2015, or driving while the person's driver's
26 license was under restraint pursuant to section 42-2-138 (1)(d) shall be
27 punished by:

1 (c) Notwithstanding any other provision of law, if the defendant
2 satisfies the conditions described in ~~subparagraphs (I) and (H) of this~~
3 ~~paragraph (c)~~ THIS SUBSECTION (6)(c), the court may include as a
4 condition of probation a requirement that the defendant participate in
5 alcohol treatment. If the defendant's assessed treatment need is for
6 residential treatment, the court may make residential alcohol treatment a
7 condition of probation and may place the offender in a community
8 corrections program that can provide the appropriate level of treatment.
9 This ~~paragraph (c)~~ SUBSECTION (6)(c) applies only if:

10 (I) At the time of sentencing, the person has two prior convictions
11 of DUI, DUI per se, FAILURE TO COMPLY WITH A WARRANT TO CONDUCT
12 A BLOOD DRAW OF A DRIVER, DWAI, vehicular homicide pursuant to
13 section 18-3-106 (1)(b), ~~C.R.S.~~, or vehicular assault pursuant to section
14 18-3-205 (1)(b); ~~C.R.S.~~; and

15 (6.5) **Felony offenses.** (a) A person who commits a felony DUI,
16 DUI per se, FAILURE TO COMPLY WITH A WARRANT TO CONDUCT A BLOOD
17 DRAW OF A DRIVER, or DWAI offense shall be sentenced in accordance
18 with the provisions of section 18-1.3-401 and this subsection (6.5).

19 (d) Notwithstanding the provisions of subsection (6.5)(a) of this
20 section, before the imposition of any sentence to the department of
21 corrections for a felony DUI, DUI per se, FAILURE TO COMPLY WITH A
22 WARRANT TO CONDUCT A BLOOD DRAW OF A DRIVER, or DWAI offense,
23 at sentencing or at resentencing after a revocation of probation or a
24 community corrections sentence, the court shall consider all the factors
25 described in subsection (6.5)(e) of this section.

26 (e) If the court sentences the defendant to the department of
27 corrections for a felony DUI, DUI per se, FAILURE TO COMPLY WITH A

1 WARRANT TO CONDUCT A BLOOD DRAW OF A DRIVER, or DWAI offense,
2 it must determine that incarceration is the most suitable option given the
3 facts and circumstances of the case, including the defendant's willingness
4 to participate in treatment. Additionally, the court shall consider whether
5 all other reasonable and appropriate sanctions and responses to the
6 violation that are available to the court have been exhausted, do not
7 appear likely to be successful if tried, or present an unacceptable risk to
8 public safety.

9 (9) **Previous convictions.** (a) For the purposes of subsections (5)
10 and (6) of this section, a person is deemed to have a previous conviction
11 for DUI, DUI per se, FAILURE TO COMPLY WITH A WARRANT TO CONDUCT
12 A BLOOD DRAW OF A DRIVER, DWAI, vehicular homicide pursuant to
13 section 18-3-106 (1)(b), ~~C.R.S.~~, vehicular assault pursuant to section
14 18-3-205 (1)(b), ~~C.R.S.~~, aggravated driving with a revoked license
15 pursuant to section 42-2-206 (1)(b)(I)(A) or (1)(b)(I)(B), as that crime
16 existed before August 5, 2015, or driving while the person's driver's
17 license was under restraint pursuant to section 42-2-138 (1)(d), if the
18 person has been convicted under the laws of this state or under the laws
19 of any other state, the United States, or any territory subject to the
20 jurisdiction of the United States, of an act that, if committed within this
21 state, would constitute the offense of DUI, DUI per se, FAILURE TO
22 COMPLY WITH A WARRANT TO CONDUCT A BLOOD DRAW OF A DRIVER,
23 DWAI, vehicular homicide pursuant to section 18-3-106 (1)(b), ~~C.R.S.~~,
24 vehicular assault pursuant to section 18-3-205 (1)(b), ~~C.R.S.~~, aggravated
25 driving with a revoked license pursuant to section 42-2-206 (1)(b)(I)(A)
26 or (1)(b)(I)(B), as that crime existed before August 5, 2015, or driving
27 while the person's driver's license was under restraint pursuant to section

1 42-2-138 (1)(d).

2 (13) **Alcohol and drug evaluation and supervision costs.** (a) In
3 addition to any fines, fees, or costs levied against a person convicted of
4 DUI, DUI per se, FAILURE TO COMPLY WITH A WARRANT TO CONDUCT A
5 BLOOD DRAW OF A DRIVER, DWAI, or UDD, the judge shall assess each
6 such person for the cost of the presentence or postsentence alcohol and
7 drug evaluation and supervision services.

8 **SECTION 4.** In Colorado Revised Statutes, 42-4-1301, **amend**
9 (1)(a), (1)(b), (1)(j), and (2)(a) as follows:

10 **42-4-1301. Driving under the influence - driving while**
11 **impaired - driving with excessive alcoholic content - definitions -**
12 **penalties.** (1) (a) A person who drives a motor vehicle or vehicle under
13 the influence of alcohol or one or more drugs, or a combination of both
14 alcohol and one or more drugs, commits driving under the influence.
15 Driving under the influence is a misdemeanor, but it is a class 4 felony if
16 the violation occurred after three or more prior convictions, arising out of
17 separate and distinct criminal episodes, for DUI, DUI per se, or DWAI;
18 FAILURE TO COMPLY WITH A WARRANT TO CONDUCT A BLOOD DRAW OF A
19 DRIVER, AS DESCRIBED IN SECTION 42-4-1301.5; vehicular homicide, as
20 described in section 18-3-106 (1)(b); vehicular assault, as described in
21 section 18-3-205 (1)(b); or any combination thereof.

22 (b) A person who drives a motor vehicle or vehicle while impaired
23 by alcohol or by one or more drugs, or by a combination of alcohol and
24 one or more drugs, commits driving while ability impaired. Driving while
25 ability impaired is a misdemeanor, but it is a class 4 felony if the violation
26 occurred after three or more prior convictions, arising out of separate and
27 distinct criminal episodes, for DUI, DUI per se, or DWAI; FAILURE TO

1 COMPLY WITH A WARRANT TO CONDUCT A BLOOD DRAW OF A DRIVER, AS
2 DESCRIBED IN SECTION 42-4-1301.5; vehicular homicide, as described in
3 section 18-3-106 (1)(b); vehicular assault, as described in section
4 18-3-205 (1)(b); or any combination thereof.

5 (j) For the purposes of this section, a person is deemed to have a
6 prior conviction for DUI, DUI per se, or DWAI; FAILURE TO COMPLY
7 WITH A WARRANT TO CONDUCT A BLOOD DRAW OF A DRIVER, AS
8 DESCRIBED IN SECTION 42-4-1301.5; vehicular homicide, as described in
9 section 18-3-106 (1)(b); ~~C.R.S.~~; or vehicular assault, as described in
10 section 18-3-205 (1)(b); ~~C.R.S.~~; if the person has been convicted under
11 the laws of this state or under the laws of any other state, the United
12 States, or any territory subject to the jurisdiction of the United States, of
13 an act that, if committed within this state, would constitute any of these
14 offenses. The prosecution shall set forth ~~such~~ THE prior convictions in the
15 indictment or information.

16 (2) (a) A person who drives a motor vehicle or vehicle when the
17 person's BAC is 0.08 or more at the time of driving or within two hours
18 after driving commits DUI per se. During a trial, if the state's evidence
19 raises the issue, or if a defendant presents some credible evidence, that
20 the defendant consumed alcohol between the time that the defendant
21 stopped driving and the time that testing occurred, such issue shall be an
22 affirmative defense, and the prosecution must establish beyond a
23 reasonable doubt that the minimum 0.08 blood or breath alcohol content
24 required in this subsection (2)(a) was reached as a result of alcohol
25 consumed by the defendant before the defendant stopped driving. DUI
26 per se is a misdemeanor, but it is a class 4 felony if the violation occurred
27 after three or more prior convictions, arising out of separate and distinct

1 criminal episodes, for DUI, DUI per se, FAILURE TO COMPLY WITH A
2 WARRANT TO CONDUCT A BLOOD DRAW OF A DRIVER, AS DESCRIBED IN
3 SECTION 42-4-1301.5, or DWAI; vehicular homicide, as described in
4 section 18-3-106 (1)(b); vehicular assault, as described in section
5 18-3-205 (1)(b); or any combination thereof.

6 **SECTION 5.** In Colorado Revised Statutes, 42-2-132.5, **amend**
7 (1)(b) and (3) as follows:

8 **42-2-132.5. Mandatory and voluntary restricted licenses**
9 **following alcohol convictions - rules.** (1) **Persons required to hold an**
10 **interlock-restricted license.** (b) A person whose privilege to drive was
11 revoked for multiple convictions for any combination of a DUI, DUI per
12 se, or DWAI pursuant to section 42-2-125 (1)(g)(I) or (1)(i) ~~shall~~ MUST
13 hold an interlock-restricted license pursuant to this section for at least two
14 years, but not more than five years, following reinstatement prior to being
15 eligible to obtain any other driver's license issued under this ~~article~~
16 ARTICLE 2; EXCEPT THAT, IF THE PERSON'S PRIVILEGE TO DRIVE WAS
17 REVOKED PURSUANT TO SECTION 42-2-125 (1)(g)(I) OR (1)(i) FOLLOWING
18 A CONVICTION FOR A DUI OR DUI PER SE, THE PERSON MUST HOLD AN
19 INTERLOCK-RESTRICTED LICENSE FOR AT LEAST:

20 (I) TWO YEARS, IF THE DUI OR DUI PER SE CONVICTION IS A
21 SECOND CONVICTION FOR ANY COMBINATION OF A DUI, DUI PER SE, OR
22 DWAI PURSUANT TO SECTION 42-2-125 (1)(g)(I);

23 (II) THREE YEARS, IF THE DUI OR DUI PER SE CONVICTION IS A
24 THIRD CONVICTION FOR ANY COMBINATION OF A DUI, DUI PER SE, OR
25 DWAI PURSUANT TO SECTION 42-2-125 (1)(i);

26 (III) FOUR YEARS, IF THE DUI OR DUI PER SE CONVICTION IS A
27 FOURTH CONVICTION FOR ANY COMBINATION OF A DUI, DUI PER SE, OR

1 DWAI.

2 (3) **Minimum interlock restriction requirement for persistent**
3 **drunk drivers.** (a) EXCEPT AS PROVIDED IN SUBSECTIONS (1)(b) AND
4 (3)(b) OF THIS SECTION, a person required to hold an interlock-restricted
5 license pursuant to this section who is a persistent drunk driver, as
6 defined in section 42-1-102 (68.5), based on an offense that occurred on
7 or after July 1, 2004, ~~shall be~~ IS required to hold the interlock-restricted
8 license for at least two years following reinstatement before being eligible
9 to obtain any other driver's license issued under this ~~article~~ ARTICLE 2.

10 (b) IF A PERSON IS A PERSISTENT DRUNK DRIVER IN WHOLE OR IN
11 PART BECAUSE OF A REFUSAL TO TAKE OR COMPLETE A BLOOD OR BREATH
12 TEST DESCRIBED IN SECTION 42-4-1301.1, UPON A SECOND VIOLATION FOR
13 REFUSAL TO TAKE OR COMPLETE A TEST, THE PERSON IS REQUIRED TO
14 HOLD THE INTERLOCK-RESTRICTED LICENSE FOR AT LEAST THREE YEARS.

15 **SECTION 6. Applicability.** This act applies to offenses
16 committed on or after the effective date of this act.

17 **SECTION 7. Safety clause.** The general assembly finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, or safety or for appropriations for
20 the support and maintenance of the departments of the state and state
21 institutions.