

CHAPTER 297

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 06-1171

BY REPRESENTATIVE(S) Riesberg, Coleman, Green, Larson, Todd, and McGihon;
also SENATOR(S) Groff.

AN ACT**CONCERNING ALCOHOL- AND DRUG-RELATED DRIVING OFFENSES.**

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

SECTION 1. 42-1-102 (68.5), Colorado Revised Statutes, is amended to read:

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

(68.5) "Persistent drunk driver" means any person who has been convicted of or had his or her driver's license revoked for two or more alcohol-related driving violations; who continues to drive after A driver's license or driving privilege restraint has been imposed for one or more alcohol-related driving offenses; or who drives a motor vehicle while the amount of alcohol in such person's blood, as shown by ~~analysis~~ ANALYSIS of the person's blood or breath, was ~~0.20~~ 0.17 or more grams of alcohol per one hundred milliliters of blood or ~~0.20~~ 0.17 or more grams of alcohol per two hundred ten liters of breath at the time of driving or within two hours after driving. 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 2. 42-2-126 (6) (b) (IX) (A.5) and (7) (c) (II), Colorado Revised Statutes, are amended to read:

42-2-126. Revocation of license based on administrative determination. (6) (b) (IX) (A.5) A person whose license is revoked for a first offense under subparagraph (1) of paragraph (a) of subsection (2) of this section may request that,

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

in lieu of the three-month revocation, the person's license be revoked for a period of not less than thirty days, to be followed by a suspension period of such length that the total period of revocation and suspension equals six months. IF THE PERSON IS A PERSISTENT DRUNK DRIVER, AS DEFINED IN SECTION 42-1-102 (68.5), THE PROBATIONARY LICENSE SHALL BE CONDITIONED ON THE USE OF AN APPROVED IGNITION INTERLOCK DEVICE, AS DEFINED IN SECTION 42-2-132.5 (7) (a). THE TIME SERVED UNDER A PROBATIONARY LICENSE SHALL NOT BE CREDITED AGAINST ANY MANDATORY INTERLOCK RESTRICTION IMPOSED PURSUANT TO SECTION 42-2-132.5. If the hearing officer approves the request, the hearing officer may grant the person a probationary license that may be used only for the reasons provided in section 42-2-127 (14) (a).

(7) (c) (II) If the person was determined to be in violation of subparagraph (I) of paragraph (a) of subsection (2) of this section and the person had a blood alcohol level, as shown by analysis of such person's blood or breath, that was ~~0.20~~ 0.17 or more grams of alcohol per one hundred milliliters of blood or ~~0.20~~ 0.17 or more grams of alcohol per two hundred ten liters of breath 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 such person to complete a level II alcohol and drug education and treatment program certified by the division of alcohol and drug abuse pursuant to section 42-4-1301.3 before driving privileges may be restored.

SECTION 3. 42-2-127 (14) (a), Colorado Revised Statutes, is amended to read:

42-2-127. Authority to suspend license - to deny license - type of conviction - points. (14) (a) (I) If there is no other statutory reason for denial of a probationary license, any individual who has had a license suspended by the department because of, at least in part, a conviction of an offense specified in paragraph (b) of subsection (5) of this section may be entitled to a probationary license pursuant to subsection (12) of this section for the purpose of driving for reasons of employment, education, health, or alcohol and drug education or treatment, but: ~~such individual~~

(A) If ordered by the court ~~which~~ THAT convicted the individual, THE INDIVIDUAL shall be enrolled in a program of driving education or alcohol and drug education and treatment certified by the division of alcohol and drug abuse in the department of human services; AND

(B) IF THE INDIVIDUAL IS A PERSISTENT DRUNK DRIVER, AS DEFINED IN SECTION 42-1-102 (68.5), ANY PROBATIONARY LICENSE SHALL REQUIRE THE USE OF AN APPROVED IGNITION INTERLOCK DEVICE, AS DEFINED IN SECTION 42-2-132.5 (7) (a), AND THE TIME THAT THE INDIVIDUAL HOLDS A PROBATIONARY LICENSE UNDER THIS SECTION SHALL NOT BE CREDITED AGAINST THE TIME THAT THE INDIVIDUAL MAY BE REQUIRED TO HOLD A RESTRICTED LICENSE PURSUANT TO SECTION 42-2-132.5.

(II) ~~Such~~ A probationary license ISSUED PURSUANT TO THIS SUBSECTION (14) shall contain any other restrictions as the department deems reasonable and necessary, shall be subject to cancellation for violation of any such restrictions, including BUT NOT LIMITED TO absences from alcohol and drug education or treatment sessions or failure to complete alcohol and drug education or treatment programs, and shall be

issued for the entire period of suspension.

SECTION 4. 42-2-116 (6) (b) and (8), Colorado Revised Statutes, are amended to read:

42-2-116. Restricted license. (6) (b) Any person whose privilege to drive is restricted to the operation of a motor vehicle ~~in which~~ EQUIPPED WITH an approved ignition interlock device ~~is installed pursuant to section 42-2-132.5~~ AS DEFINED IN SECTION 42-2-132.5 (7) (a), who operates a motor vehicle other than a motor vehicle ~~in which~~ EQUIPPED WITH 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.

(8) No court shall accept a plea of guilty to another offense from a person charged with a violation of subsection ~~(6) (a)~~ (6) (b) 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 5. 42-2-132 (2) (a) (II) (B), Colorado Revised Statutes, is amended to read:

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 (2) (a) (I) and the person had a blood alcohol level, as shown by analysis of such person's blood or breath, that was ~~0.20~~ 0.17 or more grams of alcohol per one hundred milliliters of blood or ~~0.20~~ 0.17 or more grams of alcohol per two hundred ten liters of breath 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 such person to complete a level II alcohol and drug education and treatment program certified by the division of alcohol and drug abuse pursuant to section 42-4-1301.3.

SECTION 6. 42-2-132.5 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-2-132.5. Mandatory and voluntary restricted licenses following alcohol conviction. (1) 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:

(b.5) ANY PERSON WHOSE LICENSE HAS BEEN REVOKED PURSUANT TO THE PROVISIONS OF SECTION 42-2-126 WHEN THE PERSON'S BLOOD ALCOHOL LEVEL, AS SHOWN BY ANALYSIS OF THE PERSON'S BLOOD OR BREATH, WAS 0.17 OR MORE GRAMS OF ALCOHOL PER ONE HUNDRED MILLILITERS OF BLOOD OR 0.17 OR MORE GRAMS OF ALCOHOL PER TWO HUNDRED TEN LITERS OF BREATH AT THE TIME OF DRIVING OR WITHIN TWO HOURS AFTER DRIVING.

SECTION 7. 42-2-132.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

42-2-132.5. Mandatory and voluntary restricted licenses following alcohol conviction. (1.8) AS SOON AS A PERSON MEETS THE CONDITIONS OF SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT SHALL NOTE ON THE DRIVING RECORD OF ANY PERSON REQUIRED TO HOLD A RESTRICTED LICENSE UNDER THIS SECTION THAT THE PERSON IS REQUIRED TO HAVE AN IGNITION INTERLOCK DEVICE. A PERSON WHOSE DRIVING RECORD CONTAINS THE NOTATION REQUIRED BY THIS SUBSECTION (1.8) SHALL NOT OPERATE A MOTOR VEHICLE WITHOUT AN APPROVED IGNITION INTERLOCK DEVICE UNTIL THE RESTRICTION IS REMOVED PURSUANT TO THIS SECTION.

SECTION 8. 42-3-303, Colorado Revised Statutes, is amended to read:

42-3-303. Persistent drunk driver cash fund - programs to deter persistent drunk drivers. (1) There is hereby created in the state treasury the persistent drunk driver cash fund, which shall be composed of moneys collected for penalty surcharges under section 42-4-1301 (7) (d) (II). The moneys in such fund are subject to annual appropriation by the general assembly:

(a) To pay the costs incurred by the department concerning persistent drunk drivers under sections 42-2-126 (2.5) and 42-7-406 (1.5);

(b) To pay for costs incurred by the department for computer programming changes related to treatment compliance for persistent drunk drivers pursuant to section 42-2-144; ~~and~~

(c) (I) To support programs that are intended to deter persistent drunk driving or intended to educate the public, with particular emphasis on the education of young drivers, regarding the dangers of persistent drunk driving.

(II) The departments of transportation, revenue, and human services shall coordinate programs intended to accomplish ~~such~~ THE goals DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c).

(d) ON AND AFTER JULY 1, 2007, TO PAY A PORTION OF THE COSTS FOR INTERVENTION OR TREATMENT SERVICES REQUIRED UNDER SECTIONS 42-2-125, 42-2-126, 42-2-132, 42-2-132.5, AND 42-4-1301.3 FOR A PERSISTENT DRUNK DRIVER, AS DEFINED IN SECTION 42-1-102 (68.5), WHO IS UNABLE TO PAY FOR THE REQUIRED INTERVENTION OR TREATMENT SERVICES.

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

42-4-1301. Driving under the influence - driving while impaired - driving with excessive alcoholic content - penalties. (7) **Penalties.** (d) In addition to the penalties prescribed in this subsection (7):

(II) Persons convicted of DUI, DUI per se, DWAI, and habitual user are subject to an additional penalty surcharge of not less than ~~twenty-five~~ FIFTY dollars and not more than five hundred dollars for programs to address persistent drunk drivers. THE MINIMUM PENALTY SURCHARGE SHALL BE MANDATORY, AND THE COURT SHALL HAVE NO DISCRETION TO SUSPEND OR WAIVE THE SURCHARGE; EXCEPT THAT THE

COURT MAY SUSPEND OR WAIVE THE SURCHARGE FOR A DEFENDANT DETERMINED BY THE COURT TO BE INDIGENT. Any moneys collected for such surcharge shall be transmitted to the state treasurer, who shall credit the same to the persistent drunk driver cash fund created by section 42-3-303.

SECTION 10. 42-4-1701 (4) (a) (I) (A), Colorado Revised Statutes, is amended to read:

42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule - repeal. (4) (a) (I) Except as provided in paragraph (c) of subsection (5) of this section, every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of any provision of this title to which the provisions of paragraph (a) or (b) of subsection (5) of this section apply shall be fined or penalized, and have a surcharge levied thereon pursuant to section 24-4.2-104 (1) (b) (I), C.R.S., in accordance with the penalty and surcharge schedule set forth in sub-subparagraphs (A) to (P) of this subparagraph (I); or, if no penalty or surcharge is specified in the schedule, the penalty for class A and class B traffic infractions shall be fifteen dollars, and the surcharge shall be two dollars. These penalties and surcharges shall apply whether the defendant acknowledges the defendant's guilt or liability in accordance with the procedure set forth by paragraph (a) of subsection (5) of this section or is found guilty by a court of competent jurisdiction or has judgment entered against the defendant by a county court magistrate. Penalties and surcharges for violating specific sections shall be as follows:

Section Violated	Penalty	Surcharge
(A) Drivers' license violations:		
42-2-101 (1) or (4)	\$ 35.00	\$ 5.20
42-2-101 (2), (3), or (5)	15.00	2.60
42-2-103	15.00	2.60
42-2-105	35.00	5.20
42-2-105.5	35.00	5.20
42-2-106	35.00	5.20
42-2-116 42-2-116 (6) (a)	15.00	2.60
42-2-119	15.00	2.60
42-2-134	35.00	5.20
42-2-136	35.00	5.20
42-2-139	35.00	5.20
42-2-140	35.00	5.20
42-2-141	35.00	5.20

SECTION 11. Effective date - applicability. This act shall take effect January 1, 2007, and shall apply to offenses committed on or after said date.

SECTION 12. 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: June 1, 2006