

CHAPTER 278

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 12-1168

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also SENATOR(S) Morse, Aguilar, Hodge, King S., Newell, Williams S.

AN ACT**CONCERNING CLARIFICATION OF PROVISIONS AUTHORIZING IGNITION INTERLOCK DEVICES.**

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

SECTION 1. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 42-2-132.5 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:

(a) A PERSON WHOSE PRIVILEGE TO DRIVE WAS REVOKED FOR MULTIPLE CONVICTIONS FOR ANY COMBINATION OF A DUI, DUI PER SE, DWAI, OR HABITUAL USER PURSUANT TO SECTION 42-2-125 (1) (g) (I) OR (1) (i);

(b) A PERSON WHOSE LICENSE HAS BEEN REVOKED FOR EXCESS BAC PURSUANT TO THE PROVISIONS OF SECTION 42-2-126 WHEN THE PERSON'S BAC WAS 0.17 OR MORE AT THE TIME OF DRIVING OR WITHIN TWO HOURS AFTER DRIVING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);

(c) A PERSON WHOSE PRIVILEGE TO DRIVE WAS REVOKED AS AN HABITUAL OFFENDER UNDER SECTION 42-2-203 IN WHICH THE REVOCATION WAS DUE IN PART TO A DUI, DUI PER SE, DWAI, OR HABITUAL USER CONVICTION; OR

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

(d) A PERSON WHOSE PRIVILEGE TO DRIVE WAS REVOKED FOR INTERLOCK CIRCUMVENTION PURSUANT TO PARAGRAPH (a) OR (b) OF SUBSECTION (7) OF THIS SECTION.

(2) Posting the interlock restriction to driving record prior to reinstatement of driving privileges. AS SOON AS A PERSON MEETS THE CONDITIONS OF SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT SHALL NOTE ON THE DRIVING RECORD OF A PERSON REQUIRED TO HOLD AN INTERLOCK-RESTRICTED LICENSE UNDER THIS SECTION THAT THE PERSON IS REQUIRED TO HAVE AN APPROVED IGNITION INTERLOCK DEVICE. A PERSON WHOSE DRIVING RECORD CONTAINS THE NOTATION REQUIRED BY THIS SUBSECTION (2) SHALL NOT OPERATE A MOTOR VEHICLE WITHOUT AN APPROVED IGNITION INTERLOCK DEVICE UNTIL THE RESTRICTION IS REMOVED PURSUANT TO THIS SECTION.

(3) Minimum interlock restriction requirement for persistent drunk drivers. A PERSON REQUIRED TO HOLD AN INTERLOCK-RESTRICTED LICENSE PURSUANT TO THIS SECTION WHO IS A PERSISTENT DRUNK DRIVER AS DEFINED IN SECTION 42-1-102 (68.5), BASED ON AN OFFENSE THAT OCCURRED ON OR AFTER JULY 1, 2004, SHALL BE REQUIRED TO HOLD THE INTERLOCK-RESTRICTED LICENSE FOR AT LEAST TWO YEARS FOLLOWING REINSTATEMENT BEFORE BEING ELIGIBLE TO OBTAIN ANY OTHER DRIVER'S LICENSE ISSUED UNDER THIS ARTICLE.

(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. 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) (A) **First-time offender eligibility.** FOR REVOCATIONS FOR CONVICTIONS FOR DUI OR DUI PER SE UNDER SECTION 42-2-125 (1) (b.5) OR FOR EXCESS BAC .08 UNDER SECTION 42-2-126 (3) (a) (I) FOR A FIRST VIOLATION THAT REQUIRES ONLY A NINE-MONTH REVOCATION, A PERSON TWENTY-ONE YEARS OF AGE OR OLDER AT THE TIME OF THE OFFENSE 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 AT LEAST ONE MONTH. EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION AND SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II), THE RESTRICTIONS IMPOSED PURSUANT TO THIS SUBPARAGRAPH (II) SHALL REMAIN IN EFFECT FOR AT LEAST EIGHT MONTHS.

(B) **First-time offender interlock removal.** A PERSON WITH AN INTERLOCK-RESTRICTED LICENSE ISSUED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) SHALL BE ELIGIBLE FOR A LICENSE WITHOUT THE RESTRICTION REQUIRED BY THIS SECTION IF THE DEPARTMENT'S MONTHLY

MONITORING REPORTS REQUIRED IN SUBSECTION (6) OF THIS SECTION SHOW THAT, FOR FOUR CONSECUTIVE MONTHLY REPORTING PERIODS, THE APPROVED IGNITION INTERLOCK DEVICE DID NOT INTERRUPT OR PREVENT THE NORMAL OPERATION OF THE MOTOR VEHICLE DUE TO AN EXCESSIVE BREATH ALCOHOL CONTENT OR DID NOT DETECT THAT THERE HAS BEEN TAMPERING WITH THE DEVICE, THERE HAVE BEEN NO OTHER REPORTS OF CIRCUMVENTION OR TAMPERING, AND THERE ARE NO GROUNDS TO EXTEND THE RESTRICTION PURSUANT TO PARAGRAPH (d) OF SUBSECTION (7) OF THIS SECTION. IF THE DEPARTMENT DETERMINES THAT A PERSON IS ELIGIBLE FOR A LICENSE WITHOUT THE RESTRICTION REQUIRED BY THIS SECTION PURSUANT TO THIS SUB-SUBPARAGRAPH (B), THE DEPARTMENT SHALL SERVE UPON THE PERSON A NOTICE OF SUCH ELIGIBILITY. A PERSON WHO HAS NOT BEEN SERVED BUT WHO BELIEVES HE OR SHE IS ELIGIBLE FOR A LICENSE WITHOUT THE RESTRICTION REQUIRED BY THIS SECTION PURSUANT TO THIS SUB-SUBPARAGRAPH (B) MAY REQUEST A HEARING ON HIS OR HER ELIGIBILITY. THE PROVISIONS OF THIS SUB-SUBPARAGRAPH (B) DO NOT APPLY TO A PERSON COVERED BY SUBSECTION (3) OF THIS SECTION.

(C) **First-time offender financial assistance.** THE DEPARTMENT SHALL ESTABLISH A PROGRAM TO ASSIST PERSONS WHO APPLY FOR AN INTERLOCK-RESTRICTED LICENSE PURSUANT TO THIS SUBPARAGRAPH (II) 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).

(b) **Early reinstatement eligibility requirement. (I)** TO BE ELIGIBLE FOR EARLY REINSTATEMENT WITH AN INTERLOCK-RESTRICTED LICENSE PURSUANT TO THIS SUBSECTION (4), A PERSON SHALL HAVE SATISFIED ALL CONDITIONS FOR REINSTATEMENT IMPOSED BY LAW INCLUDING TIME PERIODS FOR NON-ALCOHOL-RELATED RESTRAINTS; EXCEPT THAT A PERSON WHOSE LICENSE WAS ALSO RESTRAINED FOR DRIVING UNDER RESTRAINT 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 AN INTERLOCK-RESTRICTED LICENSE UNDER THIS SECTION, A PERSON SHALL PROVIDE PROOF OF FINANCIAL RESPONSIBILITY TO THE DEPARTMENT PURSUANT TO THE REQUIREMENTS OF THE "MOTOR VEHICLE FINANCIAL RESPONSIBILITY ACT", ARTICLE 7 OF THIS TITLE. THE PERSON SHALL 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; EXCEPT THAT, FOR AN OFFENDER SUBJECT TO SECTION 42-7-408 (1) (c) (I), THE PERIOD OF TIME THAT THE PERSON MUST MAINTAIN SUCH PROOF OF FINANCIAL RESPONSIBILITY IS THE PERIOD OF TIME THAT THE PERSON'S LICENSE IS RESTRICTED UNDER THIS SECTION.

(c) IN ORDER TO BE ELIGIBLE FOR EARLY REINSTATEMENT PURSUANT TO THIS SUBSECTION (4), A PERSON WHO HAS BEEN DESIGNATED AN HABITUAL OFFENDER UNDER THE PROVISIONS OF SECTION 42-2-202 MUST HAVE AT LEAST ONE

CONVICTION FOR DUI, DUI PER SE, DWAI, OR HABITUAL USER UNDER SECTION 42-4-1301, AND NO CONTRIBUTING VIOLATIONS OTHER THAN VIOLATIONS FOR DRIVING UNDER RESTRAINT UNDER SECTION 42-2-138 OR RECKLESS DRIVING UNDER SECTION 42-4-1401.

(5) Requirements for issuing the interlock-restricted license. (a) THE DEPARTMENT MAY ISSUE AN INTERLOCK-RESTRICTED LICENSE UNDER THIS SECTION IF THE DEPARTMENT RECEIVES FROM A PERSON DESCRIBED IN THIS SECTION AN AFFIDAVIT STATING THAT THE PERSON HAS OBTAINED:

(I) A SIGNED LEASE AGREEMENT FOR THE INSTALLATION AND USE OF AN APPROVED IGNITION INTERLOCK DEVICE 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 INTERLOCK-RESTRICTED LICENSE; AND

(II) THE WRITTEN CONSENT OF ALL OTHER OWNERS, IF ANY, OF EACH MOTOR VEHICLE IN WHICH THE APPROVED IGNITION INTERLOCK DEVICE IS INSTALLED.

(b) (I) NOTWITHSTANDING THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (5), THE DEPARTMENT MAY ISSUE AN INTERLOCK-RESTRICTED LICENSE TO ANY PERSON NOT SEEKING EARLY REINSTATEMENT BUT WHO IS REQUIRED TO HOLD AN INTERLOCK-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 A MOTOR VEHICLE AND HAS NO ACCESS TO A MOTOR VEHICLE IN WHICH TO INSTALL AN APPROVED IGNITION INTERLOCK DEVICE.

(II) IF A PERSON HOLDING AN INTERLOCK-RESTRICTED LICENSE ISSUED PURSUANT TO THIS PARAGRAPH (b) 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 ENTER INTO A LEASE AGREEMENT FOR THE INSTALLATION AND USE OF AN APPROVED IGNITION INTERLOCK DEVICE ON THE VEHICLE FOR A PERIOD EQUAL TO THE REMAINING PERIOD OF THE INTERLOCK-RESTRICTED LICENSE AND SUBMIT THE AFFIDAVIT DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (5).

(c) THE TERMS OF THE INTERLOCK-RESTRICTED LICENSE SHALL PROHIBIT THE PERSON FROM DRIVING A MOTOR VEHICLE OTHER THAN A VEHICLE IN WHICH AN APPROVED IGNITION INTERLOCK DEVICE IS INSTALLED.

(d) THE DEPARTMENT SHALL NOT ISSUE A LICENSE UNDER THIS SECTION THAT AUTHORIZES THE OPERATION OF A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 42-2-402 (4) DURING THE RESTRICTION REQUIRED BY THIS SECTION.

(6) Interlock monitoring device - reports. 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.

(7) Licensing sanctions for violating the interlock restrictions. (a) Due to circumvention - conviction. UPON RECEIPT OF NOTICE OF A CONVICTION UNDER SUBSECTION (10) OF THIS SECTION, THE DEPARTMENT SHALL REVOKE ANY INTERLOCK-RESTRICTED LICENSE ISSUED TO THE CONVICTED PERSON PURSUANT TO THIS SECTION. THE DEPARTMENT SHALL NOT REINSTATE THE INTERLOCK-RESTRICTED LICENSE FOR A PERIOD OF ONE YEAR OR THE REMAINING PERIOD OF LICENSE RESTRAINT IMPOSED PRIOR TO THE ISSUANCE OF AN INTERLOCK-RESTRICTED LICENSE PURSUANT TO THIS SECTION, WHICHEVER IS LONGER. A PERSON IS ENTITLED TO A HEARING ON THE QUESTION OF WHETHER THE REVOCATION IS SUSTAINED AND THE CALCULATION OF THE LENGTH OF THE INELIGIBILITY.

(b) Due to circumvention - administrative record. UPON RECEIPT OF AN ADMINISTRATIVE RECORD OTHER THAN A NOTICE OF A CONVICTION DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (7) ESTABLISHING THAT A PERSON WHO IS SUBJECT TO THE RESTRICTIONS OF THIS SECTION HAS OPERATED A MOTOR VEHICLE WITHOUT AN APPROVED IGNITION INTERLOCK DEVICE OR HAS CIRCUMVENTED OR ATTEMPTED TO CIRCUMVENT THE PROPER USE OF AN APPROVED IGNITION INTERLOCK DEVICE, THE DEPARTMENT MAY REVOKE ANY LICENSE ISSUED TO THE PERSON PURSUANT TO THIS SECTION AND NOT REINSTATE THE LICENSE FOR A PERIOD OF ONE YEAR OR THE REMAINING PERIOD OF LICENSE RESTRAINT IMPOSED PRIOR TO THE ISSUANCE OF AN INTERLOCK-RESTRICTED LICENSE PURSUANT TO THIS SECTION, WHICHEVER IS LONGER. A PERSON IS ENTITLED TO A HEARING ON THE QUESTION OF WHETHER THE LICENSE SHOULD BE REVOKED AND THE CALCULATION OF THE LENGTH OF THE INELIGIBILITY.

(c) Due to a lease violation. IF A LEASE FOR AN APPROVED IGNITION INTERLOCK DEVICE IS TERMINATED FOR ANY REASON BEFORE THE PERIOD OF THE INTERLOCK RESTRICTION EXPIRES AND THE LICENSEE PROVIDES NO OTHER SUCH LEASE, THE DEPARTMENT SHALL NOTIFY THE LICENSEE THAT THE DEPARTMENT SHALL SUSPEND THE LICENSE UNTIL THE LICENSEE ENTERS INTO A NEW SIGNED LEASE AGREEMENT FOR THE REMAINING PERIOD OF THE INTERLOCK RESTRICTION.

(d) Extending the interlock license restriction. IF THE MONTHLY MONITORING REPORTS REQUIRED BY SUBSECTION (6) OF THIS SECTION SHOW THAT THE APPROVED IGNITION INTERLOCK DEVICE INTERRUPTED OR PREVENTED THE NORMAL OPERATION OF THE VEHICLE DUE TO EXCESSIVE BREATH ALCOHOL CONTENT IN THREE OF ANY TWELVE CONSECUTIVE REPORTING PERIODS, THE DEPARTMENT SHALL EXTEND THE INTERLOCK RESTRICTION ON THE PERSON'S LICENSE FOR AN ADDITIONAL TWELVE MONTHS AFTER THE EXPIRATION OF THE EXISTING INTERLOCK RESTRICTION. THE DEPARTMENT SHALL NOTIFY THE PERSON THAT THE IGNITION INTERLOCK RESTRICTION IS BEING EXTENDED AND THAT HIS OR HER LICENSE SHALL BE SUSPENDED UNLESS THE PERSON ENTERS INTO A NEW SIGNED LEASE AGREEMENT FOR THE USE OF AN APPROVED IGNITION INTERLOCK DEVICE FOR THE EXTENDED PERIOD. THE PERSON IS ENTITLED TO A HEARING ON THE EXTENSION OF THE RESTRICTION. BASED UPON FINDINGS AT THE HEARING, INCLUDING AGGRAVATING AND MITIGATING FACTORS, THE HEARING OFFICER MAY SUSTAIN THE EXTENSION, RESCIND THE EXTENSION, OR REDUCE THE PERIOD OF EXTENSION.

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

(9) **Approved ignition interlock device definition - rules.** (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 (9) CONCERNING APPROVED IGNITION INTERLOCK DEVICES.

(10) **Operating vehicle after circumventing interlock device.** (a) A PERSON WHOSE PRIVILEGE TO DRIVE IS RESTRICTED TO THE OPERATION OF A MOTOR VEHICLE EQUIPPED WITH AN APPROVED IGNITION INTERLOCK DEVICE AND WHO OPERATES A MOTOR VEHICLE OTHER THAN A MOTOR VEHICLE EQUIPPED WITH AN APPROVED IGNITION INTERLOCK DEVICE OR WHO CIRCUMVENTS OR ATTEMPTS TO CIRCUMVENT THE PROPER USE OF AN APPROVED IGNITION INTERLOCK DEVICE COMMITS A CLASS 1 TRAFFIC MISDEMEANOR.

(b) IF A PEACE OFFICER ISSUES A CITATION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (10), THE PEACE OFFICER SHALL IMMEDIATELY CONFISCATE THE OFFENDING DRIVER'S 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.

(c) A COURT SHALL NOT ACCEPT A PLEA OF GUILTY TO ANOTHER OFFENSE FROM A PERSON CHARGED WITH A VIOLATION OF PARAGRAPH (a) OF THIS SUBSECTION (10); 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.

(11) **Tampering with an approved ignition interlock device.** (a) A PERSON SHALL NOT INTERCEPT, BYPASS, OR INTERFERE WITH OR AID ANY OTHER PERSON IN INTERCEPTING, BYPASSING, OR INTERFERING WITH AN APPROVED IGNITION INTERLOCK DEVICE FOR THE PURPOSE OF PREVENTING OR HINDERING THE LAWFUL OPERATION OR PURPOSE OF THE APPROVED IGNITION INTERLOCK DEVICE REQUIRED UNDER THIS SECTION.

(b) A PERSON WHOSE PRIVILEGE TO DRIVE IS RESTRICTED TO THE OPERATION OF A MOTOR VEHICLE EQUIPPED WITH AN APPROVED IGNITION INTERLOCK DEVICE SHALL NOT DRIVE A MOTOR VEHICLE IN WHICH AN APPROVED IGNITION INTERLOCK DEVICE IS INSTALLED PURSUANT TO THIS SECTION IF THE PERSON KNOWS THAT ANY PERSON HAS INTERCEPTED, BYPASSED, OR INTERFERED WITH THE APPROVED IGNITION

INTERLOCK DEVICE.

(c) A PERSON VIOLATING ANY PROVISION OF THIS SUBSECTION (11) COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

SECTION 2. In Colorado Revised Statutes, 42-2-116, **amend** (6); and **repeal** (7) and (8) as follows:

42-2-116. Restricted license. (6) (a) ~~Except as otherwise provided in paragraph (b) of this subsection (6), any~~ A 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 equipped with an approved ignition interlock device as defined in section 42-2-132.5 (7) (a), who operates a motor vehicle other than a motor vehicle equipped with an approved ignition interlock device 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) (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 3. In Colorado Revised Statutes, **repeal** 42-2-126.3.

SECTION 4. In Colorado Revised Statutes, 42-2-126, **amend** (4) (d) (II) (A) and (9) (c) 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 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.5)~~ (b).

(9) **Appeal.** (c) A filing of a petition for judicial review shall not result in an automatic stay of the revocation order. The court may grant a stay of the order only

upon a motion and hearing and upon a finding that there is a reasonable probability that the person will prevail upon the merits. ~~and that the person will suffer irreparable harm if the order is not stayed.~~

SECTION 5. In Colorado Revised Statutes, 42-2-127, **amend** (14) (a) (I) (B) as follows:

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:

(B) If the individual is AN INTERLOCK-RESTRICTED DRIVER OR 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) (9) (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~~ AN INTERLOCK-RESTRICTED license pursuant to section 42-2-132.5.

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

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 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 DUI, DUI per se, DWAI, or habitual user conviction 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 42-2-132.5 ~~(7)~~ (9) (a), 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~~ INTERLOCK-RESTRICTED license. ~~and a copy of each signed lease agreement.~~

(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 regular session of the sixty-sixth general assembly; second, to the department of revenue to pay a portion of the costs for an ignition interlock device as ~~required~~ DESCRIBED by section 42-2-132.5 ~~(1.5)~~ (a) ~~(H)~~ (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. In Colorado Revised Statutes, 42-3-303, **amend** (1) introductory portion and (1) (f) as follows:

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 42-4-1307 (10) (b). The moneys in ~~such~~ THE fund are subject to annual appropriation by the general assembly:

(f) To assist in providing approved ignition interlock devices, as defined in section 42-2-132.5 ~~(7)(a)~~ (9) (a), for indigent offenders; and

SECTION 8. In Colorado Revised Statutes, 42-4-1307, **amend** (7) (b) (V) and (8) as follows:

42-4-1307. Penalties for traffic offenses involving alcohol and drugs - repeal. (7) **Probation-related penalties.** When a person is sentenced to a period of probation pursuant to subparagraph (IV) of paragraph (a) of subsection (5) of this section or subparagraph (IV) of paragraph (a) of subsection (6) of this section:

(b) The court:

(V) May require the person to use an approved ignition interlock device, as defined in section 42-2-132.5 ~~(7)(a)~~ (9) (a), during the period of probation at the person's own expense;

(8) **Ignition interlock devices.** In sentencing a person pursuant to this section, courts are encouraged to require the person to use an approved ignition interlock device, as defined in section 42-2-132.5 ~~(7)(a)~~ (9) (a), as a condition of bond, probation, and participation in programs pursuant to section 18-1.3-106, C.R.S.

SECTION 9. In Colorado Revised Statutes, 42-2-132.5, **amend as amended by House Bill 12-1168** (1) (a), (1) (c), and (4) (c) as follows:

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

(a) A person whose privilege to drive was revoked for multiple convictions for any combination of a DUI, DUI per se, OR DWAI ~~or habitual user~~ pursuant to section 42-2-125 (1) (g) (I) or (1) (i);

(c) A person whose privilege to drive was revoked as an habitual offender under section 42-2-203 in which the revocation was due in part to a DUI, DUI per se, OR

DWAI or ~~habitual user~~ conviction; or

(4) Persons who may acquire an interlock-restricted license prior to serving a full-term revocation. (c) In order to be eligible for early reinstatement pursuant to this subsection (4), a person who has been designated an habitual offender under the provisions of section 42-2-202 must have at least one conviction for DUI, DUI per se, OR DWAI or ~~habitual user~~ under section 42-4-1301, and no contributing violations other than violations for driving under restraint under section 42-2-138 or reckless driving under section 42-4-1401.

SECTION 10. In Colorado Revised Statutes, 42-2-132, **amend as amended by House Bill 12-1168** (2) (a) (IV) as follows:

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 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 DUI, DUI per se, OR DWAI or ~~habitual user~~ conviction 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 42-2-132.5 (9) (a), 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 interlock-restricted license.

SECTION 11. Act subject to petition - effective date. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) Notwithstanding any provision of subsection (1) of this section to the contrary, sections 9 and 10 of this act take effect only if Senate Bill 12-117 becomes law.

Approved: June 8, 2012