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An Act

HOUSE BILL 13-1325

BY REPRESENTATIVE(S) Fields and Waller, Gardner, Gerou, Kagan, Labuda, McLachlan, Murray, Pabon, Rosenthal;
also SENATOR(S) King, Heath, Johnston, Lambert, Newell, Nicholson, Todd, Morse.

CONCERNING PENALTIES FOR PERSONS WHO DRIVE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, 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, 42-4-1301, **amend** (1) (d), (2) (b), (4), (6) (a) introductory portion, and (6) (e); **repeal** (1) (c); and **add** (6) (a) (IV), (6) (j), and (6) (k) as follows:

42-4-1301. Driving under the influence - driving while impaired - driving with excessive alcoholic content - definitions - penalties.
(1) (c) ~~It is a misdemeanor for any person who is an habitual user of any controlled substance defined in section 18-18-102 (5), C.R.S., to drive a motor vehicle, vehicle, or low-power scooter in this state:~~

(d) ~~For the purposes of this subsection (1) AS USED IN THIS SECTION, one or more drugs shall mean all substances defined as a~~ MEANS ANY drug,

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

AS DEFINED in section 27-80-203 (13), C.R.S., ~~and all controlled substances~~
ANY CONTROLLED SUBSTANCE, AS defined in section 18-18-102 (5), C.R.S.,
and ~~glue-sniffing, aerosol inhalation, and the inhalation of any~~ INHALED
GLUE, AEROSOL, OR other toxic vapor or vapors, AS DEFINED IN SECTION
18-18-412, C.R.S.

(2) (b) In any prosecution for the offense of DUI per se, the defendant shall be entitled to offer direct and circumstantial evidence to show that there is a disparity between what ~~the~~ ANY tests show and other facts so that the trier of fact could infer that the tests were in some way defective or inaccurate. Such evidence may include testimony of nonexpert witnesses relating to the absence of any or all of the common symptoms or signs of intoxication for the purpose of impeachment of the accuracy of the analysis of the person's blood or breath.

(4) No court shall accept a plea of guilty to a non-alcohol-related or non-drug-related traffic offense or guilty to the offense of UDD from a person charged with DUI OR DUI per se; ~~or habitual user~~; except that the court may accept a plea of guilty to a non-alcohol-related or non-drug-related traffic offense or to UDD 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 original alcohol-related or drug-related offense.

(6) (a) In any prosecution for DUI or DWAI, the defendant's BAC OR DRUG CONTENT at the time of the commission of the alleged offense or within a reasonable time thereafter gives rise to the following presumptions or inferences:

(IV) IF AT SUCH TIME THE DRIVER'S BLOOD CONTAINED FIVE NANOGRAMS OR MORE OF DELTA 9-TETRAHYDROCANNABINOL PER MILLILITER IN WHOLE BLOOD, AS SHOWN BY ANALYSIS OF THE DEFENDANT'S BLOOD, SUCH FACT GIVES RISE TO A PERMISSIBLE INFERENCE THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF ONE OR MORE DRUGS.

(e) **Involuntary blood test - admissibility.** Evidence acquired through an involuntary blood test pursuant to section 42-4-1301.1 (3) shall be admissible in any prosecution for DUI, DUI per se, DWAI, ~~habitual user~~; or UDD, and in any prosecution for criminally negligent homicide pursuant to section 18-3-105, C.R.S., vehicular homicide pursuant to section

18-3-106 (1) (b), C.R.S., assault in the third degree pursuant to section 18-3-204, C.R.S., or vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S.

(j) IN ANY TRIAL FOR A VIOLATION OF THIS SECTION, IF, AT THE TIME OF THE ALLEGED OFFENSE, THE PERSON POSSESSED A VALID MEDICAL MARIJUANA REGISTRY IDENTIFICATION CARD, AS DEFINED IN SECTION 25-1.5-106 (2) (e), C.R.S., ISSUED TO HIMSELF OR HERSELF, THE PROSECUTION SHALL NOT USE SUCH FACT AS PART OF THE PROSECUTION'S CASE IN CHIEF.

(k) IN ANY TRAFFIC STOP, THE DRIVER'S POSSESSION OF A VALID MEDICAL MARIJUANA REGISTRY IDENTIFICATION CARD, AS DEFINED IN SECTION 25-1.5-106 (2) (e), C.R.S., ISSUED TO HIMSELF OR HERSELF SHALL NOT, IN THE ABSENCE OF OTHER CONTRIBUTING FACTORS, CONSTITUTE PROBABLE CAUSE FOR A PEACE OFFICER TO REQUIRE THE DRIVER TO SUBMIT TO AN ANALYSIS OF HIS OR HER BLOOD.

SECTION 2. In Colorado Revised Statutes, 18-3-106, **amend** (1) (b) (II), (2) introductory portion, and (2) (c); and **add** (2) (d) as follows:

18-3-106. Vehicular homicide. (1) (b) (II) For the purposes of this subsection (1), one or more drugs ~~shall mean all substances defined as a~~ MEANS ANY drug, AS DEFINED in section 27-80-203 (13), C.R.S., ~~and all controlled substances~~ ANY CONTROLLED SUBSTANCE, AS defined in section 18-18-102 (5), and ~~glue-sniffing, aerosol inhalation, or the inhalation of any~~ INHALED GLUE, AEROSOL, OR other toxic vapor or vapors, as defined in section 18-18-412.

(2) In any prosecution for a violation of subsection (1) of this section, the amount of alcohol in the defendant's blood or breath at the time of the commission of the alleged offense, or within a reasonable time thereafter, as shown by analysis of the defendant's blood or breath, ~~shall give~~ GIVES rise to the following: ~~presumptions:~~

(c) If there was at such time 0.08 or more grams of alcohol per one hundred milliliters of blood, or if there was at such time 0.08 or more grams of alcohol per two hundred ten liters of breath, ~~it shall be presumed~~ SUCH FACT GIVES RISE TO THE PERMISSIBLE INFERENCE that the defendant was under the influence of alcohol.

(d) IF AT SUCH TIME THE DRIVER'S BLOOD CONTAINED FIVE NANOGRAMS OR MORE OF DELTA 9-TETRAHYDROCANNABINOL PER MILLILITER IN WHOLE BLOOD, AS SHOWN BY ANALYSIS OF THE DEFENDANT'S BLOOD, SUCH FACT GIVES RISE TO A PERMISSIBLE INFERENCE THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF ONE OR MORE DRUGS.

SECTION 3. In Colorado Revised Statutes, 18-3-205, **amend** (1) (b) (II), (2) introductory portion, and (2) (c); and **add** (2) (d) as follows:

18-3-205. Vehicular assault. (1) (b) (II) For the purposes of this subsection (1), one or more drugs ~~shall mean all substances defined as a~~ MEANS ANY drug, AS DEFINED in section 27-80-203 (13), C.R.S., ~~and all controlled substances~~ ANY CONTROLLED SUBSTANCE, AS defined in section 18-18-102 (5), and ~~glue-sniffing, aerosol inhalation, or the inhalation of any~~ INHALED GLUE, AEROSOL, OR other toxic vapor or vapors, as defined in section 18-18-412.

(2) In any prosecution for a violation of subsection (1) of this section, the amount of alcohol in the defendant's blood or breath at the time of the commission of the alleged offense, or within a reasonable time thereafter, as shown by analysis of the defendant's blood or breath, ~~shall give~~ GIVES rise to the following: ~~presumptions:~~

(c) If there was at such time 0.08 or more grams of alcohol per one hundred milliliters of blood, or if there was at such time 0.08 or more grams of alcohol per two hundred ten liters of breath, ~~it shall be presumed~~ SUCH FACT GIVES RISE TO THE PERMISSIBLE INFERENCE that the defendant was under the influence of alcohol.

(d) IF AT SUCH TIME THE DRIVER'S BLOOD CONTAINED FIVE NANOGRAMS OR MORE OF DELTA 9-TETRAHYDROCANNABINOL PER MILLILITER IN WHOLE BLOOD, AS SHOWN BY ANALYSIS OF THE DEFENDANT'S BLOOD, SUCH FACT GIVES RISE TO A PERMISSIBLE INFERENCE THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF ONE OR MORE DRUGS.

SECTION 4. In Colorado Revised Statutes, 42-1-102, **repeal** (41.7) as follows:

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

(41.7) ~~"Habitual user" shall incorporate by reference the offense described in section 42-4-1301 (1) (c).~~

SECTION 5. In Colorado Revised Statutes, 42-2-121, **amend** (2) (b) and (5) (a) (III) as follows:

42-2-121. Records to be kept by department - admission of records in court. (2) (b) The department shall also keep a separate file of all abstracts of court records of dismissals of DUI, DUI per se, DWAI, ~~habitual user~~, and UDD charges and all abstracts of records in cases where the original charges were for DUI, DUI per se, DWAI, ~~habitual user~~, and UDD and the convictions were for nonalcohol- or nondrug-related traffic offenses. This file shall be made available only to criminal justice agencies, as defined in section 24-72-302 (3), C.R.S.

(5) (a) Upon application by a person, the department shall expunge all records concerning a conviction of a person for UDD with a BAC of at least 0.02 but not more than 0.05 and any records concerning an administrative determination resulting in a revocation under section 42-2-126 (3) (b) or (3) (e) if:

(III) The person has not been convicted for any other DUI, DUI per se, DWAI, ~~habitual user~~, or UDD offense that was committed while such person was under twenty-one years of age and is not subject to any other administrative determination resulting in a revocation under section 42-2-126 for any other occurrence while such person was under twenty-one years of age;

SECTION 6. In Colorado Revised Statutes, **amend** 42-2-129 as follows:

42-2-129. Mandatory surrender of license or permit for driving under the influence or with excessive alcoholic content. Upon a plea of guilty or nolo contendere, or a verdict of guilty by the court or a jury, to DUI, OR DUI per se, ~~or habitual user~~, or, for a person under twenty-one years of age, to DUI, DUI per se, DWAI, ~~habitual user~~, or UDD, the court shall require the offender to immediately surrender the offender's driver's, minor driver's, or temporary driver's license or instruction permit to the court. The court shall forward to the department a notice of plea or verdict, on the form prescribed by the department, together with the offender's

license or permit, not later than ten days after the surrender of the license or permit. Any person who does not immediately surrender the license or permit to the court, except for good cause shown, commits a class 2 misdemeanor traffic offense.

SECTION 7. In Colorado Revised Statutes, 42-2-125, **amend** (1) (b), (1) (g), and (1) (i) as follows:

42-2-125. Mandatory revocation of license and permit. (1) The department shall immediately revoke the license or permit of any driver or minor driver upon receiving a record showing that such driver has:

(b) Been convicted of driving a motor vehicle while under the influence of a controlled substance, as defined in section 18-18-102 (5), C.R.S.; ~~or while an habitual user of such a controlled substance;~~

(g) (I) Been twice convicted of any combination of DUI, DUI per se, OR DWAI ~~or habitual user~~ for acts committed within a period of five years;

(II) In the case of a minor driver, been convicted of DUI, DUI per se, OR DWAI ~~or habitual user~~ committed while such driver was under twenty-one years of age;

(i) Been convicted of DUI, DUI per se, OR DWAI ~~or habitual user~~ and has two previous convictions of any of such offenses. The license of any driver shall be revoked for an indefinite period and shall only be reissued upon proof to the department that said driver has completed 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 that said driver has demonstrated knowledge of the laws and driving ability through the regular motor vehicle testing process. In no event shall such license be reissued in less than two years.

SECTION 8. In Colorado Revised Statutes, 42-2-127, **amend** (1) (a) and (6) (b); and **repeal** (5) (b) (II) as follows:

42-2-127. Authority to suspend license - to deny license - type of

conviction - points. (1) (a) Except as provided in paragraph (b) of subsection (8) of this section, the department has the authority to suspend the license of any driver who, in accordance with the schedule of points set forth in this section, has been convicted of traffic violations resulting in the accumulation of twelve points or more within any twelve consecutive months or eighteen points or more within any twenty-four consecutive months, or, in the case of a minor driver eighteen years of age or older, who has accumulated nine points or more within any twelve consecutive months, or twelve points or more within any twenty-four consecutive months, or fourteen points or more for violations occurring after reaching the age of eighteen years, or, in the case of a minor driver under the age of eighteen years, who has accumulated more than five points within any twelve consecutive months or more than six points for violations occurring prior to reaching the age of eighteen years; except that the accumulation of points causing the subjection to suspension of the license of a chauffeur who, in the course of employment, has as a principal duty the operation of a motor vehicle shall be sixteen points in one year, twenty-four points in two years, or twenty-eight points in four years, if all the points are accumulated while said chauffeur is in the course of employment. Any provision of this section to the contrary notwithstanding, the license of a chauffeur who is convicted of DUI, DUI per se, DWAI, ~~habitual user~~, UDD, or leaving the scene of an accident shall be suspended in the same manner as if the offense occurred outside the course of employment. Whenever a minor driver under the age of eighteen years receives a summons for a traffic violation, the minor's parent or legal guardian or, if the minor is without parents or guardian, the person who signed the minor driver's application for a license shall immediately be notified by the court from which the summons was issued.

(5) Point system schedule:

Type of conviction	Points
(b) (II) Habitual user	-12

(6) (b) For the purposes of this article, a plea of no contest accepted by the court or the forfeiture of any bail or collateral deposited to secure a defendant's appearance in court or the failure to appear in court by a defendant charged with DUI, DUI per se, ~~habitual user~~, or UDD who has been issued a summons and notice to appear pursuant to section 42-4-1707 as evidenced by records forwarded to the department in accordance with the

provisions of section 42-2-124 shall be considered as a conviction.

SECTION 9. In Colorado Revised Statutes, 42-2-132, **amend** (2) (a) (III) and (2) (a) (IV) as follows:

42-2-132. Period of suspension or revocation. (2) (a) (III) In the case of a minor driver whose license has been revoked as a result of one conviction for DUI, DUI per se, DWAI, ~~habitual user~~, or UDD, the minor driver, unless otherwise required after an evaluation made pursuant to section 42-4-1301.3, must complete a level I alcohol and drug education 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.

(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 10. In Colorado Revised Statutes, 42-2-132.5, **amend** (1) (a), (1) (c), and (4) (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:

(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 11. In Colorado Revised Statutes, 42-2-138, **amend** (1) (a) and (1) (d) as follows:

42-2-138. Driving under restraint - penalty. (1) (a) Any person who drives a motor vehicle or off-highway vehicle upon any highway of this state with knowledge that the person's license or privilege to drive, either as a resident or a nonresident, is under restraint for any reason other than conviction of DUI, DUI per se, DWAI, ~~habitual user~~, or UDD is guilty of a misdemeanor. A court may sentence a person convicted of this misdemeanor to imprisonment in the county jail for a period of not more than six months and may impose a fine of not more than five hundred dollars.

(d) (I) A person who drives a motor vehicle or off-highway vehicle upon any highway of this state with knowledge that the person's license or privilege to drive, either as a resident or nonresident, is restrained under section 42-2-126 (3), is restrained solely or partially because of a conviction of DUI, DUI per se, DWAI, ~~habitual user~~, or UDD, or is restrained in another state solely or partially because of an alcohol-related driving offense is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than thirty days nor more than one year and, in the discretion of the court, by a fine of not less than five hundred dollars nor more than one thousand dollars. Upon a second or subsequent conviction, the person shall be punished by imprisonment in the county jail for not less than ninety days nor more than two years and, in the discretion of the court, by a fine of not less than five hundred dollars nor more than three thousand dollars. The minimum county jail sentence imposed by this subparagraph (I) shall be mandatory, and the

court shall not grant probation or a suspended sentence thereof; but, in a case where the defendant is convicted although the defendant established that he or she had to drive the motor vehicle in violation of this subparagraph (I) because of an emergency, the mandatory jail sentence, if any, shall not apply, and, for a first conviction, the court may impose a sentence of imprisonment in the county jail for a period of not more than one year and, in the discretion of the court, a fine of not more than one thousand dollars, and, for a second or subsequent conviction, the court may impose a sentence of imprisonment in the county jail for a period of not more than two years and, in the discretion of the court, a fine of not more than three thousand dollars.

(II) In any trial for a violation of subparagraph (I) of this paragraph (d), a duly authenticated copy of the record of the defendant's former convictions and judgments for DUI, DUI per se, DWAI, ~~habitual user~~, or UDD or an alcohol-related offense committed in another state from any court of record or a certified copy of the record of any denial or revocation of the defendant's driving privilege under section 42-2-126 (3) from the department shall be prima facie evidence of the convictions, judgments, denials, or revocations and may be used in evidence against the defendant. Identification photographs and fingerprints that are part of the record of the former convictions, judgments, denials, or revocations and the defendant's incarceration after sentencing for any of the former convictions, judgments, denials, or revocations shall be prima facie evidence of the identity of the defendant and may be used in evidence against the defendant.

SECTION 12. In Colorado Revised Statutes, 42-2-202, **amend** (2) (a) (I) as follows:

42-2-202. Habitual offenders - frequency and type of violations.

(2) (a) An habitual offender is a person having three or more convictions of any of the following separate and distinct offenses arising out of separate acts committed within a period of seven years:

(I) DUI, DUI per se, OR DWAI; ~~or habitual user~~;

SECTION 13. In Colorado Revised Statutes, 42-2-405, **amend** (3) (a) as follows:

42-2-405. Driver's license disciplinary actions - grounds for

denial - suspension - revocation - disqualification. (3) For purposes of the imposition of restraints and sanctions against commercial driving privileges:

(a) A conviction for DUI, DUI per se, OR DWAI, ~~or habitual user~~, or a substantially similar law of any other state pertaining to drinking and driving, or an administrative determination of a violation of section 42-2-126 (3) (a) or (3) (b) shall be deemed driving under the influence; and

SECTION 14. In Colorado Revised Statutes, 42-4-1301.1, **amend** (2) (a) (I) and (2) (b) (I) as follows:

42-4-1301.1. Expressed consent for the taking of blood, breath, urine, or saliva sample - testing. (2) (a) (I) A person who drives a motor vehicle upon the streets and highways and elsewhere throughout this state shall be required to take and complete, and to cooperate in the taking and completing of, any test or tests of the person's breath or blood for the purpose of determining the alcoholic content of the person's blood or breath when so requested and directed by a law enforcement officer having probable cause to believe that the person was driving a motor vehicle in violation of the prohibitions against DUI, DUI per se, DWAI, ~~habitual user~~, or UDD. Except as otherwise provided in this section, if a person who is twenty-one years of age or older requests that the test be a blood test, then the test shall be of his or her blood; but, if the person requests that a specimen of his or her blood not be drawn, then a specimen of the person's breath shall be obtained and tested. A person who is under twenty-one years of age shall be entitled to request a blood test unless the alleged violation is UDD, in which case a specimen of the person's breath shall be obtained and tested, except as provided in subparagraph (II) of this paragraph (a).

(b) (I) Any person who drives any motor vehicle upon the streets and highways and elsewhere throughout this state shall be required to submit to and to complete, and to cooperate in the completing of, a test or tests of such person's blood, saliva, and urine for the purpose of determining the drug content within the person's system when so requested and directed by a law enforcement officer having probable cause to believe that the person was driving a motor vehicle in violation of the prohibitions against DUI, OR DWAI ~~or habitual user~~ and when it is reasonable to require such testing of blood, saliva, and urine to determine whether such person was under the influence of, or impaired by, one or more drugs, or one or more

controlled substances, or a combination of both alcohol and one or more drugs, or a combination of both alcohol and one or more controlled substances.

SECTION 15. In Colorado Revised Statutes, 42-4-1307, **amend** (3) (a) introductory portion, (5) (a) introductory portion, (5) (b) introductory portion, (6) (a) introductory portion, (9) (a), (10) (a), (10) (b), (10) (c), (10) (d) (I), (12), and (13) as follows:

42-4-1307. Penalties for traffic offenses involving alcohol and drugs - repeal. (3) **First offenses - DUI and DUI per se.** (a) Except as otherwise provided in subsections (5) and (6) of this section, a person who is convicted of DUI OR DUI per se ~~or habitual user~~ shall be punished by:

(5) **Second offenses.** (a) Except as otherwise provided in subsection (6) of this section, a person who is convicted of DUI, DUI per se, OR DWAI ~~or habitual user~~ who, at the time of sentencing, has a prior conviction of DUI, DUI per se, DWAI, ~~habitual user~~, vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the person's driver's license was under restraint pursuant to section 42-2-138 (1) (d), shall be punished by:

(b) If a person is convicted of DUI, DUI per se, OR DWAI ~~or habitual user~~ and the violation occurred less than five years after the date of a previous violation for which the person was convicted of DUI, DUI per se, DWAI, ~~habitual user~~, vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the person's driver's license was under restraint pursuant to section 42-2-138 (1) (d), the court shall not have discretion to employ any sentencing alternatives described in section 18-1.3-106, C.R.S., during the minimum period of imprisonment described in subparagraph (I) of paragraph (a) of this subsection (5); except that a court may allow the person to participate in a program pursuant to section 18-1.3-106 (1) (a) (II), (1) (a) (IV), or (1) (a) (V), C.R.S., only if the program is available through the county in which the person is imprisoned and only for the purpose of:

(6) **Third and subsequent offenses.** (a) A person who is convicted of DUI, DUI per se, OR DWAI ~~or habitual user~~ who, at the time of sentencing, has two or more prior convictions of DUI, DUI per se, DWAI, ~~habitual user~~, vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the person's driver's license was under restraint pursuant to section 42-2-138 (1) (d) shall be punished by:

(9) **Previous convictions.** (a) For the purposes of subsections (5) and (6) of this section, a person shall be deemed to have a previous conviction for DUI, DUI per se, DWAI, ~~habitual user~~, vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the person's driver's license was under restraint pursuant to section 42-2-138 (1) (d), if the person has been convicted under the laws of this state or under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States, of an act that, if committed within this state, would constitute the offense of DUI, DUI per se, DWAI, ~~habitual user~~, vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the person's driver's license was under restraint pursuant to section 42-2-138 (1) (d).

(10) **Additional costs and surcharges.** In addition to the penalties prescribed in this section:

(a) Persons convicted of DUI, DUI per se, DWAI, ~~habitual user~~, and UDD are subject to the costs imposed by section 24-4.1-119 (1) (c), C.R.S., relating to the crime victim compensation fund;

(b) Persons convicted of DUI, DUI per se, AND DWAI ~~and habitual user~~ are subject to a surcharge of at least one hundred dollars but no more than five hundred dollars to fund programs to reduce the number of persistent drunk drivers. The surcharge shall be mandatory, and the court shall not have discretion to suspend or waive the surcharge; except that the court may suspend or waive the surcharge if the court determines that a

person is indigent. Moneys collected for the surcharge shall be transmitted to the state treasurer, who shall credit the amount collected to the persistent drunk driver cash fund created in section 42-3-303.

(c) Persons convicted of DUI, DUI per se, DWAI, ~~habitual user~~, and UDD are subject to a surcharge of twenty dollars to be transmitted to the state treasurer who shall deposit moneys collected for the surcharge in the Colorado traumatic brain injury trust fund created pursuant to section 26-1-309, C.R.S.;

(d) (I) Persons convicted of DUI, DUI per se, AND DWAI ~~and habitual user~~ are subject to a surcharge of at least one dollar but no more than ten dollars for programs to fund efforts to address alcohol and substance abuse problems among persons in rural areas. The surcharge shall be mandatory, and the court shall not have discretion to suspend or waive the surcharge; except that the court may suspend or waive the surcharge if the court determines that a person is indigent. Any moneys collected for the surcharge shall be transmitted to the state treasurer, who shall credit the same to the rural alcohol and substance abuse cash fund created in section 27-80-117 (3), C.R.S.

(12) **Victim impact panels.** In addition to any other penalty provided by law, the court may sentence a person convicted of DUI, DUI per se, DWAI, ~~habitual user~~, or UDD to attend and pay for one appearance at a victim impact panel approved by the court, for which the fee assessed to the person shall not exceed twenty-five dollars.

(13) **Alcohol and drug evaluation and supervision costs.** In addition to any fines, fees, or costs levied against a person convicted of DUI, DUI per se, DWAI, ~~habitual user~~, or UDD, the judge shall assess each such person for the cost of the presentence or postsentence alcohol and drug evaluation and supervision services.

SECTION 16. In Colorado Revised Statutes, 42-4-1702, **amend** (1) as follows:

42-4-1702. Alcohol- or drug-related traffic offenses - collateral attack. (1) ~~Except as otherwise provided in paragraph (b) of this subsection (1);~~ No person against whom a judgment has been entered for DUI, DUI per se, DWAI, ~~habitual user~~, or UDD shall collaterally attack the validity of that

judgment unless such attack is commenced within six months after the date of entry of the judgment.

SECTION 17. In Colorado Revised Statutes, 42-4-1705, **amend** (1) (c) as follows:

42-4-1705. Person arrested to be taken before the proper court.

(1) Whenever a person is arrested for any violation of this article punishable as a misdemeanor, the arrested person shall be taken without unnecessary delay before a county judge who has jurisdiction of such offense as provided by law, in any of the following cases:

(c) When the person is arrested and charged with DUI, DUI per se, ~~habitual user~~, or UDD;

SECTION 18. In Colorado Revised Statutes, 42-4-1715, **amend** (1) (b) (II) and (4) (a) (II) as follows:

42-4-1715. Convictions, judgments, and charges recorded - public inspection. (1) (b) (II) Upon receiving a request for expungement, the court may delay consideration of such request until sufficient time has elapsed to ensure that the person is not convicted for any additional offense of DUI, DUI per se, DWAI, ~~habitual user~~, or UDD committed while the person was under twenty-one years of age.

(4) (a) Every court of record shall also forward a like report to the department:

(II) Upon the dismissal of a charge for DUI, DUI per se, DWAI, ~~habitual user~~, or UDD or if the original charge was for DUI, DUI per se, DWAI, ~~habitual user~~, or UDD and the conviction was for a nonalcohol- or nondrug-related traffic offense.

SECTION 19. In Colorado Revised Statutes, 42-7-408, **amend** (1) (c) (I) as follows:

42-7-408. Proof of financial responsibility - methods of giving proof - duration - exception. (1) (c) Notwithstanding the three-year requirement in paragraph (b) of this subsection (1):

(I) If an insured has been found guilty of DUI, DUI per se, OR DWAI ~~or habitual user~~ or if the insured's license has been revoked pursuant to section 42-2-126, other than a revocation under section 42-2-126 (3) (b) or (3) (e), only one time and no accident was involved in such offense, proof of financial responsibility for the future shall be required to be maintained only for as long as the insured's driving privilege is ordered to be under restraint, up to a maximum of three years. The time period for maintaining the future proof of liability insurance shall begin at the time the driver reinstates his or her driving privilege.

SECTION 20. In Colorado Revised Statutes, 40-10.1-110, **amend** (3) (c) (I) as follows:

40-10.1-110. Criminal history record check. (3) An individual whose criminal history record is checked pursuant to this section is disqualified and prohibited from driving motor vehicles for the motor carrier described in subsection (1) of this section if the criminal history record check reflects that:

(c) Within the two years immediately preceding the date the criminal history record check is completed, the individual was:

(I) Convicted in this state of driving under the influence, as defined in section 42-4-1301 (1) (f), C.R.S.; driving with excessive alcoholic content, as described in section 42-4-1301 (2) (a), C.R.S.; OR driving while ability impaired, as defined in section 42-4-1301 (1) (g), C.R.S.; ~~or driving while an habitual user of a controlled substance, as described in section 42-4-1301 (1) (c), C.R.S.; or~~

SECTION 21. In Colorado Revised Statutes, **add** 17-18-110 as follows:

17-18-110. Appropriation to comply with section 2-2-703 - HB 13-1325 - repeal. (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT HOUSE BILL 13-1325, ENACTED IN 2013:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE

DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY THOUSAND EIGHT HUNDRED SIXTEEN DOLLARS (\$20,816).

(b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2015, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF FIVE THOUSAND FIVE HUNDRED FIFTY-ONE DOLLARS (\$5,551).

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 22. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the judicial department, for the fiscal year beginning July 1, 2013, the sum of \$12,000, or so much thereof as may be necessary, for allocation to the office of the state public defender for mandated costs related to the implementation of this act.

SECTION 23. 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.

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

John P. Morse
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO