

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0239.01 Jerry Barry x4341

HOUSE BILL 19-1146

HOUSE SPONSORSHIP

Roberts and McKean,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE OFFENSE OF TANDEM DUI PER SE.**

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>.)

The bill adds a new traffic offense of tandem DUI per se if a peace officer has evidence to believe that a driver had consumed alcohol or drugs, that the driver was substantially incapable of safely operating a vehicle, and that the driver had any measurable amount of a drug in his or her blood or oral fluid. The penalties for tandem DUI per se are the same as for DUI. The bill repeals the 5 nanogram THC threshold for the presumption that a driver is under the influence of marijuana.

The bill makes conforming amendments.

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

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

2 **SECTION 1.** In Colorado Revised Statutes, 42-1-102, **add**
3 (102.6) as follows:

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

6 (102.6) "TANDEM DUI PER SE" MEANS DRIVING WHEN A PEACE
7 OFFICER HAS EVIDENCE, BASED ON THE DRIVER'S Demeanor, BEHAVIOR,
8 AND OBSERVABLE IMPAIRMENT, TO BELIEVE THAT THE DRIVER HAD
9 CONSUMED ALCOHOL OR ONE OR MORE DRUGS, OR A COMBINATION OF
10 BOTH ALCOHOL AND ONE OR MORE DRUGS, THAT AFFECTED THE DRIVER TO
11 A DEGREE THAT THE DRIVER WAS SUBSTANTIALLY INCAPABLE EITHER
12 MENTALLY OR PHYSICALLY, OR BOTH MENTALLY AND PHYSICALLY, TO
13 EXERCISE CLEAR JUDGMENT, SUFFICIENT PHYSICAL CONTROL, OR DUE
14 CARE IN THE SAFE OPERATION OF A VEHICLE, AND THAT THE DRIVER HAD
15 ANY MEASURABLE AMOUNT OF A DRUG OR CONTROLLED SUBSTANCE
16 OTHER THAN ALCOHOL IN HIS OR HER BLOOD OR ORAL FLUID AT THE TIME
17 OF DRIVING OR WITHIN FOUR HOURS AFTER DRIVING. USE OF THE TERM
18 INCORPORATES BY REFERENCE THE OFFENSE DESCRIBED IN SECTION
19 42-4-1301 (2)(c.5).

20 **SECTION 2.** In Colorado Revised Statutes, 42-4-1301, **amend**
21 (1)(a), (1)(b), (1)(j), (4), (5), (6)(a) introductory portion, (6)(a)(IV), and
22 (6)(e); and **add** (2)(c.5) as follows:

23 **42-4-1301. Driving under the influence - driving while**
24 **impaired - driving with excessive alcoholic content - penalties -**
25 **definitions.** (1) (a) A person who drives a motor vehicle or vehicle under
26 the influence of alcohol or one or more drugs, or a combination of both

1 alcohol and one or more drugs, commits driving under the influence.
2 Driving under the influence is a misdemeanor, but it is a class 4 felony if
3 the violation occurred after three or more prior convictions, arising out of
4 separate and distinct criminal episodes, for DUI, DUI per se, TANDEM
5 DUI PER SE, or DWAI; vehicular homicide, as described in section
6 18-3-106 (1)(b); ~~C.R.S.~~; vehicular assault, as described in section
7 18-3-205 (1)(b); ~~C.R.S.~~; or any combination thereof.

8 (b) A person who drives a motor vehicle or vehicle while impaired
9 by alcohol or by one or more drugs, or by a combination of alcohol and
10 one or more drugs, commits driving while ability impaired. Driving while
11 ability impaired is a misdemeanor, but it is a class 4 felony if the violation
12 occurred after three or more prior convictions, arising out of separate and
13 distinct criminal episodes, for DUI, DUI per se, TANDEM DUI PER SE, or
14 DWAI; vehicular homicide, as described in section 18-3-106 (1)(b);
15 ~~C.R.S.~~; vehicular assault, as described in section 18-3-205 (1)(b); ~~C.R.S.~~;
16 or any combination thereof.

17 (j) For the purposes of this section, a person is deemed to have a
18 prior conviction for DUI, DUI per se, TANDEM DUI PER SE, or DWAI;
19 vehicular homicide, as described in section 18-3-106 (1)(b); ~~C.R.S.~~; or
20 vehicular assault, as described in section 18-3-205 (1)(b), ~~C.R.S.~~; if the
21 person has been convicted under the laws of this state or under the laws
22 of any other state, the United States, or any territory subject to the
23 jurisdiction of the United States, of an act that, if committed within this
24 state, would constitute any of these offenses. The prosecution shall set
25 forth ~~such~~ THE prior convictions in the indictment or information.

26 (2) (c.5) A PERSON DRIVING A MOTOR VEHICLE OR VEHICLE
27 COMMITS TANDEM DUI PER SE WHEN A PEACE OFFICER HAS EVIDENCE

1 BASED ON THE PERSON'S DEMEANOR, BEHAVIOR, AND OBSERVABLE
2 IMPAIRMENT TO BELIEVE THAT THE PERSON WAS IMPAIRED BY ALCOHOL
3 OR BY ONE OR MORE DRUGS, OR BY A COMBINATION OF ALCOHOL AND ONE
4 OR MORE DRUGS, AND THE PERSON HAD ANY MEASURABLE AMOUNT OF A
5 DRUG OR CONTROLLED SUBSTANCE OTHER THAN ALCOHOL IN THE
6 PERSON'S BLOOD OR ORAL FLUID AT THE TIME OF DRIVING OR WITHIN FOUR
7 HOURS AFTER DRIVING. THE PRESENCE OF AN INACTIVE METABOLITE OF A
8 DRUG OTHER THAN BENZOYLECGONINE SHALL NOT CONSTITUTE PROOF OF
9 TANDEM DUI PER SE. DURING A TRIAL, IF THE STATE'S EVIDENCE RAISES
10 THE ISSUE, OR IF A DEFENDANT PRESENTS SOME CREDIBLE EVIDENCE, THAT
11 THE DEFENDANT CONSUMED THE DRUG BETWEEN THE TIME THAT THE
12 DEFENDANT STOPPED DRIVING AND THE TIME THAT THE BLOOD OR ORAL
13 FLUID SAMPLE FOR TESTING WAS COLLECTED, SUCH ISSUE SHALL BE AN
14 AFFIRMATIVE DEFENSE, AND THE PROSECUTION MUST ESTABLISH BEYOND
15 A REASONABLE DOUBT THAT THE DRUG WAS CONSUMED BY THE
16 DEFENDANT BEFORE THE DEFENDANT STOPPED DRIVING. TANDEM DUI
17 PER SE IS A MISDEMEANOR, BUT IT IS A CLASS 4 FELONY IF THE VIOLATION
18 OCCURRED AFTER THREE OR MORE PRIOR CONVICTIONS, ARISING OUT OF
19 SEPARATE AND DISTINCT CRIMINAL EPISODES, FOR DUI, DUI PER SE,
20 TANDEM DUI PER SE, OR DWAI; VEHICULAR HOMICIDE, AS DESCRIBED IN
21 SECTION 18-3-106 (1)(b); VEHICULAR ASSAULT, AS DESCRIBED IN SECTION
22 18-3-205 (1)(b); OR ANY COMBINATION THEREOF.

23 (4) No court shall accept a plea of guilty to a non-alcohol-related
24 or non-drug-related traffic offense or guilty to the offense of UDD from
25 a person charged with DUI, ~~or~~ DUI per se, OR TANDEM DUI PER SE;
26 except that the court may accept a plea of guilty to a non-alcohol-related
27 or non-drug-related traffic offense or to UDD upon a good faith

1 representation by the prosecuting attorney that the attorney could not
2 establish a prima facie case if the defendant were brought to trial on the
3 original alcohol-related or drug-related offense.

4 (5) Notwithstanding the provisions of section 18-1-408, ~~C.R.S.~~,
5 during a trial of any person accused of ~~both~~ DUI and DUI per se OR
6 TANDEM DUI PER SE, the court shall not require the prosecution to elect
7 ~~between~~ AMONG the ~~two~~ violations. The court or a jury may consider and
8 convict the person of ~~either~~ DUI or ~~DWAI~~, or ~~DUI per se~~, or ~~both~~ ~~DUI~~
9 ~~and~~ ~~DUI per se~~, or ~~both~~ ~~DWAI~~ and ~~DUI per se~~ ONE OR MORE OF THE
10 OFFENSES CHARGED OR DWAI AND ONE OR MORE THAN ONE OF THE
11 OFFENSES CHARGED. If the person is convicted of more than one violation,
12 the sentences imposed shall run concurrently.

13 (6) (a) In any prosecution for DUI, TANDEM DUI PER SE, or
14 DWAI, the defendant's BAC or drug content at the time of the
15 commission of the alleged offense or within a reasonable time thereafter
16 gives rise to the following presumptions or inferences:

17 (IV) ~~If at such time the driver's blood contained five nanograms~~
18 ~~or more of delta 9-tetrahydrocannabinol per milliliter in whole blood, as~~
19 ~~shown by analysis of the defendant's blood, such fact gives rise to a~~
20 ~~permissible inference that the defendant was under the influence of one~~
21 ~~or more drugs~~ IF A PEACE OFFICER HAD EVIDENCE BASED ON THE DRIVER'S
22 DEMEANOR, BEHAVIOR, AND OBSERVABLE IMPAIRMENT TO BELIEVE THAT
23 THE DEFENDANT WAS IMPAIRED BY ALCOHOL OR BY ONE OR MORE DRUGS,
24 OR BY A COMBINATION OF ALCOHOL AND ONE OR MORE DRUGS, AT THE
25 TIME OF ARREST, AND THE DRIVER HAD ANY MEASURABLE AMOUNT OF A
26 DRUG OR CONTROLLED SUBSTANCE OTHER THAN ALCOHOL IN HIS OR HER
27 BLOOD OR ORAL FLUID AT THE TIME OF DRIVING OR WITHIN FOUR HOURS

1 AFTER DRIVING, SUCH FACT GIVES RISE TO A PERMISSIBLE INFERENCE THAT
2 THE DEFENDANT WAS UNDER THE INFLUENCE OF ONE OR MORE DRUGS.

3 (e) **Involuntary blood test - admissibility.** Evidence acquired
4 through an involuntary blood test pursuant to section 42-4-1301.1 (3)
5 shall be admissible in any prosecution for DUI, DUI per se, TANDEM DUI
6 PER SE, DWAI, or UDD, and in any prosecution for criminally negligent
7 homicide pursuant to section 18-3-105, ~~C.R.S.~~, vehicular homicide
8 pursuant to section 18-3-106 (1)(b), ~~C.R.S.~~, assault in the third degree
9 pursuant to section 18-3-204, ~~C.R.S.~~, or vehicular assault pursuant to
10 section 18-3-205 (1)(b). ~~C.R.S.~~

11 **SECTION 3.** In Colorado Revised Statutes, 42-4-1307, **amend**
12 (3)(a) introductory portion, (5)(a) introductory portion, (5)(b) introductory
13 portion, (6)(a) introductory portion, (6)(c) introductory portion, (6)(c)(I),
14 (6.5)(a), (6.5)(d), (6.5)(e), (9)(a), (10)(a), (10)(b), (10)(c), (10)(d)(I),
15 (10)(e), (12)(a), (13), and (15) introductory portion as follows:

16 **42-4-1307. Penalties for traffic offenses involving alcohol and**
17 **drugs - legislative declaration - definitions - repeal.** (3) **First offenses**
18 **- DUI, DUI per se, and tandem DUI per se.** (a) Except as otherwise
19 provided in subsections (5) and (6) of this section, a person who is
20 convicted of DUI, ~~or~~ DUI per se, OR TANDEM DUI PER SE shall be
21 punished by:

22 (5) **Second offenses.** (a) Except as otherwise provided in
23 subsection (6) of this section, a person who is convicted of DUI, DUI per
24 se, TANDEM DUI PER SE, or DWAI who, at the time of sentencing, has a
25 prior conviction of DUI, DUI per se, TANDEM DUI PER SE, DWAI,
26 vehicular homicide pursuant to section 18-3-106 (1)(b), vehicular assault
27 pursuant to section 18-3-205 (1)(b), aggravated driving with a revoked

1 license pursuant to section 42-2-206 (1)(b)(I)(A) or (1)(b)(I)(B), as that
2 crime existed before August 5, 2015, or driving while the person's driver's
3 license was under restraint pursuant to section 42-2-138 (1)(d), shall be
4 punished by:

5 (b) If a person is convicted of DUI, DUI per se, TANDEM DUI PER
6 SE, or DWAI and the violation occurred less than five years after the date
7 of a previous violation for which the person was convicted of DUI, DUI
8 per se, TANDEM DUI PER SE, DWAI, vehicular homicide pursuant to
9 section 18-3-106 (1)(b), ~~€R.S.~~, vehicular assault pursuant to section
10 18-3-205 (1)(b), ~~€R.S.~~, aggravated driving with a revoked license
11 pursuant to section 42-2-206 (1)(b)(I)(A) or (1)(b)(I)(B), as that crime
12 existed before August 5, 2015, or driving while the person's driver's
13 license was under restraint pursuant to section 42-2-138 (1)(d), the court
14 does not have discretion to employ any sentencing alternatives described
15 in section 18-1.3-106, ~~€R.S.~~, during the minimum period of
16 imprisonment described in ~~subparagraph (f) of paragraph (a) of this~~
17 ~~subsection (5)~~ SUBSECTION (5)(a)(I) OF THIS SECTION; except that a court
18 may allow the person to participate in a program pursuant to section
19 18-1.3-106 (1)(a)(II), (1)(a)(IV), or (1)(a)(V), ~~€R.S.~~, only if the program
20 is available through the county in which the person is imprisoned and
21 only for the purpose of:

22 (6) **Third and subsequent offenses.** (a) Except as provided in
23 section 42-4-1301 (1)(a), (1)(b), and (2)(a), a person who is convicted of
24 DUI, DUI per se, TANDEM DUI PER SE, or DWAI who, at the time of
25 sentencing, has two or more prior convictions of DUI, DUI per se,
26 TANDEM DUI PER SE, DWAI, vehicular homicide pursuant to section
27 18-3-106 (1)(b), vehicular assault pursuant to section 18-3-205 (1)(b),

1 aggravated driving with a revoked license pursuant to section 42-2-206
2 (1)(b)(I)(A) or (1)(b)(I)(B), as that crime existed before August 5, 2015,
3 or driving while the person's driver's license was under restraint pursuant
4 to section 42-2-138 (1)(d) shall be punished by:

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

14 (I) At the time of sentencing, the person has two prior convictions
15 of DUI, DUI per se, TANDEM DUI PER SE, DWAI, vehicular homicide
16 pursuant to section 18-3-106 (1)(b), ~~C.R.S.~~, or vehicular assault pursuant
17 to section 18-3-205 (1)(b); ~~C.R.S.~~; and

18 (6.5) **Felony offenses.** (a) A person who commits a felony DUI,
19 DUI per se, TANDEM DUI PER SE, or DWAI offense shall be sentenced in
20 accordance with the provisions of section 18-1.3-401 and this subsection
21 (6.5).

22 (d) Notwithstanding the provisions of subsection (6.5)(a) of this
23 section, before the imposition of any sentence to the department of
24 corrections for a felony DUI, DUI per se, TANDEM DUI PER SE, or DWAI
25 offense, at sentencing or at resentencing after a revocation of probation
26 or a community corrections sentence, the court shall consider all the
27 factors described in subsection (6.5)(e) of this section.

1 (e) If the court sentences the defendant to the department of
2 corrections for a felony DUI, DUI per se, TANDEM DUI PER SE, or DWAI
3 offense, it must determine that incarceration is the most suitable option
4 given the facts and circumstances of the case, including the defendant's
5 willingness to participate in treatment. Additionally, the court shall
6 consider whether all other reasonable and appropriate sanctions and
7 responses to the violation that are available to the court have been
8 exhausted, do not appear likely to be successful if tried, or present an
9 unacceptable risk to public safety.

10 (9) **Previous convictions.** (a) For the purposes of subsections (5)
11 and (6) of this section, a person is deemed to have a previous conviction
12 for DUI, DUI per se, TANDEM DUI PER SE, DWAI, vehicular homicide
13 pursuant to section 18-3-106 (1)(b), ~~€R.S.~~, vehicular assault pursuant to
14 section 18-3-205 (1)(b), ~~€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, TANDEM DUI PER
22 SE, DWAI, vehicular homicide pursuant to section 18-3-106 (1)(b),
23 ~~€R.S.~~, vehicular assault pursuant to section 18-3-205 (1)(b), ~~€R.S.~~,
24 aggravated driving with a revoked license pursuant to section 42-2-206
25 (1)(b)(I)(A) or (1)(b)(I)(B), as that crime existed before August 5, 2015,
26 or driving while the person's driver's license was under restraint pursuant
27 to section 42-2-138 (1)(d).

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

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

6 (b) Persons convicted of DUI, DUI per se, TANDEM DUI PER SE,
7 and DWAI are subject to a surcharge of at least one hundred dollars but
8 no more than five hundred dollars to fund programs to reduce the number
9 of persistent drunk drivers. The surcharge shall be mandatory, and the
10 court shall not have discretion to suspend or waive the surcharge; except
11 that the court may suspend or waive the surcharge if the court determines
12 that a person is indigent. ~~Moneys~~ MONEY collected for the surcharge shall
13 be transmitted to the state treasurer, who shall credit the amount collected
14 to the persistent drunk driver cash fund created in section 42-3-303.

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

20 (d) (I) Persons convicted of DUI, DUI per se, TANDEM DUI PER
21 SE, and DWAI are subject to a surcharge of at least one dollar but no
22 more than ten dollars for programs to fund efforts to address alcohol and
23 substance abuse problems among persons in rural areas. The surcharge
24 shall be mandatory, and the court shall not have discretion to suspend or
25 waive the surcharge; except that the court may suspend or waive the
26 surcharge if the court determines that a person is indigent. Any ~~moneys~~
27 MONEY collected for the surcharge shall be transmitted to the state

1 treasurer, who shall credit the same to the rural alcohol and substance
2 abuse cash fund created in section 27-80-117 (3). ~~C.R.S.~~

3 (e) Persons convicted of DUI, DUI per se, TANDEM DUI PER SE,
4 DWAI, vehicular assault as described in section 18-3-205 (1)(b), or
5 vehicular homicide as described in section 18-3-106 (1)(b) shall pay a
6 data-analysis surcharge of two dollars to be transmitted to the state
7 treasurer, who shall deposit money collected for the surcharge in the
8 substance-affected driving data-analysis cash fund created in section
9 24-33.5-520. Except in the case of an indigent defendant, the court has no
10 discretion to waive this surcharge.

11 (12) **Victim impact panels.** (a) In addition to any other penalty
12 provided by law, the court may sentence a person convicted of DUI, DUI
13 per se, TANDEM DUI PER SE, DWAI, or UDD to attend in person and pay
14 for one appearance at a victim impact panel approved by the court, for
15 which the fee assessed to the person shall not exceed fifty dollars.

16 (13) **Alcohol and drug evaluation and supervision costs.** In
17 addition to any fines, fees, or costs levied against a person convicted of
18 DUI, DUI per se, TANDEM DUI PER SE, DWAI, or UDD, the judge shall
19 assess each such person for the cost of the presentence or postsentence
20 alcohol and drug evaluation and supervision services.

21 (15) If a defendant is convicted of aggravated driving with a
22 revoked license based upon the commission of DUI, DUI per se, TANDEM
23 DUI PER SE, or DWAI pursuant to section 42-2-206 (1)(b)(I)(A) or
24 (1)(b)(I)(B), as that crime existed before August 5, 2015:

25 **SECTION 4.** In Colorado Revised Statutes, 24-33.5-520, **amend**
26 (6)(a) as follows:

27 **24-33.5-520. Study on drugged driving - substance-affected**

1 **driving data-analysis cash fund created - report - definitions.** (6) As
2 used in this section, unless the context requires otherwise:

3 (a) "Forensic toxicology laboratory" means a forensic toxicology
4 laboratory that is certified by the department of public health and
5 environment to perform testing of samples collected from individuals
6 suspected of DUI, DUI per se, TANDEM DUI PER SE, or DWAI.

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

9 **42-2-121. Records to be kept by department - admission of**
10 **records in court.** (2) (b) The department shall also keep a separate file
11 of all abstracts of court records of dismissals of DUI, DUI per se,
12 TANDEM DUI PER SE, DWAI, and UDD charges and all abstracts of
13 records in cases where the original charges were for DUI, DUI per se,
14 TANDEM DUI PER SE, DWAI, and UDD and the convictions were for
15 nonalcohol- or nondrug-related traffic offenses. This file shall be made
16 available only to criminal justice agencies, as defined in section
17 24-72-302 (3). ~~C.R.S.~~

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

23 (III) The person has not been convicted for any other DUI, DUI
24 PER SE, TANDEM DUI PER SE, DWAI, or UDD offense that was committed
25 while such person was under twenty-one years of age and is not subject
26 to any other administrative determination resulting in a revocation ~~under~~
27 PURSUANT TO section 42-2-126 for any other occurrence while such

1 person was under twenty-one years of age;

2 **SECTION 6.** In Colorado Revised Statutes, 42-2-125, **amend**
3 (1)(g) and (1)(i) as follows:

4 **42-2-125. Mandatory revocation of license and permit.** (1) The
5 department shall immediately revoke the license or permit of any driver
6 or minor driver upon receiving a record showing that the driver has:

7 (g) (I) Been twice convicted of any combination of DUI, DUI per
8 se, TANDEM DUI PER SE, or DWAI for acts committed within a period of
9 five years;

10 (II) In the case of a minor driver, been convicted of DUI, DUI per
11 se, TANDEM DUI PER SE, or DWAI committed while such driver was
12 under twenty-one years of age;

13 (i) Been convicted of DUI, DUI per se, TANDEM DUI PER SE, or
14 DWAI and has two previous convictions of any of those offenses. The
15 department shall revoke the license of any driver for an indefinite period
16 and only reissue it upon proof to the department that the driver has
17 completed a level II alcohol and drug education and treatment program
18 certified by the office of behavioral health in the department of human
19 services pursuant to section 42-4-1301.3 and that the driver has
20 demonstrated knowledge of the laws and driving ability through the
21 regular motor vehicle testing process. The department shall not reissue
22 the license in less than two years.

23 **SECTION 7.** In Colorado Revised Statutes, 42-2-127, **amend**
24 (1)(a), (5)(b)(I), and (6)(b) as follows:

25 **42-2-127. Authority to suspend license - to deny license - type**
26 **of conviction - points.** (1) (a) Except as provided in ~~paragraph (b) of~~
27 ~~subsection (8)~~ SUBSECTION (8)(b) of this section, the department has the

1 authority to suspend the license of any driver who, in accordance with the
2 schedule of points set forth in this section, has been convicted of traffic
3 violations resulting in the accumulation of twelve points or more within
4 any twelve consecutive months or eighteen points or more within any
5 twenty-four consecutive months, or, in the case of a minor driver eighteen
6 years of age or older, who has accumulated nine points or more within
7 any twelve consecutive months, or twelve points or more within any
8 twenty-four consecutive months, or fourteen points or more for violations
9 occurring after reaching the age of eighteen years, or, in the case of a
10 minor driver under the age of eighteen years, who has accumulated more
11 than five points within any twelve consecutive months or more than six
12 points for violations occurring prior to reaching the age of eighteen years;
13 except that the accumulation of points causing the subjection to
14 suspension of the license of a chauffeur who, in the course of
15 employment, has as a principal duty the operation of a motor vehicle shall
16 be sixteen points in one year, twenty-four points in two years, or
17 twenty-eight points in four years, if all the points are accumulated while
18 said chauffeur is in the course of employment. Any provision of this
19 section to the contrary notwithstanding, the license of a chauffeur who is
20 convicted of DUI, DUI per se, TANDEM DUI PER SE, DWAI, UDD, or
21 leaving the scene of an accident shall be suspended in the same manner
22 as if the offense occurred outside the course of employment. Whenever
23 a minor driver under the age of eighteen years receives a summons for a
24 traffic violation, the minor's parent or legal guardian or, if the minor is
25 without parents or guardian, the person who signed the minor driver's
26 application for a license shall immediately be notified by the court from
27 which the summons was issued.

1 (5) Point system schedule:

2 Type of conviction Points

3 (b) (I) DUI, ~~or~~ DUI per se, OR TANDEM DUI PER SE. 12

4 (6) (b) For the purposes of this ~~article~~ ARTICLE 2, a plea of no
5 contest accepted by the court or the forfeiture of any bail or collateral
6 deposited to secure a defendant's appearance in court or the failure to
7 appear in court by a defendant charged with DUI, DUI per se, TANDEM
8 DUI PER SE, or UDD who has been issued a summons and notice to
9 appear pursuant to section 42-4-1707 as evidenced by records forwarded
10 to the department in accordance with the provisions of section 42-2-124
11 shall be considered as a conviction.

12 **SECTION 8.** In Colorado Revised Statutes, **amend** 42-2-129 as
13 follows:

14 **42-2-129. Mandatory surrender of license or permit for**
15 **driving under the influence or with excessive alcoholic content.** Upon
16 a plea of guilty or nolo contendere, or a verdict of guilty by the court or
17 a jury, to DUI, ~~or~~ DUI per se, TANDEM DUI PER SE, or, for a person under
18 twenty-one years of age, to DUI, DUI per se, TANDEM DUI PER SE,
19 DWAI, or UDD, the court shall require the offender to immediately
20 surrender the offender's driver's, minor driver's, or temporary driver's
21 license or instruction permit to the court. The court shall forward to the
22 department a notice of plea or verdict, on the form prescribed by the
23 department, together with the offender's license or permit, not later than
24 ten days after the surrender of the license or permit. Any person who does
25 not immediately surrender the license or permit to the court, except for
26 good cause shown, commits a class 2 misdemeanor traffic offense.

27 **SECTION 9.** In Colorado Revised Statutes, 42-2-132, **amend**

1 (2)(a)(III) and (2)(a)(IV) as follows:

2 **42-2-132. Period of suspension or revocation.** (2) (a) (III) In the
3 case of a minor driver whose license has been revoked as a result of one
4 conviction for DUI, DUI per se, TANDEM DUI PER SE, DWAI, or UDD,
5 the minor driver, unless otherwise required after an evaluation made
6 pursuant to section 42-4-1301.3, must complete a level I alcohol and drug
7 education program certified by the office of behavioral health in the
8 department of human services.

9 (IV) Any person whose license or privilege to drive a motor
10 vehicle on the public highways has been revoked ~~under~~ PURSUANT TO
11 section 42-2-125 (1)(g)(I) or (1)(i) or 42-2-203 where the revocation was
12 due in part to a DUI, DUI per se, TANDEM DUI PER SE, or DWAI
13 conviction shall be required to present an affidavit stating that the person
14 has obtained at the person's own expense a signed lease agreement for the
15 installation and use of an approved ignition interlock device, as defined
16 in section 42-2-132.5 (9)(a), in each motor vehicle on which the person's
17 name appears on the registration and any other vehicle that the person
18 may drive during the period of the interlock-restricted license.

19 **SECTION 10.** In Colorado Revised Statutes, 42-2-206, **amend**
20 (1)(b)(III) introductory portion as follows:

21 **42-2-206. Driving after revocation prohibited.** (1) (b) (III) If
22 a defendant is convicted of aggravated driving with a revoked license
23 based upon the commission of DUI, DUI per se, ~~or~~ TANDEM DUI PER SE,
24 OR DWAI pursuant to ~~sub-subparagraph (A) or (B) of subparagraph (I)~~
25 ~~of this paragraph (b)~~ SUBSECTION (1)(b)(I)(A) OR (1)(b)(I)(B) OF THIS
26 SECTION, as that crime existed before August 5, 2015:

27 **SECTION 11.** In Colorado Revised Statutes, 42-2-138, **amend**

1 (1)(a) and (1)(d) as follows:

2 **42-2-138. Driving under restraint - penalty.** (1) (a) Except as
3 provided in subsection (1.5) of this section, any person who drives a
4 motor vehicle or off-highway vehicle upon any highway of this state with
5 knowledge that the person's license or privilege to drive, either as a
6 resident or a nonresident, is under restraint for any reason other than
7 conviction of DUI, DUI per se, TANDEM DUI PER SE, DWAI, or UDD is
8 guilty of a misdemeanor. A court may sentence a person convicted of this
9 misdemeanor to imprisonment in the county jail for a period of not more
10 than six months and may impose a fine of not more than five hundred
11 dollars.

12 (d) (I) A person who drives a motor vehicle or off-highway
13 vehicle upon any highway of this state with knowledge that the person's
14 license or privilege to drive, either as a resident or nonresident, is
15 restrained ~~under~~ PURSUANT TO section 42-2-126 (3), is restrained solely
16 or partially because of a conviction of DUI, DUI per se, TANDEM DUI PER
17 SE, DWAI, or UDD, or is restrained in another state solely or partially
18 because of an alcohol-related driving offense is guilty of a misdemeanor
19 and, upon conviction thereof, shall be punished by imprisonment in the
20 county jail for not less than thirty days nor more than one year and, in the
21 discretion of the court, by a fine of not less than five hundred dollars nor
22 more than one thousand dollars. Upon a second or subsequent conviction,
23 the person shall be punished by imprisonment in the county jail for not
24 less than ninety days nor more than two years and, in the discretion of the
25 court, by a fine of not less than five hundred dollars nor more than three
26 thousand dollars. The minimum county jail sentence imposed by this
27 ~~subparagraph (I)~~ SUBSECTION (1)(d)(I) shall be mandatory, and the court

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

12 (II) In any trial for a violation of ~~subparagraph (I) of this~~
13 ~~paragraph (d)~~ SUBSECTION (1)(d)(I) OF THIS SECTION, a duly authenticated
14 copy of the record of the defendant's former convictions and judgments
15 for DUI, DUI per se, TANDEM DUI PER SE, DWAI, or UDD or an
16 alcohol-related offense committed in another state from any court of
17 record or a certified copy of the record of any denial or revocation of the
18 defendant's driving privilege ~~under~~ PURSUANT TO section 42-2-126 (3)
19 from the department shall be prima facie evidence of the convictions,
20 judgments, denials, or revocations and may be used in evidence against
21 the defendant. Identification photographs and fingerprints that are part of
22 the record of the former convictions, judgments, denials, or revocations
23 and the defendant's incarceration after sentencing for any of the former
24 convictions, judgments, denials, or revocations shall be prima facie
25 evidence of the identity of the defendant and may be used in evidence
26 against the defendant.

27 **SECTION 12.** In Colorado Revised Statutes, 42-2-202, **amend**

1 (2)(a)(I) as follows:

2 **42-2-202. Habitual offenders - frequency and type of**
3 **violations.** (2) (a) An habitual offender is a person having three or more
4 convictions of any of the following separate and distinct offenses arising
5 out of separate acts committed within a period of seven years:

6 (I) DUI, DUI per se, TANDEM DUI PER SE, or DWAI;

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

9 **42-2-405. Driver's license disciplinary actions - grounds for**
10 **denial - suspension - revocation - disqualification.** (2) In addition to
11 applicable penalties imposed under the sections listed in subsection (1) of
12 this section:

13 (a) A person who drives, operates, or is in physical control of a
14 commercial motor vehicle while having any alcohol OR DRUGS in his or
15 her system, or who refuses to submit to a test to determine the alcoholic
16 content of the driver's blood or breath OR WHETHER THERE ARE DRUGS IN
17 THE DRIVER'S BLOOD while driving a commercial motor vehicle, shall be
18 placed out of service as defined in section 42-2-402 (8).

19 (3) For purposes of the imposition of restraints and sanctions
20 against commercial driving privileges:

21 (a) A conviction for DUI, DUI per se, TANDEM DUI PER SE, or
22 DWAI, or a substantially similar law of any other state pertaining to
23 drinking OR USING DRUGS and driving, or an administrative determination
24 of a violation of section 42-2-126 (3)(a) or (3)(b) ~~shall be~~ IS deemed
25 driving under the influence; and

26 **SECTION 14.** In Colorado Revised Statutes, 42-4-1702, **amend**
27 (1) as follows:

1 **42-4-1702. Alcohol- or drug-related traffic offenses - collateral**
2 **attack.** (1) No person against whom a judgment has been entered for
3 DUI, DUI per se, TANDEM DUI PER SE, DWAI, or UDD shall collaterally
4 attack the validity of that judgment unless such attack is commenced
5 within six months after the date of entry of the judgment.

6 **SECTION 15.** In Colorado Revised Statutes, 42-4-1705, **amend**
7 (1) introductory portion, (1)(c), and (3) as follows:

8 **42-4-1705. Person arrested to be taken before the proper**
9 **court.** (1) Whenever a person is arrested for any violation of this ~~article~~
10 ARTICLE 4 punishable as a misdemeanor, the arrested person shall be
11 taken without unnecessary delay before a county judge who has
12 jurisdiction of such offense as provided by law, in any of the following
13 cases:

14 (c) When the person is arrested and charged with DUI, DUI per
15 se, TANDEM DUI PER SE, or UDD;

16 (3) Any other provision of law to the contrary notwithstanding, a
17 police officer may place a person who has been arrested and charged with
18 DUI, DUI per se, TANDEM DUI PER SE, or UDD and who has been given
19 a written notice or summons to appear in court as provided in section
20 42-4-1707 in a state-approved treatment facility for alcohol use disorders
21 even though entry or other record of such arrest and charge has been
22 made. Placement is governed by article 81 of title 27, except where in
23 conflict with this section.

24 **SECTION 16.** In Colorado Revised Statutes, 42-4-1715, **amend**
25 (1)(b)(II) and (4)(a)(II) as follows:

26 **42-4-1715. Convictions, judgments, and charges recorded -**
27 **public inspection.** (1) (b) (II) Upon receiving a request for

1 expungement, the court may delay consideration of such request until
2 sufficient time has elapsed to ensure that the person is not convicted for
3 any additional offense of DUI, DUI per se, TANDEM DUI PER SE, DWAI,
4 or UDD committed while the person was under twenty-one years of age.

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

7 (II) Upon the dismissal of a charge for DUI, DUI per se, TANDEM
8 DUI PER SE, DWAI, or UDD or if the original charge was for DUI, DUI
9 per se, TANDEM DUI PER SE, DWAI, or UDD and the conviction was for
10 a nonalcohol- or nondrug-related traffic offense.

11 **SECTION 17.** In Colorado Revised Statutes, 42-7-408, **amend**
12 (1)(c) introductory portion and (1)(c)(I) as follows:

13 **42-7-408. Proof of financial responsibility - methods of giving**
14 **proof - duration - exception.** (1) (c) Notwithstanding the three-year
15 requirement in ~~paragraph (b) of this subsection (1)~~ SUBSECTION (1)(b) OF
16 THIS SECTION:

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

27 **SECTION 18. Act subject to petition - effective date -**

1 **applicability.** (1) This act takes effect September 1, 2019; except that,
2 if a referendum petition is filed pursuant to section 1 (3) of article V of
3 the state constitution against this act or an item, section, or part of this act
4 within the ninety-day period after final adjournment of the general
5 assembly, then the act, item, section, or part will not take effect unless
6 approved by the people at the general election to be held in November
7 2020 and, in such case, will take effect on the date of the official
8 declaration of the vote thereon by the governor.

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