

INTERAGENCY TASK FORCE ON DRUNK DRIVING  
2008 LEGISLATIVE REPORT





## DEDICATION TO SONJA MARIE DEVRIES



SONJA MARIE DEVRIES  
JUNE 22, 1985 - JULY 19, 2004

Sonja Marie DeVries was an extraordinary 19 year old, with countless friends and family. She worked at the Denver Museum of Nature and Science for six summers as a teacher assistant and team leader, she was an accomplished tap dancer and was looking forward to attending Naropa University when all of that was changed in an instant when she was killed by a drunk driver while she was stopped at a traffic light.

Sonja was described by a former teacher as a “very self-motivated, intelligent, spiritual, courageous, honest, focused, mature, and beautiful, young woman.”

“*The DeVries family requests that the annual report for the Interagency Task Force on Drunken Driving for 2007 represent a legacy to all the victims and their families who have walked in our shoes and lost a loved one due to an impaired driver.*”



# TABLE OF CONTENTS

---

OVERVIEW	
SUMMARY OF ENACTMENT OF SENATE BILL 06-192.....	1
2007 TASK FORCE MEETINGS	
SIGNIFICANT EVENTS.....	3
SUB-COMMITTEE INITIATIVES.....	6
SUB-COMMITTEE ANNUAL REPORTS.....	9
BY-LAWS.....	9
IGNITION INTERLOCK.....	10
INTERVENTION.....	12
PERSISTENT DRUNK DRIVER.....	14
PREVENTION.....	16
SYSTEM IMPROVEMENTS.....	18
VICTIM RIGHTS AND ROLES.....	19
ATTACHMENT A. SENATE BILL 06-192.....	21
ATTACHMENT B. 2007 MEETING AGENDAS.....	26
JANUARY 5, 2007.....	26
MARCH 23, 2007.....	27
MAY 25, 2007.....	28
JULY 27, 2007.....	29
OCTOBER 5, 2007.....	30
NOVEMBER 30, 2007.....	31
ATTACHMENT C. CONCERNING MEASURES TO REDUCE THE INCIDENCE OF DRUNK DRIVING.....	32
ATTACHMENT D. FIRST OFFENDER INTERLOCK LEGISLATION.....	44
DUI OFFENCE ADMINISTRATION REVOCATION.....	46





## OVERVIEW

### SUMMARY OF ENACTMENT OF SENATE BILL 06-192

#### INTRODUCTION

This Interagency Task Force on Drunk Driving (Task Force) was created by Senate Bill 06-192. The task force is in its second year. The mission of the Task Force is:

*To investigate methods of reducing the incidents of drunk and impaired driving and develop recommendations for the State of Colorado regarding the enhancement of government services, education, and intervention to prevent drunk and impaired driving.*

#### SUMMARY OF TASK FORCE ON DRUNK DRIVING - SENATE BILL 06-192

Senate Bill 06-192, Concerning a Task Force on Drunk Driving, by Senator(s) Groff, also Representative(s) Riesberg, Borodkin, Carroll M., Coleman, Gallegos, Garcia, Green, Larson, Merrifield, Romanoff, Todd, and Witwer was introduced and approved during the 2006 Legislation.

The SB 06-192 legislation can be viewed in its entirety in Attachment A.

#### TASK FORCE MEMBERS

SB 06-192 mandates that the Task Force shall consist of the following members:

The Executive Director, or their designee, of the Colorado Department of Transportation (CDOT):

- **Pamela Hutton,**  
*Chief Engineer and Governor's Highway Safety Representative*

Executive Director, or their designee, Department of Revenue (DOR):

- **C. Stephen Hooper**

State Court Administrator, or their designee:

- **Honorable Ed Casias**

Chief of the Colorado State Patrol (CSP), or their designee:

- **Colonel Mark Trostel**

State Public Defender, or their designee:

- **Chris Baumann**

Director of the Division of Alcohol and Drug Abuse (ADAD), or their designee:

- **Janet Wood**

Director of the Division of Probation Services, or their designee:

- **Tom Quinn**

#### TASK FORCE REPRESENTATIVES

The Task Force shall then select representation from the following groups:

A representative of a statewide association of Chiefs of Police with experience in making arrests for drunk or impaired driving:

- **Chief Russell Van Houten,**  
*City of Northglenn Police Department*

---

A representative of a statewide organization of County Sheriffs with experience in making arrests for drunk or impaired driving:

- **Sheriff John Cooke,**  
*Weld County Sheriff's Office*

A victim or a family member of a victim of drunk or impaired driving:

- **Carolyn DeVries**

A representative of a statewide organization of victims of drunk or impaired driving:

- **Emily Tompkins,**  
*Executive Director, Mothers Against Drunk Driving (MADD)*

A representative of a statewide organization of district attorneys with experience in prosecuting drunk or impaired driving offenses:

- **Steve Wrenn,**  
*19th Judicial District Attorney's Office*

A representative of a statewide organization of criminal defense attorneys with experience in defending persons charged with drunk or impaired driving offenses:

- **Abe Hutt,**  
*Colorado Criminal Defense Bar*

A representative of a statewide organization that represents persons who sell alcoholic beverages in Colorado:

- **Jennifer Barton,**  
*Colorado Licensing Beverage Association*

A representative of a statewide organization that represents distributors of alcoholic beverages in Colorado:

- **Steve Findley,**  
*Colorado Beer Distributors Association*

A manufacturer of alcoholic beverages in Colorado:

- **Bill Young**  
*Coors Brewing Company*

A person under twenty-four years of age who is enrolled in a secondary or postsecondary school:

- **Position currently vacant**

## **INTERAGENCY TASK FORCE ON DRUNK DRIVING OVERVIEW OF MEETINGS**

All meetings were held at the Colorado Department of Transportation, from 9:00 am – 12:00 p.m. every other month. The meeting schedules can be adjusted to meet special circumstances and meetings can also be called to address special issues or needs.

The Task Force agendas for the year 2007 are detailed in Attachment B.

### **Format for Meetings**

- Self-Introductions: Name, Agency, entity or interest represented.
- Legislation Sponsors' Remarks (if in attendance).
- Public Comments (all meetings are open to the public and announcements to the meeting are posted on the CDOT website <http://www.dot.state.co.us/TrafficSafety/DUITaskForce/index.cfm>).
- Agenda items.



## TASK FORCE MEETINGS

### SIGNIFICANT EVENTS

#### JANUARY 5, 2007

Reviewed draft of the 2006 Legislative Report.

In 2006, the Interagency Task Force on Drunk Driving requested the members and represented to bring forward initiatives that they wanted the Task Force to address.

#### MARCH 23, 2007

New member, Jennifer Barton, Executive Director for the Colorado License Beverage Association, replaced Chuck Ford of Sovine, Ford & Sovine.

The following Sub-Committees were formed:

- By-Laws
- Ignition Interlock
- Intervention
- Persistent Drunk Driver (includes “Treatment”)
- Prevention
- System Improvements
- Victim Rights and Roles

#### MAY 25, 2007

Representative Joel Judd, (D) District 5 attended the meeting.

C. Stephen Hooper proposed an evaluation of Colorado’s interlock system.

#### JULY 13, 2007

Steve Wrenn, 19th Judicial District of the District Attorney’s Office replaced Michelle Meyer.

Commander Paul Wood replaced Commander Ken Poncelow from the Weld County Sheriff’s Office.

#### OCTOBER 5, 2007

Citizen Amanda Rose Blakey presented the following concern to the task force:

In October 2006, her husband David Michael Blakey was killed in an auto accident.

A summary of her comments is detailed below:

*Colorado State Laws require any deceased driver to be tested for drugs and alcohol.*

*The surviving driver ‘can’ be tested for drugs and alcohol ‘if’ they comply or if they show indicators of impairment.*

*The driver of the other vehicle refused the testing and he did not show the investigating officer any signs of impairment”.*

*Amanda Blakey and her family are attempting to have the “probable cause” law changed. They are in the process of working with Representatives Randy Fischer and Joe Rice. The Blakey family’s goal is to come up with a solution that is more protective and just, with respect to the rights of accident victims.*

*Glenn Davis suggested that one of the sub-committees look into the above-referenced law. The Intervention Sub-Committee chair, Captain Ray Fisher, CSP, agreed to address this initiative.*

\*The full Blakey transcript is available upon request.

David Young of CU Denver has developed a tracking system which will allow the Sub-Committee members to discuss topics of interest before and after meetings.

---

## NOVEMBER 30, 2007

By-Laws Sub-Committee adopted the current by-laws.

Ignition Interlock Sub-Committee is proposing legislation for a bill that addresses the Administrative License Sanction.

Victim Rights Sub-Committee plans to recommend a mandatory proclamation kick off for Victim's Right week, which begins April 13, 2008.

System Improvement Sub-Committee has worked on a re-write of the License Revocation Statute. Also requested an endorsement and approval for the Task Force, to clarify language in Title 42 License that addresses License Revocations. Representative Judd, who attend the meeting has offered to sponsor the License Revocation Statute.

A complete draft of the proposed legislation is included in Attachment C of this report.

The Task Force was given permission from the bill's sponsor to include the bill draft in this report.

All Sub-Committee initiatives and annual reports are discussed in detail in the following sections.

## JANUARY 11, 2008

The Task Force had a special meeting to discuss the proposed First Offender Interlock Legislation.

The current language is designed to accomplish the following:

- Increase revocation time frames for the first offenders, while providing early licensing eligibility with interlock.
- Create a strong incentive for first offender interlock participation.
- Maintain a strong statutory incentive to take the evidentiary test.
- Enhance Colorado's performance based interlock removal.

- Create uniformity between the revocation consequences for criminal convictions and administrative determinations. Simplify the administrative sanctions for drinking and driving.
- Minimize or eliminate any increase in Driving Under Restraint cases as a result of change in the law.

A complete draft of the proposed legislation is included in Attachment D of this report.

The Task Force was given permission from the bill's sponsor to include the bill draft in this report.

The Ignition Interlock Legislation Chart is shown on the following page.

**The First Offender Interlock Ignition Chart**

<b>COMPROMISE AFTER DECEMBER 12, 2007 MEETING</b>						
	<b>ADMINISTRATIVE</b>				<b>CRIMINAL CONVICTION</b>	
	<i>Consented to BAC Test</i>		<i>Refused BAC Test</i>		Total Revocation Period, Including Interlock Eligibility	Mandatory No Driving
	Total Revocation Period, Including Interlock Eligibility	Mandatory No Driving	Total Revocation Period, Including Interlock Eligibility	Mandatory No Driving		
1st Offense*	9 mo	1 mo (8 mo req'd NTRLK)+	1 year	1 year	9 mo	1 mo (8 mo req'd NTRLK)+
2nd Offense*	1 year	1 year	2 years	1 year	1 year	1 year
3rd Offense*	2 year	1 year	3 years	1 year	2 years	1 year

\*NOTE: The proposed legislation allows early Interlock removal for non-PDD first offenders that perform well for 4 consecutive months on the Interlock.

<b>CURRENT LAW</b>						
	<b>ADMINISTRATIVE</b>				<b>CRIMINAL CONVICTION</b>	
	<i>Consented to BAC Test</i>		<i>Refused BAC Test</i>		Total Restraint Period, Including Interlock Eligibility	Mandatory No Driving
	Total Revocation Period, Including Interlock Eligibility	Mandatory No Driving	Total Revocation Period, Including Interlock Eligibility	Mandatory No Driving		
1st Offense*	3 months	1 month (5 months probationary)	1 year	1 year	1 year	1 month (11 months probationary)
2nd Offense*	1 year	1 year	2 years	1 year	1 year	1 year
3rd Offense*	1 year	1 year	3 years	1 year	2 years	1 year

\*NOTE: All repeat offenders and all drivers with a 0.17 BAC or greater must have the interlock for at least 2 years upon reinstatement.



## SUB-COMMITTEE INITIATIVES

The Sub-Committees reported to the Task Force at every meeting. Each Sub-committee submitted a final report of their outcomes.

### IGNITION INTERLOCK SUB-COMMITTEE

#### **Members**

- C. Stephen Hooper, Chair, DOR
- Bill Young, Coors Brewing Company
- Herman Stockinger, CDOT
- Jennifer Barton, Colorado License Beverage Association
- Christine Byars, ADAD

#### **Initiatives**

1. Setting anti-circumvention standards for ignition interlocks, as suggested by the National Highway Transportation Safety Administration (NHTSA).
2. Ignition Interlock devices for all DUI offenders.
3. Build on existing ignition interlock requirements. Judicial orders, condition of bond, integrate with probation and treatment. Add clinical case management. Performance based exit from ignition interlock requirement.

### INTERVENTION SUB-COMMITTEE

#### **Members**

- Captain Ray Fisher, Chair, Colorado State Patrol
- Chris Baumann, Public Defender's Office
- Bill Young, Coors Brewing Company
- Chief Russell Van Houten, Northglenn Police Department

- Judge Ed Casias, 5th District, Summit County
- Paul Hofmann, SCAO

#### **Initiatives**

1. Zero Tolerance, mandatory jail time.
2. Mandatory prison time when a drunk driver kills someone (NO probation).
3. Make Vehicular Homicide a second-degree murder.
4. Make a third DUI offense into a felony.
5. Juveniles who receive DUI's are referred to DUI evaluators significantly less frequently than are adults, increase the frequency or require juvenile referrals.
6. Support primary seat belt legislation.
7. Change C.R.S. to allow law enforcement officer to select chemical test for determining a driver's alcohol content.
8. Change Police Officer Standard Training (POST) rules to have DUI training increase from 12 hours to 24.
9. Explore alternative penalty schemes.
10. Explore implementation of drug court principles.
11. Enact legislation permitting a deferred DUI to be used as an "enhanceable" offense in the event of a second or subsequent DUI.

---

## **PERSISTENT DRUNK DRIVING SUB-COMMITTEE**

### **Members**

- Christine Byars, Chair (ADAD)
- C. Stephen Hooper, DOR
- Glenn Davis, CDOT
- Paul Hofmann, SCAO

### **Initiatives**

1. Reduce the Blood Alcohol Concentration (BAC) to .15 for first-time offenders mandated to install ignition interlock devices in their vehicle.
2. Make DUI a felony on third or fourth offense.
3. Supervision/monitoring.
  - a. Increase use of electronic monitoring for repeat offenders.
  - b. Increase supervision and monitoring of repeat DUI offenders.
  - c. Increase training of private probation.
  - d. Pre-trial supervision for repeat offenders.
  - e. Increased supervision and rehabilitation during interval between arrest and adjudication.
  - f. Reduce time from arrest to treatment.
4. Explore vehicle based sanctions for repeat offenders such as impoundment, seizure, immobilization, plate removal, license status checkpoints, vehicle registration suspension.
5. Add case management as another level of monitoring for repeat offenders following completion of treatment.
6. Treatment – Better differential assessment and treatment planning by treatment providers, to include other drugs besides alcohol and include mental health assessment.
7. Supervision.

- a. Improve Alcohol and Drug Education Specialist (ADES) ability to monitor DUI offenders.
  - b. Meaningful community service for DUI offenders (restorative justice).
8. Treatment.
    - a. Consider adding another level of treatment for repeat offenders with three or more offenses.
    - b. Enhance DUI curriculum requirements to include accommodating the needs of special populations (foreign languages, literacy issues, cultural competency).

## **PREVENTION SUB-COMMITTEE**

### **Members**

- Emily Tompkins, Chair, MADD
- Robin Rocke, CDOT
- Gaylen Matzen, MADD
- Karen Abrahamson, ADAD
- Jennifer Barton, Colorado Licensing Beverage Association
- Bear Kay, CSP
- Heather Halpape, CDOT

### **Initiatives**

1. Mandatory attendance at a victim impact panel prior to receiving a driver's license.
2. Underage drinkers have been shown to become the drinking driver of tomorrow, target this demographic.
3. Create and implement a plan to reach out to businesses and invite them to be a contributing resource to the efforts to reduce the incidence of drinking and driving injuries, especially as it relates to under age drinking.

- 
4. Provide the forums with information and data concerning the problem in the community and identifying science-based underage drinking and impaired driving programs.
  5. Conduct a gap analysis to identify and promote champions – professionals who will serve as community spokespersons to educate the public about impaired driving.
  6. Study the effect on public perception of DUI and how it is affected by disparate sentencing in DUI cases.

## **SYSTEMS IMPROVEMENT SUB-COMMITTEE**

### **Members**

- Abe Hutt, Chair, Defense Bar
- C. Stephen Hooper, DOR
- Tom Quinn, State Court Administrator's Office
- Steve Wrenn, 19th Judicial District Attorney's Office

### **Initiatives**

1. Examine statutory changes needed.
2. The linkages and communications among stakeholders should be improved.
3. Statute user-friendliness (language).
4. Evaluate progress of recommendations generated from the Governor's DUI System Evaluation Task Force (Dec. 1998).
5. Evaluate recommendations generated from the 2005 Impaired Driving Assessment that would be appropriate initiatives for the DUI Task Force to follow up with.
6. Reduce the public's confusion about the various penalties/sanctions.
7. Gather data regarding refusals and Judicial training.
8. Create an Alcohol Court model similar to that of the Drug Court model.
9. Continuation of DUI Task Force beyond 2011.
10. Provide initial and on-going legal education for persons who prosecute DUI offenses.

11. Re-codify, collocate, and resolve any discrepancies or inconsistencies in statutory constructs.
12. Strengthen penalties and sanctions for refusals. Explore alternative penalty schemes (Felony DUI, deferrals, staggered sentencing).
13. All statutes related to the consequences of a DUI/DWAI should be collocated in a single Article in Title 42.
14. All related DUI/DWAI statutes should be re-codified into a single Article under Title 42.
15. Improve linkages and communication among system stakeholders. Build system partnerships.
16. Create more DUI courts, adopt more DUI court strategies in existing courts.

## **VICTIM RIGHTS AND ROLES SUB-COMMITTEE**

### **Members**

- Emily Tompkins, Chair, MADD
- Gaylen Matzen, Chair, MADD, Lead Victim Service Specialist (until May 25, 2007)
- Maya Thomas-Wachterman, Vice-Chair, MADD, Victim Advocate (member as of 12/13/07)
- Carolyn Devries, Taskforce Victim Representative
- Dalia Hargrave, CDOT, Training and Organizational Development Specialist
- Jalice Vigil-Kelly, State Court Administrator's Office, Victim Services Coordinator Probation
- Dolores Mitchell, Colorado State Patrol, Director Victim Assistance Unit
- Patti Suman, First Judicial DA's Office
- Jackie L. Urioste, Provider Liason, Alcohol and Drug Abuse Division, Evaluation Information Services

### **Initiatives**

1. Training on victims' rights; and
2. Education on zero tolerance and mandatory prison time.



## 2007 SUB-COMMITTEE ANNUAL REPORTS

### BY-LAWS SUB-COMMITTEE

---

**Co-Chairs:** Ken Poncelow, Weld County Sheriff's Office  
Paul Wood, Weld County Sheriff's Office  
Bill Young, Coors Brewing Company

**Members:** None

#### OVERVIEW

Bill Young and Ken Poncelow were nominated as co-chairs and eventually Paul Wood replaced Ken on the task force and assumed Ken's co-chair responsibilities.

The charge of the Sub-Committee was to recommend and write by-laws for the Task Force.

#### KEY INITIATIVES

The by-laws were adopted by the Task Force.

The Task Force by-laws are complete with the major item of discussion being the consideration of how decisions will be made and meetings conducted. The Task Force ultimately decided to adopt Roberts Rules of Order as its meetings procedures and decision making processes.

#### 2008 PLANNING

The By-Laws Sub-Committee will meet only to draft amendments to the approved by-laws.

# IGNITION INTERLOCK SUB-COMMITTEE

## 2007 ANNUAL REPORT

---

**Chair:** C. Stephen Hooper, DOR

**Members:** Christine Byars, ADAD  
Herman Stockinger, CDOT  
Bill Young, Coors Brewing Company  
Jennifer Barton, Alcoholic Beverage Association  
Dave Timkin, Center for Impaired Driving Research and Evaluation (CIDRE)

b. Develop statistics to support assigned interlock initiatives and DUI legislative initiatives.

### OVERVIEW

The committee meets at least once between each Task Force meeting. The committee decides priorities for its activities and assigns duties to each of the Sub-Committee members for progress towards overall objectives and reporting at subsequent meetings. Minutes of prior meetings are combined with the agenda for the next meeting with each member reporting. Combined committee initiatives are worked during committee meetings.

1. The Task Force initially charged the committee with the following initiatives:
  - a. Setting anti-circumvention standards for interlocks as suggested by NHTSA.
  - b. Imposing Interlock devices for all DUI offenders.
  - c. Building on existing ignition interlock requirements, i.e. add clinical case management, performance-based interlock removal, integrate interlock with probation and treatment.
2. The committee adopted the three initiatives assigned by the Task Force and added others:
  - a. Gather data on current interlock practices nationally.

### KEY INITIATIVES

1. The committee established an Interlock Provider's Workgroup consisting of representatives of each of the four Colorado Interlock Providers and the Department of Revenue. This workgroup meets quarterly to determine and establish uniform set-point criteria for interlock device sanctions, fail reporting, program administration, and anti-circumvention methods. This workgroup is among the first in the nation to organize and communicate with and between interlock providers in a cooperative context with the common goal of improving the interlock program. Through the efforts of this workgroup, Colorado has already established uniform set-points for providers, and has established a procedure for handling Colorado interlock drivers who are either reinstating out-of-state or are temporarily driving out-of-state.
2. The committee worked closely with Representative Judd to craft bill language that would create an incentive-based interlock program for all first offenders in the state of Colorado while furthering Colorado's performance-based interlock removal. While the entire Task Force has not yet considered the bill language for full endorsement, passage would put Colorado among the vanguard of interlock states.
3. Committee member, Dr. Dave Timkin of the CIDRE developed a grant proposal in conjunction with the Pacific Institute for Research and Evaluation to fund a pilot program to institute and evaluate treatment intervention for Colorado individuals whose interlock drive logs indicate continuing attempts to drink and drive. The goal

is to treat those whose drive logs have pronounced recidivism indicators with the hope of ultimately reducing post-interlock recidivism.

4. Two committee members attended an international interlock symposium in August, gathered data, and reported back to the committee. The committee continues to gather additional data regarding national and international interlock usage.
5. Committee members began gathering data on Colorado DUI costs and interlock usage; a work still in progress. As part of this effort, DOR conducted an internal study to determine DUI costs to the agency. The committee reported this data to the entire Task Force at its November 30, 2007 meeting.

## **2008 PLANNING**

The Sub-Committee will continue work on its initiatives. Specifically, we will assist in securing the endorsement of the entire Task Force for interlock legislation for first offenders. The Interlock Workgroup will continue to meet to improve Colorado's interlock program in ways not requiring legislation or rules. We will continue to gather data for the benefit of the entire Task Force. We will continue to work informally to enhance the use of interlock drive data logs in probation and treatment contexts. We will also work to create and implement interlock performance based treatment.

By the end of 2008 we hope to accomplish the following:

1. A Task Force decision on the interlock bill endorsement before the first regularly scheduled Task Force meeting in January 2008.
2. Finalized uniform interlock device and service criteria by March 2008.
3. A model interlock performance-based treatment program in place by the end of 2008.
4. A complete interlock data resource by the end of 2008.

# INTERVENTION SUB-COMMITTEE

## 2007 ANNUAL REPORT

---

**Chair:** Ray Fisher, Colorado State Patrol

**Members:** Chris Baumann, Colorado Public Defender's Office

Bill Young, Coors Brewing Company,  
Corporate Responsibility

Chief Russell Van Houten, Northglenn  
Police Department

Honorable Ed Casias, State Court  
Administrator's Office

Paul Hofmann, SCAO

Steve Wrenn, 19th Judicial Attorney's  
Office

impact on the success of proposed intervention key initiatives. Ongoing discussions with key departmental legislative liaisons have occurred and will continue in order to determine the initial status of the proposed intervention key initiatives.

The Intervention Sub-Committee met to discuss several of the key initiatives and to discuss their feasibility with the action of the Task Force.

1. Fatal Accident Testing. This topic is being brought up to strengthen the DUI laws that specifically relate to fatal crashes. If Colorado were to pass a new law requiring all drivers involved in a fatal accident to submit to blood testing absent of indicia. Further discussion with the Sub-Committee members led to the idea that this sort of change in the law may not be needed or generally accepted amongst the legal community due to the current Colorado probable cause standard.
2. Increased Crime Classification for DUI. It was discussed and agreed that Colorado should look to make a 4th or 5th offense for DUI a felony. Several members were given research assignments to determine which states already have such a law and try to determine the effectiveness of these laws.
3. Juvenile Drinkers or Juvenile DUI Offenders. It was agreed that consistency in sentencing needs to improve for both juvenile DUI and minor in possession offenders to mandatory alcohol education programs. Judge Casias will address this issue in the new judge training and with sitting judges. It was also noted that an initiative to provide certified level 1 and 2 alcohol education programs statewide would aid in providing consistency for these offenders. Funding for such an initiative could come from persistent drunk driver surcharge or other offender paid fines or surcharges.

### KEY INITIATIVES

After the March 23, 2007 DUI Task Force meeting, several key initiatives relating to DUI intervention were identified by the Task Force. These initiatives include potential strategies and possible changes to enforcement, sentencing, criminal violation classification, juvenile treatment, administrative sanctions, prosecution assistance, BAC testing, legislation, law enforcement training, adjudication, and pre-conviction treatment and sentencing.

The Intervention Sub-Committee is in the process of developing a plan to study and identify intervention strategies for the DUI Task Force to pursue as the work of the Task Force continues.

The structure of the study priority of the initiatives is being made to determine the political climate, statewide funding, and viability of the current proposed intervention initiatives. The State is currently working on several aspects of the criminal justice system such as sentencing, treatment, and juvenile diversion. The result of these initiatives will have an

- 
4. Pre-Conviction Alcohol Monitoring Devices. It was felt by the members that a pre-conviction alcohol monitoring would be effective in monitoring bond conditions and would aid in getting DUI offenders involved with treatment programs sooner. It was also noted that the number of companies available to provide the devices would be a concern in rural areas and there would need to be reasonable methods to install and activate the devices for law enforcement or other agencies processing DUI offenders.
  5. DUI Prosecution Teams. Members of the group felt it would be important to have experienced DUI prosecution teams in each judicial district. It is being recommended that the DUI Task Force draft a letter to Colorado District Attorney's Council (CDAC) asking for their support and to implement such an initiative in each judicial district. It was also noted that the Colorado State Patrol is attempting to develop a program with grant funds from CDOT which would assist in providing training to new prosecutors, law enforcement, other criminal justice agencies and assisting with high profile traffic cases regarding traffic prosecution. It was felt that this program would be helpful but the volume of activities could be problematic for just one individual.
  6. Law enforcement training. The members discussed standardized training for law enforcement should be developed and performed by P.O.S.T. using the funding source that comes from the registration fee created several years ago. This program would consist of 2 to 3 law enforcement trainers that provide annual DUI training for all law enforcement agencies in the state.
  7. DUI "Fast Track". The idea of this initiative would be to quickly adjudicate DUI offenders in order to get the offender into the system quicker and reduce the opportunity for the offender to offend before being adjudicated from the first incident. This initiative would require the cooperation of the DAs and the CDAC. The idea is similar to the current domestic violence fast track systems.
  8. License Revocation Hearing. The idea was presented that if the defendant requests a hearing regarding a license revocation and there is no reason for the hearing e.g. the hearing is scheduled just to see if the officer shows up, or the defendant loses the hearing, then the defendant should pay the administrative costs of scheduling and holding the hearing.
  9. Defining "Visibly Intoxicated". In many instances bar patrons are still served by the bar even when the patron is beyond being visibly intoxicated. It is being suggested that a definition be developed in order to clearly define the standard a bar owner is required to follow in order to stop serving a patron. This may require legislation or the involvement of the liquor enforcement agency to develop this standard.

## 2008 PLANNING

All of the key initiatives will be researched and developed over the course of the next year. There will also be several collaborative meetings with the Task Force and other Task Force Sub-Committees in order to properly develop any Intervention Sub-Committee initiatives.

# PERSISTENT DRUNK DRIVER SUB-COMMITTEE

## 2007 ANNUAL REPORT

---

**Chair:** Christine Byars, CDHS, ADAD

**Members:** C. Stephen Hooper, DOR

Glenn Davis, CDOT

Paul Hofmann, SCAO

Dr. David Timken, The Center for  
Impaired Driving Research  
and Evaluation

i. Enhance DUI treatment curriculum requirements to include accommodating the needs of special populations (foreign languages, literacy issues, cultural competency).

### KEY INITIATIVES

1. Key objectives deferred to the Persistent Drunk Driver (PDD) Sub-Committee by the DUI Task Force:
  - a. Reduce the BAC to .15 for first-time offenders mandated to install ignition interlock devices in their vehicle.
  - b. Make DUI a felony on third or fourth offense.
  - c. Increase supervision/monitoring of DUI offenders (pre and post adjudication).
  - d. Explore vehicle based sanctions for repeat offenders.
  - e. Add case management as another level of monitoring for repeat offenders following completion of treatment.
  - f. Improve the differential assessment and treatment planning process at licensed treatment programs.
  - g. Ensure that community service is meaningful (restorative justice).
  - h. Enhanced treatment for repeat offenders with three or more offenses

### ACCOMPLISHMENTS

1. PDD Sub-Committee was formed on March 23, 2007.
2. Objectives broken into three categories; sanctions, supervision and treatment.
3. Objectives were prioritized by reviewing legislative and fiscal impacts, and whether the objective was supported by research or data.
4. Where possible, objectives will be met by policy, procedure and rule changes.
5. Objectives were clarified and condensed (see #3).
6. Decided the Sub-Committee's intent was to focus on the PDD offender.
7. Goals of the Sub-Committee are to address objectives, report on tasks/projects generated from the PDD Fund committee, provide data and make recommendations to the Task Force
8. The current ignition interlock law is already based on the defined PDD BAC level. The Sub-Committee will gather data to support reducing the defined PDD level from .17% to .15%. ADAD will try to capture this data in the current recidivism study they are working on. The Sub-Committee continues to research this initiative.
9. The Sub-Committee would rather see increased sanctions for repeat DUI offenders that have evidence in reducing recidivism than just a

felony DUI. The state already has some felonies in statute for DUI offenders, HTO, vehicular assault/homicide.

10. Improvements to probation supervision of DUI offenders are already in process. ADAD's recently implemented web-based monitoring system has improved probation's ability to track the status of DUI offenders in treatment. An annual training conference is offered to PO's that evaluate DUI offenders. Statewide trainings are held annually throughout the state that bring together state departments, probation and treatment.
11. The Sub-Committee is gathering more information about the current community services practices across the state.
12. Discussed enhancing treatment for PDD offenders. Enhancing current tracks, adding case management, improved differential assessment and treatment planning. A current training initiative is underway by ADAD to improve the skills of their licensed treatment providers. The Sub-Committee is exploring a pilot program that would provide enhanced education and treatment services for those individuals on the interlock who continue to demonstrate drinking and driving behavior. Treatment enhancements are currently in process, Sub-Committee to monitor.
13. No legislative initiatives proposed for the 2008 session. Expect the Sub-Committee will come forth in 2009 with a legislative initiative for reducing the defined PDD BAC level to .15.

14. Revised Sub-Committee objectives:

- a. Sanctions:
  - i. Reduce the defined BAC level for persistent drunk drivers to .15.
  - ii. Increase penalties for multiple (3rd or 4th) DUI offenders.
  - iii. Explore additional vehicle-based sanctions for repeat offenders.
  - iv. Explore use of community service with DUI offenders.
- b. Supervision
  - i. Enhance predisposition (pretrial, pre-adjudication) treatment services and incentives.
  - ii. Improve probation supervision of DUI offenders.
- c. Treatment
  - i. Explore further enhancing treatment for PDD offenders.
  - ii. Better differential assessment and treatment planning by treatment agencies. Include better mental health and cognitive functioning screening at the probation level and assessment at the treatment level.

# PREVENTION SUB-COMMITTEE

## 2007 ANNUAL REPORT

---

**Chair:** Emily Tompkins, MADD

**Members:** Robin Rocke, CDOT

Carole Walker, Rocky Mountain Insurance  
Information Association (RMIIA)

Bear Kay, CSP

Heather Halpape, CDOT

Karen Abrahamson, ADAD

### OVERVIEW

At the time of the formation of the Prevention Sub-Committee, members of the Interagency Task Force on Drunk Driving elected to become involved. In addition, members from the community were invited to join who represent various agencies whose efforts and expertise are exceptionally noted.

### KEY INITIATIVES

1. Mandatory attendance at a victim impact panel prior to receiving a driver's license.
2. Underage drinkers have been shown to become the drinking driver of tomorrow, target this demographic.
3. Create and implement a plan to reach out to businesses and invite them to be a contributing resource to the efforts to reduce the incidences of drinking and driving injuries, especially as it relates to underage drinking.
4. Provide forums with information and data concerning the problem in the community and identifying science-based underage drinking and impaired driving programs.
5. Conduct a gap analysis to identify and promote champions (professionals who will serve as community spoke-persons to educate the public about impaired driving).

6. Study the effect on public perception of DUI and how it is affected by disparate sentencing in DUI cases.

### ACCOMPLISHMENTS

1. With regard to the first objective assigned to the Sub-Committee, the recommendation is to give printed information like that heard at Impact Panels to all new drivers in lieu of a mandatory attendance at a panel. This would be a more cost effective and feasible way to raise awareness about this issue to all new drivers. There is possibility to work with CDOT Public Relations to use MADD Impact Panel information to distribute to new drivers.

The cost for this recommendation is the printing and distribution of brochures to DMV locations. According to the 2006 Department of Revenue Annual Report, there were 798, 238 licenses issued and categorized as follows:

Adult	672,052
Provisional License	29,946
Minor License	57,765
Motorcycle Only	17
CDL	38,458

The cost to create, print and ship this is variable. One quote from Overnight prints [www.overnightprints.com](http://www.overnightprints.com) showed a cost of \$.08 per brochure.

2. With regard to the second objective, the recommendation is to strengthen civil liability, forwarded onto CDOT legislative liaison and Robin Rocke, November, 2007:
  - a. Alter 12-47-801 (3)(a)(I). Right now, a vendor had to have "willfully and knowingly sold or served". Rewrite this to say "It is proven that the licensee provided any

---

alcohol beverage to such person that the licensee or his/her agents knew or should have known was under the age of twenty-one years or who was intoxicated.” This helps rule out the ignorance defense ( For ex, “her id said she was 23, even though it also said she is 6’5” and a man”) as well as including “accidental” providing of alcohol (that is, if an establishment sells 24 beers to one person at a table and knows they are going to the five other underage people at the table).

- b. Change the similar language in (4)(a)(I).
  - c. Eliminate (3)(c). Right now, the liability is capped at \$150,000, which means that if an establishment thinks they may earn more than \$150K in profit for selling to underage buyers, they may risk it for future judgments that may come. A higher cap would create greater deterrence (note that this has gone up for inflation).
- 3. Initiative #2: Underage drinkers have been shown to become the drinking driver of tomorrow, target this demographic.
  - 4. The Sub-Committee determined that limiting youth access to alcohol was one key step to address this vast initiative. It resulted in the legislative recommendation to strengthen underage drinking laws that may allow for increased effectiveness.

## **2008 PLANNING**

Our main objective for next year is to further address and establish the next steps the remaining initiatives 3, 4, and 6.

# SYSTEM IMPROVEMENTS SUB-COMMITTEE

## 2007 ANNUAL REPORT

---

**Chair:** Abe Hutt, Defense Bar

The Sub-Committee chair is meeting with the Interlock Sub-Committee on its initiatives which may impact the second goal.

**Members:** C. Stephen Hooper, Dept of Revenue  
Steve Wrenn, 19th Judicial Office  
Honorable Ed Casias, County Court Judge  
Christine Byars, ADAD

### KEY INITIATIVES

The system improvement Sub-Committee determined its immediate goals to be:

1. Making the impaired driving statutory scheme more user friendly and easy to understand, particularly concerning the relationship between driver's license sanctions and the criminal system; and
2. Cleaning up the statutes and sanctions concerning refusals to be tested for blood alcohol content. The Sub-Committee determined that this cleanup is a higher priority than simply gathering more data concerning refusals.

### 2008 PLANNING

The Sub-Committee received authorization from the entire task force to prepare a bill for the winter 2008 legislative session which will make the administrative license revocation statute, 42-2-126, easier to read and understand. This will be done in part by making use of definitions for phrases such as "refusal," "excess BAC .08," "excess BAC .17," and "excess BAC commercial .04." Those phrases will then be used in the statute in place of the confusing and difficult to read references to numbered and lettered subparts and subparagraphs presently in use. The Sub-Committee is working with a legislative sponsor for this bill and a legislative drafter to meet the deadlines for having this bill introduced.

A complete draft of the proposed legislation is included in Attachment C of this report.

# VICTIM RIGHTS AND ROLES SUB-COMMITTEE

## 2007 ANNUAL REPORT

---

**Chair:** Emily Tompkins, MADD

**Members:** Gaylen Matzen, MADD, Lead Victim Service Specialist

Maya Thomas-Wachterman, MADD

Carolyn DeVries, Task Force Victim Representative

Dalia Hargrave, CDOT

Jalice Vigil-Kelly, State Court Administrator's Office

Dolores Mitchell, Colorado State Patrol

Patti Suman, First Judicial DA's Office

Jackie L. Urioste, Provider Liaison, Alcohol and Drug Abuse Division

Our informal disposition on Key Initiatives is to discuss each and have next steps established to ensure that sound recommendations are made to the Task Force on each initiative.

The sub-committee is made up of committed members who have helped to make progress on creating recommendations addressing objectives with which it was tasked.

It was impactive and educational for all members to hear from Carolyn DeVries who shared her own experience as a victim in regards to the Victim Rights Amendment (VRA) , while contrasting to experiences relayed to her in anecdotal surveys that MADD helped her conduct. This informative process aided the sub-committee's ability to understand challenges facing victims, in order to create more sound and salient recommendations to the Task Force.

### OVERVIEW

The Sub-Committee was formed originally with Gaylen Matzen, MADD Victim Advocate, as Chair until going on maternity leave. With the return of Emily Tompkins of MADD from medical leave, she was named as Chair. Representatives from MADD and Carolyn DeVries, Victim Representative to the Task Force, invited those community agencies who could provide a voice and a perspective to the issue of Victims Rights and DUI through the judicial process and post-adjudication. Interested parties offered to sit on the Sub-Committee to offer expertise. Therefore, we have representatives who are victim advocates from District Attorneys offices, CDOT training officials, and representatives from the ADAD data department. Maya Thomas-Wachterman, MADD Victim Advocate, was recently nominated to Vice Chair on December 13, 2007.

### KEY INITIATIVES

- Training on Victim's Rights
- Education of zero tolerance and mandatory prison time

### ACCOMPLISHMENTS

1. Becoming educated on the Colorado VRA, and the decision to promote Victim's Rights Week.
2. Recommending a proclamation to further promote the needs of DUI victims within Victim's Rights Week and raising awareness about drunk driving as a victim's rights issue.
3. Identifying the need to evaluate education and therapy outcomes of DUI offenders by analyzing data of repeat offenders.
4. Explore/evaluate the efficacy of DUI courts as they have the potential to not only address DUI offenders, but also the needs of victims. It is common for victims to experience a feeling of despair due to the lack consistency in sentencing and throughout the judicial process with regard to DUI.

## 2008 PLANNING

During the next meeting scheduled in January 2008, we plan to create a media outline that highlights DUI and impaired-driving crash victim issues to be addressed during the annual Victim's Rights Week.

After working with Jackie Urioste from ADAD, the Sub-Committee is coming to understand how agencies work together. The Sub-Committee is now concerned with how to run a report from the integrated database that ADAD, DMV and Probation Departments use to determine treatment outcomes. Jackie will attempt to create some reports to show treatment outcomes and number of re-offenses to bring to the next meeting.

The Sub-Committee will further discuss the potential of DUI Courts, and based on the discussion's outcome, will ask the Task Force to examine the efficacy of DUI courts.

A crucial question was raised that the Sub-Committee will analyze for the next year: How can we bring the agencies together to determine the effectiveness of the treatment programs to reduce recidivism for DUI offenders?

# ATTACHMENT A

## SENATE BILL 06-192

---



SENATE BILL 06-192

BY SENATOR(S) Groff;  
also REPRESENTATIVE(S) Riesberg, Borodkin, Carroll M., Coleman,  
Gallegos, Garcia, Green, Larson, Merrifield, Romanoff, Todd, and Witwer.

CONCERNING A TASK FORCE ON DRUNK DRIVING.

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

**SECTION 1.** Part 13 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**42-4-1306. Interagency task force on drunk driving - creation repeal.** (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) DRUNK AND IMPAIRED DRIVING CONTINUES TO CAUSE NEEDLESS DEATHS AND INJURIES, ESPECIALLY AMONG YOUNG PEOPLE;

(b) IN 2003, THERE WERE OVER THIRTY THOUSAND ARRESTS FOR DRIVING UNDER THE INFLUENCE OR DRIVING WHILE ABILITY-IMPAIRED;

(c) ALTHOUGH COLORADO HAS TAKEN MANY MEASURES TO REDUCE THE INCIDENTS OF DRUNK AND IMPAIRED DRIVING, THE PERSISTENT REGULARITY OF THESE INCIDENTS CONTINUES TO BE A PROBLEM, AS

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

---

---

EVIDENCED BY THE CASE OF SONJA MARIE DEVRIES WHO WAS KILLED IN 2004 BY A DRUNK DRIVER WHO HAD BEEN CONVICTED OF DRUNK DRIVING ON SIX PREVIOUS OCCASIONS; AND

(d) ACCORDING TO THE FEDERAL NATIONAL HIGHWAY TRANSPORTATION SAFETY ADMINISTRATION, OTHER STATES WITH A STATEWIDE INTERAGENCY TASK FORCE ON DRUNK DRIVING HAVE SEEN A DECREASE IN INCIDENTS OF DRUNK AND IMPAIRED DRIVING.

(2) THERE IS HEREBY CREATED AN INTERAGENCY TASK FORCE ON DRUNK DRIVING, REFERRED TO IN THIS SECTION AS THE “TASK FORCE”. THE TASK FORCE SHALL MEET REGULARLY TO INVESTIGATE METHODS OF REDUCING THE INCIDENTS OF DRUNK AND IMPAIRED DRIVING AND DEVELOP RECOMMENDATIONS FOR THE STATE OF COLORADO REGARDING THE ENHANCEMENT OF GOVERNMENT SERVICES, EDUCATION, AND INTERVENTION TO PREVENT DRUNK AND IMPAIRED DRIVING.

(3) (a) THE TASK FORCE SHALL CONSIST OF:

(I) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION OR HIS OR HER DESIGNEE WHO SHALL ALSO CONVENE THE FIRST MEETING OF THE TASK FORCE;

(II) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE OR HIS OR HER DESIGNEE;

(III) THE STATE COURT ADMINISTRATOR OR HIS OR HER DESIGNEE;

(IV) THE CHIEF OF THE COLORADO STATE PATROL OR HIS OR HER DESIGNEE;

(V) THE STATE PUBLIC DEFENDER OR HIS OR HER DESIGNEE;

(VI) THE DIRECTOR OF THE DIVISION OF ALCOHOL AND DRUG ABUSE IN THE DEPARTMENT OF HUMAN SERVICES;

(VII) THE DIRECTOR OF THE DIVISION OF PROBATION SERVICES OR HIS OR HER DESIGNEE;

(VIII) THE FOLLOWING MEMBERS SELECTED JOINTLY BY THE

PAGE 2-SENATE BILL 06-192

---

MEMBER SERVING PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a):

(A) A REPRESENTATIVE OF A STATEWIDE ASSOCIATION OF CHIEFS OF POLICE WITH EXPERIENCE IN MAKING ARRESTS FOR DRUNK OR IMPAIRED DRIVING;

(B) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF COUNTY SHERIFFS WITH EXPERIENCE IN MAKING ARRESTS FOR DRUNK OR IMPAIRED DRIVING;

(C) A VICTIM OR A FAMILY MEMBER OF A VICTIM OF DRUNK OR IMPAIRED DRIVING;

(D) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF VICTIMS OF DRUNK OR IMPAIRED DRIVING;

(E) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF DISTRICT ATTORNEYS WITH EXPERIENCE IN PROSECUTING DRUNK OR IMPAIRED DRIVING OFFENSES;

(F) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF CRIMINAL DEFENSE ATTORNEYS WITH EXPERIENCE IN DEFENDING PERSONS CHARGED WITH DRUNK OR IMPAIRED DRIVING OFFENSES;

(G) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT REPRESENTS PERSONS WHO SELL ALCOHOLIC BEVERAGES AT RETAIL;

(H) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT REPRESENTS DISTRIBUTORS OF ALCOHOLIC BEVERAGES IN COLORADO;

(I) A MANUFACTURER OF ALCOHOLIC BEVERAGES IN COLORADO; AND

(J) A PERSON UNDER TWENTY-FOUR YEARS OF AGE WHO IS ENROLLED IN A SECONDARY OR POSTSECONDARY SCHOOL.

(b) MEMBERS SELECTED PURSUANT TO SUBPARAGRAPH (VIII) OF PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL SERVE TERMS OF TWO YEARS BUT MAY BE SELECTED FOR ADDITIONAL TERMS.

PAGE 3-SENATE BILL 06-192

---

(c) MEMBERS OF THE TASK FORCE SHALL NOT BE COMPENSATED FOR OR REIMBURSED FOR THEIR EXPENSES INCURRED IN ATTENDING MEETINGS OF THE TASK FORCE.

(d) THE INITIAL MEETING OF THE TASK FORCE SHALL BE CONVENED ON OR BEFORE AUGUST 1, 2006, BY THE MEMBER SERVING PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (3). AT THE FIRST MEETING, THE TASK FORCE SHALL ELECT A CHAIR AND VICE CHAIR FROM THE MEMBERS SERVING PURSUANT TO SUBPARAGRAPHS (I) TO (VII) OF PARAGRAPH (a) OF THIS SUBSECTION (3), WHO SHALL SERVE A TERM OF TWO YEARS BUT WHO MAY BE REELECTED FOR ADDITIONAL TERMS.

(e) THE TASK FORCE SHALL MEET NOT LESS FREQUENTLY THAN BIMONTHLY AND MAY ADOPT POLICIES AND PROCEDURES NECESSARY TO CARRY OUT ITS DUTIES.

(4) THE TASK FORCE SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, ON OR BEFORE JANUARY 15, 2007, AND ON OR BEFORE EACH JANUARY 15 THEREAFTER.

(5) (a) THIS SECTION IS REPEALED EFFECTIVE JULY 1, 2011.

(b) PRIOR TO SAID REPEAL, THE INTERAGENCY TASK FORCE ON DRUNK DRIVING CREATED PURSUANT TO THIS SECTION SHALL BE REVIEWED AS PROVIDED IN SECTION 2-3-1203, C.R.S.

**SECTION 2.** 2-3-1203 (3) (x), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

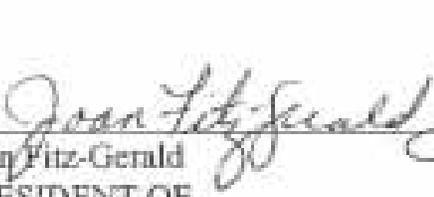
**2-3-1203. Sunset review of advisory committees.** (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(x) July 1, 2011:

(V) THE INTERAGENCY TASK FORCE ON DRUNK DRIVING CREATED PURSUANT TO SECTION 42-4-1306, C.R.S.

PAGE 4-SENATE BILL 06-192

**SECTION 3. 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.

  
Joan Fitz-Gerald  
PRESIDENT OF  
THE SENATE

  
Andrew Romanoff  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

  
Karen Goldman  
SECRETARY OF  
THE SENATE

  
Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED April 24, 2006 at 9:21 A.M.

  
Bill Owens  
GOVERNOR OF THE STATE OF COLORADO



## ATTACHMENT B. 2007 MEETING AGENDAS

**JANUARY 5, 2007**

9:00 A.M. TO 12:00 P.M. AT THE CDOT AUDITORIUM

---

***I. Introductions***

- a. Self-Introductions: Name, Agency, entity or interest represented, Role in DUI issue
- b. Legislation Sponsors' Remarks (if in attendance)
- c. Public Comments

***II. Presentations***

- a. Karen Abrahamson, (ADAD) – Underage Drinking
- b. Bill Young, Coors Brewing Company – Beer Industry Drunk Driving Prevention Efforts

***III. Review and Discuss, Draft Recommendations from Key Initiatives***

***IV. Review and Discuss, Draft Interagency Task Force on Drunk Driving Legislative Report***

***V. Interagency Task Force on Drunk Driving Operations and Norms***

Next meeting will be Friday, March 23, 2007 from 9:00 – noon.

# MARCH 23, 2007

9:00 A.M. TO 12:00 P.M. AT THE CDOT AUDITORIUM

---

## ***I. Introductions***

- a. Self-Introductions: Name, Agency, entity or interest represented; Role in DUI issue
- b. Legislation Sponsors' Remarks (if in attendance)
- c. Public Comments

## ***II. Last Meeting Action Items***

- a. Annual Report/Legislation Report
- b. Presentation from New Member Candidate
- c. Sub-Committee Report
  1. By-Laws: Bill Young, Chairman, Coors Brewing Company
  2. Key Initiatives

## ***III. Establishment of Overall Planning Schedule to Meet Goals***

- a. Goals
- b. Strategy Areas
- c. Initiative Alignment

Next meeting will be Friday, May 25, 2007 from 9:00 – noon.

**MAY 25, 2007**

FROM 9:00 A.M. TO 12:00 P.M. AT THE CDOT AUDITORIUM

---

***I. Introductions***

- a. Self-Introductions: Name; Agency, entity or interest represented; Role in DUI issue
- b. Legislation Sponsors' Remarks (if in attendance)
- c. Public Comments

***II. Presentation***

- C. Stephen Hooper - Proposed Evaluation of Colorado's Interlock System

***III. Key Initiative Sub-Committee Reports***

- By-Laws
- Ignition Interlock
- Intervention
- Persistent Drunk Driver
- Prevention
- System Improvements
- Victim Rights and Roles

Next meeting will be Friday, July 27, 2007 from 9:00 – noon.

**JULY 27, 2007**

FROM 9:00 A.M. TO 12:00 P.M. AT THE CDOT AUDITORIUM

---

**I. Introductions**

- a. Self-Introductions: Name; Agency, entity or interest represented
- b. Legislation Sponsors' Remarks (if in attendance)
- c. Public Comments

**II. Discussion of By-Laws (one hour)**

**III. New Representatives**

- a. Steve Wrenn, 19th Judicial District, District Attorney's Office, A Representative of a Statewide Organization of District Attorneys with Experience in Prosecuting Drunk or Impaired Driving Offenses (Michelle Meyer)
- b. Paul Wood, a Representative of a Statewide Organization of County Sheriffs With Experience in Making Arrests For Drunk Driving. (Commander Ken Poncelow) Commander Poncelow attended meetings for Sheriff John Cooke.
- c. Need Recommendations from the members to replace the Representative for *A Person Under Twenty-Four Years of Age who is enrolled in a Secondary or Post-Secondary School.*

**IV. Sub-Committee Report**

**Sub-Committees**

- By-Laws
- Ignition Interlock
- Intervention
- Persistent Drunk Driver
- Prevention
- System Improvements
- Victim Rights and Roles

**V. Milestones, Timelines and Outcomes for Task Force**

Next meeting will be Friday, October 5, 2007 from 9:00 – noon.

# OCTOBER 5, 2007

FROM 8:00 A.M. TO 10:30 A.M. AT THE CDOT AUDITORIUM

---

## ***I. Introductions***

- a. Self-Introductions: Name; Agency, entity or interest represented
- b. Legislation Sponsors' Remarks (if in attendance)
- c. Public Comments
  - Amanda Blakey, Fort Collins

## ***II. Finalization of By-Laws (one hour)***

## ***III. Computer Web-Based Program Presentations (15 minutes)***

- a. Dave Young, Citizen, CU Denver

## ***IV. Sub-Committee Reports***

### **Sub-Committees**

- By-Laws
- Ignition Interlock
- Intervention
- Persistent Drunk Driver
- Prevention
- System Improvements
- Victim Rights and Roles

Next meeting will be Friday, November 30, 2007 from 9:00 – noon.

# NOVEMBER 30, 2007

FROM 9:00 A.M. TO 12:00 P.M. AT THE CDOT AUDITORIUM

---

## ***I. Introductions***

- a. Self-Introductions: Name; Agency, entity or interest represented
- b. Legislation Sponsors' Remarks
- c. Public Comments

## ***II. Sub-Committee Reports on Initiatives or Actions***

### **Sub-Committees**

- By-Laws
- Ignition Interlock
- Intervention
- Persistent Drunk Driver
- Prevention
- System Improvements
- Victim Rights and Roles

## ***III. Task Force Action on Proposed Legislation***

## ***IV. Annual Report to Legislature-Outline Structure***

- Structure
- Key Initiatives
- Accomplishments
- Plans for the Upcoming Year
- Milestones

## ***V. Finalization of By-Laws***

Continued from October 5, 2007 meeting.

**ATTACHMENT C.**  
CONCERNING MEASURES TO REDUCE THE INCIDENCE  
OF DRUNK DRIVING

---

**Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO**

**DRAFT**

LLS NO. 08-0450.01 Jerry Barry

**HOUSE BILL**

---

**HOUSE SPONSORSHIP**

**Judd, Fischer, and Todd**

**SENATE SPONSORSHIP**

**Veiga, and Shaffer**

---

**A BILL FOR AN ACT**

101     **CONCERNING MEASURES TO REDUCE THE INCIDENTS OF DRUNK**  
102             **DRIVING, AND, IN CONNECTION THEREWITH, EXTENDING THE**  
103             **LENGTH OF SUSPENSION OF DRIVING PRIVILEGES FOR CERTAIN**  
104             **OFFENDERS, REQUIRING CERTAIN OFFENDERS TO USE AN**  
105             **IGNITION INTERLOCK DEVICE, INCREASING THE COST TO**  
106             **REINSTATE A DRIVER'S LICENSE, AND PROVIDING FOR**  
107             **HIGH-VISIBILITY DRUNK DRIVING LAW ENFORCEMENT EPISODES.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

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

---

a first-time alcohol-related offense:

- To seek a restricted license requiring the use of an ignition interlock device after the person's license has been revoked for a specified period; and
- To be eligible for an unrestricted license if no possible violations are identified for a specified period.

Increases the reinstatement fee following a revocation or suspension due to an alcohol- or drug-related offense. Specifies that a portion of the increased fee be transferred to the first time drunk driving offender account in the highway users tax fund to be used to pay for an ignition interlock device for a person who cannot afford the device.

Requires the department of transportation to include as a priority within the strategic transportation project investment program increased episodes of high-visibility drunk driving law enforcement. Specifies that the episodes shall be independent of the drunk driving prevention and law enforcement program.

---

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds and declares that:

4 (a) Drunk driving is a pervasive problem that affects all citizens  
5 of Colorado because it increases traffic accident injuries and deaths,  
6 health care costs, and motor vehicle insurance rates; and

7 (b) Drunk driving recidivists substantially compound the drunk  
8 driving problem by further increasing these consequences of drunk  
9 driving and by burdening the judicial system.

10 (2) The general assembly, therefore, determines that encouraging  
11 drunk driving offenders to use ignition interlock devices for specified  
12 periods of time will help those offenders learn to modify their behaviors  
13 to drive only while sober and will, therefore, reduce drunk driving  
14 recidivism. The general assembly further determines that the desired

1 result and benefit of this act will be to reduce drunk driving recidivism.

2 **SECTION 2.** 42-2-125 (1) (g) (I) and (2), Colorado Revised  
3 Statutes, are amended, and the said 42-2-125 (1) is further amended BY  
4 THE ADDITION OF A NEW PARAGRAPH, to read:

5 **42-2-125. Mandatory revocation of license and permit.**

6 (1) The department shall immediately revoke the license or permit of any  
7 driver or minor driver upon receiving a record showing that such driver  
8 has:

9 (b.5) IN THE CASE OF A DRIVER TWENTY-ONE YEARS OF AGE OR  
10 OLDER, BEEN CONVICTED OF AN OFFENSE DESCRIBED IN SECTION  
11 42-4-1301 (1) (a) OR (2) (a). EXCEPT AS PROVIDED IN SECTION  
12 42-2-132.5, THE PERIOD OF REVOCATION BASED UPON THIS PARAGRAPH  
13 (b.5) SHALL BE NINE MONTHS. THE PROVISIONS OF THIS PARAGRAPH (b.5)  
14 SHALL NOT APPLY TO A PERSON WHOSE DRIVING PRIVILEGE WAS REVOKED  
15 PURSUANT TO SECTION 42-2-126(2) (a) (I) FOR A FIRST OFFENSE BASED ON  
16 THE SAME DRIVING INCIDENT.

17 (g) (I) Been twice convicted of any ~~offense~~ COMBINATION OF  
18 OFFENSES provided for in section 42-4-1301 (1) or (2) (a) for acts  
19 committed within a period of five years;

20 (2) Unless otherwise provided in this section, the period of  
21 revocation shall be not less than one year; except that the period of  
22 revocation based on ~~paragraphs (b), (c), and (k)~~ PARAGRAPHS (b) AND (c)  
23 of subsection (1) of this section involving a commercial motor vehicle  
24 transporting hazardous materials as defined under section 42-2-402 (7)  
25 shall result in a revocation period of three years.

26 **SECTION 3.** 42-2-126 (6) (b) (I), (6) (b) (II), (6) (b) (VI), (6) (b)  
27 (VII), (6) (b) (IX) (A.5), and (6) (b) (IX) (B), Colorado Revised Statutes,

---

1 are amended, and the said 42-2-126 (6) (b) is further amended BY THE  
2 ADDITION OF A NEW SUBPARAGRAPH, to read:

3 **42-2-126. Revocation of license based on administrative**  
4 **determination.** (6) (b) (I) Except as otherwise provided in ~~subparagraph~~  
5 ~~(IX) of this paragraph (b)~~ SECTION 42-2-132.5, the period of license  
6 revocation under subparagraph (I) of paragraph (a) of subsection (2) of  
7 this section for a first violation COMMITTED ON OR AFTER JANUARY 1,  
8 2009, shall be ~~three~~ NINE months.

9 (II) The period of license revocation under subparagraph (I) of  
10 paragraph (a) of subsection (2) of this section for a second ~~or subsequent~~  
11 revocation shall be one year.

12 (II.3) EXCEPT AS OTHERWISE PROVIDED IN SECTION 42-2-132.5,  
13 THE PERIOD OF LICENSE REVOCATION UNDER SUBPARAGRAPH (I) OF  
14 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION FOR A THIRD OR  
15 SUBSEQUENT VIOLATION OCCURRING ON OR AFTER JANUARY 1, 2009,  
16 SHALL BE TWO YEARS, REGARDLESS OF WHEN THE PRIOR VIOLATIONS WERE  
17 COMMITTED.

18 (VI) EXCEPT AS OTHERWISE PROVIDED IN SECTION 42-2-132.5, the  
19 period of license revocation under subparagraph (II) of paragraph (a) of  
20 subsection (2) of this section for a second refusal shall be two years.

21 (VII) EXCEPT AS OTHERWISE PROVIDED IN SECTION 42-2-132.5, the  
22 period of license revocation under subparagraph (II) of paragraph (a) of  
23 subsection (2) of this section for a third or subsequent refusal shall be  
24 three years.

25 (IX) (A.5) ~~A person twenty-one years of age or older at the time~~  
26 ~~of the violation whose license is revoked for a first offense under~~  
27 ~~subparagraph (I) of paragraph (a) of subsection (2) of this section may~~

---

1 request that, in lieu of the three-month revocation, the person's license be  
2 ~~revoked for a period of not less than thirty days, to be followed by a~~  
3 ~~suspension period of such length that the total period of revocation and~~  
4 ~~suspension equals six months. If the person is a persistent drunk driver,~~  
5 ~~as defined in section 42-1-102 (68.5), the probationary license shall be~~  
6 ~~conditioned on the use of an approved ignition interlock device, as~~  
7 ~~defined in section 42-2-132.5 (7) (a). The time served under a~~  
8 ~~probationary license shall not be credited against any mandatory interlock~~  
9 ~~restriction imposed pursuant to section 42-2-132.5. If the hearing officer~~  
10 ~~approves the request, the hearing officer may grant the person a~~  
11 ~~probationary license that may be used only for the reasons provided in~~  
12 ~~section 42-2-127 (14) (a).~~

13 (B) The hearing to consider a request under sub-subparagraph (A)  
14 ~~or (A.5)~~ of this subparagraph (IX) may be held at the same time as the  
15 hearing held under subsection (8) of this section; except that a  
16 probationary license may not become effective until at least thirty days  
17 have elapsed since the beginning of the revocation period.

18 **SECTION 4. Repeal.** 42-2-127 (9), Colorado Revised Statutes,  
19 is repealed as follows:

20 **42-2-127. Authority to suspend license - to deny license - type**  
21 **of conviction - points.** (9) (a) ~~Whenever the department receives notice~~  
22 ~~that a person has pled guilty to, or been found guilty by a court or a jury~~  
23 ~~of, a violation of section 42-4-1301 (1) (a), (1) (c), or (2) (a) and receives~~  
24 ~~the license surrendered by the person to the court pursuant to section~~  
25 ~~42-2-129, the department shall immediately suspend the license of the~~  
26 ~~person for a period of not less than one year. If the department is also~~  
27 ~~required to enter a license revocation for a period of one year or longer~~

---

1 ~~under any provision of this title based on the same conviction, the~~  
2 ~~suspension shall not be entered:~~

3 (b) ~~Upon suspending the license of any person as required by this~~  
4 ~~subsection (9), the department shall immediately notify the licensee as~~  
5 ~~provided in section 42-2-119 (2):~~

6 (c) ~~Upon receipt of the notice of suspension, the licensee or the~~  
7 ~~licensee's attorney may request a hearing in writing. The department,~~  
8 ~~upon notice to the licensee as provided in section 42-2-119 (2), shall hold~~  
9 ~~a hearing not less than thirty days after receiving such request through a~~  
10 ~~hearing commissioner appointed by the executive director of the~~  
11 ~~department, which hearing shall be conducted in accordance with the~~  
12 ~~provisions of section 24-4-105, C.R.S. The hearing shall be held at the~~  
13 ~~district office of the department closest to the residence of the licensee;~~  
14 ~~except that all or part of the hearing may, at the discretion of the~~  
15 ~~department, be conducted in real time, by telephone or other electronic~~  
16 ~~means in accordance with section 42-1-218.5. After such hearing, the~~  
17 ~~licensee may appeal the decision of the department to the district court as~~  
18 ~~provided in section 42-2-135. Should a driver who has had a license~~  
19 ~~suspended under this subsection (9) be subsequently acquitted of such~~  
20 ~~charge by a court of record, the department shall immediately, in any~~  
21 ~~event not later than ten days after the receipt of such notice of acquittal,~~  
22 ~~reinstate said license to the driver affected:~~

23 **SECTION 5.** ~~42-2-132 (1), (2) (a) (I), and (2) (a) (II) (A),~~  
24 ~~Colorado Revised Statutes, are amended to read:~~

25 **42-2-132. Period of suspension or revocation.** (1) The  
26 department shall not suspend a driver's or minor driver's license to drive  
27 a motor vehicle on the public highways for a period of more than one

---

1 year, except as permitted under ~~sections 42-2-127 (9) and 42-2-138~~  
2 SECTION 42-2-138 and except for noncompliance with the provisions of  
3 subsection (4) of this section or section 42-7-406, or both.

4 (2) (a) (I) Any person whose license or privilege to drive a motor  
5 vehicle on the public highways has been revoked is not entitled to apply  
6 for a probationary license, and, except as provided ~~in paragraph (b) of this~~  
7 ~~subsection (2) and~~ in sections 42-2-125, 42-2-126, 42-2-132.5, 42-2-138,  
8 42-2-205, and 42-7-406, ~~such~~ THE person is not entitled to make  
9 application for a new license until the expiration of one year from the ~~date~~  
10 ~~on which the revoked license was surrendered to and received by the~~  
11 ~~department~~ EFFECTIVE DATE OF THE REVOCATION; then ~~such~~ THE person  
12 may make application for a new license as provided by law.

13 (II) (A) Following the period of revocation set forth in this  
14 subsection (2), the department shall not issue a new license unless and  
15 until it is satisfied that ~~such~~ THE person has demonstrated knowledge of  
16 the laws and driving ability through the appropriate motor vehicle testing  
17 process and that ~~such~~ THE person whose license was revoked pursuant to  
18 section 42-2-125 for ~~an~~ A SECOND OR SUBSEQUENT alcohol- or  
19 drug-related driving offense has completed not less than a level II alcohol  
20 and drug education and treatment program certified by the division of  
21 alcohol and drug abuse pursuant to section 42-4-1301.3.

22 **SECTION 6.** 42-2-132.5 (1.5) (a), Colorado Revised Statutes, is  
23 amended to read:

24 **42-2-132.5. Mandatory and voluntary restricted licenses**  
25 **following alcohol conviction.** (1.5) (a) (I) A person whose privilege to  
26 drive has been revoked for more than one year because of a violation of  
27 any provision of section 42-4-1301 (1) (a), (1) (b), or (2) or has been

---

1 revoked for more than one year under any provision of section 42-2-126  
2 may voluntarily apply for an early reinstatement with a restricted license  
3 under the provisions of this section after the person's privilege to drive  
4 has been revoked for one year. EXCEPT AS PROVIDED IN SUBPARAGRAPH  
5 (II) OF THIS PARAGRAPH (a) OR SUBSECTION (1.7) OF THIS SECTION, the  
6 restrictions imposed pursuant to this section shall remain in effect for the  
7 longer of one year or the total time period remaining on the license  
8 restraint prior to early reinstatement.

9 (II) (A) FOR REVOCATIONS UNDER SECTION 42-2-125 (1) (b.5) OR  
10 SECTION 42-2-126 (2) (a) (I) FOR A FIRST VIOLATION THAT REQUIRES ONLY  
11 A NINE-MONTH REVOCATION, A PERSON TWENTY-ONE YEARS OF AGE OR  
12 OLDER AT THE TIME OF THE OFFENSE MAY VOLUNTARILY APPLY FOR AN  
13 EARLY REINSTATEMENT WITH A RESTRICTED LICENSE UNDER THE  
14 PROVISIONS OF THIS SECTION AFTER THE PERSON'S PRIVILEGE TO DRIVE  
15 HAS BEEN REVOKED FOR AT LEAST ONE MONTH. EXCEPT AS PROVIDED IN  
16 PARAGRAPH (b.5) OF SUBSECTION (1) OF THIS SECTION, SUBSECTION (1.7)  
17 OF THIS SECTION, AND SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH  
18 (II), THE RESTRICTIONS IMPOSED PURSUANT TO THIS SUBPARAGRAPH (II)  
19 SHALL REMAIN IN EFFECT FOR EIGHT MONTHS.

20 (B) FOR A PERSON WITH A RESTRICTED LICENSE ISSUED PURSUANT  
21 TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II), IF THE  
22 DEPARTMENT'S MONTHLY MONITORING REPORTS REQUIRED BY PARAGRAPH  
23 (c) OF SUBSECTION (4) OF THIS SECTION SHOW THAT, FOR FOUR  
24 CONSECUTIVE MONTHLY REPORTING PERIODS, THE APPROVED IGNITION  
25 INTERLOCK DEVICE DID NOT PREVENT THE OPERATION OF THE MOTOR  
26 VEHICLE DUE TO AN EXCESSIVE BLOOD ALCOHOL CONTENT OR DID NOT  
27 DETECT THAT THERE HAS BEEN TAMPERING WITH THE DEVICE, THERE HAVE

---

1 BEEN NO OTHER REPORTS OF CIRCUMVENTION OR TAMPERING, AND THERE  
2 ARE NO GROUNDS TO EXTEND THE RESTRICTION PURSUANT TO PARAGRAPH  
3 (a) OF SUBSECTION (5) OF THIS SECTION, THEN THE PERSON SHALL BE  
4 ELIGIBLE FOR A LICENSE WITHOUT THE RESTRICTION REQUIRED BY THIS  
5 SECTION. IF THE DEPARTMENT DETERMINES THAT A PERSON IS ELIGIBLE  
6 FOR A LICENSE WITHOUT THE RESTRICTION REQUIRED BY THIS SECTION  
7 PURSUANT TO THIS SUB-SUBPARAGRAPH (B), THE DEPARTMENT SHALL  
8 SERVE UPON THE PERSON A NOTICE OF SUCH ELIGIBILITY. A PERSON  
9 ELIGIBLE FOR A LICENSE WITHOUT THE RESTRICTION REQUIRED BY THIS  
10 SECTION PURSUANT TO THIS SUB-SUBPARAGRAPH (B) MAY REQUEST A  
11 HEARING ON THE PERSON'S ELIGIBILITY. THE PROVISIONS OF THIS  
12 SUB-SUBPARAGRAPH (B) SHALL NOT APPLY TO A PERSON COVERED BY  
13 PARAGRAPH (b.5) OF SUBSECTION (1) OF THIS SECTION.

14 **SECTION 7.** 42-2-132 (4) (a) (I) and (4) (b), Colorado Revised  
15 Statutes, are amended to read:

16 **42-2-132. Period of suspension or revocation.** (4) (a) (I) Any  
17 person whose license or other privilege to operate a motor vehicle in this  
18 state has been suspended, cancelled, or revoked, pursuant to either this  
19 article or article 4 or 7 of this title, shall pay a restoration fee of ~~sixty~~ ONE  
20 HUNDRED THIRTY dollars to the executive director of the department prior  
21 to the issuance to ~~such~~ THE person of a new license or the restoration of  
22 ~~such~~ THE license or privilege.

23 (b) All restoration fees collected pursuant to this subsection (4)  
24 shall be transmitted to the state treasurer, who shall credit: ~~the same~~

25 (I) (A) NINETY-FIVE DOLLARS to the driver's license administrative  
26 revocation account in the highway users tax fund, which account is  
27 hereby created AND REFERRED TO IN THIS SUBPARAGRAPH (I) AS THE

---

1 BEEN NO OTHER REPORTS OF CIRCUMVENTION OR TAMPERING, AND THERE  
2 ARE NO GROUNDS TO EXTEND THE RESTRICTION PURSUANT TO PARAGRAPH  
3 (a) OF SUBSECTION (5) OF THIS SECTION, THEN THE PERSON SHALL BE  
4 ELIGIBLE FOR A LICENSE WITHOUT THE RESTRICTION REQUIRED BY THIS  
5 SECTION. IF THE DEPARTMENT DETERMINES THAT A PERSON IS ELIGIBLE  
6 FOR A LICENSE WITHOUT THE RESTRICTION REQUIRED BY THIS SECTION  
7 PURSUANT TO THIS SUB-SUBPARAGRAPH (B), THE DEPARTMENT SHALL  
8 SERVE UPON THE PERSON A NOTICE OF SUCH ELIGIBILITY. A PERSON  
9 ELIGIBLE FOR A LICENSE WITHOUT THE RESTRICTION REQUIRED BY THIS  
10 SECTION PURSUANT TO THIS SUB-SUBPARAGRAPH (B) MAY REQUEST A  
11 HEARING ON THE PERSON'S ELIGIBILITY. THE PROVISIONS OF THIS  
12 SUB-SUBPARAGRAPH (B) SHALL NOT APPLY TO A PERSON COVERED BY  
13 PARAGRAPH (b.5) OF SUBSECTION (1) OF THIS SECTION.

14 **SECTION 7.** 42-2-132 (4) (a) (I) and (4) (b), Colorado Revised  
15 Statutes, are amended to read:

16 **42-2-132. Period of suspension or revocation.** (4) (a) (I) Any  
17 person whose license or other privilege to operate a motor vehicle in this  
18 state has been suspended, cancelled, or revoked, pursuant to either this  
19 article or article 4 or 7 of this title, shall pay a restoration fee of ~~sixty~~ ONE  
20 HUNDRED THIRTY dollars to the executive director of the department prior  
21 to the issuance to ~~such~~ THE person of a new license or the restoration of  
22 ~~such~~ THE license or privilege.

23 (b) All restoration fees collected pursuant to this subsection (4)  
24 shall be transmitted to the state treasurer, who shall credit: ~~the same~~

25 (I) (A) NINETY-FIVE DOLLARS to the driver's license administrative  
26 revocation account in the highway users tax fund, which account is  
27 hereby created AND REFERRED TO IN THIS SUBPARAGRAPH (I) AS THE

---

1 "ACCOUNT".

2 (B) The moneys in the account shall be subject to annual  
3 appropriation by the general assembly for the direct and indirect costs  
4 incurred by the department in the administration of ~~drivers'~~ DRIVER'S  
5 license restraints pursuant to either this article or article 4 or article 7 of  
6 this title, including, but not limited to, the direct and indirect costs of  
7 providing administrative hearings under this title, without the use of  
8 moneys from the general fund. At the end of each fiscal year, any  
9 unexpended and unencumbered moneys remaining in the account shall be  
10 transferred out of the account, credited to the highway users tax fund, and  
11 allocated and expended as specified in section 43-4-205 (5.5) (c), C.R.S.;

12 AND

13 (II) (A) THIRTY-FIVE DOLLARS TO THE FIRST TIME DRUNK DRIVING  
14 OFFENDER ACCOUNT IN THE HIGHWAY USERS TAX FUND, WHICH ACCOUNT  
15 IS HEREBY CREATED AND REFERRED TO IN THIS SUBPARAGRAPH (II) AS THE  
16 "ACCOUNT".

17 (B) THE MONEYS IN THE ACCOUNT SHALL BE SUBJECT TO ANNUAL  
18 APPROPRIATION BY THE GENERAL ASSEMBLY ON AND AFTER JANUARY 1,  
19 2009, TO PAY A PORTION OF THE COSTS FOR AN IGNITION INTERLOCK  
20 DEVICE AS REQUIRED BY SECTION 42-2-132.5 (1.5) (a) (II) FOR A FIRST  
21 TIME DRUNK DRIVING OFFENDER WHO IS UNABLE PAY THE COSTS OF THE  
22 DEVICE. AT THE END OF EACH FISCAL YEAR, ANY UNEXPENDED AND  
23 UNENCUMBERED MONEYS REMAINING IN THE ACCOUNT SHALL BE  
24 TRANSFERRED OUT OF THE ACCOUNT, CREDITED TO THE HIGHWAY USERS  
25 TAX FUND, AND ALLOCATED AND EXPENDED AS SPECIFIED IN SECTION  
26 43-4-205 (5.5) (c), C.R.S.

27 **SECTION 8.** Article 4 of title 43, Colorado Revised Statutes, is

---

1 amended BY THE ADDITION OF A NEW PART to read:

2 PART 9

3 HIGH-VISIBILITY DRUNK DRIVING LAW ENFORCEMENT

4 **43-4-901. High-visibility drunk driving law enforcement.** THE  
5 DEPARTMENT OF TRANSPORTATION IN IMPLEMENTING THE STRATEGIC  
6 TRANSPORTATION PROJECT INVESTMENT PROGRAM SHALL, AS A PRIORITY,  
7 INCREASE TO BETWEEN TWELVE AND FIFTEEN EPISODES ANNUALLY THE  
8 NUMBER OF HIGH-VISIBILITY DRUNK DRIVING LAW ENFORCEMENT  
9 EPISODES THAT THE DEPARTMENT OVERSEES. THE HIGH-VISIBILITY DRUNK  
10 DRIVING LAW ENFORCEMENT EPISODES REQUIRED BY THIS SECTION SHALL  
11 BE INDEPENDENT OF, AND IN ADDITION TO, THE DRUNK DRIVING  
12 PREVENTION AND LAW ENFORCEMENT PROGRAM DESCRIBED IN PART 4 OF  
13 THIS ARTICLE.

14 **SECTION 9. Effective date - applicability.** (1) Sections 7 and  
15 8 of this act, this section, and section 10 of this act shall take effect July  
16 1, 2008, and shall apply to restorations of driving privileges requested on  
17 or after said date.

18 (2) Sections 1 to 6 of this act shall take effect January 1, 2009, and  
19 shall apply to offenses committed on or after said date.

20 **SECTION 10. Safety clause.** The general assembly hereby finds,  
21 determines, and declares that this act is necessary for the immediate  
22 preservation of the public peace, health, and safety.

# ATTACHMENT D.

## FIRST OFFENDER INTERLOCK LEGISLATION

---

**Motion to accept Representative Judd's proposal in the form of a resolution.**

**Seconded.**

**Quorum.**

**The proposed legislation was voted on and passed.**

Whereas, drunk and impaired driving continues to cause needless deaths and injuries; and

Whereas, the Interagency Task Force on Drunk Driving was created to investigate methods of reducing the incidents of drunk and impaired driving and develop recommendations for the State of Colorado regarding the enhancement of government services, education, and intervention to prevent drunk and impaired driving; and

Whereas, use of an ignition interlock device has been proven effective in reducing incidents of drunk and impaired driving in individuals using the device; and

Whereas, legislation proposed by Representative Joel Judd represents a modest expansion in the use of ignition interlock devices, optionally extending the ignition interlock device to first time offenders in lieu of a more restrictive, probationary license; and

Whereas, the Interagency Task Force on Drunk Driving believes Representative Judd's proposed ignition interlock device language is an important first step toward increased utilization of ignition interlock devices for the purpose of reducing the number of drunk and impaired driving incidences on Colorado's roadways; and

Whereas, the Interagency Task Force on Drunk Driving is committed to continuing to develop recommendations for the State of Colorado regarding strategies to prevent drunk and impaired driving; and

Whereas, the Interagency Task Force on Drunk Driving did not analyze Representative Judd's proposal as it relates to fiscal impact, funding for indigent offenders, or the proposed increases in High Visibility DUI Enforcement or the funding to enhance the program; now, therefore,

Be it resolved that Colorado's Interagency Task Force on Drunk Driving endorses Representative Joel Judd's legislative proposal as it relates to the increased use of ignition interlock devices for first offenders as an important first, but not final step towards reducing incidences of drunk and impaired driving in Colorado.

Be it further resolved that Colorado's Interagency Task Force on Drunk Driving, in fulfilling its statutory requirement under S.B. 06-192 to develop recommendations for the State of Colorado regarding the enhancement of government services, education, and intervention to prevent drunk and impaired driving encourages the Colorado General Assembly to adopt Representative Joel Judd's proposal as it relates to the increased use of ignition interlock devices for first offenders.

---

## First Offender Interlock Legislation

On January 11, 2008, the Interagency Task Force met to discuss the proposed Interlock Ignition bill. At the January 11 meeting, there was a quorum.

Over the course of 2007, Representative Judd, the Interlock Sub-Committee, and interested DUI Task Force members have worked together to craft bill language to accomplish the following:

1. Expand interlock participation to first offenders while maintaining an incentive and performance based program.
  - a. Increased revocation time from three months to nine months for first offenders, but provides universal interlock license availability after one month. (incentive)
  - b. Allows unrestricted licensing for first offenders after four months of demonstrated clean driving. (Performance based removal)
2. Maintain a strong statutory incentive to take the evidentiary test:
  - a. Maintains the hard year revocation, with no restricted license availability, for those who refuse testing at the time of the DUI stop.
  - b. Facilitates a very clear roadside advisement: “If you are over the limit and this is your first offense, you can get a restricted license after one month; if you don’t take the test, you will not have a license for a least a year.”
3. Create uniformity between the revocation consequences for criminal convictions and administrative determinations.
  - a. Eliminates the disparate license treatment for those who participate in chemical testing and are .08 or above, regardless of the ultimate criminal conviction, i.e. DUI or DWAI.
  - b. Conforms the license consequences for third offenders, regardless of whether the strikes are based on criminal or administrative determinations.
4. Simplify the administrative sanctions for drinking and driving.
  - a. Eliminates the dual track of Probationary Licenses awarded at the discretion of hearing officers and Interlock Restricted Licenses. All early driving privileges are folded into the Interlock Restricted License program.

---

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

DRAFT

LLS NO. 08-0693.01 Jerry Barry

HOUSE BILL

---

**CONFIDENTIAL**  
**FOR FISCAL NOTE PURPOSES ONLY**

---

**SHORT TITLE:** "DUI Offense Administrative Revocation"

**DEADLINES:** Finalize by: 01/08/2008 File by: 01/14/2008

---

**A BILL FOR AN ACT**

101 CONCERNING NONSUBSTANTIVE CHANGES TO PROVISIONS  
102 AUTHORIZING AN ADMINISTRATIVE REVOCATION OF A DRIVING  
103 PRIVILEGE.

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Repeals and reenacts, with nonsubstantive amendments, the statute authorizing the department of revenue to revoke a person's driver's license due to the presence of alcohol or drugs in the person's system or the person's refusal to take a test to determine whether there is alcohol or drugs in the person's system.

Makes conforming amendments.

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

REDRAFT  
12.28.07  
Double underlining  
denotes changes from  
prior draft

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

2       **SECTION 1.** 42-2-126, Colorado Revised Statutes, is  
3 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

4       **42-2-126. Revocation of license based on administrative**  
5 **determination. (1) Legislative declaration.** THE PURPOSES OF THIS  
6 SECTION ARE:

7       (a) TO PROVIDE SAFETY FOR ALL PERSONS USING THE HIGHWAYS  
8 OF THIS STATE BY QUICKLY REVOKING THE DRIVER'S LICENSE OF ANY  
9 PERSON WHO HAS SHOWN HIMSELF OR HERSELF TO BE A SAFETY HAZARD  
10 BY DRIVING WITH AN EXCESSIVE AMOUNT OF ALCOHOL IN HIS OR HER BODY  
11 AND ANY PERSON WHO HAS REFUSED TO SUBMIT TO AN ANALYSIS AS  
12 REQUIRED BY SECTION 42-4-1301.1;

13       (b) TO GUARD AGAINST THE POTENTIAL FOR ANY ERRONEOUS  
14 DEPRIVATION OF THE DRIVING PRIVILEGE BY PROVIDING AN OPPORTUNITY  
15 FOR A FULL HEARING; AND

16       (c) FOLLOWING THE REVOCATION PERIOD, TO PREVENT THE  
17 RELICENSING OF A PERSON UNTIL THE DEPARTMENT IS SATISFIED THAT THE  
18 PERSON'S ALCOHOL PROBLEM IS UNDER CONTROL AND THAT THE PERSON  
19 NO LONGER CONSTITUTES A SAFETY HAZARD TO OTHER HIGHWAY USERS.

20       **(2) Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT  
21 OTHERWISE REQUIRES:

22       (a) "EXCESS BAC" MEANS THAT A PERSON HAD A BAC LEVEL AT  
23 THE TIME OF DRIVING A MOTOR VEHICLE OR WITHIN TWO HOURS AFTER  
24 DRIVING A MOTOR VEHICLE THAT WOULD SUBJECT THE PERSON TO A  
25 LICENSE REVOCATION FOR EXCESS BAC .08, EXCESS BAC UNDERAGE,  
26 EXCESS BAC CDL, OR EXCESS BAC UNDERAGE CDL.

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1           **(b) "EXCESS BAC .08"** MEANS THAT A PERSON DROVE A VEHICLE  
2 IN THIS STATE WHEN THE PERSON'S BAC WAS 0.08 OR MORE AT THE TIME  
3 OF DRIVING OR WITHIN TWO HOURS AFTER DRIVING.

4           **(c) "EXCESS BAC CDL"** MEANS THAT A PERSON DROVE A  
5 COMMERCIAL MOTOR VEHICLE IN THIS STATE WHEN THE PERSON'S BAC  
6 WAS 0.04 OR MORE AT THE TIME OF DRIVING OR WITHIN TWO HOURS AFTER  
7 DRIVING.

8           **(d) "EXCESS BAC UNDERAGE"** MEANS THAT A PERSON WAS UNDER  
9 THE AGE OF TWENTY-ONE YEARS AND THE PERSON DROVE A VEHICLE IN  
10 THIS STATE WHEN THE PERSON'S BAC WAS IN EXCESS OF 0.02 BUT LESS  
11 THAN 0.08 AT THE TIME OF DRIVING OR WITHIN TWO HOURS AFTER  
12 DRIVING.

13           **(e) "EXCESS BAC UNDERAGE CDL"** MEANS THAT A PERSON WAS  
14 UNDER THE AGE OF TWENTY-ONE YEARS AND THE PERSON DROVE A  
15 COMMERCIAL MOTOR VEHICLE IN THIS STATE WHEN THE PERSON'S BAC  
16 WAS IN EXCESS OF 0.02 BUT LESS THAN 0.04 AT THE TIME OF DRIVING OR  
17 WITHIN TWO HOURS AFTER DRIVING.

18           **(f) "HEARING OFFICER"** MEANS THE EXECUTIVE DIRECTOR OF THE  
19 DEPARTMENT OR AN AUTHORIZED REPRESENTATIVE DESIGNATED BY THE  
20 EXECUTIVE DIRECTOR.

21           **(g) "LICENSE"** INCLUDES DRIVING PRIVILEGE.

22           **(h) "REFUSAL"** MEANS REFUSING TO TAKE OR COMPLETE, OR TO  
23 COOPERATE IN THE COMPLETING OF, A TEST OF THE PERSON'S BLOOD,  
24 BREATH, SALIVA, OR URINE AS REQUIRED BY SECTION 18-3-106 (4) OR  
25 18-3-205 (4), C.R.S., OR SECTION 42-4-1301.1 (2).

26           **(i) "RESPONDENT"** MEANS A PERSON WHO IS THE SUBJECT OF A  
27 HEARING UNDER THIS SECTION.

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1           (3) **Revocation of license.** (a) (I) THE DEPARTMENT SHALL  
2 REVOKE THE LICENSE OF A PERSON FOR EXCESS BAC .08 FOR THREE  
3 MONTHS FOR A FIRST VIOLATION AND FOR ONE YEAR FOR A SECOND OR  
4 SUBSEQUENT VIOLATION.

5           (II) (A) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH  
6 (I) OF THIS PARAGRAPH (a), A PERSON TWENTY-ONE YEARS OF AGE OR  
7 OLDER AT THE TIME OF THE VIOLATION WHOSE LICENSE IS REVOKED FOR  
8 A FIRST OFFENSE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) MAY  
9 REQUEST THAT, IN LIEU OF THE THREE-MONTH REVOCATION, THE PERSON'S  
10 LICENSE BE REVOKED FOR A PERIOD OF NOT LESS THAN THIRTY DAYS, TO  
11 BE FOLLOWED BY A SUSPENSION PERIOD OF SUCH LENGTH THAT THE TOTAL  
12 PERIOD OF REVOCATION AND SUSPENSION EQUALS SIX MONTHS. IF THE  
13 HEARING OFFICER APPROVES THE REQUEST, THE HEARING OFFICER MAY  
14 GRANT THE PERSON A PROBATIONARY LICENSE THAT MAY BE USED ONLY  
15 FOR THE REASONS PROVIDED IN SECTION 42-2-127 (14) (a). IF THE PERSON  
16 IS A PERSISTENT DRUNK DRIVER, AS DEFINED IN SECTION 42-1-102 (68.5),  
17 THE PROBATIONARY LICENSE SHALL BE CONDITIONED ON THE USE OF AN  
18 APPROVED IGNITION INTERLOCK DEVICE, AS DEFINED IN SECTION  
19 42-2-132.5 (7) (a). THE TIME SERVED UNDER A PROBATIONARY LICENSE  
20 SHALL NOT BE CREDITED AGAINST ANY MANDATORY INTERLOCK  
21 RESTRICTION IMPOSED PURSUANT TO SECTION 42-2-132.5.

22           (B) THE HEARING TO CONSIDER A REQUEST UNDER THIS  
23 SUBPARAGRAPH (II) MAY BE HELD AT THE SAME TIME AS THE HEARING  
24 HELD UNDER SUBSECTION (8) OF THIS SECTION; EXCEPT THAT A  
25 PROBATIONARY LICENSE MAY NOT BECOME EFFECTIVE UNTIL AT LEAST  
26 THIRTY DAYS HAVE ELAPSED SINCE THE BEGINNING OF THE REVOCATION  
27 PERIOD.

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1           (b) (I) THE DEPARTMENT SHALL REVOKE THE LICENSE OF A  
2 PERSON FOR EXCESS BAC UNDERAGE FOR THREE MONTHS FOR A FIRST  
3 VIOLATION, SIX MONTHS FOR A SECOND VIOLATION, AND FOR ONE YEAR  
4 FOR A THIRD OR SUBSEQUENT VIOLATION.

5           (II) (A) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH  
6 (I) OF THIS PARAGRAPH (b), A PERSON WHOSE LICENSE IS REVOKED FOR A  
7 FIRST OFFENSE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) AND  
8 WHOSE BAC WAS NOT MORE THAN 0.05 MAY REQUEST THAT, IN LIEU OF  
9 THE THREE-MONTH REVOCATION, THE PERSON'S LICENSE BE REVOKED FOR  
10 A PERIOD OF NOT LESS THAN THIRTY DAYS, TO BE FOLLOWED BY A  
11 SUSPENSION PERIOD OF SUCH LENGTH THAT THE TOTAL PERIOD OF  
12 REVOCATION AND SUSPENSION EQUALS THREE MONTHS. IF THE HEARING  
13 OFFICER APPROVES THE REQUEST, THE HEARING OFFICER MAY GRANT THE  
14 PERSON A PROBATIONARY LICENSE THAT MAY BE USED ONLY FOR THE  
15 REASONS PROVIDED IN SECTION 42-2-127 (14) (a).

16           (B) THE HEARING TO CONSIDER A REQUEST UNDER THIS  
17 SUBPARAGRAPH (II) MAY BE HELD AT THE SAME TIME AS THE HEARING  
18 HELD UNDER SUBSECTION (8) OF THIS SECTION; EXCEPT THAT A  
19 PROBATIONARY LICENSE MAY NOT BECOME EFFECTIVE UNTIL AT LEAST  
20 THIRTY DAYS HAVE ELAPSED SINCE THE BEGINNING OF THE REVOCATION  
21 PERIOD;

22           (c) THE DEPARTMENT SHALL REVOKE THE LICENSE OF A PERSON  
23 FOR REFUSAL FOR ONE YEAR FOR A FIRST VIOLATION, TWO YEARS FOR A  
24 SECOND VIOLATION AND THREE YEARS FOR A THIRD OR SUBSEQUENT  
25 VIOLATION; EXCEPT THAT THE PERIOD OF REVOCATION SHALL BE AT LEAST  
26 THREE YEARS IF THE PERSON WAS DRIVING A COMMERCIAL MOTOR  
27 VEHICLE THAT WAS TRANSPORTING HAZARDOUS MATERIALS AS DEFINED

REDRAFT

12.28.07

Double underlining  
denotes changes from  
prior draft

1 IN SECTION 42-2-402 (7).

2 (d) THE DEPARTMENT SHALL REVOKE THE LICENSE OF A PERSON  
3 FOR EXCESS BAC CDL FOR THE COMMERCIAL DRIVING PRIVILEGE FOR THE  
4 DISQUALIFICATION PERIOD PROVIDED IN 49 CFR 383.51; EXCEPT THAT THE  
5 PERIOD OF REVOCATION SHALL BE AT LEAST THREE YEARS IF THE PERSON  
6 WAS DRIVING A COMMERCIAL MOTOR VEHICLE THAT WAS TRANSPORTING  
7 HAZARDOUS MATERIALS AS DEFINED IN SECTION 42-2-402 (7);

8 (e) THE DEPARTMENT SHALL REVOKE THE LICENSE OF A PERSON  
9 FOR EXCESS BAC UNDERAGE CDL FOR THE COMMERCIAL DRIVING  
10 PRIVILEGE FOR THREE MONTHS FOR A FIRST VIOLATION, SIX MONTHS FOR  
11 A SECOND VIOLATION, AND ONE YEAR FOR A THIRD OR SUBSEQUENT  
12 VIOLATION.

13 (4) **Running of periods of revocation.** (a) (I) EXCEPT AS  
14 OTHERWISE PROVIDED IN THIS PARAGRAPH (a), A REVOCATION IMPOSED  
15 PURSUANT TO THIS SECTION SHALL RUN CONSECUTIVELY AND NOT  
16 CONCURRENTLY WITH ANY OTHER REVOCATION IMPOSED PURSUANT TO  
17 THIS SECTION.

18 (II) IF A LICENSE IS REVOKED FOR EXCESS BAC AND THE PERSON  
19 IS ALSO CONVICTED ON CRIMINAL CHARGES ARISING OUT OF THE SAME  
20 OCCURRENCE FOR DUI, DUI PER SE, DWAI, OR UDD, BOTH THE  
21 REVOCATION UNDER THIS SECTION AND ANY SUSPENSION, REVOCATION,  
22 CANCELLATION, OR DENIAL THAT RESULTS FROM THE CONVICTION SHALL  
23 BE IMPOSED, BUT THE PERIODS SHALL RUN CONCURRENTLY, AND THE  
24 TOTAL PERIOD OF REVOCATION, SUSPENSION, CANCELLATION, OR DENIAL  
25 SHALL NOT EXCEED THE LONGER OF THE TWO PERIODS.

26 (III) IF A LICENSE IS REVOKED FOR REFUSAL, THE REVOCATION  
27 SHALL NOT RUN CONCURRENTLY, IN WHOLE OR IN PART, WITH ANY

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1 PREVIOUS OR SUBSEQUENT SUSPENSIONS, REVOCATIONS, OR DENIALS THAT  
2 MAY BE PROVIDED FOR BY LAW, INCLUDING BUT NOT LIMITED TO ANY  
3 SUSPENSION, REVOCATION, OR DENIAL THAT RESULTS FROM A CONVICTION  
4 OF CRIMINAL CHARGES ARISING OUT OF THE SAME OCCURRENCE FOR A  
5 VIOLATION OF SECTION 42-4-1301. ANY REVOCATION FOR REFUSAL SHALL  
6 NOT PRECLUDE OTHER ACTION THAT THE DEPARTMENT IS REQUIRED TO  
7 TAKE IN THE ADMINISTRATION OF THIS TITLE.

8 (IV) THE REVOCATION OF THE COMMERCIAL DRIVING PRIVILEGE  
9 UNDER EXCESS BAC CDL MAY RUN CONCURRENTLY WITH ANOTHER  
10 REVOCATION PURSUANT TO THIS SECTION ARISING OUT OF THE SAME  
11 INCIDENT.

12 (b) (I) THE PERIODS OF REVOCATION SPECIFIED IN SUBSECTION (3)  
13 OF THIS SECTION ARE INTENDED TO BE MINIMUM PERIODS OF REVOCATION  
14 FOR THE DESCRIBED CONDUCT. A LICENSE SHALL NOT BE RESTORED  
15 UNDER ANY CIRCUMSTANCES, AND A PROBATIONARY LICENSE SHALL NOT  
16 BE ISSUED, DURING THE REVOCATION PERIOD.

17 (II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF  
18 THIS PARAGRAPH (b), A PERSON WHOSE PRIVILEGE TO DRIVE A  
19 COMMERCIAL MOTOR VEHICLE HAS BEEN REVOKED BECAUSE OF EXCESS  
20 BAC CDL AND THE PERSON WAS TWENTY-ONE YEARS OF AGE OR OLDER  
21 AT THE TIME OF THE OFFENSE MAY APPLY FOR A DRIVER'S LICENSE OF  
22 ANOTHER CLASS OR TYPE AS LONG AS THERE IS NO OTHER STATUTORY  
23 REASON TO DENY THE PERSON A LICENSE. THE DEPARTMENT MAY NOT  
24 ISSUE THE PERSON A PROBATIONARY LICENSE THAT WOULD AUTHORIZE  
25 THE PERSON TO OPERATE A COMMERCIAL MOTOR VEHICLE.

26 (c) UPON THE EXPIRATION OF THE PERIOD OF REVOCATION UNDER  
27 THIS SECTION, IF A PERSON'S LICENSE IS STILL SUSPENDED      ON OTHER

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1 GROUNDS, THE PERSON MAY SEEK A PROBATIONARY LICENSE AS  
2 AUTHORIZED BY SECTION 42-2-127 (14) SUBJECT TO THE REQUIREMENTS  
3 OF PARAGRAPH (d) OF THIS SUBSECTION (4).

4 (d) (I) FOLLOWING A LICENSE REVOCATION, THE DEPARTMENT  
5 SHALL NOT ISSUE A NEW LICENSE OR OTHERWISE RESTORE THE DRIVING  
6 PRIVILEGE UNLESS THE DEPARTMENT IS SATISFIED, AFTER AN  
7 INVESTIGATION OF THE CHARACTER, HABITS, AND DRIVING ABILITY OF THE  
8 PERSON, THAT IT WILL BE SAFE TO GRANT THE PRIVILEGE OF DRIVING A  
9 MOTOR VEHICLE ON THE HIGHWAYS TO THE PERSON; EXCEPT THAT THE  
10 DEPARTMENT MAY NOT REQUIRE A PERSON TO UNDERGO SKILLS OR  
11 KNOWLEDGE TESTING PRIOR TO ISSUANCE OF A NEW LICENSE OR  
12 RESTORATION OF THE PERSON'S DRIVING PRIVILEGE IF THE PERSON'S  
13 LICENSE WAS REVOKED FOR A FIRST VIOLATION OF EXCESS BAC .08 OR  
14 EXCESS BAC UNDERAGE.

15 (II) IF A PERSON WAS DETERMINED TO BE DRIVING WITH EXCESS  
16 BAC AND THE PERSON HAD A BAC THAT WAS 0.17 OR MORE OR IF THE  
17 PERSON'S DRIVING RECORD OTHERWISE INDICATES A DESIGNATION AS A  
18 PERSISTENT DRUNK DRIVER AS DEFINED IN SECTION 42-1-102 (68.5), THE  
19 DEPARTMENT SHALL REQUIRE THE PERSON TO COMPLETE A LEVEL II  
20 ALCOHOL AND DRUG EDUCATION AND TREATMENT PROGRAM CERTIFIED BY  
21 THE DIVISION OF ALCOHOL AND DRUG ABUSE PURSUANT TO SECTION  
22 42-4-1301.3 BEFORE THE DEPARTMENT MAY RESTORE DRIVING PRIVILEGES  
23 TO THE PERSON AND, UPON THE RESTORATION OF DRIVING PRIVILEGES, TO  
24 OBTAIN A RESTRICTED LICENSE PURSUANT TO SECTION 42-2-132.5 (1)  
25 (b.5).

26 (III) IF THE TOTAL PERIOD OF LICENSE RESTRAINT UNDER THIS  
27 PARAGRAPH (d) IS NOT SUFFICIENT TO ALLOW FOR THE COMPLETION OF

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1 LEVEL II ALCOHOL AND DRUG EDUCATION AND TREATMENT, \_\_\_\_\_ THE  
2 PERSON SEEKING REINSTATEMENT SHALL FILE WITH THE DEPARTMENT  
3 PROOF OF CURRENT ENROLLMENT IN A LEVEL II ALCOHOL AND DRUG  
4 EDUCATION AND TREATMENT PROGRAM CERTIFIED BY THE DIVISION OF  
5 ALCOHOL AND DRUG ABUSE PURSUANT TO SECTION 42-4-1301.3, ON A  
6 FORM APPROVED BY THE DEPARTMENT.

7 (5) **Actions of law enforcement officer.** (a) If A LAW  
8 ENFORCEMENT OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT A PERSON  
9 SHOULD BE SUBJECT TO LICENSE REVOCATION FOR EXCESS BAC OR  
10 REFUSAL, THE LAW ENFORCEMENT OFFICER SHALL FORWARD TO THE  
11 DEPARTMENT AN AFFIDAVIT CONTAINING INFORMATION RELEVANT TO THE  
12 LEGAL ISSUES AND FACTS THAT SHALL BE CONSIDERED BY THE  
13 DEPARTMENT TO \_\_\_\_\_ DETERMINE WHETHER THE PERSON'S LICENSE  
14 SHOULD BE REVOKED AS PROVIDED IN SUBSECTION (3) OF THIS SECTION.  
15 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL SPECIFY TO LAW  
16 ENFORCEMENT AGENCIES THE FORM OF THE AFFIDAVIT TO BE USED UNDER  
17 THIS PARAGRAPH (a) AND THE TYPES OF INFORMATION NEEDED IN THE  
18 AFFIDAVIT AND MAY SPECIFY ANY ADDITIONAL DOCUMENTS OR COPIES OF  
19 DOCUMENTS NEEDED BY THE DEPARTMENT TO MAKE ITS DETERMINATION  
20 IN ADDITION TO THE AFFIDAVIT. THE AFFIDAVIT SHALL BE DATED, SIGNED,  
21 AND SWORN TO BY THE LAW ENFORCEMENT OFFICER UNDER PENALTY OF  
22 PERJURY, BUT NEED NOT BE NOTARIZED OR SWORN TO BEFORE ANY OTHER  
23 PERSON.

24 (b) (I) A LAW ENFORCEMENT OFFICER, ON BEHALF OF THE  
25 DEPARTMENT, SHALL PERSONALLY SERVE A NOTICE OF REVOCATION ON A  
26 PERSON WHO IS STILL AVAILABLE TO THE LAW ENFORCEMENT OFFICER IF  
27 THE LAW ENFORCEMENT OFFICER DETERMINES THAT, BASED ON A REFUSAL

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1 OR ON TEST RESULTS AVAILABLE TO THE LAW ENFORCEMENT OFFICER, THE  
2 PERSON'S LICENSE IS SUBJECT TO REVOCATION FOR EXCESS BAC OR  
3 REFUSAL.

4 (II) WHEN A LAW ENFORCEMENT OFFICER SERVES A NOTICE OF  
5 REVOCATION, THE LAW ENFORCEMENT OFFICER SHALL TAKE POSSESSION  
6 OF ANY DRIVER'S LICENSE ISSUED BY THIS STATE OR ANY OTHER STATE  
7 WHICH      THE PERSON HOLDS. WHEN THE LAW ENFORCEMENT OFFICER  
8 TAKES POSSESSION OF A VALID DRIVER'S LICENSE ISSUED BY THIS STATE OR  
9 ANY OTHER STATE, THE LAW ENFORCEMENT OFFICER, ACTING ON BEHALF  
10 OF THE DEPARTMENT, SHALL ISSUE A TEMPORARY PERMIT WHICH IS VALID  
11 FOR SEVEN DAYS AFTER THE DATE OF ISSUANCE.

12 (III) A COPY OF THE COMPLETED NOTICE OF REVOCATION FORM, A  
13 COPY OF ANY COMPLETED TEMPORARY PERMIT FORM, AND ANY DRIVER'S,  
14 MINOR DRIVER'S, OR TEMPORARY DRIVER'S LICENSE OR ANY INSTRUCTION  
15 PERMIT TAKEN INTO POSSESSION UNDER THIS SECTION SHALL BE  
16 FORWARDED TO THE DEPARTMENT BY THE LAW ENFORCEMENT OFFICER  
17 ALONG WITH AN AFFIDAVIT AS DESCRIBED IN PARAGRAPH (a) OF THIS  
18 SUBSECTION (5) AND ANY ADDITIONAL DOCUMENTS OR COPIES OF  
19 DOCUMENTS AS DESCRIBED IN SAID PARAGRAPH (a).

20 (IV) THE DEPARTMENT SHALL PROVIDE TO LAW ENFORCEMENT  
21 AGENCIES FORMS FOR NOTICE OF REVOCATION AND FOR TEMPORARY  
22 PERMITS.      THE LAW ENFORCEMENT AGENCIES SHALL USE THE FORMS  
23 FOR THE NOTICE OF REVOCATION AND FOR TEMPORARY PERMITS AND  
24 SHALL FOLLOW THE FORM AND PROVIDE THE INFORMATION FOR  
25 AFFIDAVITS AS PROVIDED BY THE DEPARTMENT PURSUANT TO PARAGRAPH  
26 (a) OF THIS SUBSECTION (5).

27 (V) A LAW ENFORCEMENT OFFICER SHALL NOT ISSUE A

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1 TEMPORARY PERMIT TO A PERSON WHO IS ALREADY DRIVING WITH A  
2 TEMPORARY PERMIT ISSUED PURSUANT TO SUBPARAGRAPH (II) OF THIS  
3 PARAGRAPH (b).

4 (6) **Initial determination and notice of revocation.** (a) UPON  
5 RECEIPT OF AN AFFIDAVIT OF A LAW ENFORCEMENT OFFICER AND THE  
6 RELEVANT DOCUMENTS REQUIRED BY PARAGRAPH (a) OF SUBSECTION (5)  
7 OF THIS SECTION, THE DEPARTMENT SHALL DETERMINE WHETHER THE  
8 PERSON'S LICENSE SHOULD BE REVOKED UNDER SUBSECTION (3) OF THIS  
9 SECTION. THE DETERMINATION SHALL BE BASED UPON THE INFORMATION  
10 CONTAINED IN THE AFFIDAVIT AND THE RELEVANT DOCUMENTS  
11 SUBMITTED TO THE DEPARTMENT, AND THE DETERMINATION SHALL BE  
12 FINAL UNLESS A HEARING IS REQUESTED AND HELD AS PROVIDED IN  
13 SUBSECTION (8) OF THIS SECTION. THE DETERMINATION OF THESE FACTS  
14 BY THE DEPARTMENT IS INDEPENDENT OF THE DETERMINATION OF A COURT  
15 OF THE SAME OR SIMILAR FACTS IN THE ADJUDICATION OF ANY CRIMINAL  
16 CHARGES ARISING OUT OF THE SAME OCCURRENCE. THE DISPOSITION OF  
17 THE CRIMINAL CHARGES SHALL NOT AFFECT ANY REVOCATION UNDER THIS  
18 SECTION.

19 (b) (1) IF THE DEPARTMENT DETERMINES THAT THE PERSON IS  
20 SUBJECT TO LICENSE REVOCATION, THE DEPARTMENT SHALL ISSUE A  
21 NOTICE OF REVOCATION IF A NOTICE HAS NOT ALREADY BEEN SERVED  
22 UPON THE PERSON BY THE LAW ENFORCEMENT OFFICER AS PROVIDED IN  
23 PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION. A NOTICE OF  
24 REVOCATION SHALL CLEARLY SPECIFY THE REASON AND STATUTORY  
25 GROUNDS FOR THE REVOCATION, THE EFFECTIVE DATE OF THE  
26 REVOCATION, THE RIGHT OF THE PERSON TO REQUEST A HEARING, THE  
27 PROCEDURE FOR REQUESTING A HEARING, AND THE DATE BY WHICH A

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1 REQUEST FOR A HEARING MUST BE MADE.

2 (II) IN SENDING A NOTICE OF REVOCATION, THE DEPARTMENT  
3 SHALL MAIL THE NOTICE IN ACCORDANCE WITH THE PROVISIONS OF  
4 SECTION 42-2-119 (2) TO THE PERSON AT THE LAST-KNOWN ADDRESS  
5 SHOWN ON THE DEPARTMENT'S RECORDS, IF ANY, AND TO ANY ADDRESS  
6 PROVIDED IN THE LAW ENFORCEMENT OFFICER'S AFFIDAVIT IF THAT  
7 ADDRESS DIFFERS FROM THE ADDRESS OF RECORD. THE NOTICE SHALL BE  
8 DEEMED RECEIVED THREE DAYS AFTER MAILING.

9 (c) IF THE DEPARTMENT DETERMINES THAT THE PERSON IS NOT  
10 SUBJECT TO LICENSE REVOCATION, THE DEPARTMENT SHALL NOTIFY THE  
11 PERSON OF ITS DETERMINATION AND SHALL RESCIND ANY ORDER OF  
12 REVOCATION SERVED UPON THE PERSON BY THE LAW ENFORCEMENT  
13 OFFICER.

14 (d) A LICENSE REVOCATION SHALL BECOME EFFECTIVE SEVEN  
15 DAYS AFTER THE PERSON HAS RECEIVED THE NOTICE OF REVOCATION AS  
16 PROVIDED IN SUBSECTION (5) OF THIS SECTION OR IS DEEMED TO HAVE  
17 RECEIVED THE NOTICE OF REVOCATION BY MAIL AS PROVIDED IN  
18 PARAGRAPH (b) OF THIS SUBSECTION (6). IF THE DEPARTMENT RECEIVES  
19 A WRITTEN REQUEST FOR A HEARING PURSUANT TO SUBSECTION (7) OF  
20 THIS SECTION \_\_\_\_\_ WITHIN THAT SAME SEVEN-DAY PERIOD AND THE  
21 DEPARTMENT ISSUES A TEMPORARY PERMIT PURSUANT TO PARAGRAPH (d)  
22 OF SUBSECTION (7) OF THIS SECTION, THE EFFECTIVE DATE OF THE  
23 REVOCATION SHALL BE STAYED UNTIL A FINAL ORDER IS ISSUED  
24 FOLLOWING THE HEARING; EXCEPT THAT ANY DELAY IN THE HEARING  
25 THAT IS CAUSED OR REQUESTED BY THE PERSON OR COUNSEL  
26 REPRESENTING THE PERSON SHALL NOT RESULT IN A STAY OF THE  
27 REVOCATION DURING THE PERIOD OF DELAY.

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1           **(7) Request for hearing.** (a) A PERSON WHO HAS RECEIVED A  
2 NOTICE OF REVOCATION MAY MAKE A WRITTEN REQUEST FOR A REVIEW OF  
3 THE DEPARTMENT'S DETERMINATION AT A HEARING. THE REQUEST MAY  
4 BE MADE ON A FORM AVAILABLE AT EACH OFFICE OF THE DEPARTMENT.

5           (b) A PERSON MUST REQUEST A HEARING IN WRITING WITHIN  
6 SEVEN DAYS AFTER THE DAY THE PERSON RECEIVES THE NOTICE OF  
7 REVOCATION AS PROVIDED IN SUBSECTION (5) OF THIS SECTION OR IS  
8 DEEMED TO HAVE RECEIVED THE NOTICE BY MAIL AS PROVIDED IN  
9 PARAGRAPH (b) OF SUBSECTION (6) OF THIS SECTION. IF THE DEPARTMENT  
10 DOES NOT RECEIVE THE WRITTEN REQUEST FOR A HEARING WITHIN THE  
11 SEVEN-DAY PERIOD, THE RIGHT TO A HEARING IS WAIVED, AND THE  
12 DETERMINATION OF THE DEPARTMENT THAT IS BASED ON THE DOCUMENTS  
13 AND AFFIDAVIT REQUIRED BY SUBSECTION (5) OF THIS SECTION BECOMES  
14 FINAL.

15           (c) IF A PERSON SUBMITS A WRITTEN REQUEST FOR A HEARING  
16 AFTER EXPIRATION OF THE SEVEN-DAY PERIOD AND IF THE REQUEST IS  
17 ACCOMPANIED BY THE PERSON'S VERIFIED STATEMENT EXPLAINING THE  
18 FAILURE TO MAKE A TIMELY REQUEST FOR A HEARING, THE DEPARTMENT  
19 SHALL RECEIVE AND CONSIDER THE REQUEST. IF THE DEPARTMENT FINDS  
20 THAT THE PERSON WAS UNABLE TO MAKE A TIMELY REQUEST DUE TO LACK  
21 OF ACTUAL NOTICE OF THE REVOCATION OR DUE TO FACTORS OF PHYSICAL  
22 INCAPACITY SUCH AS HOSPITALIZATION OR INCARCERATION, THE  
23 DEPARTMENT SHALL WAIVE THE PERIOD OF LIMITATION, REOPEN THE  
24 MATTER, AND GRANT THE HEARING REQUEST. IN SUCH A CASE, THE  
25 DEPARTMENT SHALL NOT GRANT A STAY OF THE REVOCATION PENDING  
26 ISSUANCE OF THE FINAL ORDER FOLLOWING THE HEARING.

27           (d) AT THE TIME A PERSON REQUESTS A HEARING PURSUANT TO

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1 THIS SUBSECTION (7), IF IT APPEARS FROM THE RECORD THAT THE PERSON  
2 IS THE HOLDER OF A VALID DRIVER'S OR MINOR DRIVER'S LICENSE OR ANY  
3 INSTRUCTION PERMIT ISSUED BY THIS STATE OR OF A TEMPORARY PERMIT  
4 ISSUED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION  
5 AND THAT THE LICENSE OR PERMIT HAS BEEN SURRENDERED, THE  
6 DEPARTMENT SHALL ISSUE A TEMPORARY PERMIT THAT SHALL BE VALID  
7 UNTIL THE SCHEDULED DATE FOR THE HEARING. IF NECESSARY, THE  
8 DEPARTMENT MAY LATER ISSUE AN ADDITIONAL TEMPORARY PERMIT IN  
9 ORDER TO STAY THE EFFECTIVE DATE OF THE REVOCATION UNTIL THE  
10 FINAL ORDER IS ISSUED FOLLOWING THE HEARING, AS REQUIRED BY  
11 SUBSECTION (8) OF THIS SECTION. IF THE PERSON NOTIFIES THE  
12 DEPARTMENT IN WRITING AT THE TIME THAT THE HEARING IS REQUESTED  
13 THAT THE PERSON DESIRES THE LAW ENFORCEMENT OFFICER'S PRESENCE  
14 AT THE HEARING, THE DEPARTMENT SHALL ISSUE A WRITTEN NOTICE FOR  
15 THE LAW ENFORCEMENT OFFICER TO APPEAR AT THE HEARING. A LAW  
16 ENFORCEMENT OFFICER WHO IS REQUIRED TO APPEAR AT A HEARING MAY,  
17 AT THE DISCRETION OF THE HEARING OFFICER, APPEAR IN REAL TIME BY  
18 TELEPHONE OR OTHER ELECTRONIC MEANS IN ACCORDANCE WITH SECTION  
19 42-1-218.5.

20 (g) AT THE TIME THAT A PERSON REQUESTS A HEARING, THE  
21 DEPARTMENT SHALL PROVIDE TO THE PERSON WRITTEN NOTICE ADVISING  
22 THE PERSON:

23 (I) OF THE RIGHT TO SUBPOENA THE LAW ENFORCEMENT OFFICER  
24 FOR THE HEARING AND THAT THE SUBPOENA SHALL BE SERVED UPON THE  
25 LAW ENFORCEMENT OFFICER AT LEAST FIVE DAYS PRIOR TO THE HEARING;

26 (II) OF THE PERSON'S RIGHT AT THAT TIME TO NOTIFY THE  
27 DEPARTMENT \_\_\_\_\_ THAT THE PERSON DESIRES THE LAW ENFORCEMENT

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1 OFFICER'S PRESENCE AT THE HEARING AND THAT, UPON RECEIVING THE  
2 NOTIFICATION, THE DEPARTMENT SHALL ISSUE A WRITTEN NOTICE FOR THE  
3 LAW ENFORCEMENT OFFICER TO APPEAR AT THE HEARING;

4 (III) THAT, IF THE LAW ENFORCEMENT OFFICER IS NOT REQUIRED TO  
5 APPEAR AT THE HEARING, DOCUMENTS AND AN AFFIDAVIT PREPARED AND  
6 SUBMITTED BY THE LAW ENFORCEMENT OFFICER WILL BE USED AT THE  
7 HEARING; AND

8 (IV) THAT THE AFFIDAVIT AND DOCUMENTS SUBMITTED BY THE  
9 LAW ENFORCEMENT OFFICER MAY BE REVIEWED BY THE PERSON PRIOR TO  
10 THE HEARING.

11 (f) ANY SUBPOENA SERVED UPON A LAW ENFORCEMENT OFFICER  
12 FOR ATTENDANCE AT A HEARING CONDUCTED PURSUANT TO THIS SECTION  
13 SHALL BE SERVED AT LEAST FIVE CALENDAR DAYS BEFORE THE DAY OF THE  
14 HEARING.

15 (8) **Hearing.** (a) (I) THE HEARING SHALL BE SCHEDULED TO BE  
16 HELD AS QUICKLY AS PRACTICABLE BUT NOT MORE THAN SIXTY DAYS  
17 AFTER THE DATE THE DEPARTMENT RECEIVES THE REQUEST FOR A  
18 HEARING; EXCEPT THAT, IF A HEARING IS RESCHEDULED BECAUSE OF THE  
19 UNAVAILABILITY OF A LAW ENFORCEMENT OFFICER OR THE HEARING  
20 OFFICER IN ACCORDANCE WITH SUBPARAGRAPH (III) OR (IV) OF THIS  
21 PARAGRAPH (a), THE HEARING MAY BE RESCHEDULED MORE THAN SIXTY  
22 DAYS AFTER THE DATE THE DEPARTMENT RECEIVES THE REQUEST FOR THE  
23 HEARING, AND THE DEPARTMENT SHALL CONTINUE ANY TEMPORARY  
24 DRIVING PRIVILEGES HELD BY THE PERSON UNTIL THE DATE TO WHICH THE  
25 HEARING IS RESCHEDULED. AT LEAST TEN DAYS PRIOR TO THE SCHEDULED  
26 OR RESCHEDULED HEARING, THE DEPARTMENT SHALL PROVIDE IN THE  
27 MANNER SPECIFIED IN SECTION 42-2-119 (2) A WRITTEN NOTICE OF THE

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1 TIME AND PLACE OF THE HEARING TO THE RESPONDENT UNLESS THE  
2 PARTIES AGREE TO WAIVE THIS REQUIREMENT. NOTWITHSTANDING THE  
3 PROVISIONS OF SECTION 42-2-119, THE LAST-KNOWN ADDRESS OF THE  
4 RESPONDENT FOR PURPOSES OF NOTICE FOR ANY HEARING PURSUANT TO  
5 THIS SECTION SHALL BE THE ADDRESS STATED ON THE HEARING REQUEST  
6 FORM.

7 (II) A LAW ENFORCEMENT OFFICER WHO SUBMITS THE DOCUMENTS  
8 AND AFFIDAVIT REQUIRED BY SUBSECTION (5) OF THIS SECTION NEED NOT  
9 BE PRESENT AT THE HEARING UNLESS THE HEARING OFFICER REQUIRES  
10 THAT THE LAW ENFORCEMENT OFFICER BE PRESENT AND THE HEARING  
11 OFFICER ISSUES A WRITTEN NOTICE FOR THE LAW ENFORCEMENT OFFICER'S  
12 APPEARANCE OR UNLESS THE RESPONDENT OR THE RESPONDENT'S  
13 ATTORNEY DETERMINES THAT THE LAW ENFORCEMENT OFFICER SHOULD BE  
14 PRESENT AND SERVES A TIMELY SUBPOENA UPON THE LAW ENFORCEMENT  
15 OFFICER IN ACCORDANCE WITH PARAGRAPH (f) OF SUBSECTION (7) OF THIS  
16 SECTION.

17 (III) IF A LAW ENFORCEMENT OFFICER, AFTER RECEIVING A NOTICE  
18 OR SUBPOENA TO APPEAR FROM EITHER THE DEPARTMENT OR THE  
19 RESPONDENT, IS UNABLE TO APPEAR AT THE ORIGINAL OR RESCHEDULED  
20 HEARING DATE DUE TO A REASONABLE CONFLICT, INCLUDING BUT NOT  
21 LIMITED TO TRAINING, VACATION, OR PERSONAL LEAVE TIME, THE LAW  
22 ENFORCEMENT OFFICER OR THE LAW ENFORCEMENT OFFICER'S SUPERVISOR  
23 SHALL CONTACT THE DEPARTMENT NOT LESS THAN FORTY-EIGHT HOURS  
24 PRIOR TO THE HEARING AND RESCHEDULE THE HEARING TO A TIME WHEN  
25 THE LAW ENFORCEMENT OFFICER WILL BE AVAILABLE. IF THE LAW  
26 ENFORCEMENT OFFICER CANNOT APPEAR AT THE ORIGINAL OR  
27 RESCHEDULED HEARING BECAUSE OF MEDICAL REASONS, A LAW

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1 ENFORCEMENT EMERGENCY, ANOTHER COURT OR ADMINISTRATIVE  
2 HEARING, OR ANY OTHER LEGITIMATE, JUST CAUSE AS DETERMINED BY THE  
3 DEPARTMENT, AND THE LAW ENFORCEMENT OFFICER OR THE LAW  
4 ENFORCEMENT OFFICER'S SUPERVISOR GIVES NOTICE OF THE LAW  
5 ENFORCEMENT OFFICER'S INABILITY TO APPEAR TO THE DEPARTMENT PRIOR  
6 TO THE DISMISSAL OF THE REVOCATION PROCEEDING, THE DEPARTMENT  
7 SHALL RESCHEDULE THE HEARING FOLLOWING CONSULTATION WITH THE  
8 LAW ENFORCEMENT OFFICER OR THE LAW ENFORCEMENT OFFICER'S  
9 SUPERVISOR AT THE EARLIEST POSSIBLE TIME WHEN THE LAW  
10 ENFORCEMENT OFFICER AND THE HEARING OFFICER WILL BE AVAILABLE.

11 (IV) IF A HEARING OFFICER CANNOT APPEAR AT AN ORIGINAL OR  
12 RESCHEDULED HEARING BECAUSE OF MEDICAL REASONS, A LAW  
13 ENFORCEMENT EMERGENCY, ANOTHER COURT OR ADMINISTRATIVE  
14 HEARING, OR ANY OTHER LEGITIMATE, JUST CAUSE, THE HEARING OFFICER  
15 OR THE DEPARTMENT MAY RESCHEDULE THE HEARING AT THE EARLIEST  
16 POSSIBLE TIME WHEN THE LAW ENFORCEMENT OFFICER AND THE HEARING  
17 OFFICER WILL BE AVAILABLE.

18 (b) THE HEARING SHALL BE HELD IN THE DISTRICT OFFICE NEAREST  
19 TO WHERE THE VIOLATION OCCURRED, UNLESS THE PARTIES AGREE TO A  
20 DIFFERENT LOCATION; EXCEPT THAT, AT THE DISCRETION OF THE  
21 DEPARTMENT, ALL OR PART OF THE HEARING MAY BE CONDUCTED IN REAL  
22 TIME, BY TELEPHONE OR OTHER ELECTRONIC MEANS IN ACCORDANCE WITH  
23 SECTION 42-1-218.5.

24 (c) \_\_\_\_\_ THE DEPARTMENT SHALL CONSIDER ALL \_\_\_\_\_ RELEVANT  
25 EVIDENCE AT THE HEARING, INCLUDING THE TESTIMONY OF ANY LAW  
26 ENFORCEMENT OFFICER AND THE REPORT OF ANY LAW ENFORCEMENT  
27 OFFICER THAT ARE SUBMITTED TO THE DEPARTMENT. THE REPORT OF A

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1 LAW ENFORCEMENT OFFICER SHALL NOT BE REQUIRED TO BE MADE UNDER  
2 OATH, BUT THE REPORT SHALL IDENTIFY THE LAW ENFORCEMENT OFFICER  
3 MAKING THE REPORT. THE DEPARTMENT MAY CONSIDER EVIDENCE  
4 CONTAINED IN AFFIDAVITS FROM PERSONS OTHER THAN THE RESPONDENT,  
5 SO LONG AS THE AFFIDAVITS INCLUDE THE AFFIANT'S HOME OR WORK  
6 ADDRESS AND PHONE NUMBER AND ARE DATED, SIGNED, AND SWORN TO BY  
7 THE AFFIANT UNDER PENALTY OF PERJURY. THE AFFIDAVIT NEED NOT BE  
8 NOTARIZED OR SWORN TO BEFORE ANY OTHER PERSON.

9 (d) THE HEARING OFFICER SHALL HAVE AUTHORITY TO:

10 (I) ADMINISTER OATHS AND AFFIRMATIONS;

11 (II) COMPEL WITNESSES TO TESTIFY OR PRODUCE BOOKS, RECORDS,  
12 OR OTHER EVIDENCE;

13 (III) EXAMINE WITNESSES AND TAKE TESTIMONY;

14 (IV) RECEIVE AND CONSIDER ANY RELEVANT EVIDENCE  
15 NECESSARY TO PROPERLY PERFORM THE HEARING OFFICER'S DUTIES AS  
16 REQUIRED BY THIS SECTION;

17 (V) TAKE JUDICIAL NOTICE AS DEFINED BY RULE 201 OF ARTICLE  
18 II OF THE COLORADO RULES OF EVIDENCE, SUBJECT TO THE PROVISIONS OF  
19 SECTION 24-4-105 (8), C.R.S., WHICH SHALL INCLUDE:

20 (A) JUDICIAL NOTICE OF GENERAL, TECHNICAL, OR SCIENTIFIC  
21 FACTS WITHIN THE HEARING OFFICER'S KNOWLEDGE;

22 (B) JUDICIAL NOTICE OF APPROPRIATE AND RELIABLE SCIENTIFIC  
23 AND MEDICAL INFORMATION CONTAINED IN STUDIES, ARTICLES, BOOKS,  
24 AND TREATISES; AND

25 (C) JUDICIAL NOTICE OF CHARTS PREPARED BY THE DEPARTMENT  
26 OF PUBLIC HEALTH AND ENVIRONMENT PERTAINING TO THE MAXIMUM BAC  
27 LEVELS THAT PEOPLE CAN OBTAIN THROUGH THE CONSUMPTION OF

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1 ALCOHOL WHEN THE CHARTS ARE BASED UPON THE MAXIMUM ABSORPTION  
2 LEVELS POSSIBLE OF DETERMINED AMOUNTS OF ALCOHOL CONSUMED IN  
3 RELATIONSHIP TO THE WEIGHT AND GENDER OF THE PERSON CONSUMING  
4 THE ALCOHOL;

5 (VI) ISSUE SUBPOENAS DUCES TECUM TO PRODUCE BOOKS,  
6 DOCUMENTS, RECORDS, OR OTHER EVIDENCE;

7 (VII) ISSUE SUBPOENAS FOR THE ATTENDANCE OF WITNESSES;

8 (VIII) TAKE DEPOSITIONS, OR CAUSE DEPOSITIONS OR  
9 INTERROGATORIES TO BE TAKEN;

10 (IX) REGULATE THE COURSE AND CONDUCT OF THE HEARING; AND

11 (X) MAKE A FINAL RULING ON THE ISSUES.

12 (e) WHEN THE DETERMINATION \_\_\_\_\_ IS BASED UPON AN ANALYSIS  
13 OF THE RESPONDENT'S BAC:

14 (I) IF THE RESPONDENT ESTABLISHES, BY A PREPONDERANCE OF THE  
15 EVIDENCE, THAT THE RESPONDENT CONSUMED ALCOHOL BETWEEN THE  
16 TIME THAT THE RESPONDENT STOPPED DRIVING AND THE TIME OF TESTING,  
17 THE DEPARTMENT SHALL ESTABLISH, BY A PREPONDERANCE OF THE  
18 EVIDENCE, THAT THE MINIMUM REQUIRED BAC WAS REACHED AS A RESULT  
19 OF ALCOHOL CONSUMED BEFORE THE RESPONDENT STOPPED DRIVING; AND

20 (II) IF THE EVIDENCE OFFERED BY THE RESPONDENT SHOWS A  
21 DISPARITY BETWEEN THE RESULTS OF THE ANALYSIS DONE ON BEHALF OF  
22 THE LAW ENFORCEMENT AGENCY AND THE RESULTS OF AN ANALYSIS DONE  
23 ON BEHALF OF THE RESPONDENT, AND A PREPONDERANCE OF THE EVIDENCE  
24 ESTABLISHES THAT THE BLOOD ANALYSIS CONDUCTED ON BEHALF OF THE  
25 LAW ENFORCEMENT AGENCY WAS PROPERLY CONDUCTED BY A QUALIFIED  
26 PERSON ASSOCIATED WITH A LABORATORY CERTIFIED BY THE DEPARTMENT  
27 OF PUBLIC HEALTH AND ENVIRONMENT USING PROPERLY WORKING TESTING

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1 DEVICES OR WHEN A PREPONDERANCE OF THE EVIDENCE ESTABLISHES  
2 THAT THE LAW ENFORCEMENT BREATH TEST WAS ADMINISTERED USING A  
3 PROPERLY WORKING BREATH TESTING DEVICE CERTIFIED BY THE  
4 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, WHICH DEVICE WAS  
5 PROPERLY OPERATED BY A QUALIFIED OPERATOR, THERE SHALL BE A  
6 PRESUMPTION FAVORING THE ACCURACY OF THE ANALYSIS DONE ON  
7 BEHALF OF THE LAW ENFORCEMENT AGENCY IF THE ANALYSIS SHOWED THE  
8 BAC TO BE 0.096 OR MORE. IF THE RESPONDENT OFFERS EVIDENCE OF  
9 BLOOD OR BREATH ANALYSIS, THE RESPONDENT SHALL BE REQUIRED TO  
10 STATE UNDER OATH THE NUMBER OF ANALYSES DONE IN ADDITION TO THE  
11 ONE OFFERED AS EVIDENCE AND THE NAMES OF THE LABORATORIES THAT  
12 PERFORMED THE ANALYSES AND THE RESULTS OF ALL ANALYSES.

13 \_\_\_\_\_  
14 (f) THE HEARING SHALL BE RECORDED. THE HEARING OFFICER  
15 SHALL RENDER A DECISION IN WRITING, AND THE DEPARTMENT SHALL  
16 PROVIDE A COPY OF THE DECISION TO THE RESPONDENT.

17 (g) IF THE RESPONDENT FAILS TO APPEAR WITHOUT JUST CAUSE,  
18 THE RIGHT TO A HEARING SHALL BE WAIVED, AND THE DETERMINATION OF  
19 THE DEPARTMENT WHICH IS BASED UPON THE DOCUMENTS AND AFFIDAVIT  
20 REQUIRED IN SUBSECTION (5) OF THIS SECTION SHALL BECOME FINAL.

21 (9) **Appeal.** (a) WITHIN THIRTY DAYS AFTER THE DEPARTMENT  
22 ISSUES ITS FINAL DETERMINATION UNDER THIS SECTION, A PERSON  
23 AGGRIEVED BY THE DETERMINATION SHALL HAVE THE RIGHT TO FILE A  
24 PETITION FOR JUDICIAL REVIEW IN THE DISTRICT COURT IN THE COUNTY OF  
25 THE PERSON'S RESIDENCE.

26 (b) JUDICIAL REVIEW OF THE DEPARTMENT'S DETERMINATION  
27 SHALL BE ON THE RECORD WITHOUT TAKING ADDITIONAL TESTIMONY. IF

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1 THE COURT FINDS THAT THE DEPARTMENT EXCEEDED ITS CONSTITUTIONAL  
2 OR STATUTORY AUTHORITY, MADE AN ERRONEOUS INTERPRETATION OF  
3 THE LAW, ACTED IN AN ARBITRARY AND CAPRICIOUS MANNER, OR MADE A  
4 DETERMINATION THAT IS UNSUPPORTED BY THE EVIDENCE IN THE RECORD,  
5 THE COURT MAY REVERSE THE DEPARTMENT'S DETERMINATION.

6 (c) A FILING OF A PETITION FOR JUDICIAL REVIEW SHALL NOT  
7 RESULT IN AN AUTOMATIC STAY OF THE REVOCATION ORDER. THE COURT  
8 MAY GRANT A STAY OF THE ORDER ONLY UPON A MOTION AND HEARING  
9 AND UPON A FINDING THAT THERE IS A REASONABLE PROBABILITY THAT  
10 THE PERSON WILL PREVAIL UPON THE MERITS AND THAT THE PERSON WILL  
11 SUFFER IRREPARABLE HARM IF THE ORDER IS NOT STAYED.

12 (10) **Notice to vehicle owner.** IF THE DEPARTMENT REVOKES A  
13 PERSON'S LICENSE PURSUANT TO PARAGRAPH (a), (c), OR (d) OF  
14 SUBSECTION (3) OF THIS SECTION, THE DEPARTMENT SHALL MAIL A NOTICE  
15 TO THE OWNER OF THE MOTOR VEHICLE USED IN THE VIOLATION INFORMING  
16 THE OWNER THAT:

17 (a) THE MOTOR VEHICLE WAS DRIVEN IN AN ALCOHOL-RELATED  
18 DRIVING VIOLATION; AND

19 (b) ADDITIONAL ALCOHOL-RELATED VIOLATIONS INVOLVING THE  
20 MOTOR VEHICLE BY THE SAME DRIVER MAY RESULT IN A REQUIREMENT  
21 THAT THE OWNER FILE PROOF OF FINANCIAL RESPONSIBILITY UNDER THE  
22 PROVISIONS OF SECTION 42-7-406 (1.5).

23 (11) **Applicability of "State Administrative Procedure Act".**  
24 THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,  
25 C.R.S., SHALL APPLY TO THIS SECTION TO THE EXTENT IT IS CONSISTENT  
26 WITH SUBSECTIONS (7), (8), AND (9) OF THIS SECTION RELATING TO  
27 ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW.

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1           **SECTION 2.** 42-1-102, Colorado Revised Statutes, is amended  
2 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to  
3 read:

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

6           (8.5) "BAC" MEANS EITHER:

7           (a) A PERSON'S BLOOD ALCOHOL CONTENT, EXPRESSED IN GRAMS  
8 OF ALCOHOL PER ONE HUNDRED MILLILITERS OF BLOOD AS SHOWN BY  
9 ANALYSIS OF THE PERSON'S BLOOD; OR

10           (b) A PERSON'S BREATH ALCOHOL CONTENT, EXPRESSED IN GRAMS  
11 OF ALCOHOL PER TWO HUNDRED TEN LITERS OF BREATH AS SHOWN BY  
12 ANALYSIS OF THE PERSON'S BREATH.

13           (27.3) "DUI" MEANS DRIVING UNDER THE INFLUENCE, AS DEFINED  
14 IN SECTION 42-4-1301 (1) (f), AND USE OF THE TERM SHALL INCORPORATE  
15 BY REFERENCE THE OFFENSE DESCRIBED IN SECTION 42-4-1301 (1) (a).

16           (27.5) "DUI PER SE" MEANS DRIVING WITH A BAC OF 0.08 OR  
17 MORE, AND USE OF THE TERM SHALL INCORPORATE BY REFERENCE THE  
18 OFFENSE DESCRIBED IN SECTION 42-4-1301 (2) (a).

19           (27.7) "DWAI" MEANS DRIVING WHILE ABILITY IMPAIRED, AS  
20 DEFINED IN SECTION 42-4-1301 (1) (g), AND USE OF THE TERM SHALL  
21 INCORPORATE BY REFERENCE THE OFFENSE DESCRIBED IN SECTION  
22 42-4-1301 (1) (b).

23           (41.7) "HABITUAL USER" SHALL INCORPORATE BY REFERENCE THE  
24 OFFENSE DESCRIBED IN SECTION 42-4-1301 (1) (c).

25           (109.7) "UDD" MEANS UNDERAGE DRINKING AND DRIVING, AND  
26 USE OF THE TERM SHALL INCORPORATE BY REFERENCE THE OFFENSE  
27 DESCRIBED IN SECTION 42-4-1301 (2) (a.5).

---

REDRAFT  
12.28.07

Double underlining  
denotes changes from  
prior draft

1           **SECTION 3. Repeal.** 42-4-1300.3 and 42-4-1301.2, Colorado  
2 Revised Statutes, are repealed.

3           **SECTION 4. Safety clause.** The general assembly hereby finds,  
4 determines, and declares that this act is necessary for the immediate  
5 preservation of the public peace, health, and safety.

**INTERAGENCY TASK FORCE ON DRUNK DRIVING**

Chair, Pamela Hutton, Chief Engineer  
Colorado Department of Transportation

**FOR MORE INFORMATION OR STAFF ASSISTANCE, PLEASE CONTACT:**

Gabriela Vidal, Branch Manager  
Colorado Department of Transportation  
Safety and Traffic Engineering Branch  
4201 E. Arkansas Avenue  
Denver, Colorado 80222  
Voice: (303) 757- 9879  
Fax: (303) 757 9219

**Email: [Gabriela.vidal@dot.state.co.us](mailto:Gabriela.vidal@dot.state.co.us)**

