



FY2010 RECOMMENDATION/FY10-D01 NO NEW FELONY DUI STATUTE

Status: Implementation Complete

Actions/Updates

2012 ACTION/IMPLEMENTATION

In 2010, H.B. 10-1184 called for the creation of a felony DUI law. This bill was essentially defeated when it was postponed indefinitely in February of that year. Thus, no further action is needed for this recommendation.

Description

The Commission does not support a statute that creates a new felony for driving under the influence of alcohol and drugs.

Agencies Responsible

Discussion

The Commission finds that existing statutes provide a mechanism to invoke felony charges against offenders who have committed multiple dangerous driving crimes. C.R.S. 42-2-202 details the requirements to be declared a habitual traffic offender. These include three or more separate convictions within seven years for driving under the influence (DUI) and driving while ability impaired (DWAI), among other offenses. The following offenses are included as major offenses for the purpose of defining a habitual offender: reckless driving, false swearing on a Department of Motor Vehicle form, vehicular assault, vehicular homicide or manslaughter or criminally negligent homicide which results from the operation of a motor vehicle, and failure to remain at the scene of an accident resulting in death or serious bodily injury. In addition, the accumulation of points for 10 or more convictions within a 5 year period (4 or more points each) or 18 or more convictions within 5 years (3 or less points each) can result in a charge of habitual traffic offender(see 42-2-202(3)).

Any person who drives a motor vehicle after being classified as a habitual traffic offender commits a class 1 misdemeanor and is subject to a mandatory minimum of 30 days in county jail, or a mandatory minimum fine of \$3,000, or both per C.R.S. 42-2-206 (1)(a)(II).

The crime of aggravated driving with a revoked license (C.R.S. 42-2-206(1)(b)(I)) is a class 6 felony. A person commits aggravated driving with a revoked license if the person is classified a habitual traffic offender, then operates a motor vehicle in Colorado, and while operating the motor vehicle commits any of the following offenses:

- a) DUI or DUI per se (see footnote),*
- b) DWAI,*
- c) reckless driving,*
- d) Eluding or attempting to elude a police officer,*
- e) Any violation of a reporting requirement concerning vehicle accidents, and/or*
- f) Vehicular eluding*

Therefore, someone who has been classified as a habitual traffic offender, either with or without an alcohol offense as the major offense(s), who then drives and commits DUI, DUI per se, or DWAI, would be guilty of aggravated driving with a revoked license, and subject to a prison sentence for a class 6 felony.

Footnotes

Note: "Per se" laws make it illegal to operate a motor vehicle if there is any detectable level of a prohibited drug, or its metabolites, in the driver's blood.