



1 (E) Has an alcohol concentration in his or her blood of eight  
2 hundredths of one percent or more, by weight; and

3 (2) While driving does any act forbidden by law or fails to  
4 perform any duty imposed by law in the driving of the vehicle,  
5 which act or failure proximately causes the death of any person  
6 within one year next following the act or failure; and

7 (3) Commits the act or failure in reckless disregard of the  
8 safety of others and when the influence of alcohol, controlled  
9 substances or drugs is shown to be a contributing cause to the  
10 death, is guilty of a felony and, upon conviction thereof, shall be  
11 imprisoned in a state correctional facility for not less than ~~two~~  
12 five years nor more than ~~ten~~ fifteen years and shall be fined not  
13 less than \$1,000 nor more than \$3,000.

14 (b) Any person who:

15 (1) Drives a vehicle in this state while he or she:

16 (A) Is under the influence of alcohol;

17 (B) Is under the influence of any controlled substance;

18 (C) Is under the influence of any other drug;

19 (D) Is under the combined influence of alcohol and any  
20 controlled substance or any other drug;

21 (E) Has an alcohol concentration in his or her blood of eight  
22 hundredths of one percent or more, by weight; and

23 (2) While driving does any act forbidden by law or fails to  
24 perform any duty imposed by law in the driving of the vehicle,

1 which act or failure proximately causes the death of any person  
2 within one year next following the act or failure, is guilty of a  
3 misdemeanor and, upon conviction thereof, shall be confined in jail  
4 for not less than ninety days nor more than one year and shall be  
5 fined not less than \$500 nor more than \$1,000.

6 (c) Any person who:

7 (1) Drives a vehicle in this state while he or she:

8 (A) Is under the influence of alcohol;

9 (B) Is under the influence of any controlled substance;

10 (C) Is under the influence of any other drug;

11 (D) Is under the combined influence of alcohol and any  
12 controlled substance or any other drug; or

13 (E) Has an alcohol concentration in his or her blood of eight  
14 hundredths of one percent or more, by weight; and

15 (2) While driving does any act forbidden by law or fails to  
16 perform any duty imposed by law in the driving of the vehicle,  
17 which act or failure proximately causes bodily injury to any person  
18 other than himself or herself, is guilty of a misdemeanor and, upon  
19 conviction thereof, shall be confined in jail for not less than one  
20 day nor more than one year, which jail term is to include actual  
21 confinement of not less than twenty-four hours, and shall be fined  
22 not less than \$200 nor more than \$1,000.

23 (d) Any person who:

24 (1) Drives a vehicle in this state while he or she:

1 (A) Is under the influence of alcohol;

2 (B) Is under the influence of any controlled substance;

3 (C) Is under the influence of any other drug;

4 (D) Is under the combined influence of alcohol and any  
5 controlled substance or any other drug; or

6 (E) Has an alcohol concentration in his or her blood of eight  
7 hundredths of one percent or more, by weight, but less than fifteen  
8 hundredths of one percent, by weight;

9 (2) Is guilty of a misdemeanor and, upon conviction thereof,  
10 except as provided in section two-b of this article, shall be  
11 confined in jail for up to six months and shall be fined not less  
12 than \$100 nor more than \$500. A person sentenced pursuant to this  
13 subdivision shall receive credit for any period of actual  
14 confinement he or she served upon arrest for the subject offense.

15 (e) Any person who drives a vehicle in this state while he or  
16 she has an alcohol concentration in his or her blood of fifteen  
17 hundredths of one percent or more, by weight, is guilty of a  
18 misdemeanor and, upon conviction thereof, shall be confined in jail  
19 for not less than two days nor more than six months, which jail  
20 term is to include actual confinement of not less than twenty-four  
21 hours, and shall be fined not less than \$200 nor more than \$1,000.  
22 A person sentenced pursuant to this subdivision shall receive  
23 credit for any period of actual confinement he or she served upon  
24 arrest for the subject offense.

1           (f) Any person who, being an habitual user of narcotic drugs  
2 or amphetamine or any derivative thereof, drives a vehicle in this  
3 state is guilty of a misdemeanor and, upon conviction thereof,  
4 shall be confined in jail for not less than one day nor more than  
5 six months, which jail term is to include actual confinement of not  
6 less than twenty-four hours, and shall be fined not less than \$100  
7 nor more than \$500. A person sentenced pursuant to this  
8 subdivision shall receive credit for any period of actual  
9 confinement he or she served upon arrest for the subject offense.

10          (g) Any person who:

11          (1) Knowingly permits his or her vehicle to be driven in this  
12 state by any other person who:

13           (A) Is under the influence of alcohol;

14           (B) Is under the influence of any controlled substance;

15           (C) Is under the influence of any other drug;

16           (D) Is under the combined influence of alcohol and any  
17 controlled substance or any other drug;

18           (E) Has an alcohol concentration in his or her blood of eight  
19 hundredths of one percent or more, by weight;

20          (2) Is guilty of a misdemeanor and, upon conviction thereof,  
21 shall be confined in jail for not more than six months and shall be  
22 fined not less than \$100 nor more than \$500.

23          (h) Any person who knowingly permits his or her vehicle to be  
24 driven in this state by any other person who is an habitual user of

1 narcotic drugs or amphetamine or any derivative thereof is guilty  
2 of a misdemeanor and, upon conviction thereof, shall be confined in  
3 jail for not more than six months and shall be fined not less than  
4 \$100 nor more than \$500.

5 (i) Any person under the age of twenty-one years who drives a  
6 vehicle in this state while he or she has an alcohol concentration  
7 in his or her blood of two hundredths of one percent or more, by  
8 weight, but less than eight hundredths of one percent, by weight,  
9 for a first offense under this subsection is guilty of a  
10 misdemeanor and, upon conviction thereof, shall be fined not less  
11 than \$25 nor more than \$100. For a second or subsequent offense  
12 under this subsection, the person is guilty of a misdemeanor and,  
13 upon conviction thereof, shall be confined in jail for twenty-four  
14 hours and shall be fined not less than \$100 nor more than \$500. A  
15 person who is charged with a first offense under the provisions of  
16 this subsection may move for a continuance of the proceedings, from  
17 time to time, to allow the person to participate in the Motor  
18 Vehicle Alcohol Test and Lock Program as provided in section three-  
19 a, article five-a of this chapter. Upon successful completion of  
20 the program, the court shall dismiss the charge against the person  
21 and expunge the person's record as it relates to the alleged  
22 offense. In the event the person fails to successfully complete  
23 the program, the court shall proceed to an adjudication of the  
24 alleged offense. A motion for a continuance under this subsection

1 may not be construed as an admission or be used as evidence. A  
2 person arrested and charged with an offense under the provisions of  
3 this subsection or subsection (a), (b), (c), (d), (e), (f), (g) or  
4 (h) of this section may not also be charged with an offense under  
5 this subsection arising out of the same transaction or occurrence.

6 (j) Any person who:

7 (1) Drives a vehicle in this state while he or she:

8 (A) Is under the influence of alcohol;

9 (B) Is under the influence of any controlled substance;

10 (C) Is under the influence of any other drug;

11 (D) Is under the combined influence of alcohol and any  
12 controlled substance or any other drug; or

13 (E) Has an alcohol concentration in his or her blood of eight  
14 hundredths of one percent or more, by weight; and

15 (2) The person while driving has on or within the motor  
16 vehicle one or more other persons who are unemancipated minors who  
17 have not reached their sixteenth birthday is guilty of a  
18 misdemeanor and, upon conviction thereof, shall be confined in jail  
19 for not less than two days nor more than twelve months, which jail  
20 term is to include actual confinement of not less than forty-eight  
21 hours and shall be fined not less than \$200 nor more than \$1,000.

22 (k) A person violating any provision of subsection (b), (c),  
23 (d), (e), (f), (g) or (i) of this section, for the second offense  
24 under this section, is guilty of a misdemeanor and, upon conviction

1 thereof, shall be confined in jail for not less than six months nor  
2 more than one year and the court may, in its discretion, impose a  
3 fine of not less than \$1,000 nor more than \$3,000.

4 (l) A person violating any provision of subsection (b), (c),  
5 (d), (e), (f), (g) or (i) of this section, for the third or any  
6 subsequent offense under this section, is guilty of a felony and,  
7 upon conviction thereof, shall be imprisoned in a state  
8 correctional facility for not less than one nor more than three  
9 years and the court may, in its discretion, impose a fine of not  
10 less than \$3,000 nor more than \$5,000.

11 (m) For purposes of subsections (k) and (l) of this section  
12 relating to second, third and subsequent offenses, the following  
13 events shall be regarded as offenses under this section:

14 (1) Any conviction under the provisions of subsection (a),  
15 (b), (c), (d), (e), (f) or (g) of this section or under a prior  
16 enactment of this section for an offense which occurred within the  
17 ten-year period immediately preceding the date of arrest in the  
18 current proceeding;

19 (2) Any conviction under a municipal ordinance of this state  
20 or any other state or a statute of the United States or of any  
21 other state of an offense which has the same elements as an offense  
22 described in subsection (a), (b), (c), (d), (e), (f), (g) or (h) of  
23 this section, which offense occurred within the ten-year period  
24 immediately preceding the date of arrest in the current proceeding;

1 and,

2       (3) Any period of conditional probation imposed pursuant to  
3 section two-b of this article for violation of subsection (d) of  
4 this article, which violation occurred within the ten-year period  
5 immediately preceding the date of arrest in the current proceeding.

6       (n) A person may be charged in a warrant or indictment or  
7 information for a second or subsequent offense under this section  
8 if the person has been previously arrested for or charged with a  
9 violation of this section which is alleged to have occurred within  
10 the applicable time period for prior offenses, notwithstanding the  
11 fact that there has not been a final adjudication of the charges for  
12 the alleged previous offense. In that case, the warrant or  
13 indictment or information must set forth the date, location and  
14 particulars of the previous offense or offenses. No person may be  
15 convicted of a second or subsequent offense under this section  
16 unless the conviction for the previous offense has become final, or  
17 the person has previously had a period of conditional probation  
18 imposed pursuant to section two-b of this article.

19       (o) The fact that any person charged with a violation of  
20 subsection (a), (b), (c), (d), (e) or (f) of this section, or any  
21 person permitted to drive as described under subsection (g) or (h)  
22 of this section, is or has been legally entitled to use alcohol, a  
23 controlled substance or a drug does not constitute a defense against  
24 any charge of violating subsection (a), (b), (c), (d), (e), (f), (g)

1 or (h) of this section.

2 (p) For purposes of this section, the term "controlled  
3 substance" has the meaning ascribed to it in chapter sixty-a of this  
4 code.

5 (q) The sentences provided in this section upon conviction for  
6 a violation of this article are mandatory and are not subject to  
7 suspension or probation: *Provided*, That the court may apply the  
8 provisions of article eleven-a, chapter sixty-two of this code to  
9 a person sentenced or committed to a term of one year or less for  
10 a first offense under this section: *Provided, ~~further~~ however*, That  
11 the court may impose a term of conditional probation pursuant to  
12 section two-b of this article to persons adjudicated thereunder.  
13 An order for home detention by the court pursuant to the provisions  
14 of article eleven-b of said chapter may be used as an alternative  
15 sentence to any period of incarceration required by this section for  
16 a first or subsequent offense: *Provided, ~~however~~ further*, That for  
17 any period of home incarceration ordered for a person convicted of  
18 second offense under this section, electronic monitoring shall be  
19 required for no fewer than five days of the total period of home  
20 confinement ordered and the offender may not leave home for those  
21 five days notwithstanding the provisions of section five, article  
22 eleven-b, chapter sixty-two of this code: And provided further, That  
23 for any period of home incarceration ordered for a person convicted  
24 of a third or subsequent violation of this section, electronic

1 monitoring shall be included for no fewer than ten days of the total  
2 period of home confinement ordered and the offender may not leave  
3 home for those ten days notwithstanding section five, article  
4 eleven-b, chapter sixty-two of this code.

NOTE: The purpose of this bill is to increase the penalty for driving under the influence causing death from two to ten years to five to fifteen years in prison.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.