

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0696.01 Yelana Love x2295

HOUSE BILL 17-1277

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HOUSE SPONSORSHIP

Mitsch Bush,

SENATE SPONSORSHIP

Martinez Humenik,

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House Committees  
Judiciary

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE AUTHORITY OF THE DEPARTMENT OF REVENUE TO  
102 SUSPEND THE DRIVER'S LICENSE OF A DRIVER WHO LEAVES THE  
103 SCENE OF AN ACCIDENT INVOLVING SERIOUS BODILY INJURY.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Currently, the department of revenue (department) is required to revoke the driver's license of a driver convicted of leaving the scene of an accident involving serious bodily injury or death. The bill allows the department to also suspend the license when, based on a preponderance of the evidence, a driver left the scene of an accident involving serious

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.*

bodily injury or death. If both the suspension and revocation are imposed as a result of the same episode of driving, the bill requires the department to run the suspension and the revocation concurrently.

The bill establishes a procedure by which a driver may contest the suspension of his or her license.

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** 42-2-127.9 as  
3 follows:

4           **42-2-127.9. Authority to suspend driver's license - leaving the**  
5 **scene of an accident.** (1) (a) THE DEPARTMENT MAY SUSPEND THE  
6 DRIVER'S LICENSE OF ANY PERSON UPON THE DEPARTMENT'S  
7 DETERMINATION THAT THERE IS PROOF BY A PREPONDERANCE OF THE  
8 EVIDENCE THAT THE PERSON WAS THE DRIVER OF A VEHICLE DIRECTLY  
9 INVOLVED IN AN ACCIDENT RESULTING IN SERIOUS BODILY INJURY TO OR  
10 DEATH OF ANY PERSON AND FAILED TO IMMEDIATELY STOP THE VEHICLE  
11 AT THE SCENE OF THE ACCIDENT, OR AS CLOSE TO THE SCENE AS POSSIBLE,  
12 OR IMMEDIATELY RETURN TO THE SCENE OF THE ACCIDENT, AS REQUIRED  
13 BY SECTION 42-4-1601.

14           (b) THE DEPARTMENT SHALL MAKE A DETERMINATION OF THE  
15 FACTS ON THE BASIS OF THE DOCUMENTS AND AFFIDAVIT OF AN OFFICER  
16 AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, AND THIS  
17 DETERMINATION SHALL BE FINAL UNLESS A HEARING IS REQUESTED AND  
18 HELD AS PROVIDED IN SUBSECTIONS (6) AND (7) OF THIS SECTION.

19           (c) FOR PURPOSES OF THIS SECTION:

20           (I) "LICENSE" INCLUDES ANY DRIVING PRIVILEGE.

21           (II) "OFFICER" MEANS A LAW ENFORCEMENT OFFICER.

22           (2) WHENEVER AN OFFICER DETERMINES THAT A PERSON HAS  
23 VIOLATED SECTION 42-4-1601, THE OFFICER MAKING THE DETERMINATION

1 SHALL FORWARD TO THE DEPARTMENT AN AFFIDAVIT THAT INCLUDES A  
2 STATEMENT OF THE OFFICER'S PROBABLE CAUSE THAT THE PERSON  
3 COMMITTED THE VIOLATION AND A COPY OF THE CITATION AND  
4 COMPLAINT, IF ANY, FILED WITH THE COURT. THE AFFIDAVIT SHALL BE  
5 DATED, SIGNED, AND SWORN TO BY THE OFFICER UNDER PENALTY OF  
6 PERJURY, BUT NEED NOT BE NOTARIZED OR SWORN TO BEFORE ANY OTHER  
7 PERSON.

8 (3) (a) UPON RECEIPT BY THE DEPARTMENT OF THE AFFIDAVIT OF  
9 THE OFFICER AND THE RELEVANT DOCUMENTS REQUIRED BY SUBSECTION  
10 (2) OF THIS SECTION, THE DEPARTMENT SHALL MAKE THE DETERMINATION  
11 DESCRIBED IN SUBSECTION (1) OF THIS SECTION BASED UPON THE  
12 INFORMATION CONTAINED IN THE AFFIDAVIT AND THE RELEVANT  
13 DOCUMENTS. IF THE DEPARTMENT DETERMINES THAT THE PERSON IS  
14 SUBJECT TO LICENSE SUSPENSION, THE DEPARTMENT MAY ISSUE A NOTICE  
15 OF SUSPENSION IF SUCH NOTICE HAS NOT ALREADY BEEN SERVED UPON  
16 THE PERSON BY THE OFFICER IN ACCORDANCE WITH SUBSECTION (4) OF  
17 THIS SECTION.

18 (b) THE DEPARTMENT SHALL MAIL THE NOTICE OF SUSPENSION IN  
19 ACCORDANCE WITH SECTION 42-2-119 (2) TO THE PERSON AT THE  
20 LAST-KNOWN ADDRESS SHOWN ON THE DEPARTMENT'S RECORDS, IF ANY,  
21 AND TO ANY ADDRESS PROVIDED IN THE OFFICER'S AFFIDAVIT IF THAT  
22 ADDRESS DIFFERS FROM THE ADDRESS OF RECORD. THE NOTICE IS DEEMED  
23 RECEIVED THREE DAYS AFTER MAILING.

24 (c) THE NOTICE OF SUSPENSION MUST CLEARLY SPECIFY THE  
25 REASON AND STATUTORY GROUNDS FOR THE SUSPENSION, THE EFFECTIVE  
26 DATE OF THE SUSPENSION, THE RIGHT OF THE PERSON TO REQUEST A  
27 HEARING, THE PROCEDURE FOR REQUESTING A HEARING, AND THE DATE BY

1 WHICH THAT REQUEST FOR A HEARING MUST BE MADE.

2 (d) IF THE DEPARTMENT DETERMINES THAT THE PERSON IS NOT  
3 SUBJECT TO LICENSE SUSPENSION:

4 (I) THE DEPARTMENT SHALL NOTIFY THE PERSON OF ITS  
5 DETERMINATION AND SHALL RESCIND ANY ORDER OF SUSPENSION SERVED  
6 UPON THE PERSON BY THE OFFICER;

7 (II) IF THE PERSON'S LICENSE WAS CONFISCATED BY AN OFFICER  
8 UNDER SUBSECTION (4) OF THIS SECTION, THE PERSON MAY OBTAIN THE  
9 LICENSE BY THE PAYMENT OF A FEE TO THE DEPARTMENT PURSUANT TO  
10 SUBSECTION (5)(b) OF THIS SECTION. THE DEPARTMENT SHALL DETERMINE  
11 THE FEE IN ACCORDANCE WITH SECTION 42-2-114.5.

12 (4) (a) IF AN OFFICER DETERMINES THAT A PERSON HAS VIOLATED  
13 SECTION 42-4-1601, THE OFFICER, ACTING ON BEHALF OF THE  
14 DEPARTMENT, MAY SERVE THE NOTICE OF SUSPENSION PERSONALLY ON  
15 THE PERSON. IF THE LAW ENFORCEMENT OFFICER SERVES THE NOTICE OF  
16 SUSPENSION, THE OFFICER SHALL CONFISCATE ANY DRIVER'S LICENSE  
17 ISSUED BY THIS STATE OR ANY OTHER STATE THAT IS HELD BY THE PERSON.  
18 WHEN THE OFFICER TAKES POSSESSION OF A VALID LICENSE, THE OFFICER,  
19 ACTING ON BEHALF OF THE DEPARTMENT, SHALL ISSUE A TEMPORARY  
20 PERMIT THAT IS VALID FOR SEVEN DAYS AFTER ITS DATE OF ISSUANCE.

21 (b) THE OFFICER SHALL FORWARD A COPY OF THE COMPLETED  
22 NOTICE OF SUSPENSION FORM, A COPY OF ANY COMPLETED TEMPORARY  
23 PERMIT FORM, AND ANY DRIVER'S, MINOR DRIVER'S, OR TEMPORARY  
24 DRIVER'S LICENSE OR ANY INSTRUCTION PERMIT TAKEN INTO POSSESSION  
25 UNDER THIS SECTION ALONG WITH THE AFFIDAVIT AND DOCUMENTS  
26 REQUIRED IN SUBSECTIONS (1) AND (2) OF THIS SECTION.

27 (c) THE DEPARTMENT SHALL PROVIDE FORMS FOR NOTICE OF

1 SUSPENSION AND FOR TEMPORARY PERMITS TO LAW ENFORCEMENT  
2 AGENCIES. THE DEPARTMENT SHALL ESTABLISH A FORMAT FOR THE  
3 AFFIDAVITS REQUIRED BY THIS SECTION AND SHALL GIVE NOTICE OF SUCH  
4 FORMAT TO ALL LAW ENFORCEMENT AGENCIES THAT SUBMIT AFFIDAVITS  
5 TO THE DEPARTMENT. LAW ENFORCEMENT AGENCIES SHALL FOLLOW THE  
6 FORMAT DETERMINED BY THE DEPARTMENT.

7 (d) A TEMPORARY PERMIT SHALL NOT BE ISSUED TO ANY PERSON  
8 WHO IS ALREADY DRIVING WITH A TEMPORARY PERMIT ISSUED PURSUANT  
9 TO SUBSECTION (4)(a) OF THIS SECTION.

10 (5) (a) A LICENSE SUSPENSION IS EFFECTIVE SEVEN DAYS AFTER  
11 THE SUBJECT PERSON HAS RECEIVED THE NOTICE OF SUSPENSION AS  
12 PROVIDED IN SUBSECTION (4) OF THIS SECTION OR IS DEEMED TO HAVE  
13 RECEIVED THE NOTICE OF SUSPENSION BY MAIL AS PROVIDED IN  
14 SUBSECTION (3) OF THIS SECTION. IF A WRITTEN REQUEST FOR A HEARING  
15 IS RECEIVED BY THE DEPARTMENT WITHIN THAT SAME SEVEN-DAY PERIOD,  
16 THE EFFECTIVE DATE OF THE SUSPENSION IS STAYED UNTIL A FINAL ORDER  
17 IS ISSUED FOLLOWING THE HEARING; EXCEPT THAT ANY DELAY IN THE  
18 HEARING THAT IS CAUSED OR REQUESTED BY THE SUBJECT PERSON OR  
19 COUNSEL REPRESENTING THAT PERSON SHALL NOT RESULT IN A STAY OF  
20 THE SUSPENSION DURING THE PERIOD OF DELAY.

21 (b) THE PERIOD OF LICENSE SUSPENSION UNDER SUBSECTION (1)(a)  
22 OF THIS SECTION IS ONE YEAR. AFTER THE SUSPENSION PERIOD IS  
23 COMPLETE, THE PERSON MAY HAVE HIS OR HER DRIVER'S LICENSE  
24 RESTORED BY PAYING THE REQUIRED RESTORATION FEE PURSUANT TO  
25 SECTION 42-2-132 (4).

26 (6) (a) ANY PERSON WHO HAS RECEIVED A NOTICE OF SUSPENSION  
27 MAY MAKE A WRITTEN REQUEST FOR A REVIEW OF THE DEPARTMENT'S

1 DETERMINATION AT A HEARING. THE REQUEST MAY BE MADE ON A FORM  
2 AVAILABLE AT EACH OFFICE OF THE DEPARTMENT.

3 (b) THE REQUEST FOR A HEARING MUST BE MADE IN WRITING  
4 WITHIN SEVEN DAYS AFTER THE DAY THE PERSON RECEIVED THE NOTICE  
5 OF SUSPENSION AS PROVIDED IN SUBSECTION (4) OF THIS SECTION OR IS  
6 DEEMED TO HAVE RECEIVED THE NOTICE BY MAIL AS PROVIDED IN  
7 SUBSECTION (3) OF THIS SECTION. IF WRITTEN REQUEST FOR A HEARING IS  
8 NOT RECEIVED WITHIN THE SEVEN-DAY PERIOD, THE RIGHT TO A HEARING  
9 IS WAIVED, AND THE DETERMINATION OF THE DEPARTMENT THAT IS BASED  
10 UPON THE DOCUMENTS AND AFFIDAVIT REQUIRED BY SUBSECTIONS (1)  
11 AND (2) OF THIS SECTION BECOMES FINAL.

12 (c) AT THE TIME THAT A PERSON REQUESTS A HEARING, THE  
13 DEPARTMENT SHALL PROVIDE TO THE PERSON WRITTEN NOTICE ADVISING  
14 THE PERSON:

15 (I) OF THE RIGHT TO SUBPOENA THE LAW ENFORCEMENT OFFICER  
16 FOR THE HEARING AND THAT THE SUBPOENA MUST BE SERVED UPON THE  
17 LAW ENFORCEMENT OFFICER AT LEAST FIVE CALENDAR DAYS PRIOR TO THE  
18 HEARING;

19 (II) OF THE PERSON'S RIGHT TO NOTIFY THE DEPARTMENT IN  
20 WRITING THAT THE PERSON DESIRES THE LAW ENFORCEMENT OFFICER'S  
21 PRESENCE AT THE HEARING AND THAT, UPON RECEIVING THE  
22 NOTIFICATION, THE DEPARTMENT SHALL ISSUE A WRITTEN NOTICE FOR THE  
23 LAW ENFORCEMENT OFFICER TO APPEAR AT THE HEARING;

24 (III) THAT, IF THE LAW ENFORCEMENT OFFICER IS NOT REQUIRED  
25 TO APPEAR AT THE HEARING, DOCUMENTS AND AN AFFIDAVIT PREPARED  
26 AND SUBMITTED BY THE LAW ENFORCEMENT OFFICER WILL BE USED AT  
27 THE HEARING; AND

1           (IV) THAT THE AFFIDAVIT AND DOCUMENTS SUBMITTED BY THE  
2 LAW ENFORCEMENT OFFICER MAY BE REVIEWED BY THE PERSON PRIOR TO  
3 THE HEARING.

4           (d) IF A WRITTEN REQUEST FOR A HEARING IS MADE AFTER  
5 EXPIRATION OF THE SEVEN-DAY PERIOD AND IS ACCOMPANIED BY THE  
6 PERSON'S VERIFIED STATEMENT EXPLAINING THE FAILURE TO MAKE A  
7 TIMELY REQUEST FOR A HEARING, THE DEPARTMENT SHALL RECEIVE AND  
8 CONSIDER THE REQUEST. IF THE DEPARTMENT FINDS THAT THE PERSON  
9 WAS UNABLE TO MAKE A TIMELY REQUEST DUE TO LACK OF ACTUAL  
10 NOTICE OF THE SUSPENSION, FACTORS OF PHYSICAL INCAPACITY SUCH AS  
11 HOSPITALIZATION, OR INCARCERATION, THE DEPARTMENT SHALL WAIVE  
12 THE PERIOD OF LIMITATION, REOPEN THE MATTER, AND GRANT THE  
13 HEARING REQUEST. IN SUCH CASE, A STAY OF THE SUSPENSION PENDING  
14 ISSUANCE OF THE FINAL ORDER FOLLOWING THE HEARING SHALL NOT BE  
15 GRANTED.

16           (e) (I) THE HEARING SHALL BE SCHEDULED TO BE HELD AS SOON AS  
17 PRACTICABLE BUT NOT MORE THAN SIXTY DAYS AFTER THE DAY THAT THE  
18 REQUEST FOR A HEARING IS RECEIVED BY THE DEPARTMENT; EXCEPT THAT,  
19 IF A HEARING IS RESCHEDULED BECAUSE OF THE UNAVAILABILITY OF A  
20 HEARING OFFICER IN ACCORDANCE WITH SUBSECTION (6)(e)(II) OF THIS  
21 SECTION, THE HEARING MAY BE RESCHEDULED MORE THAN SIXTY DAYS  
22 AFTER THE DAY THAT THE REQUEST FOR THE HEARING IS RECEIVED BY THE  
23 DEPARTMENT, AND THE DEPARTMENT SHALL CONTINUE ANY TEMPORARY  
24 DRIVING PRIVILEGES HELD BY THE PERSON WHO REQUESTED THE HEARING  
25 UNTIL THE DATE THAT SUCH HEARING IS RESCHEDULED. THE DEPARTMENT  
26 SHALL PROVIDE A WRITTEN NOTICE OF THE TIME AND PLACE OF THE  
27 HEARING TO THE PERSON WHO REQUESTED THE HEARING IN THE MANNER

1 PROVIDED IN SECTION 42-2-119 (2) AT LEAST TEN DAYS BEFORE THE  
2 SCHEDULED OR RESCHEDULED HEARING UNLESS THE PARTIES AGREE TO  
3 WAIVE THIS REQUIREMENT. NOTWITHSTANDING SECTION 42-2-119, THE  
4 LAST-KNOWN ADDRESS OF THE PERSON WHO REQUESTED THE HEARING FOR  
5 PURPOSES OF NOTICE FOR ANY HEARING PURSUANT TO THIS SECTION IS THE  
6 ADDRESS STATED ON THE HEARING REQUEST FORM.

7 (II) IF A HEARING OFFICER CANNOT APPEAR AT ANY ORIGINAL OR  
8 RESCHEDULED HEARING BECAUSE OF MEDICAL REASONS, A CONFLICTING  
9 OBLIGATION TO CONDUCT ANOTHER ADMINISTRATIVE HEARING, OR ANY  
10 OTHER LEGITIMATE JUST CAUSE, THE HEARING OFFICER OR THE  
11 DEPARTMENT MAY RESCHEDULE THE HEARING AT THE EARLIEST POSSIBLE  
12 TIME WHEN THE HEARING OFFICER WILL BE AVAILABLE.

13 (f) IF A HEARING IS HELD PURSUANT TO THIS SUBSECTION (6), THE  
14 DEPARTMENT SHALL REVIEW THE MATTER AND MAKE A FINAL  
15 DETERMINATION ON THE BASIS OF THE DOCUMENTS AND AFFIDAVIT  
16 SUBMITTED TO THE DEPARTMENT PURSUANT TO SUBSECTIONS (1) AND (2)  
17 OF THIS SECTION. THE OFFICER WHO SUBMITTED THE AFFIDAVIT NEED NOT  
18 BE PRESENT AT THE HEARING UNLESS REQUESTED IN ACCORDANCE WITH  
19 SUBSECTION (6)(c) OF THIS SECTION. THE DEPARTMENT SHALL CONSIDER  
20 ALL OTHER RELEVANT EVIDENCE AT THE HEARING, INCLUDING THE  
21 REPORTS OF OTHER OFFICERS THAT ARE SUBMITTED TO THE DEPARTMENT.  
22 THE REPORTS OF OTHER OFFICERS ARE NOT REQUIRED TO BE MADE UNDER  
23 OATH, BUT EACH SUCH REPORT MUST IDENTIFY THE OFFICER MAKING THE  
24 REPORT. THE DEPARTMENT MAY CONSIDER EVIDENCE CONTAINED IN  
25 AFFIDAVITS FROM PERSONS OTHER THAN THE PERSON REQUESTING THE  
26 HEARING, SO LONG AS EACH SUCH AFFIDAVIT INCLUDES THE AFFIANT'S  
27 HOME OR WORK ADDRESS AND TELEPHONE NUMBER AND IS DATED,



1 SIGNED, AND SWORN TO BY THE AFFIANT UNDER PENALTY OF PERJURY.  
2 THE AFFIDAVIT NEED NOT BE NOTARIZED OR SWORN TO BEFORE ANY  
3 OTHER PERSON. THE PERSON REQUESTING THE HEARING MUST PRESENT  
4 EVIDENCE IN PERSON.

5 (7) (a) THE HEARING SHALL BE HELD IN THE DISTRICT OFFICE OF  
6 THE DEPARTMENT CLOSEST TO THE RESIDENCE OF THE PERSON; EXCEPT  
7 THAT ALL OR PART OF THE HEARING MAY, AT THE DISCRETION OF THE  
8 DEPARTMENT, BE CONDUCTED BY TELEPHONE OR OTHER ELECTRONIC  
9 MEANS, IN REAL TIME, IN ACCORDANCE WITH SECTION 42-1-218.5.

10 (b) THE PRESIDING HEARING OFFICER SHALL BE THE EXECUTIVE  
11 DIRECTOR OF THE DEPARTMENT OR AN AUTHORIZED REPRESENTATIVE  
12 DESIGNATED BY THE EXECUTIVE DIRECTOR. THE PRESIDING HEARING  
13 OFFICER MAY ADMINISTER OATHS AND AFFIRMATIONS; CONSIDER THE  
14 AFFIDAVIT OF THE OFFICER FILING SUCH AFFIDAVIT AS SPECIFIED IN  
15 SUBSECTION (2) OF THIS SECTION; CONSIDER OTHER OFFICERS' REPORTS  
16 SUBMITTED TO THE DEPARTMENT PURSUANT TO SUBSECTION (6)(f) OF THIS  
17 SECTION; EXAMINE AND CONSIDER DOCUMENTS AND COPIES OF  
18 DOCUMENTS CONTAINING RELEVANT EVIDENCE; CONSIDER OTHER  
19 AFFIDAVITS SUBMITTED PURSUANT TO SUBSECTION (6)(f) OF THIS SECTION;  
20 TAKE JUDICIAL NOTICE AS DEFINED BY RULE 201 OF ARTICLE II OF THE  
21 COLORADO RULES OF EVIDENCE, SUBJECT TO SECTION 24-4-105 (8),  
22 INCLUDING JUDICIAL NOTICE OF GENERAL, TECHNICAL, OR SCIENTIFIC  
23 FACTS WITHIN THE HEARING OFFICER'S KNOWLEDGE; COMPEL WITNESSES  
24 TO TESTIFY OR PRODUCE BOOKS, RECORDS, OR OTHER EVIDENCE; EXAMINE  
25 WITNESSES AND TAKE TESTIMONY; RECEIVE AND CONSIDER ANY RELEVANT  
26 EVIDENCE NECESSARY TO PROPERLY PERFORM THE HEARING OFFICER'S  
27 DUTIES AS REQUIRED BY THIS SECTION; ISSUE SUBPOENAS DUCES TECUM

1 TO PRODUCE BOOKS, DOCUMENTS, RECORDS, OR OTHER EVIDENCE; ISSUE  
2 SUBPOENAS FOR THE ATTENDANCE OF WITNESSES; TAKE DEPOSITIONS, OR  
3 CAUSE DEPOSITIONS OR INTERROGATORIES TO BE TAKEN; REGULATE THE  
4 COURSE AND CONDUCT OF THE HEARING; AND MAKE A FINAL RULING ON  
5 THE ISSUES.

6 (c) (I) WHEN A LICENSE IS SUSPENDED UNDER SUBSECTION (1)(a)  
7 OF THIS SECTION, THE SOLE ISSUE AT THE HEARING SHALL BE WHETHER,  
8 BASED ON A PREPONDERANCE OF THE EVIDENCE, THE PERSON WAS THE  
9 DRIVER OF A VEHICLE DIRECTLY INVOLVED IN AN ACCIDENT RESULTING IN  
10 SERIOUS BODILY INJURY TO OR DEATH OF ANY PERSON AND FAILED TO  
11 IMMEDIATELY STOP THE VEHICLE AT THE SCENE OF THE ACCIDENT, OR AS  
12 CLOSE TO THE SCENE AS POSSIBLE, OR IMMEDIATELY RETURN TO THE  
13 SCENE OF THE ACCIDENT AS REQUIRED BY SECTION 42-4-1601. IF THE  
14 PRESIDING HEARING OFFICER FINDS IN THE AFFIRMATIVE ON THAT ISSUE,  
15 THE SUSPENSION ORDER SHALL BE SUSTAINED. IF THE PRESIDING HEARING  
16 OFFICER FINDS IN THE NEGATIVE ON THAT ISSUE, THE SUSPENSION ORDER  
17 SHALL BE RESCINDED.

18 (II) THE PRESIDING HEARING OFFICER SHALL NOT CONSIDER ANY  
19 ISSUE NOT SPECIFIED IN THIS SUBSECTION (7)(c).

20 (d) THE HEARING SHALL BE RECORDED. THE PRESIDING HEARING  
21 OFFICER SHALL RENDER AN OPINION IN WRITING, AND A COPY SHALL BE  
22 PROVIDED TO THE PERSON WHO REQUESTED THE HEARING.

23 (e) IF THE PERSON WHO REQUESTED THE HEARING FAILS TO APPEAR  
24 WITHOUT JUST CAUSE, THE RIGHT TO A HEARING IS WAIVED, AND THE  
25 DETERMINATION OF THE DEPARTMENT BASED UPON THE DOCUMENTS AND  
26 AFFIDAVIT REQUIRED IN SUBSECTIONS (1) AND (2) OF THIS SECTION IS  
27 FINAL.

1           (8) (a) WITHIN THIRTY-FIVE DAYS AFTER THE ISSUANCE OF THE  
2 FINAL DETERMINATION OF THE DEPARTMENT UNDER THIS SECTION, A  
3 PERSON AGGRIEVED BY THE DETERMINATION HAS THE RIGHT TO FILE A  
4 PETITION FOR JUDICIAL REVIEW IN THE DISTRICT COURT IN THE COUNTY OF  
5 THE PERSON'S RESIDENCE.

6           (b) JUDICIAL REVIEW SHALL BE BASED ON THE RECORD WITHOUT  
7 TAKING ADDITIONAL TESTIMONY. IF THE COURT FINDS THAT THE  
8 DEPARTMENT EXCEEDED ITS CONSTITUTIONAL OR STATUTORY AUTHORITY,  
9 MADE AN ERRONEOUS INTERPRETATION OF THE LAW, ACTED IN AN  
10 ARBITRARY AND CAPRICIOUS MANNER, OR MADE A DETERMINATION THAT  
11 IS UNSUPPORTED BY THE EVIDENCE IN THE RECORD, THE COURT MAY  
12 REVERSE THE DEPARTMENT'S DETERMINATION.

13           (c) THE FILING OF A PETITION FOR JUDICIAL REVIEW DOES NOT  
14 RESULT IN AN AUTOMATIC STAY OF THE SUSPENSION ORDER. THE COURT  
15 MAY GRANT A STAY OF THE ORDER ONLY UPON MOTION AND HEARING AND  
16 UPON A FINDING THAT THERE IS A REASONABLE PROBABILITY THAT THE  
17 PERSON WILL PREVAIL ON THE MERITS AND THAT THE PERSON WILL SUFFER  
18 IRREPARABLE HARM IF THE ORDER IS NOT STAYED.

19           (9) THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF  
20 TITLE 24, APPLIES TO THIS SECTION TO THE EXTENT IT IS CONSISTENT WITH  
21 SUBSECTIONS (6), (7), AND (8) OF THIS SECTION RELATING TO  
22 ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW.

23           **SECTION 2.** In Colorado Revised Statutes, 42-4-1601, **amend**  
24 (3) as follows:

25           **42-4-1601. Accidents involving death or personal injuries -**  
26 **duties.** (3) The department shall revoke the driver's license of the person  
27 so convicted. A REVOCATION PURSUANT TO THIS SUBSECTION (3) RUNS

1 CONCURRENTLY WITH ANY SUSPENSION IMPOSED PURSUANT TO SECTION  
2 42-2-127.9, IF IMPOSED AS A RESULT OF THE SAME EPISODE OF DRIVING.

3 **SECTION 3. Act subject to petition - effective date -**  
4 **applicability.** (1) This act takes effect January 1, 2018; except that, if a  
5 referendum petition is filed pursuant to section 1 (3) of article V of the  
6 state constitution against this act or an item, section, or part of this act  
7 within the ninety-day period after final adjournment of the general  
8 assembly, then the act, item, section, or part will not take effect unless  
9 approved by the people at the general election to be held in November  
10 2018 and, in such case, will take effect on the date of the official  
11 declaration of the vote thereon by the governor.

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