

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

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  
Finance  
Appropriations

**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.*

HOUSE  
3rd Reading Unamended  
May 3, 2017

HOUSE  
Amended 2nd Reading  
May 2, 2017

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. A PERSON WHO HAS  
3 RECEIVED A NOTICE OF SUSPENSION MAY ALSO REQUEST A HEARING FOR  
4 A PROBATIONARY LICENSE ISSUED IN ACCORDANCE WITH SUBSECTION (9)  
5 OF THIS SECTION.

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

15 (c) AT THE TIME THAT A PERSON REQUESTS A HEARING, THE  
16 DEPARTMENT SHALL PROVIDE TO THE PERSON WRITTEN NOTICE ADVISING  
17 THE PERSON:

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

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

27 (III) THAT, IF THE LAW ENFORCEMENT OFFICER IS NOT REQUIRED

1 TO APPEAR AT THE HEARING, DOCUMENTS AND AN AFFIDAVIT PREPARED  
2 AND SUBMITTED BY THE LAW ENFORCEMENT OFFICER WILL BE USED AT  
3 THE HEARING; AND

4 (IV) THAT THE AFFIDAVIT AND DOCUMENTS SUBMITTED BY THE  
5 LAW ENFORCEMENT OFFICER MAY BE REVIEWED BY THE PERSON PRIOR TO  
6 THE HEARING.

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

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

1 UNTIL THE DATE THAT SUCH HEARING IS RESCHEDULED. THE DEPARTMENT  
2 SHALL PROVIDE A WRITTEN NOTICE OF THE TIME AND PLACE OF THE  
3 HEARING TO THE PERSON WHO REQUESTED THE HEARING IN THE MANNER  
4 PROVIDED IN SECTION 42-2-119 (2) AT LEAST TEN DAYS BEFORE THE  
5 SCHEDULED OR RESCHEDULED HEARING UNLESS THE PARTIES AGREE TO  
6 WAIVE THIS REQUIREMENT. NOTWITHSTANDING SECTION 42-2-119, THE  
7 LAST-KNOWN ADDRESS OF THE PERSON WHO REQUESTED THE HEARING FOR  
8 PURPOSES OF NOTICE FOR ANY HEARING PURSUANT TO THIS SECTION IS THE  
9 ADDRESS STATED ON THE HEARING REQUEST FORM.

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

16 (f) IF A HEARING IS HELD PURSUANT TO THIS SUBSECTION (6), THE  
17 DEPARTMENT SHALL REVIEW THE MATTER AND MAKE A FINAL  
18 DETERMINATION ON THE BASIS OF THE DOCUMENTS AND AFFIDAVIT  
19 SUBMITTED TO THE DEPARTMENT PURSUANT TO SUBSECTIONS (1) AND (2)  
20 OF THIS SECTION. THE OFFICER WHO SUBMITTED THE AFFIDAVIT NEED NOT  
21 BE PRESENT AT THE HEARING UNLESS REQUESTED IN ACCORDANCE WITH  
22 SUBSECTION (6)(c) OF THIS SECTION. THE DEPARTMENT SHALL CONSIDER  
23 ALL OTHER RELEVANT EVIDENCE AT THE HEARING, INCLUDING THE  
24 REPORTS OF OTHER OFFICERS THAT ARE SUBMITTED TO THE DEPARTMENT.  
25 THE REPORTS OF OTHER OFFICERS ARE NOT REQUIRED TO BE MADE UNDER  
26 OATH, BUT EACH SUCH REPORT MUST IDENTIFY THE OFFICER MAKING THE  
27 REPORT. THE DEPARTMENT MAY CONSIDER EVIDENCE CONTAINED IN



1 AFFIDAVITS FROM PERSONS OTHER THAN THE PERSON REQUESTING THE  
2 HEARING, SO LONG AS EACH SUCH AFFIDAVIT INCLUDES THE AFFIANT'S  
3 HOME OR WORK ADDRESS AND TELEPHONE NUMBER AND IS DATED,  
4 SIGNED, AND SWORN TO BY THE AFFIANT UNDER PENALTY OF PERJURY.  
5 THE AFFIDAVIT NEED NOT BE NOTARIZED OR SWORN TO BEFORE ANY  
6 OTHER PERSON. THE PERSON REQUESTING THE HEARING MUST PRESENT  
7 EVIDENCE IN PERSON.

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

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

1 WITNESSES AND TAKE TESTIMONY; RECEIVE AND CONSIDER ANY RELEVANT  
2 EVIDENCE NECESSARY TO PROPERLY PERFORM THE HEARING OFFICER'S  
3 DUTIES AS REQUIRED BY THIS SECTION; ISSUE SUBPOENAS DUCES TECUM  
4 TO PRODUCE BOOKS, DOCUMENTS, RECORDS, OR OTHER EVIDENCE; ISSUE  
5 SUBPOENAS FOR THE ATTENDANCE OF WITNESSES; TAKE DEPOSITIONS, OR  
6 CAUSE DEPOSITIONS OR INTERROGATORIES TO BE TAKEN; REGULATE THE  
7 COURSE AND CONDUCT OF THE HEARING; AND MAKE A FINAL RULING ON  
8 THE ISSUES.

9 (c) (I) WHEN A LICENSE IS SUSPENDED UNDER SUBSECTION (1)(a)  
10 OF THIS SECTION, THE SOLE ISSUE AT THE HEARING SHALL BE WHETHER,  
11 BASED ON A PREPONDERANCE OF THE EVIDENCE, THE PERSON WAS THE  
12 DRIVER OF A VEHICLE DIRECTLY INVOLVED IN AN ACCIDENT RESULTING IN  
13 SERIOUS BODILY INJURY TO OR DEATH OF ANY PERSON AND FAILED TO  
14 IMMEDIATELY STOP THE VEHICLE AT THE SCENE OF THE ACCIDENT, OR AS  
15 CLOSE TO THE SCENE AS POSSIBLE, OR IMMEDIATELY RETURN TO THE  
16 SCENE OF THE ACCIDENT AS REQUIRED BY SECTION 42-4-1601. IF THE  
17 PRESIDING HEARING OFFICER FINDS IN THE AFFIRMATIVE ON THAT ISSUE,  
18 THE SUSPENSION ORDER SHALL BE SUSTAINED AND THE PRESIDING  
19 HEARING OFFICER SHALL THEN CONSIDER WHETHER OR NOT TO ISSUE A  
20 PROBATIONARY LICENSE IN ACCORDANCE WITH SUBSECTION (9) OF THIS  
21 SECTION. IF THE PRESIDING HEARING OFFICER FINDS IN THE NEGATIVE ON  
22 THAT ISSUE, THE SUSPENSION ORDER SHALL BE RESCINDED.

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

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

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

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

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

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

24 (9) A PRESIDING HEARING OFFICER MAY ISSUE A PROBATIONARY  
25 LICENSE FOR A PERIOD NOT TO EXCEED THE PERIOD OF SUSPENSION FOR  
26 THE PURPOSE OF DRIVING FOR REASONS OF EMPLOYMENT, EDUCATION,  
27 HEALTH, OR OTHER NECESSITIES AS DETERMINED BY THE PRESIDING

1 HEARING OFFICER, WHICH LICENSE MAY CONTAIN SUCH RESTRICTIONS AS  
2 THE DEPARTMENT DEEMS REASONABLE AND NECESSARY AND WHICH MAY  
3 THEREAFTER BE SUBJECT TO CANCELLATION AS A RESULT OF ANY  
4 VIOLATION OF THE RESTRICTIONS IMPOSED THEREIN. THE PRESIDING  
5 HEARING OFFICER MAY REFUSE TO ISSUE A PROBATIONARY LICENSE IF THE  
6 DEPARTMENT FINDS THAT AGGRAVATING CIRCUMSTANCES EXIST TO  
7 INDICATE THE INDIVIDUAL IS UNSAFE FOR DRIVING FOR ANY PURPOSE. IN  
8 REFUSING TO ISSUE A PROBATIONARY LICENSE, THE DEPARTMENT SHALL  
9 MAKE SPECIFIC FINDINGS OF FACT TO SUPPORT SUCH REFUSAL. SUCH  
10 AGGRAVATING CIRCUMSTANCES MUST BE MATTERS OTHER THAN THE  
11 FACTS AND CIRCUMSTANCES OF THE CASE GIVING RISE TO SUSPENSION  
12 UNDER THIS SECTION.

13 (10) THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4  
14 OF TITLE 24, APPLIES TO THIS SECTION TO THE EXTENT IT IS CONSISTENT  
15 WITH SUBSECTIONS (6), (7), AND (8) OF THIS SECTION RELATING TO  
16 ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW.

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

19 **42-4-1601. Accidents involving death or personal injuries -**  
20 **duties.** (3) The department shall revoke the driver's license of the person  
21 so convicted. A REVOCATION PURSUANT TO THIS SUBSECTION (3) RUNS  
22 CONCURRENTLY WITH ANY SUSPENSION IMPOSED PURSUANT TO SECTION  
23 42-2-127.9, IF IMPOSED AS A RESULT OF THE SAME EPISODE OF DRIVING.

24 **SECTION 3. No appropriation.** The general assembly has  
25 determined that this act can be implemented within existing  
26 appropriations, and therefore no separate appropriation of state money is  
27 necessary to carry out the purposes of this act.

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