

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 17-0696.01 Yelana Love x2295

HOUSE BILL 17-1277

HOUSE SPONSORSHIP

Mitsch Bush,

SENATE SPONSORSHIP

Martinez Humenik,

House Committees

Judiciary
Finance
Appropriations

Senate Committees

Finance
Appropriations

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.**

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.

SENATE
3rd Reading Unamended
May 10, 2017

SENATE
2nd Reading Unamended
May 9, 2017

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.

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.