

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-1090.01 Richard Sweetman x4333

HOUSE BILL 17-1315

HOUSE SPONSORSHIP

Singer and Lawrence,

SENATE SPONSORSHIP

(None),

House Committees

Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ACQUISITION OF DATA TO ANALYZE THE TYPES OF
102 DUI OFFENSES BEING COMMITTED BY OFFENDERS.

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>.)

The bill requires the division of criminal justice (division) within the department of public safety (department) to produce a report on or before December 1, 2017, and on or before December 1 each year thereafter, that includes, to the extent possible, certain data relating to substance-affected driving citations that occurred in the previous year.

For the purpose of producing the report, the division shall collect

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.

certain data from:

- ! The state judicial branch;
- ! Forensic toxicology laboratories;
- ! The department of public health and environment; and
- ! The division of probation services.

The bill creates a \$10 surcharge for persons convicted of substance-affected driving. Money collected as such surcharges must be deposited in the substance-affected driving data-analysis cash fund, which is created in the bill.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-33.5-520 as
3 follows:

4 **24-33.5-520. Study on drugged driving - substance-affected**
5 **driving data-analysis cash fund created - report - definitions.** (1) ON
6 OR BEFORE DECEMBER 1, 2017, AND ON OR BEFORE DECEMBER 1 EACH
7 YEAR THEREAFTER, THE DIVISION SHALL SUBMIT A REPORT TO THE
8 JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE,
9 OR TO ANY SUCCESSOR COMMITTEES, THAT INCLUDES, TO THE EXTENT
10 POSSIBLE, THE FOLLOWING INFORMATION:

11 (a) THE TOTAL NUMBER OF CITATIONS MADE FOR SUSPECTED
12 SUBSTANCE-AFFECTED DRIVING VIOLATIONS DURING THE PREVIOUS
13 CALENDAR YEAR;

14 (b) OF THE TOTAL NUMBER OF CITATIONS MADE FOR SUSPECTED
15 SUBSTANCE-AFFECTED DRIVING DURING THE PREVIOUS CALENDAR YEAR,
16 THE TOTAL NUMBER OF SUCH CITATIONS THAT RESULTED IN THE FILING OF
17 A SUBSTANCE-AFFECTED DRIVING CHARGE AGAINST THE DRIVER,
18 INCLUDING AN INDICATION OF HOW MANY SUCH CASES INVOLVED
19 ALCOHOL, ONE OR MORE DRUGS, OR A COMBINATION OF ALCOHOL AND ONE
20 OR MORE DRUGS;

1 (c) OF THE FILED CASES, HOW MANY RESULTED IN AT LEAST ONE
2 CONVICTION FOR SUBSTANCE-AFFECTED DRIVING;

3 (d) OF THE CASES THAT RESULTED IN AT LEAST ONE CONVICTION
4 FOR SUBSTANCE-AFFECTED DRIVING, AND FOR WHICH EVIDENTIARY TEST
5 RESULTS ARE AVAILABLE, WHICH DRUGS, INCLUDING ALCOHOL, OR
6 COMBINATION OF DRUGS WERE PRESENT IN THE DEFENDANTS' BODIES,
7 AND, FOR ALCOHOL AND MARIJUANA, THE LABORATORY VALUES;

8 (e) THE TOTAL NUMBER OF DUI AND DWAI CASES DURING THE
9 PREVIOUS YEAR THAT INVOLVED:

- 10 (I) ALCOHOL;
- 11 (II) MARIJUANA;
- 12 (III) SCHEDULE I DRUGS, AS DESCRIBED IN SECTION 18-18-203,
13 OTHER THAN MARIJUANA; OR
- 14 (IV) OTHER DRUGS; AND

15 (f) FOR THOSE CASES IN WHICH EVIDENTIARY TEST RESULTS ARE
16 AVAILABLE, FOR EACH TYPE OF BIOLOGICAL SAMPLE TAKEN, THE TIME
17 THAT ELAPSED BETWEEN THE TIME THAT EACH TRAFFIC STOP OR TRAFFIC
18 INCIDENT OCCURRED AND THE TIME AT WHICH THE BIOLOGICAL SAMPLE
19 WAS TAKEN.

20 (2) (a) FOR THE PURPOSE OF PRODUCING THE REPORT DESCRIBED
21 IN SUBSECTION (1) OF THIS SECTION, THE DIVISION SHALL COLLECT AND
22 ANALYZE SUBSTANCE-AFFECTED DRIVING VIOLATION DATA AS FOLLOWS:

- 23 (I) FROM THE STATE JUDICIAL BRANCH, THE DIVISION SHALL
24 COLLECT CASE-IDENTIFIER DATA, EVENT DATA, FILING DATES, DATA
25 IDENTIFYING LAW ENFORCEMENT AGENCIES, DEMOGRAPHIC DATA
26 RELATING TO EACH DEFENDANT, DATA INDICATING THE CAUSE OF EACH
27 SUBSTANCE-AFFECTED DRIVING CITATION, COURT FINDINGS, AND

1 SENTENCES;

2 (II) FROM FORENSIC TOXICOLOGY LABORATORIES, THE DIVISION,
3 TO THE EXTENT POSSIBLE, SHALL COLLECT CASE-IDENTIFIER DATA, EVENT
4 DATES AND TIMES, COLLECTION DATES AND TIMES, AND CONFIRMATORY
5 LABORATORY VALUES SPECIFYING THE NAME OF EACH DRUG THAT WAS
6 CONFIRMED AND ITS LABORATORY VALUE;

7 (III) FROM THE DEPARTMENT OF PUBLIC HEALTH AND
8 ENVIRONMENT, THE DIVISION SHALL COLLECT EVIDENTIARY BREATH
9 ALCOHOL TEST RESULTS, INCLUDING CASE-IDENTIFIER DATA, EVENT DATES
10 AND TIMES, AND THE RESULTS OBTAINED ON EVIDENTIARY BREATH
11 ALCOHOL TESTING DEVICES CERTIFIED BY THE DEPARTMENT OF PUBLIC
12 HEALTH AND ENVIRONMENT; AND

13 (IV) FROM THE DIVISION OF PROBATION SERVICES, THE DIVISION
14 SHALL COLLECT CASE-IDENTIFIER DATA AND, TO THE EXTENT POSSIBLE,
15 DATA CONCERNING THE CLASSES AND TYPES OF DRUGS THAT WERE
16 INVOLVED IN EACH SUBSTANCE-AFFECTED DRIVING INCIDENT.

17 (b) THE DATABASE COMPILED BY THE DIVISION CONTAINING
18 PERSONAL IDENTIFYING INFORMATION RELATING TO THE TEST RESULTS OF
19 PERSONS' BIOLOGICAL SAMPLES, AND ALL PERSONAL IDENTIFYING
20 INFORMATION THEREOF, ARE NOT PUBLIC INFORMATION AND ARE NOT
21 SUBJECT TO THE PROVISIONS OF THE "COLORADO OPEN RECORDS ACT",
22 PART 2 OF ARTICLE 72 OF THIS TITLE 24. THE DIVISION SHALL DISCLOSE
23 INFORMATION ONLY BY MEANS OF THE REPORT DESCRIBED IN SUBSECTION
24 (1) OF THIS SECTION, WHICH MUST NOT INCLUDE ANY PERSONAL
25 IDENTIFYING INFORMATION.

26 (3) A PUBLIC OR PRIVATE LABORATORY CARRYING OUT ANALYSIS
27 OF EVIDENTIARY SAMPLES THAT WERE TAKEN BY A LAW ENFORCEMENT

1 AGENCY AND SUBMITTED TO THE LABORATORY PURSUANT TO SECTION
2 42-4-1301.1 SHALL COLLECT AND SHARE TEST RESULTS WITH THE DIVISION
3 FOR THE PURPOSES OF THIS SECTION. THE DIVISION SHALL NOT DISCLOSE
4 ANY PERSONAL IDENTIFYING INFORMATION THAT IS INCLUDED IN SUCH
5 TEST RESULTS.

6 (4) (a) THERE IS CREATED IN THE STATE TREASURY THE
7 SUBSTANCE-AFFECTED DRIVING DATA-ANALYSIS CASH FUND, REFERRED
8 TO IN THIS SECTION AS THE "FUND", TO INCLUDE MONEY COLLECTED FROM
9 SURCHARGES ASSESSED PURSUANT TO SECTION 42-4-1307 (10)(e) AND
10 ANY MONEY CREDITED TO THE FUND PURSUANT TO SUBSECTION (4)(b) OF
11 THIS SECTION. THE MONEY IN THE FUND IS SUBJECT TO ANNUAL
12 APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DIVISION FOR THE
13 PURPOSE DESCRIBED IN SUBSECTION (1) OF THIS SECTION. ALL INTEREST
14 DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND
15 REMAINS IN THE FUND. ANY UNEXPENDED OR UNENCUMBERED MONEY
16 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE
17 FUND AND MAY NOT BE TRANSFERRED OR CREDITED TO THE GENERAL
18 FUND OR ANOTHER FUND.

19 (b) THE DIVISION MAY ACCEPT ANY GIFTS, GRANTS, OR DONATIONS
20 FROM ANY PRIVATE OR PUBLIC SOURCE ON BEHALF OF THE STATE FOR
21 PURPOSES OF THIS SECTION. THE DIVISION SHALL TRANSMIT ALL PRIVATE
22 AND PUBLIC MONEY RECEIVED THROUGH GRANTS, GIFTS, OR DONATIONS
23 TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

24 (c) THE DIVISION MAY USE MONEY IN THE FUND TO REIMBURSE
25 AND PROVIDE ADVANCE PAYMENTS TO STATE, MUNICIPAL, AND PRIVATE
26 AGENCIES AND LABORATORIES THAT APPLY TO THE DIVISION FOR PAYMENT
27 OF COSTS THEY INCUR IN COMPLYING WITH THIS SECTION.

1 (5) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT
2 DESCRIBED IN SUBSECTION (1) OF THIS SECTION IS NOT SUBJECT TO THE
3 EXPIRATION DATE DESCRIBED IN SAID SECTION 24-1-136 (11)(a)(I).

4 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT REQUIRES
5 OTHERWISE:

6 (a) "FORENSIC TOXICOLOGY LABORATORY" MEANS A FORENSIC
7 TOXICOLOGY LABORATORY THAT IS CERTIFIED BY THE DEPARTMENT OF
8 PUBLIC HEALTH AND ENVIRONMENT TO PERFORM TESTING OF SAMPLES
9 COLLECTED FROM INDIVIDUALS SUSPECTED OF DUI, DUI PER SE, OR
10 DWAI.

11 (b) "SUBSTANCE-AFFECTED DRIVING" MEANS DRIVING IN
12 VIOLATION OF SECTION 42-4-1301 (1)(a), (1)(b), OR (2)(a); SECTION
13 18-3-106 (1)(b); OR SECTION 18-3-205 (1)(b).

14 **SECTION 2.** In Colorado Revised Statutes, 42-4-1304, **amend**
15 (7) as follows:

16 **42-4-1304. Samples of blood or other bodily substance - duties**
17 **of department of public health and environment.** (7) The office of the
18 highway safety coordinator, the department, ~~and~~ the Colorado state patrol,
19 ~~shall~~ AND THE DIVISION OF CRIMINAL JUSTICE WITHIN THE DEPARTMENT OF
20 PUBLIC SAFETY have access to the results of the tests of ~~such~~ samples
21 taken as a result of a traffic crash for statistical analysis. The division of
22 parks and wildlife ~~shall have~~ HAS access to the results of the tests of ~~such~~
23 samples taken as a result of a boating accident for statistical analysis.

24 **SECTION 3.** In Colorado Revised Statutes, 42-4-1307, **add**
25 (10)(e) as follows:

26 **42-4-1307. Penalties for traffic offenses involving alcohol and**
27 **drugs - legislative declaration - definitions - repeal.** (10) **Additional**

1 **costs and surcharges.** In addition to the penalties prescribed in this
2 section:

3 (e) PERSONS CONVICTED OF DUI, DUI PER SE, DWAI, VEHICULAR
4 ASSAULT AS DESCRIBED IN SECTION 18-3-205 (1)(b), OR VEHICULAR
5 HOMICIDE AS DESCRIBED IN SECTION 18-3-106 (1)(b) SHALL PAY A
6 DATA-ANALYSIS SURCHARGE OF TEN DOLLARS TO BE TRANSMITTED TO THE
7 STATE TREASURER, WHO SHALL DEPOSIT MONEY COLLECTED FOR THE
8 SURCHARGE IN THE SUBSTANCE-AFFECTED DRIVING DATA-ANALYSIS CASH
9 FUND CREATED IN SECTION 24-33.5-520. EXCEPT IN THE CASE OF AN
10 INDIGENT DEFENDANT, THE COURT HAS NO DISCRETION TO WAIVE THIS
11 SURCHARGE.

12 **SECTION 4. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part will not take effect
19 unless approved by the people at the general election to be held in
20 November 2018 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.