

## CHAPTER 59

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**PROFESSIONS AND OCCUPATIONS**

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## SENATE BILL 21-040

BY SENATOR(S) Scott and Gonzales, Bridges, Buckner, Donovan, Fenberg, Fields, Ginal, Hansen, Hisey, Kolker, Lee, Moreno, Pettersen, Rodriguez, Simpson, Story, Winter, Garcia;  
also REPRESENTATIVE(S) Rich and Roberts, Bennett, Bird, Lontine, Michaelson Jenet, Sandridge, Weissman.

**AN ACT**

**CONCERNING THE USE OF A PERSON'S DRIVER'S HISTORY RECORD TO MAKE DECISIONS THAT CONCERN THE PRACTICE OF AN OCCUPATION.**

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

**SECTION 1.** In Colorado Revised Statutes, 12-20-102, **add** (7.5) as follows:

**12-20-102. Definitions.** As used in this title 12, unless the context otherwise requires:

(7.5) (a) "DRIVER'S HISTORY" MEANS A DRIVER'S HISTORY RECORD MADE AND MAINTAINED IN ACCORDANCE WITH SECTION 42-2-121 (2).

(b) "DRIVER'S HISTORY" DOES NOT INCLUDE A MISDEMEANOR OR FELONY CONVICTION, NOTWITHSTANDING THAT THE CONVICTION IS INCLUDED WITHIN THE DRIVER'S HISTORY RECORD MADE AND MAINTAINED IN ACCORDANCE WITH SECTION 42-2-121 (2).

**SECTION 2.** In Colorado Revised Statutes, 12-20-202, **add** (5.5) as follows:

**12-20-202. Licenses, certifications, and registrations - renewal - reinstatement - fees - occupational credential portability program - temporary authority for military spouses - definitions - exceptions for military personnel - rules - consideration of criminal convictions or driver's history - executive director authority.** (5.5) **Driver's history.** A REGULATOR SHALL NOT CONSIDER AN EVENT IN AN APPLICANT'S DRIVER'S HISTORY WHEN DETERMINING WHETHER TO ISSUE TO THE APPLICANT A NEW, RENEWAL, REACTIVATED, OR REINSTATED LICENSE, CERTIFICATION, OR REGISTRATION UNLESS:

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(a) THE EVENT IS RELEVANT TO THE PERFORMANCE OF THE PROFESSION OR OCCUPATION THAT IS THE SUBJECT OF THE APPLICATION; AND

(b) (I) THE OPERATION OF A MOTOR VEHICLE IS A DUTY OF THE PROFESSION OR OCCUPATION THAT IS THE SUBJECT OF THE APPLICATION;

(II) THE EVENT IS A PART OF A PATTERN OF BEHAVIOR THAT IS RELEVANT TO THE PERFORMANCE OF THE PROFESSION OR OCCUPATION THAT IS THE SUBJECT OF THE APPLICATION; OR

(III) THE EVENT OCCURRED WITHIN THREE YEARS BEFORE THE DATE THAT THE APPLICANT SUBMITTED THE APPLICATION TO THE REGULATOR.

**SECTION 3.** In Colorado Revised Statutes, 12-20-403, **add** (4) as follows:

**12-20-403. Disciplinary procedures - investigations - hearings - oaths - witness statements - subpoenas - appointment of administrative law judge - driver's history.** (4) (a) UNLESS SUBSECTION (4)(b) OF THIS SECTION APPLIES, A REGULATOR SHALL NOT CONSIDER AN EVENT WITHIN THE DRIVER'S HISTORY OF A LICENSEE, CERTIFICANT, OR REGISTRANT WHEN DETERMINING:

(I) WHETHER TO IMPOSE DISCIPLINE;

(II) THE TYPE OF DISCIPLINE TO IMPOSE; OR

(III) THE SEVERITY OF DISCIPLINE TO IMPOSE.

(b) A REGULATOR MAY CONSIDER AN EVENT WITHIN A DRIVER'S HISTORY IF:

(I) THE EVENT IS RELEVANT TO THE PERFORMANCE OF THE PROFESSION OR OCCUPATION FOR WHICH THE LICENSEE, CERTIFICANT, OR REGISTRANT IS LICENSED, CERTIFIED, OR REGISTERED; AND

(II) (A) THE OPERATION OF A MOTOR VEHICLE IS A DUTY OF THE PROFESSION OR OCCUPATION FOR WHICH THE LICENSEE, CERTIFICANT, OR REGISTRANT IS LICENSED, CERTIFIED, OR REGISTERED;

(B) THE EVENT IS A PART OF A PATTERN OF BEHAVIOR THAT IS RELEVANT TO THE PERFORMANCE OF THE PROFESSION OR OCCUPATION FOR WHICH THE LICENSEE, CERTIFICANT, OR REGISTRANT IS LICENSED, CERTIFIED, OR REGISTERED; OR

(C) THE EVENT OCCURRED WITHIN THREE YEARS BEFORE THE ACT UPON WHICH THE DISCIPLINE IS BASED.

**SECTION 4.** In Colorado Revised Statutes, 44-1-103, **add** (1.5) as follows:

**44-1-103. Definitions.** As used in this title 44, unless the context otherwise requires:

(1.5) (a) "DRIVER'S HISTORY" MEANS A DRIVER'S HISTORY RECORD MADE AND

MAINTAINED IN ACCORDANCE WITH SECTION 42-2-121 (2).

(b) "DRIVER'S HISTORY" DOES NOT INCLUDE A MISDEMEANOR OR FELONY CONVICTION, NOTWITHSTANDING THAT THE CONVICTION IS INCLUDED WITHIN THE DRIVER'S HISTORY RECORD MADE AND MAINTAINED IN ACCORDANCE WITH SECTION 42-2-121 (2).

**SECTION 5.** In Colorado Revised Statutes, **add 44-1-104** as follows:

**44-1-104. Use of driver's history for professional licensing, permit, or registration decisions.** (1) WHEN A PERSON APPLIES FOR A LICENSE, PERMIT, OR REGISTRATION UNDER THIS TITLE 44, THE DEPARTMENT SHALL NOT CONSIDER AN EVENT IN THE APPLICANT'S DRIVER'S HISTORY WHEN DETERMINING WHETHER TO ISSUE TO THE APPLICANT A NEW, RENEWAL, OR REINSTATED LICENSE, PERMIT, OR REGISTRATION UNLESS:

(a) THE EVENT IS RELEVANT TO THE PERFORMANCE OF THE PROFESSION OR OCCUPATION THAT IS THE SUBJECT OF THE APPLICATION; AND

(b) (I) THE OPERATION OF A MOTOR VEHICLE IS A DUTY OF THE PROFESSION OR OCCUPATION THAT IS THE SUBJECT OF THE APPLICATION;

(II) THE EVENT IS A PART OF A PATTERN OF BEHAVIOR THAT IS RELEVANT TO THE PERFORMANCE OF THE PROFESSION OR OCCUPATION THAT IS THE SUBJECT OF THE APPLICATION; OR

(III) THE EVENT OCCURRED WITHIN THREE YEARS BEFORE THE DATE THAT THE APPLICANT SUBMITTED THE APPLICATION TO THE DEPARTMENT.

(2) (a) UNLESS SUBSECTION (2)(b) OF THIS SECTION APPLIES, THE DEPARTMENT SHALL NOT CONSIDER AN EVENT WITHIN THE DRIVER'S HISTORY OF A LICENSE HOLDER, PERMIT HOLDER, OR REGISTRANT WHEN DETERMINING:

(I) WHETHER TO IMPOSE DISCIPLINE;

(II) THE TYPE OF DISCIPLINE TO IMPOSE; OR

(III) THE SEVERITY OF DISCIPLINE TO IMPOSE.

(b) THE DEPARTMENT MAY CONSIDER AN EVENT WITHIN A DRIVER'S HISTORY IF:

(I) THE EVENT IS RELEVANT TO THE PERFORMANCE OF THE PROFESSION OR OCCUPATION FOR WHICH THE LICENSE HOLDER, PERMIT HOLDER, OR REGISTRANT IS LICENSED, PERMITTED, OR REGISTERED; AND

(II) (A) THE OPERATION OF A MOTOR VEHICLE IS A DUTY OF THE PROFESSION OR OCCUPATION FOR WHICH THE LICENSE HOLDER, PERMIT HOLDER, OR REGISTRANT IS LICENSED, PERMITTED, OR REGISTERED;

(B) THE EVENT IS A PART OF A PATTERN OF BEHAVIOR THAT IS RELEVANT TO THE PERFORMANCE OF THE PROFESSION OR OCCUPATION FOR WHICH THE LICENSE

HOLDER, PERMIT HOLDER, OR REGISTRANT IS LICENSED, PERMITTED, OR REGISTERED;  
OR

(C) THE EVENT OCCURRED WITHIN THREE YEARS BEFORE THE ACT UPON WHICH  
THE DISCIPLINE IS BASED.

**SECTION 6. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 26, 2021