

CHAPTER 104

MOTOR VEHICLES AND TRAFFIC REGULATION

SENATE BILL 95-127

BY SENATORS Mutzebaugh and Weddig;
also REPRESENTATIVE Adkins.**AN ACT****CONCERNING OFFENSES INVOLVING THE OPERATION OF MOTOR VEHICLES.***Be it enacted by the General Assembly of the State of Colorado:*

SECTION 1. 24-72-308 (3) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-72-308. Sealing of records. (3) Exceptions. (a) This section shall not apply to records pertaining to:

- (I) Any class 1 or class 2 misdemeanor traffic offense; ~~or to~~
- (II) Any class A or class B traffic infraction; OR
- (III) ANY CONVICTION FOR A VIOLATION OF SECTION 42-4-1301 (1) OR (2), C.R.S.

SECTION 2. 42-2-125 (1) (m), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-2-125. Mandatory revocation of license and permit. (1) The department shall immediately revoke the license or permit of any driver, minor driver, or provisional driver upon receiving a record showing that such driver has:

(m) Been convicted of violating section 12-46-112 (1) (c) or (1) (d), C.R.S., ~~or~~ section 12-47-128 (1) (b) or (1) (c), C.R.S., OR SECTION 18-13-122 (2), C.R.S., or any counterpart municipal charter or ordinance offense to such sections.

SECTION 3. 42-4-1301 (9) (e) (II) and (12), Colorado Revised Statutes, 1993

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

Repl. Vol., as amended, are amended to read:

42-4-1301. Driving under the influence - driving while impaired - driving with excessive alcoholic content - tests - penalties - useful public service program - alcohol and drug driving safety program. (9) (e) (II) For sentencing purposes concerning convictions for second and subsequent offenses, prima facie proof of a defendant's previous convictions shall be established when the prosecuting attorney and the defendant stipulate to the existence of the prior conviction or convictions or the prosecuting attorney presents to the court a copy of the driving record of the defendant provided by the motor vehicle division of the department of revenue of this state, or provided by a similar agency in another state, which contains a reference to such previous conviction or convictions OR PRESENTS AN AUTHENTICATED COPY OF THE RECORD OF THE PREVIOUS CONVICTION OR JUDGMENT FROM ANY COURT OF RECORD OF THIS STATE OR FROM A COURT OF ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES. The court shall not proceed to immediate sentencing when there is not a stipulation to prior convictions or if the prosecution requests an opportunity to obtain a driving record OR A COPY OF A COURT RECORD. The prosecuting attorney shall not be required to plead or prove any previous convictions at trial, and sentencing concerning convictions for second and subsequent offenses shall be a matter to be determined by the court at sentencing.

~~(12) Upon a plea of guilty, or a verdict of guilty by the court or a jury, to any offense specified in subsection (1) or (2) of this section, the court shall order the defendant to immediately report to the sheriff's department in the county where the defendant was convicted, at which time the defendant's fingerprints and photographs shall be taken and returned to the court, which fingerprints and photographs shall become a part of the court's official documents and records pertaining to the defendant's conviction and the defendant's identification in association with such conviction. On any trial for a violation of any of the offenses specified in subsection (1) or (2) of this section, a duly authenticated copy of the record of former convictions and judgments of any court of record for any of said crimes against the party indicted or informed against shall be prima facie evidence of such convictions and may be used in evidence against such party. Identification photographs and fingerprints that are part of the record of such former convictions and judgments of any court of record or are part of the record at the place of such party's incarceration after sentencing for any of such former convictions and judgments shall be prima facie evidence of the identity of such party and may be used in evidence against the party. Any person who fails to immediately comply with the court's order to report to the sheriff's department, to furnish fingerprints, or to have such person's photographs taken may be held in contempt of court.~~

SECTION 4. 42-4-1409 (4) (c), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-4-1409. Compulsory insurance - penalty. (4) (c) In addition to the penalties prescribed in paragraphs (a) and (b) of this subsection (4), any person convicted pursuant to this section ~~shall~~ MAY, AT THE DISCRETION OF THE COURT, be sentenced to perform not less than forty hours of community service, subject to the provisions of section 16-11-701, C.R.S.

SECTION 5. Effective date - applicability. This act shall take effect July 1, 1995, and shall apply to any offense committed on or after said date.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 21, 1995