

CHAPTER 245

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 97-1003

BY REPRESENTATIVES Tucker, Clarke, Swenson, and Tool;
also SENATOR Mutzebaugh.

AN ACT

CONCERNING CONDUCT RELATED TO THE OPERATION OF MOTOR VEHICLES.

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

SECTION 1. 42-2-118 (3) (a), (3) (b), and (3) (c), Colorado Revised Statutes, 1993 Repl. Vol., as amended, are amended, and the said 42-2-118 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

42-2-118. Renewal of license - donations to organ and tissue donation awareness fund. (3) (a) Prior to the renewal of a permanent driver's license or the issuance or renewal of a probationary license, the department shall determine if the applicant has any outstanding judgments or warrants entered or issued against the applicant OR IF THE APPLICANT HAS ISSUED A CHECK OR ORDER TO THE DEPARTMENT FOR THE PAYMENT OF A PENALTY ASSESSMENT AND SUCH CHECK OR ORDER WAS RETURNED FOR INSUFFICIENT FUNDS OR A CLOSED ACCOUNT AND REMAINS UNPAID as set forth in section 42-4-1709 (7).

(b) (I) If there are no outstanding judgments or warrants entered or issued against the applicant AND THE APPLICANT HAS NOT ISSUED A CHECK OR ORDER TO THE DEPARTMENT THAT WAS RETURNED FOR INSUFFICIENT FUNDS OR A CLOSED ACCOUNT AND THAT REMAINS UNPAID as set forth in section 42-4-1709 (7) and if all other conditions for renewal pursuant to articles 1 to 4 of this title are met, the department shall renew the applicant's permanent driver's license.

(II) If there are no outstanding judgments or warrants entered or issued against the applicant AND THE DEFENDANT HAS NOT ISSUED A CHECK OR ORDER TO THE DEPARTMENT THAT WAS RETURNED FOR INSUFFICIENT FUNDS OR A CLOSED ACCOUNT AND THAT REMAINS UNPAID as set forth in section 42-4-1709 (7) and if all other conditions for renewal pursuant to articles 1 to 4 of this title are met, the department

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

may issue or renew the applicant's probationary license.

(c) If the department determines that the applicant is subject to the requirements of section 42-4-1709 (7), the permanent driver's license shall not be renewed or the probationary license may not be issued or renewed until such applicant has complied with said section. Any person who pays any outstanding judgments, ~~or~~ who has any warrants entered, OR WHO MAKES PAYMENT FOR A CHECK OR ORDER TO THE DEPARTMENT THAT HAD BEEN RETURNED FOR INSUFFICIENT FUNDS OR A CLOSED ACCOUNT pursuant to section 42-4-1709 (7) shall pay to the court OR TO THE DEPARTMENT a thirty-dollar administrative processing cost for each such judgment, ~~or~~ warrant, CHECK, OR ORDER in addition to all other penalties, costs, or forfeitures. IF THE COURT COLLECTS AN ADMINISTRATIVE PROCESSING FEE, the court shall remit fifty percent of the administrative processing fee to the department of revenue, and the other fifty percent of that fee is to be retained by the issuing court. IF THE DEPARTMENT COLLECTS AN ADMINISTRATIVE PROCESSING FEE, THE DEPARTMENT SHALL RETAIN THE FEE.

(f) THERE SHALL BE A TWENTY-DAY PERIOD TO APPEAL ANY PENALTY UNDER THIS SECTION WHEN IT CAN BE SHOWN BY THE APPLICANT OR DEFENDANT THAT SUFFICIENT FUNDS WERE IN THE FINANCIAL INSTITUTION AND THE ERROR WAS THAT OF THE FINANCIAL INSTITUTION. IN THIS EVENT THE DEPARTMENT SHALL REVIEW THE DOCUMENTATION AND, IF IT WAS THE FAULT OF THE FINANCIAL INSTITUTION THAT THE CHECK OR ORDER WAS RETURNED, NO PENALTY OR FEE SHALL BE IMPOSED.

SECTION 2. 42-2-126.1 (2) (a.5), (2.5), (7), and (8), Colorado Revised Statutes, 1993 Repl. Vol., as amended, are amended, and the said 42-2-126.1 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

42-2-126.1. Probationary licenses for persons convicted of alcohol-related driving offenses - ignition interlock devices - fees - interlock fund - violations of probationary license - repeal. (2) The hearing officer shall have the authority to hear an application by any person for a probationary license under the provisions of this section at a probationary license hearing. A probationary driver's license issued pursuant to this section may not have a term longer than one year. Such probationary driver's license may be renewed for additional terms during the period that an approved ignition interlock device is used pursuant to the requirements of this section. The hearing officer may approve the application if:

(a.5) ~~At~~ PRIOR TO the time of license restraint, such person ~~has~~ HAD a valid driver's privilege; ~~and has no outstanding judgments or warrants issued against such person pursuant to the requirements of section 42-2-118 (3);~~

(a.7) AT THE TIME OF THE HEARING, SUCH PERSON HAS NO OUTSTANDING JUDGMENTS OR WARRANTS ISSUED AGAINST SUCH PERSON PURSUANT TO THE REQUIREMENTS OF SECTION 42-2-118 (3);

(2.5) The leasing agency for any approved ignition interlock device shall remit a filing fee in the amount of thirty-three dollars for each person leasing a device to cover program start-up and operational costs incurred by the department of revenue and the department of public health and environment. The leasing agency shall remit the fees to the state treasurer, who shall credit the fees to the interlock fund, which

fund is hereby created. Any federal grant moneys received for purposes of supporting this pilot program also shall be remitted to the interlock fund. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the administration of this section. Any interest received from the deposit and investment of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund on ~~July 1, 1998~~ JULY 1, 2000, shall be transferred to the highway users tax fund created pursuant to section 43-4-201, C.R.S.

(7) The office of transportation safety in the department of transportation shall conduct an assessment of the ignition interlock device program established pursuant to this section. The department shall prepare a written report regarding the results of the assessment and shall provide the report to the general assembly on or before ~~January 1, 1998~~ JANUARY 1, 2000.

(8) This section is repealed, effective ~~July 1, 1998~~ JULY 1, 2000.

SECTION 3. 42-2-126.1 (2) (a), (2) (e), and (6) (a), Colorado Revised Statutes, 1993 Repl. Vol., as amended, are amended to read:

42-2-126.1. Probationary licenses for persons convicted of alcohol-related driving offenses - ignition interlock devices - fees - interlock fund - violations of probationary license - repeal. (2) The hearing officer shall have the authority to hear an application by any person for a probationary license under the provisions of this section at a probationary license hearing. A probationary driver's license issued pursuant to this section may not have a term longer than one year. Such probationary driver's license may be renewed for additional terms during the period that an approved ignition interlock device is used pursuant to the requirements of this section. The hearing officer may approve the application if:

(a) The person's license revocation was imposed primarily because of alcohol-related offenses OR BECAUSE THE PERSON IS A HABITUAL OFFENDER UNDER SECTION 42-2-202;

(e) The person agrees that, during the period of suspension, the person will not drive any motor vehicle other than the motor vehicle in which the approved ignition interlock device is installed and will not allow any other person to drive such vehicle other than another owner or coowner, if any, of the vehicle. IF THE PERSON'S LICENSE WAS REVOKED BECAUSE THE PERSON IS A HABITUAL OFFENDER UNDER SECTION 42-2-202 AND SUCH REVOCATION WAS NOT IMPOSED PRIMARILY FOR ALCOHOL-RELATED OFFENSES, THE PERSON SHALL ALSO AGREE TO DRIVE ONLY TO AND FROM THE PERSON'S PLACE OF EMPLOYMENT.

(6) (a) For the purposes of this section, "approved ignition interlock device" means a device approved by the department of public health and environment that is installed in a motor vehicle and that measures the breath alcohol content of the driver before a vehicle is started and that periodically requires additional breath samples during vehicle operation. The device may not allow a motor vehicle to be started or to continue normal operation if the device measures an alcohol level above the level established by the department of public health and environment, IF THE LICENSE IS REVOKED PRIMARILY BECAUSE OF ALCOHOL-RELATED OFFENSES, OR WILL ALLOW

DRIVING ONLY DURING CERTAIN HOURS, IF THE LICENSE IS OTHERWISE REVOKED UNDER SECTION 42-2-202.

SECTION 4. 42-2-127 (5) (v), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended, and the said 42-2-127 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

42-2-127. Authority to suspend license - to deny license - type of conviction - points. (5) Point system schedule:
Type of conviction Points

(v) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (v), operating an unsafe vehicle 2

(II) OPERATING A VEHICLE WITH DEFECTIVE HEAD LAMPS 1

(5.5) IF A PERSON RECEIVES A PENALTY ASSESSMENT NOTICE FOR A VIOLATION UNDER SECTION 42-4-1701 (5) AND SUCH PERSON PAYS THE FINE AND SURCHARGE FOR THE VIOLATION ON OR BEFORE THE DATE THE PAYMENT IS DUE, THE POINTS ASSESSED FOR THE VIOLATION ARE REDUCED AS FOLLOWS:

(a) FOR A VIOLATION HAVING AN ASSESSMENT OF THREE OR MORE POINTS UNDER SUBSECTION (5) OF THIS SECTION, THE POINTS ARE REDUCED BY TWO POINTS;

(b) FOR A VIOLATION HAVING AN ASSESSMENT OF TWO POINTS UNDER SUBSECTION (5) OF THIS SECTION, THE POINTS ARE REDUCED BY ONE POINT.

(5.6) ANY MUNICIPALITY MAY ELECT TO HAVE THE PROVISIONS OF SUBSECTION (5.5) OF THIS SECTION APPLY TO PENALTY ASSESSMENT NOTICES ISSUED BY THE MUNICIPALITY PURSUANT TO COUNTERPART MUNICIPAL ORDINANCES. WHENEVER A MUNICIPALITY REDUCES A TRAFFIC OFFENSE, THE REDUCED OFFENSE AND THE POINTS ASSESSED FOR SUCH REDUCED OFFENSE SHALL CONFORM TO THE POINT ASSESSMENT SCHEDULE UNDER SECTION 42-2-127 (5).

(5.7) NOTWITHSTANDING ANY OTHER PROVISION OF THE STATUTES TO THE CONTRARY, IF A PENALTY ASSESSMENT FOR A TRAFFIC INFRACTION IS NOT PERSONALLY SERVED ON THE DEFENDANT OR THE DEFENDANT HAS NOT ACCEPTED THE JURISDICTION OF THE COURT FOR SUCH PENALTY ASSESSMENT, THEN THE TRAFFIC INFRACTION IS A CLASS B TRAFFIC INFRACTION AND THE DEPARTMENT HAS NO AUTHORITY TO ASSESS ANY POINTS UNDER THIS SECTION UPON ENTRY OF JUDGMENT FOR SUCH TRAFFIC INFRACTION.

SECTION 5. Part 6 of article 4 of title 42, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-613. Designation of highway maintenance, repair, or construction zones - signs - increase in penalties for speeding violations. (1) IF MAINTENANCE, REPAIR, OR CONSTRUCTION ACTIVITIES ARE OCCURRING OR WILL BE OCCURRING WITHIN FOUR HOURS ON A PORTION OF A STATE HIGHWAY, THE DEPARTMENT OF TRANSPORTATION MAY DESIGNATE SUCH PORTION OF THE HIGHWAY AS A HIGHWAY MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE. ANY PERSON WHO COMMITS A

SPEEDING VIOLATION IN A MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE THAT IS DESIGNATED PURSUANT TO THE PROVISIONS OF THIS SECTION IS SUBJECT TO THE INCREASED PENALTIES AND SURCHARGES IMPOSED BY SECTION 42-4-1701 (4) (c).

(2) THE DEPARTMENT OF TRANSPORTATION SHALL DESIGNATE A MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE BY ERECTING OR PLACING AN APPROPRIATE SIGN IN A CONSPICUOUS PLACE BEFORE THE AREA WHERE THE MAINTENANCE, REPAIR, OR CONSTRUCTION ACTIVITY IS TAKING PLACE OR WILL BE TAKING PLACE WITHIN FOUR HOURS. SUCH SIGN SHALL NOTIFY THE PUBLIC THAT INCREASED PENALTIES FOR SPEEDING VIOLATIONS ARE IN EFFECT IN SUCH ZONE. THE DEPARTMENT OF TRANSPORTATION SHALL ERECT OR PLACE A SECOND SIGN AFTER SUCH ZONE INDICATING THAT THE INCREASED PENALTIES FOR SPEEDING VIOLATIONS ARE NO LONGER IN EFFECT. A MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE BEGINS AT THE LOCATION OF THE SIGN INDICATING THAT INCREASED PENALTIES ARE IN EFFECT AND ENDS AT THE LOCATION OF THE SIGN INDICATING THAT THE INCREASED PENALTIES ARE NO LONGER IN EFFECT.

(3) SIGNS USED FOR DESIGNATING THE BEGINNING AND END OF A MAINTENANCE, CONSTRUCTION, OR REPAIR ZONE SHALL CONFORM TO DEPARTMENT OF TRANSPORTATION REQUIREMENTS. THE DEPARTMENT OF TRANSPORTATION MAY DISPLAY SUCH SIGNS ON ANY FIXED, VARIABLE, OR MOVABLE STAND. THE DEPARTMENT OF TRANSPORTATION MAY PLACE SUCH A SIGN ON A MOVING VEHICLE IF REQUIRED FOR CERTAIN DEPARTMENT ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, HIGHWAY PAINTING WORK.

SECTION 6. 42-4-1701 (4), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule. (4) (c) THE PENALTIES AND SURCHARGES IMPOSED FOR SPEEDING VIOLATIONS UNDER (4) (a) (I) (L) OF THIS SECTION ARE DOUBLED IF A SPEEDING VIOLATION OCCURS WITHIN A MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE THAT IS DESIGNATED BY THE DEPARTMENT OF TRANSPORTATION PURSUANT TO THE REQUIREMENTS OF SECTION 42-4-613.

SECTION 7. 42-4-1709 (7) (a), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

42-4-1709. Penalty assessment notice for traffic infractions - violations of provisions by officer - driver's license. (7) (a) No person shall be allowed or permitted to obtain or renew a permanent driver's, minor driver's, provisional driver's, or probationary license if such person has, at the time of making application for obtaining or renewing such driver's license:

(VI) ISSUED A CHECK OR ORDER TO THE DEPARTMENT TO PAY A PENALTY ASSESSMENT, A DRIVER'S LICENSE FEE, A LICENSE REINSTATEMENT FEE, OR A MOTOR VEHICLE RECORD FEE AND SUCH CHECK OR ORDER IS RETURNED FOR INSUFFICIENT FUNDS OR A CLOSED ACCOUNT AND REMAINS UNPAID. FOR THE PURPOSES OF THIS SUBPARAGRAPH (VI), THE TERM "INSUFFICIENT FUNDS" MEANS HAVING AN INSUFFICIENT BALANCE ON ACCOUNT WITH A BANK OR OTHER DRAWEE FOR THE PAYMENT OF A CHECK OR ORDER WHEN THE CHECK OR ORDER IS PRESENTED FOR

PAYMENT WITHIN THIRTY DAYS AFTER ISSUE.

SECTION 8. 42-4-1903 (2) (a), (2) (b) (I), (2) (c), (3), and (5), Colorado Revised Statutes, 1993 Repl. Vol., as amended, are amended to read:

42-4-1903. School buses - stops - signs - passing. (2) (a) Every school bus AS DEFINED IN SECTION 42-1-102 (88), other than a small passenger-type vehicle having a seating capacity of not more than fifteen, used for the transportation of schoolchildren shall:

(I) Bear upon the front and rear ~~thereof~~ OF SUCH SCHOOL BUS plainly visible and legible signs containing the words "SCHOOL BUS" in letters not less than eight inches in height; and

(II) ~~shall~~ Display ~~four~~ EIGHT visual signal lights, which shall be two alternating flashing red lights visible to the drivers of vehicles approaching from the front of said bus, ~~and~~ two alternating flashing red lights visible to the drivers of vehicles approaching from the rear of said bus, and ~~may also display~~ four ~~additional~~ visual signal lights which shall be yellow signal lights mounted near each of the four red lights and at the same level but closer to the vertical center line of the bus and which shall be alternately flashing with two visible to the front and two visible to the rear. These visual signal lights shall be mounted as high as practicable, shall be as widely spaced laterally as practicable, and shall be located on the same level. These lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight.

(b) (I) ~~When a school bus is equipped only with~~ THE red visual signal lights ~~they~~ shall be actuated by the driver of ~~said~~ THE school bus whenever ~~such vehicle~~ THE SCHOOL BUS is stopped for the purpose of receiving or discharging schoolchildren and at no other time; but such lights need not be actuated when ~~any said~~ A school bus is stopped at locations where the local traffic regulatory authority has by prior written designation declared such actuation unnecessary.

(c) ~~When a school bus is equipped with~~ THE alternating flashing yellow lights ~~in addition to the red lights and when the use of a signal light system is required, the~~ yellow lights shall be actuated at least two hundred feet prior to the point at which ~~such~~ WHERE THE bus is to be stopped for the purpose of receiving or discharging schoolchildren, and the red lights shall be actuated only at the time the bus is actually stopped. ~~On and after January 1, 1976, all school buses required to be equipped shall be equipped with such visual signal light systems as provided in this section.~~

(3) Every school bus used for the transportation of schoolchildren, except those small passenger-type vehicles described in subsection (1) of this section, ~~may be equipped, and, on and after January 1, 1976,~~ shall be equipped with a stop signal arm mounted outside the bus on the left alongside the driver and below the window. ~~Such~~ THE stop signal arm shall be a flat octagon with the word "STOP" printed on both sides in such a manner as to be easily visible to persons approaching from either direction. The stop signal arm shall contain two alternately flashing red lamps which are connected to the alternating flashing signal light system described in subsection (2) of this section, and the stop signal arm shall be extended only when the red visual signal lights are in operation.

(5) Every school bus shall stop as far to the right ~~off~~ OF the roadway as possible before discharging or loading passengers and, when possible, shall not stop where the visibility is obscured for a distance of two hundred feet either way from the bus. The driver of a school bus which has stopped shall allow time for any vehicles which have stopped behind the school bus to pass the school bus, if such passing is legally permissible where the school bus is stopped, after the ~~school bus's~~ visual signal lights, if any, are no longer being displayed or actuated and after all children who have embarked or disembarked from the bus are safe from traffic.

SECTION 9. 42-7-406 (1), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-7-406. Proof required under certain conditions. (1) Whenever the director revokes the license of any person under section 42-2-125 or 42-2-126, or cancels any license under section 42-2-122 because of the licensee's inability to operate a motor vehicle because of physical or mental incompetence, or cancels any probationary license under section 42-2-127, the director shall not issue to or continue in effect for any such person any new or renewal of license until permitted under the motor vehicle laws of this state, and not then until and unless such person files or has filed and maintains proof of financial responsibility as provided in this article; except that persons WHOSE LICENSES ARE cancelled pursuant to section 42-2-122 (2.5) OR REVOKED PURSUANT TO SECTION 42-2-125 (1) (m) shall not be required to file proof of financial responsibility in order to be relicensed.

SECTION 10. 42-7-408 (1) (c) and (5), Colorado Revised Statutes, 1993 Repl. Vol., as amended, are amended to read:

42-7-408. Proof of financial responsibility - methods of giving proof - duration - exception - repeal. (1) (c) Notwithstanding the three-year requirement in paragraph (b) of this subsection (1), if an insured has been found guilty of a driving offense pursuant to section 42-4-1301 (1) or (2) or if the insured's license has been revoked pursuant to section ~~42-2-125 (1) (m)~~ or 42-2-126 only one time and no accident was involved in such offense, proof of financial responsibility for the future shall be required to be maintained only for as long as the insured's driving privilege is ordered to be under restraint, up to a maximum of three years. The time period for maintaining the future proof of liability insurance shall begin at the time the driver reinstates his or her driving privilege.

(5) (a) Persons previously required to post ~~three years~~ proof of financial responsibility for the future pursuant to a conviction under section 42-2-125 (1) (m) ~~shall only be required to post proof of financial responsibility for the future consistent with the provisions of this section~~ ARE AUTHORIZED TO END SUCH POSTING ON JULY 1, 1997.

(b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 1998.

SECTION 11. Effective date - applicability. This act shall take effect July 1, 1997. Sections 4 through 6 of this act shall apply to offenses committed on or after said date. Sections 1 and 7 of this act shall apply to checks and orders received by the department on or after said date.

SECTION 12. 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: June 3, 1997