

CHAPTER 298

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 03-1244

BY REPRESENTATIVE(S) Ragsdale, Boyd, Carroll, Cloer, Coleman, Fran gas, Garcia, Merrifield, Paccione, Romanoff, Schultheis, Spradley, Vigil, Weddig, and Williams S.;
also SENATOR(S) Tapia, Groff, Hagedorn, Hillman, Phillips, and Tupa.

AN ACT**CONCERNING PENALTIES IMPOSED FOR COMMITTING THE CRIME OF DEFACING PROPERTY.**

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

SECTION 1. 18-4-509, Colorado Revised Statutes, is amended to read:

18-4-509. Defacing property. (1) (a) Any person who destroys, defaces, removes, or damages any historical monument commits ~~a class 2 misdemeanor~~ **THE CRIME OF DEFACING PROPERTY.**

~~(2)~~ (b) Any person who defaces or causes, aids in, or permits the defacing of public or private property without the consent of the owner by any method of defacement, including but not limited to painting, drawing, writing, or otherwise marring the surface of the property by use of paint, spray paint, ink, or any other substance or object, commits ~~a class 2 misdemeanor~~ **THE CRIME OF DEFACING PROPERTY.**

(2) (a) **DEFACING PROPERTY IS A CLASS 2 MISDEMEANOR; EXCEPT THAT A SECOND OR SUBSEQUENT CONVICTION FOR THE OFFENSE OF DEFACING PROPERTY IS A CLASS 1 MISDEMEANOR AND THE COURT SHALL IMPOSE A MANDATORY MINIMUM FINE OF SEVEN HUNDRED FIFTY DOLLARS UPON CONVICTION. FIFTY PERCENT OF THE FINES COLLECTED PURSUANT TO THIS PARAGRAPH (a) SHALL BE CREDITED TO THE HIGHWAY USER'S TAX FUND, CREATED IN SECTION 43-4-201, C.R.S., AND FIFTY PERCENT OF THE FINES COLLECTED PURSUANT TO THIS PARAGRAPH (a) SHALL BE CREDITED TO THE JUVENILE DIVERSION CASH FUND CREATED IN SECTION 19-2-303.5, C.R.S.**

(b) Any person convicted of defacing property pursuant to ~~this~~ **PARAGRAPH (b) OF subsection (2) (1) OF THIS SECTION** shall be ordered by the court to personally make

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

repairs to any property damaged, or properties similarly damaged, if possible. IF THE PROPERTY CANNOT BE REPAIRED, THE COURT SHALL ORDER A PERSON CONVICTED OF DEFACING PROPERTY TO REPLACE OR COMPENSATE THE OWNER FOR THE DAMAGED PROPERTY BUT MAY LIMIT SUCH COMPENSATION TO TWO THOUSAND FIVE HUNDRED DOLLARS.

(c) In addition, upon each conviction for defacing property pursuant to PARAGRAPH (b) OF ~~this subsection (2)~~ (1) OF THIS SECTION, or adjudication as a juvenile delinquent for an act that would constitute defacing property pursuant to PARAGRAPH (b) OF ~~this subsection (2)~~ (1) OF THIS SECTION if committed by an adult, the offender's driver's license shall be revoked as provided in section 42-2-125, C.R.S.

SECTION 2. 10-4-719.7 (1) (b), Colorado Revised Statutes, is amended to read:

10-4-719.7. Refusal to write, changes in, cancellation, or nonrenewal of policies prohibited. (1) No insurer shall cancel; fail to renew; refuse to write; reclassify an insured under; reduce coverage under, unless the reduction is part of a general reduction in coverage filed with the commissioner; or increase the premium for, unless the increase is part of a general increase in premiums filed with the commissioner, any complying policy because the applicant, insured, or any resident of the household of the applicant or insured has:

(b) Had a license revoked pursuant to section 42-2-125 (1) (n), C.R.S., or had a license suspended pursuant to section 42-2-127.5, C.R.S. or been denied a license pursuant to section 42-2-104 (3) (f), C.R.S., based upon a conviction or adjudication under section 18-4-501 (2) or 18-4-509, ~~(2)~~; C.R.S.

SECTION 3. 18-4-501 (2), Colorado Revised Statutes, is amended to read:

18-4-501. Criminal mischief. (2) If the court determines on the record that the underlying factual basis for any conviction of criminal mischief pursuant to subsection (1) of this section, or adjudication as a juvenile delinquent for an act that would constitute criminal mischief pursuant to subsection (1) of this section if committed by an adult, involves defacing property as described in section 18-4-509, ~~(2)~~; the offender's driver's license shall be revoked as provided in section 42-2-125, C.R.S.

SECTION 4. 42-2-104 (3) (f), Colorado Revised Statutes, is amended to read:

42-2-104. Licenses issued - denied - repeal. (3) The department shall not issue any license to:

(f) Any person who, while under the age of sixteen, was convicted of any offense that would have made the person subject to having driving privileges revoked under section 42-2-125 if such person had possessed a driver's license. Any person denied a driver's license pursuant to this paragraph (f) may be granted a license six months prior to his or her seventeenth birthday, if such person has only one such conviction, and on his or her seventeenth birthday, if such person has more than one such conviction; except that, if the person has been convicted of defacing property in violation of section 18-4-509, ~~(2)~~; C.R.S., or convicted of criminal mischief in violation of section 18-4-501, C.R.S., where the court finds that the underlying

factual basis of the offense involves defacing property as described in section 18-4-509, ~~(2)~~; C.R.S., or any counterpart municipal charter or ordinance offense to either of said sections, the person may not be granted a license until the entire period for which the person's license would have been revoked, as determined pursuant to section 42-2-125 (3) and (7), has passed, as measured from the person's sixteenth birthday.

SECTION 5. 42-2-125 (1) (n), Colorado Revised Statutes, 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 or minor driver upon receiving a record showing that such driver has:

(n) Been convicted of defacing property in violation of section 18-4-509, ~~(2)~~; C.R.S., or convicted of criminal mischief in violation of section 18-4-501, C.R.S., where the court finds that the underlying factual basis of the offense involves defacing property as described in section 18-4-509, ~~(2)~~; C.R.S., or any counterpart municipal charter or ordinance offense to either of said sections.

SECTION 6. 42-7-406 (1), Colorado Revised Statutes, 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 canceled pursuant to section 42-2-122 (2.5), revoked pursuant to section 42-2-125 (1) (m) or (1) (n), revoked for a first offense under section 42-2-125 (1) (g.5) or a first offense under section 42-2-126 (2) (a) (I.5) or (2) (a) (IV), suspended pursuant to section 42-2-127.3 or denied pursuant to section 42-2-104 (3) (f) based upon a conviction under section 18-4-509, ~~(2)~~; C.R.S., or a conviction under section 18-4-501, C.R.S., where the underlying factual basis involved defacing property, or any counterpart municipal charter or ordinance offense to either of said sections, shall not be required to file proof of financial responsibility in order to be relicensed.

SECTION 7. Part 3 of article 2 of title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

19-2-303.5. Juvenile diversion cash fund - creation. (1) FIFTY PERCENT OF THE MONEYS COLLECTED PURSUANT TO SECTION 18-4-509 (2) (a), C.R.S., SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE JUVENILE DIVERSION CASH FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THE JUVENILE DIVERSION PROGRAM PURSUANT TO SECTION 19-2-303.

(2) THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF IMPLEMENTING THE JUVENILE DIVERSION PROGRAM PURSUANT TO SECTION 19-2-303. ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

(3) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THE JUVENILE DIVERSION PROGRAM MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND.

(4) ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

SECTION 8. Effective date - applicability. This act shall take effect July 1, 2003, and shall apply to offenses committed on or after said date.

SECTION 9. 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: May 22, 2003