

CHAPTER 155

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 04-1368

BY REPRESENTATIVE(S) Briggs and Lee;
also SENATOR(S) Johnson S. and Phillips.

AN ACT

CONCERNING THE REPEAL OF THE REQUIREMENT THAT A PERSON FILE A REPORT WITH THE DEPARTMENT OF REVENUE AFTER A MOTOR VEHICLE ACCIDENT IF SUCH PERSON FAILED TO DEMONSTRATE FINANCIAL RESPONSIBILITY FOR THE MOTOR VEHICLE.

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

SECTION 1. Repeal. 42-7-202, Colorado Revised Statutes, is repealed as follows:

42-7-202. Report of accident required. ~~(1) The operator or owner of every motor vehicle which is in any manner involved in an accident in which any person is killed or injured or in which damage to any property is sustained, within ten days after such accident, shall report the matter in writing to the director unless the insurance information has been provided to law enforcement as required in section 42-4-1606 (4). If such operator is physically incapable of making such report and is not the owner of the motor vehicle involved, the owner of the motor vehicle involved in the accident shall, within ten days after learning of the accident, make such report. If the operator and owner are the same person and such person is physically incapable of making such report within the required ten-day period, such person may designate some other person to make the report on behalf of such person or shall file the report as soon as such person is able to do so.~~

~~(2) The accident report required under this section, the form of which shall be prescribed by the director, shall contain information to enable the director to determine whether the requirements for the filing of security and proof of financial responsibility for the future are inapplicable by reason of the existence of insurance at the time of the accident or other exceptions. The operator or the owner of the motor vehicle involved in the accident shall make such additional reports relating thereto as the director requires.~~

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

~~(3) The director may rely upon the accuracy of information as to insurance or bond contained in written statements required under part 3 of this article or under section 42-4-1606 unless and until the director has reason to believe that such information is erroneous.~~

~~(4) The director shall suspend the license (or any nonresident's operating privilege) of any person who fails, refuses, or neglects to make a report of a motor vehicle accident as required in this section.~~

~~(5) Nothing in this section shall be deemed to affect the underwriting of insurance policies issued under part 6 of article 4 of title 10, C.R.S.~~

SECTION 2. Repeal. 42-4-1606 (2) and (4) (a) (II), Colorado Revised Statutes, are repealed as follows:

~~**42-4-1606. Duty to report accidents.** (2) (a) In accordance with section 42-7-202, the driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to, serious bodily injury to, or death of any person or damage to property shall, within ten days after such accident, submit to the department on the form provided a written report of such accident unless the insurance information has been reported to law enforcement as specified in subsection (4) of this section.~~

~~(b) Except when supplemental reports are required as provided in subsection (3) of this section, the report specified in paragraph (a) of this subsection (2) shall be the only written report required of the driver for any of the purposes specified in this article and in article 7 of this title, and said report shall be required of the driver whether or not the accident was investigated by the police authority.~~

~~(c) If a report filed by a driver pursuant to this section specifies that the driver was not insured at the time of the accident, the director may take appropriate action against such driver in accordance with the provisions of section 42-7-202.~~

~~(d) Nothing in this section shall be construed to prohibit any person affected by an accident from filing a report in connection with such accident.~~

~~(4) (a) (II) If a report filed by a law enforcement officer pursuant to this section specifies that the driver was not insured at the time of the accident, the director may take appropriate action against such driver in accordance with the provisions of section 42-7-202.~~

SECTION 3. Repeal. 42-4-1607 (2), Colorado Revised Statutes, is repealed as follows:

~~**42-4-1607. When driver unable to give notice or make written report.** (2) Whenever the driver of a vehicle is physically incapable of making a written report of an accident as required in section 42-4-1606 (2) and section 42-7-202 and such driver is not the owner of the vehicle involved, then the owner shall within ten days after such accident make such report not made by the driver.~~

SECTION 4. The introductory portion to 42-7-301 (1), Colorado Revised Statutes, is amended to read:

42-7-301. Security and proof of financial responsibility for the future required under certain circumstances. (1) Unless exempt under section 42-7-302, an operator or owner named in an accident report required to be filed pursuant to ~~section 42-7-202~~ or section 42-4-1606 shall file with the director, according to the procedure provided by this section, both:

SECTION 5. The introductory portion to 42-7-303 (1), Colorado Revised Statutes, is amended to read:

42-7-303. Duration of suspension. (1) The license or nonresident's operating privilege suspended under ~~sections 42-7-202 and~~ SECTION 42-7-301 shall remain so suspended and not be renewed, nor shall any such license be issued to such person, unless there is filed with the director evidence satisfactory to the director that such person has been released from liability, has entered into a contract used as security pursuant to section 42-7-301 (7), or has been finally adjudicated not liable, or until:

SECTION 6. 42-7-504, Colorado Revised Statutes, is amended to read:

42-7-504. Matters not to be evidence in litigation. (1) Except as provided in subsection (2) of this section, neither ~~the report required by section 42-7-202, any action taken by the director pursuant to this article, any judgment or court decision on appeal therefrom, the findings if any, of the director upon which said~~ IN SUCH action, ~~is based,~~ nor the security deposited, statement evidencing automobile liability insurance or bond, or proof of financial responsibility filed as provided in this article shall be referred to ~~in any way~~ nor be any evidence of the negligence or due care of either party ~~at the trial of any~~ OF AN action at law to recover damages or in ~~any~~ A criminal proceeding arising out of a motor vehicle accident. This section shall not ~~be applicable with respect~~ APPLY to ~~any~~ AN action brought by the director to enforce the provisions of this article.

(2) For the purposes of any civil trial, civil hearing, or arbitration held in relation to uninsured or underinsured motorist insurance coverage where the question of the existence of automobile liability insurance is an issue or when the amount of such insurance is an issue, the director shall issue, upon request, a certificate under seal. ~~evidencing the information contained in reports filed pursuant to section 42-7-202.~~ The certificate shall contain the motor vehicle operator's name, address, date of birth, and driver's license number; the date of the accident; and a statement indicating whether or not the records indicate that the owner or operator had in effect at the time of the accident an effective automobile liability policy and, if such a policy was in effect, the amount of coverage, the name of the insurer, and the number of the policy. Such certificate shall be prima facie evidence of the facts contained therein. ~~In any civil trial, civil hearing, or arbitration held in relation to uninsured or underinsured motorist insurance coverage, if the certificate indicates that no report has been filed within the prescribed time, it shall be presumed in any civil trial, civil hearing, or arbitration held in relation to uninsured or underinsured motorist insurance coverage that the owner or operator did not have any automobile liability insurance.~~ The director shall collect for each such certificate an amount sufficient to defray the costs of administration of this section. ~~Any~~ Such amount shall be included as a cost of the

action.

SECTION 7. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 4, 2004, if adjournment sine die is on May 5, 2004); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to accidents occurring on or after the applicable effective date of this act.

Approved: April 13, 2004