

CHAPTER 237

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 04-1193

BY REPRESENTATIVE(S) Fairbank, Jahn, Frangas, Garcia, Paccione, Weddig, Crane, Rippy, Romanoff, Rose, and Spence;
also SENATOR(S) Hillman, Veiga, Groff, and Tupa.

AN ACT**CONCERNING REQUIREMENTS FOR OPERATING A MOTOR VEHICLE WITH VALID PROOF OF COMPLYING INSURANCE.**

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

SECTION 1. The introductory portion to 42-1-217 (1), Colorado Revised Statutes, is amended to read:

42-1-217. Disposition of fines and surcharges. (1) All judges, clerks of a court of record, or other officers imposing or receiving fines, penalties, or forfeitures, except those moneys received pursuant to sections 42-4-313 (3), 42-4-413, 42-4-1409, 42-4-1701 (5) (a), 42-8-105, and 42-8-106, collected pursuant to or as a result of a conviction of any persons for a violation of any of the provisions of articles 1 to 4 (except part 3 of article 2) of this title, shall transmit, within ten days ~~from~~ AFTER the date of receipt of any such fine, penalty, or forfeiture, all such moneys so collected in the following manner:

SECTION 2. 42-2-127.7 (2) (a) and (4) (c), Colorado Revised Statutes, are amended to read:

42-2-127.7. Authority to suspend driver's license - uninsured motorists - legislative declaration. (2) (a) The department may suspend the DRIVER'S license of any person upon its determination that the person drove a vehicle in this state without having in full force and effect a complying policy or certificate of self-insurance as required by sections 10-4-619 and 10-4-624, C.R.S., AS FOLLOWS:

(I) UPON THE FIRST DETERMINATION THAT A PERSON OPERATED A MOTOR VEHICLE IN THIS STATE WITHOUT HAVING IN FULL FORCE AND EFFECT A COMPLYING POLICY OR CERTIFICATE OF SELF-INSURANCE AS REQUIRED PURSUANT TO SECTION 10-4-619 OR

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

10-4-624, C.R.S., THE DEPARTMENT SHALL SUSPEND THE DRIVER'S LICENSE OF A PERSON UNTIL THE PERSON FURNISHES PROOF OF FINANCIAL RESPONSIBILITY, AS DEFINED IN SECTION 42-7-103 (14), IN THE MANNER CONTEMPLATED BY SECTION 42-7-301 (1), IN THE AMOUNT SPECIFIED IN SECTION 10-4-620, C.R.S.

(II) UPON THE SECOND DETERMINATION THAT THE PERSON OPERATED A MOTOR VEHICLE IN THIS STATE WITHOUT HAVING IN FULL FORCE AND EFFECT A COMPLYING POLICY OR CERTIFICATE OF SELF-INSURANCE AS REQUIRED BY SECTIONS 10-4-619 AND 10-4-624, C.R.S., WITHIN FIVE YEARS, THE DEPARTMENT SHALL SUSPEND THE PERSON'S DRIVER'S LICENSE FOR A PERIOD OF FOUR MONTHS.

(III) UPON THE THIRD OR SUBSEQUENT DETERMINATION THAT THE PERSON OPERATED A MOTOR VEHICLE IN THIS STATE WITHOUT HAVING IN FULL FORCE AND EFFECT A COMPLYING POLICY OR CERTIFICATE OF SELF-INSURANCE AS REQUIRED BY SECTIONS 10-4-619 AND 10-4-624, C.R.S., THE DEPARTMENT SHALL SUSPEND THE PERSON'S DRIVER'S LICENSE FOR A PERIOD OF EIGHT MONTHS.

(4) (c) The notice of suspension shall clearly specify the reason and statutory grounds for the suspension, the effective date of the suspension, the right of the person to request a hearing, the procedure for requesting a hearing, and the date by which that request for a hearing must be made. The notice shall also state that the person may avoid suspension by filing with the department proof of financial responsibility for the future, or by compliance with section 42-7-302 ON THE FIRST DETERMINATION. FOR SUBSEQUENT OFFENSES, A PERSON'S DRIVER'S LICENSE SHALL BE SUSPENDED IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION. If the person files proof of financial responsibility for the future, such proof of financial responsibility for the future shall be maintained for three years from the date such proof of financial responsibility for the future is received by the department AND AFTER ANY APPLICABLE SUSPENSION PERIOD.

SECTION 3. 42-4-1409 (4) (a) and (4) (b), Colorado Revised Statutes, are amended, and the said 42-4-1409 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

42-4-1409. Compulsory insurance - penalty. (4) (a) Any person who violates the provisions of subsection (1), (2), or (3) of this section commits a class 1 misdemeanor traffic offense. The minimum fine imposed by section 42-4-1701 (3) (a) (II) (A) shall be mandatory, and ~~the court shall not suspend such minimum fine~~ THE DEFENDANT SHALL BE PUNISHED BY A MINIMUM MANDATORY FINE OF NOT LESS THAN FIVE HUNDRED DOLLARS. THE COURT MAY SUSPEND UP TO ONE HALF OF THE FINE UPON A SHOWING THAT APPROPRIATE INSURANCE AS REQUIRED PURSUANT TO SECTION 10-4-619 OR 10-4-624, C.R.S., HAS BEEN OBTAINED. Nothing in this paragraph (a) shall be construed to prevent the court from imposing a fine greater than the minimum mandatory fine.

(b) Upon a second or subsequent conviction under this section within a period of ~~two~~ FIVE years following a prior conviction under this section, in addition to any imprisonment imposed pursuant to section 42-4-1701 (3) (a) (II) (A), the defendant shall be punished by a minimum mandatory fine of not less than ~~two hundred~~ ONE THOUSAND dollars, and the court shall not suspend such minimum fine. ~~Nothing in this paragraph (b) shall be construed to prevent the court from imposing a fine greater~~

~~than the minimum mandatory fine.~~ THE COURT OR THE COURT COLLECTIONS' INVESTIGATOR MAY ESTABLISH A PAYMENT SCHEDULE FOR A PERSON CONVICTED OF THE PROVISIONS OF SUBSECTION (1), (2), OR (3) OF THIS SECTION AND THE PROVISIONS OF SECTION 16-11-101.6, C.R.S., SHALL APPLY. THE COURT MAY SUSPEND UP TO ONE HALF OF THE FINE UPON A SHOWING THAT APPROPRIATE INSURANCE AS REQUIRED PURSUANT TO SECTION 10-4-619 OR 10-4-624, C.R.S., HAS BEEN OBTAINED.

(9) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE MONEYS COLLECTED AS FINES IMPOSED PURSUANT TO PARAGRAPHS (a) AND (b) OF SUBSECTION (4) OF THIS SECTION ARE TO BE USED FOR THE SUPERVISION OF THE PUBLIC HIGHWAYS. THE GENERAL ASSEMBLY DETERMINES THAT LAW ENFORCEMENT AGENCIES THAT PATROL AND MAINTAIN THE PUBLIC SAFETY ON PUBLIC HIGHWAYS ARE SUPERVISING THE PUBLIC HIGHWAYS. THE GENERAL ASSEMBLY FURTHER DETERMINES THAT A CLERK AND RECORDER FOR A COUNTY IS SUPERVISING THE PUBLIC HIGHWAYS THROUGH HIS OR HER ENFORCEMENT OF THE REQUIREMENTS FOR DEMONSTRATION OF PROOF OF MOTOR VEHICLE INSURANCE PURSUANT TO SECTION 42-3-105 (1) (c) (I). THEREFORE, OF THE MONEYS COLLECTED FROM FINES PURSUANT TO PARAGRAPHS (a) AND (b) SUBSECTION (4) OF THIS SECTION, FIFTY PERCENT OF THESE MONEYS SHALL BE TRANSFERRED TO THE LAW ENFORCEMENT AGENCY THAT ISSUED THE TICKET FOR A VIOLATION OF THIS SECTION. THE REMAINING FIFTY PERCENT OF THE MONEYS COLLECTED FROM FINES FOR VIOLATIONS OF PARAGRAPH (a) OR (b) OF SUBSECTION (4) OF THIS SECTION SHALL BE TRANSMITTED TO THE CLERK AND RECORDER FOR THE COUNTY IN WHICH THE VIOLATION OCCURRED.

SECTION 4. 42-7-103 (6.5) (b), Colorado Revised Statutes, is amended to read:

42-7-103. Definitions. As used in this article, unless the context otherwise requires:

(6.5) (b) For purposes of this subsection (6.5), "complying policy" means a policy of insurance as ~~defined in section 10-4-703 (2), C.R.S.~~ REQUIRED BY PART 6 OF ARTICLE 4 OF TITLE 10, C.R.S.

SECTION 5. 42-7-301.5 (1) and (2), Colorado Revised Statutes, are amended to read:

42-7-301.5. Proof of financial responsibility - repeal. (1) Any person who presents an altered or counterfeit letter or altered or counterfeit insurance identification card from an insurer or agent for the purpose of proving financial responsibility for purposes of this article shall be in violation of ~~this section~~ 18-5-104, C.R.S., and THE MINIMUM FINE shall be ~~punished by a fine of five hundred~~ ONE THOUSAND dollars. ~~If such~~ A SECOND OR SUBSEQUENT presentation is ~~said person's second or subsequent offense~~ IS A VIOLATION OF SECTION 18-5-104, C.R.S., AND the MINIMUM fine shall be one thousand and FIVE HUNDRED dollars. ~~and said person's uninsured motor vehicle shall be seized.~~

(2) Any person who alters or creates a counterfeit letter or insurance identification card for another VIOLATES SECTION 18-5-104, C.R.S., AND shall be punished by a MINIMUM fine of ~~five hundred~~ ONE THOUSAND dollars. ~~If such alteration or creation is said person's~~ A second or subsequent ~~offense~~ ALTERATION OR CREATION OF A

COUNTERFEIT LETTER OR INSURANCE IDENTIFICATION CARD IS A VIOLATION OF SECTION 18-5-104, C.R.S., AND the fine shall be one thousand FIVEHUNDRED dollars.

SECTION 6. 42-7-604 (5) (a) (I) and (5) (c) (III), Colorado Revised Statutes, are amended to read:

42-7-604. Motorist insurance identification database program - creation - administration - selection of designated agent - legislative declaration.

(5) (a) Not later than January 1, 1999, the designated agent, using its own computer network, shall develop and maintain a computer database with information provided by:

(I) Insurers, pursuant to section 10-4-615, C.R.S.; except that any person who qualifies as self-insured pursuant to section ~~10-4-716~~ 10-4-624, C.R.S., shall not be required to provide information to the designated agent; and

(c) The designated agent shall:

(III) Upon receipt of information that a vehicle has been operated on public highways or streets and uninsured under the same owner for a period of sixty consecutive days OR IN COMPLIANCE FOR A SUBSEQUENT VIOLATION OF SECTION 42-7-605 (1), send a letter of noncompliance to such owner pursuant to section 42-7-605 (1). Such letter shall state in bold-faced type in the same font as the rest of the letter that the owner of the vehicle is responsible for providing proof of insurance to the designated agent and that such proof shall not be transmitted by the department or by the county clerk or other local official.

SECTION 7. 42-7-605 (1) and (5), Colorado Revised Statutes, are amended to read:

42-7-605. Notice of lack of financial responsibility. (1) (a) If the comparison made pursuant to section 42-7-604 (6) (b) shows that a motor vehicle, ~~that~~ WHICH has not been exempted under section 42-3-134 (1) (b), has not been insured for ~~three consecutive months~~ SIXTY DAYS, the department of revenue shall direct the designated agent to notify the owner of the motor vehicle that said owner has forty-five days to provide the designated agent with one of the following, or said owner's registration will be subject to immediate administrative suspension after the expiration of said forty-five day period:

~~(a)~~ (I) Proof of complying coverage in accordance with section 10-4-619, C.R.S., or of self-insurance in accordance with section 10-4-624, C.R.S.; or

~~(b)~~ (II) Proof of exemption from the financial security requirements.

(b) IF THE COMPARISON MADE PURSUANT TO SECTION 42-7-604 (6) (b) SHOWS THAT A MOTOR VEHICLE, WHICH HAS NOT BEEN EXEMPTED UNDER SECTION 42-3-134 (1) (b), HAS NOT BEEN INSURED FOR THE SECOND TIME WITHIN FIVE YEARS AFTER THE FIRST DETERMINATION FOR TWO CONSECUTIVE MONTHS, THE DEPARTMENT OF REVENUE SHALL DIRECT THE DESIGNATED AGENT TO NOTIFY THE OWNER OF THE MOTOR VEHICLE THAT SAID OWNER HAS TWENTY DAYS TO PROVIDE THE DESIGNATED AGENT WITH ONE OF THE FOLLOWING, OR SAID OWNER'S REGISTRATION WILL BE

SUBJECT TO IMMEDIATE ADMINISTRATIVE SUSPENSION AFTER THE EXPIRATION OF SAID TWENTY-DAY PERIOD:

(I) PROOF OF COMPLYING COVERAGE IN ACCORDANCE WITH SECTION 10-4-619, C.R.S., OR OF SELF-INSURANCE IN ACCORDANCE WITH SECTION 10-4-624, C.R.S.; OR

(II) PROOF OF EXEMPTION FROM THE FINANCIAL SECURITY REQUIREMENTS.

(c) IF THE COMPARISON MADE PURSUANT TO SECTION 42-7-604 (6)(b) SHOWS THAT A MOTOR VEHICLE, WHICH HAS NOT BEEN EXEMPTED UNDER SECTION 42-3-134 (1) (b), HAS NOT BEEN INSURED FOR THE THIRD OR SUBSEQUENT TIME WITHIN FIVE YEARS AFTER THE FIRST DETERMINATION FOR ONE MONTH, THE DEPARTMENT OF REVENUE SHALL DIRECT THE DESIGNATED AGENT TO NOTIFY THE OWNER OF THE MOTOR VEHICLE THAT SAID OWNER HAS TEN DAYS TO PROVIDE THE DESIGNATED AGENT WITH ONE OF THE FOLLOWING, OR SAID OWNER'S REGISTRATION WILL BE SUBJECT TO IMMEDIATE ADMINISTRATIVE SUSPENSION AFTER THE EXPIRATION OF SAID TEN-DAY PERIOD:

(I) PROOF OF COMPLYING COVERAGE IN ACCORDANCE WITH SECTION 10-4-619, C.R.S., OR OF SELF-INSURANCE IN ACCORDANCE WITH SECTION 10-4-624, C.R.S.; OR

(II) PROOF OF EXEMPTION FROM THE FINANCIAL SECURITY REQUIREMENTS.

(5) Prior to the reinstatement of any motor vehicle registration that has been suspended pursuant to subsection (1) of this section, the owner of such motor vehicle shall provide to the department proof of insurance coverage in accordance with section ~~10-4-705~~ 10-4-619, C.R.S., proof of self-insurance in accordance with section ~~10-4-716~~ 10-4-624, C.R.S., or proof of an exemption from any such financial security requirements.

SECTION 8. The introductory portion to 10-4-615 (1) (a) and 10-4-615 (1) (a) (III), Colorado Revised Statutes, are amended to read:

10-4-615. Motorist insurance identification database program - reporting required - fine - repeal. (1) (a) Each insurer that issues a policy pursuant to this part 6 ~~or part 7 of this article~~ shall provide to the designated agent selected in accordance with section 42-7-604 (4), C.R.S., a record of each policy issued during the immediately preceding period. Such record shall comply with the requirements of subsections (2) and (3) of this section, except as may otherwise be provided for commercial lines of insurance in rules adopted by the department. This subsection (1) shall not be construed to prohibit more frequent reporting. Such policy information shall be provided to the designated agent as follows:

(III) Beginning July 1, 2004, each insurer ~~that has ten thousand or more current policies~~ WITH ANY POLICIES in place for the preceding six months shall provide such policy information every week for the immediately preceding week. Such information shall be reported no later than seven working days after the last date of the week reported on.

SECTION 9. Effective date - applicability. (1) This act shall take effect upon passage; except that sections 1, 2, 3, 5, 6, and 7 shall take effect January 1, 2005.

(2) This act shall apply to persons cited for driving without proof of insurance and fines imposed upon these persons on or after said dates.

SECTION 10. 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 21, 2004