

CHAPTER 415

CRIMINAL LAW AND PROCEDURE

SENATE BILL 08-060

BY SENATOR(S) Boyd, Gibbs, Shaffer, Tochtrop, Wiens, and Windels;
also REPRESENTATIVE(S) Summers, Carroll T., Frangas, Gardner B., and King.

AN ACT

CONCERNING THE CONTINUATION OF THE AUTOMOBILE THEFT PREVENTION AUTHORITY, AND, IN CONNECTION THEREWITH, CONTINUING THE AUTOMOBILE THEFT PREVENTION BOARD, AND MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds that:

(a) Colorado ranks above national automobile theft rates and among the top ten states in the country for automobile theft, according to 2005 crime data from the federal bureau of investigation. The crime of automobile theft became a significant component in the state's overall serious crime rate increase in 2005, compared to the prior year, while the nation as a whole experienced a decrease in serious crime.

(b) Since the inception of the automobile theft prevention authority in Colorado in 2003, statistical data and evidence indicate a reduction in automobile thefts in Colorado in 2006. Highlights from the automobile theft prevention program include:

(I) ***The Denver Metro Auto Theft Team (DMATT)*** This team is comprised of fourteen law enforcement agencies from the Denver metropolitan area, including the Colorado attorney general's office, department of revenue, and state parks. This task force has recovered a total of three hundred seventy-three stolen vehicles with an estimated value of \$4,026,082, investigated twenty-two chop shops, inspected fifty-six businesses, and arrested a total of one hundred eighty-nine persons on automobile theft-related charges.

(II) ***The Regional Auto Theft Team of Northern Colorado (RATTNC)*** This is

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

a collaborative effort among ten law enforcement agencies in northern Colorado. To date this task force has recovered a total of two hundred thirty-five stolen vehicles with an estimated value of \$2,600,350, investigated eighteen chop shops, performed twenty-six business inspections, and arrested ninety-eight persons on automobile theft-related charges. Additionally the team members have provided automobile theft training to one hundred fifty-one officers.

(III) **Metropolitan Reduce Automobile Theft (RAT)** This partnership is comprised of the Colorado Springs police department, the El Paso county sheriff's office, and the Colorado state patrol who are working together to reduce automobile theft in the Colorado Springs area. The success of this multi-jurisdictional group has led to an approximate fifteen-and-a-half percent reduction in automobile theft in El Paso county and the Colorado Springs area between 2004 and 2005.

(IV) **Project "Gotcha"** The Washington county sheriff's office received funding to purchase a global positioning system device to combat theft of farm machinery and construction equipment in Colorado's northeast corner.

(V) **Roaring Fork Valley Task Force** Located on Colorado's western slope, this task force is comprised of the eight law enforcement agencies in the Glenwood Springs/Aspen area. To date this task force has recovered a total of one hundred forty-nine stolen vehicles with an estimated value of \$1,553,596 and arrested forty persons on automobile theft-related charges.

(2) Therefore, the general assembly determines that extending the automobile theft prevention authority and creating an additional funding source for the Colorado auto theft prevention cash fund is in the best interests of the citizens of the state.

SECTION 2. The introductory portions to 42-5-112 (2) (a) and (2) (a) (III) and 42-5-112 (2) (a) (III) (A), (4) (a), and (6), Colorado Revised Statutes, are amended, and the said 42-5-112 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

42-5-112. Automobile theft prevention authority - board - creation - duties - rules - fund - repeal. (2) (a) There is hereby created the automobile theft prevention board, referred to in this section as the "board", which shall consist of ~~nine~~ ELEVEN members as follows:

(III) ~~Seven~~ NINE members appointed by the governor as follows:

(A) ~~Three~~ FIVE representatives of insurance companies who are authorized to issue motor vehicle insurance policies pursuant to part 6 of article 4 of title 10, C.R.S.;

(b.5) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (2), OF THE TWO ADDITIONAL MEMBERS APPOINTED TO THE BOARD PURSUANT TO SENATE BILL 08-060, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SIXTH GENERAL ASSEMBLY, ONE MEMBER SHALL SERVE AN INITIAL TERM OF FOUR YEARS AND ONE MEMBER SHALL SERVE AN INITIAL TERM OF TWO YEARS.

(4) (a) The department of public safety is authorized to accept gifts, grants, or donations from private or public sources for the purposes of this section. 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 Colorado auto theft prevention cash fund, which fund is hereby created and referred to in this section as the "fund". THE FUND SHALL ALSO INCLUDE THE MONEYS DEPOSITED IN THE FUND PURSUANT TO SECTION 10-4-617, C.R.S. 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 this section. Any moneys in the fund not expended for the purpose of this section may be invested by the state treasurer as provided in section 24-36-113, C.R.S. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(6) (a) This section is repealed, effective ~~July 1, 2008~~ SEPTEMBER 1, 2018.

(b) Prior to said repeal, THE AUTHORITY CREATED PURSUANT TO SUBSECTION (1) OF THIS SECTION AND the board created pursuant to subsection (2) of this section shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 3. Part 1 of article 5 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-5-113. Colorado auto theft prevention cash fund - audit. BEGINNING IN THE 2008-09 FISCAL YEAR, AND EVERY TWO YEARS THEREAFTER, THE STATE AUDITOR SHALL CAUSE AN AUDIT TO BE MADE OF THE COLORADO AUTO THEFT PREVENTION CASH FUND CREATED IN SECTION 42-5-112 (4) TO INCLUDE PROCEDURES TO TEST DISTRIBUTIONS FROM THE FUND FOR COMPLIANCE WITH PROGRAM REQUIREMENTS AND GUIDELINES. THE AUDITOR SHALL REVIEW A SAMPLE OF DISTRIBUTIONS AND EXPENDITURES FROM THE COLORADO AUTO THEFT PREVENTION CASH FUND FOR THE PURPOSES DESCRIBED IN SECTION 42-5-112. THE STATE AUDITOR SHALL PREPARE A REPORT OF EACH AUDIT CONDUCTED AND FILE THE REPORT WITH THE AUDIT COMMITTEE OF THE GENERAL ASSEMBLY. FOLLOWING THE RELEASE OF THE AUDIT REPORT, THE STATE AUDITOR SHALL FILE THE AUDIT REPORT WITH THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES.

SECTION 4. 10-4-617, Colorado Revised Statutes, is amended to read:

10-4-617. Insurers - biannual fee - auto theft prevention authority. (1) Each insurer that issues a policy pursuant to this part 6 or part 7 of this article ~~may~~ SHALL BIANNUALLY pay A FEE TO THE AUTOMOBILE THEFT PREVENTION BOARD, CREATED PURSUANT TO SECTION 42-5-112, C.R.S., FOR THE SUPPORT OF THE AUTOMOBILE THEFT PREVENTION AUTHORITY. UPON RECEIVING PAYMENT, THE BOARD SHALL TRANSFER THE AMOUNT RECEIVED TO the state treasurer for deposit in the COLORADO auto theft prevention cash fund created in section 42-5-112 (4), C.R.S. ~~an amount that the insurer deems appropriate toward the support of the auto theft prevention authority based upon~~ THE AMOUNT OF THE FEE SHALL BE EQUAL TO ONE DOLLAR MULTIPLIED BY the number of motor vehicles insured by the insurer ~~Such~~

~~payments may be made in two installments~~ AS OF JULY 1 OF EACH YEAR, DIVIDED BY TWO. THE INSURER SHALL REPORT THE NUMBER OF INSURED MOTOR VEHICLES AND PAY THE ASSESSED BIENNIAL FEE as follows:

(a) On or before ~~January 31, 2004, and on or before each January 31 thereafter~~ AUGUST 15, 2008, AND ON OR BEFORE AUGUST 15 EACH YEAR THEREAFTER, THE INSURER SHALL NOTIFY THE AUTOMOBILE THEFT PREVENTION BOARD OF THE NUMBER OF MOTOR VEHICLES INSURED BY THAT INSURER AS OF JULY 1 OF THAT YEAR; and

(b) On or before ~~July 31, 2004, and on or before each July 31 thereafter~~ JANUARY 1, 2009, AND JULY 1, 2009, AND ON OR BEFORE JANUARY 1 AND JULY 1 EACH YEAR THEREAFTER, THE INSURER SHALL PAY TO THE AUTOMOBILE THEFT PREVENTION BOARD THE ASSESSED BIENNIAL FEE IN THE AMOUNT SPECIFIED IN THIS SUBSECTION (1).

(2) ON OR BEFORE FEBRUARY 1, 2009, AND ON OR BEFORE FEBRUARY 1 EACH YEAR THEREAFTER, THE AUTOMOBILE THEFT PREVENTION BOARD SHALL COMPARE THE LIST OF INSURERS WHO PAID THE BIENNIAL FEE WITH THE LIST COMPILED BY THE DEPARTMENT OF INSURANCE OF ALL INSURANCE COMPANIES LICENSED TO INSURE MOTOR VEHICLES IN THE STATE AND SHALL NOTIFY THE COMMISSIONER OF THE DEPARTMENT OF INSURANCE OF ANY INSURER'S FAILURE TO PAY THE FEE PRESCRIBED IN SUBSECTION (1) OF THIS SECTION. UPON RECEIVING NOTICE OF AN INSURER'S FAILURE TO PAY THE FEE, THE COMMISSIONER SHALL NOTIFY THE INSURER OF THE FEE REQUIREMENT. IF THE INSURER FAILS TO PAY THE FEE TO THE AUTOMOBILE THEFT PREVENTION BOARD WITHIN FIFTEEN DAYS AFTER RECEIVING THE NOTICE, THE COMMISSIONER MAY SUSPEND THE INSURER'S CERTIFICATE OF AUTHORITY OR IMPOSE A CIVIL PENALTY OF NOT MORE THAN ONE HUNDRED TWENTY PERCENT OF THE AMOUNT DUE, OR BOTH. THE INSURER SHALL PAY THE CIVIL PENALTY TO THE COMMISSIONER. THE COMMISSIONER SHALL TRANSFER THE AMOUNT RECEIVED TO THE STATE TREASURER WHO SHALL CREDIT THE AMOUNT TO THE COLORADO AUTO THEFT PREVENTION CASH FUND, CREATED IN SECTION 42-5-112 (4), C.R.S.

(3) FOR THE PURPOSES OF THIS SECTION, "INSURER" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 10-1-102 (13) THAT COVERS THE OPERATION OF A MOTOR VEHICLE.

(4) (a) EACH INSURER SUBJECT TO THE PROVISIONS OF THIS SECTION IS HEREBY AUTHORIZED TO RECOUP THE FEE REQUIRED IN SUBSECTION (1) OF THIS SECTION FROM ITS POLICYHOLDERS.

(b) EACH INSURER SUBJECT TO THE PROVISIONS OF THIS SECTION SHALL NOT RAISE ITS PREMIUMS BASED ON THE FEE IN THIS SECTION.

(5) AS USED IN THIS SECTION, "MOTOR VEHICLE" DOES NOT INCLUDE VEHICLES OR VEHICLE COMBINATIONS WITH A DECLARED GROSS WEIGHT OF MORE THAN TWENTY-SIX THOUSAND POUNDS.

SECTION 5. Repeal. 24-34-104 (39) (b) (XIX), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (39)(b) The following agencies, functions, or both, shall terminate on July 1, 2008:

(XIX) ~~The automobile theft prevention board, created in section 42-5-112, C.R.S.;~~

SECTION 6. 24-34-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (49.5) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE ON SEPTEMBER 1, 2018: THE AUTOMOBILE THEFT PREVENTION AUTHORITY AND THE AUTOMOBILE THEFT PREVENTION BOARD, CREATED IN SECTION 42-5-112, C.R.S.

SECTION 7. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado auto theft prevention cash fund created in section 42-5-112 (4), Colorado Revised Statutes, not otherwise appropriated, to the department of public safety, for allocation to the auto theft prevention authority, for the fiscal year beginning July 1, 2008, the sum of four million two hundred sixty-two thousand six hundred sixty-seven dollars (\$4,262,667) cash funds and 3.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the office of the state auditor, for the fiscal year beginning July 1, 2008, the sum of six thousand five hundred dollars (\$6,500), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from reappropriated funds received from the Colorado automobile theft prevention authority out of the appropriation made in subsection (1) of this section.

SECTION 8. Effective date. This act shall take effect July 1, 2008.

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: June 3, 2008