

CHAPTER 92

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 15-1073

BY REPRESENTATIVE(S) Salazar, Becker K., Buckner, Duran, Esgar, Fields, Foote, Ginal, Kagan, Lebsock, Melton, Pabon, Singer, Williams, Young, Hullinghorst;
also SENATOR(S) Ulibarri, Aguilar, Guzman, Heath, Merrifield, Steadman.

AN ACT

CONCERNING ALLOWING A DRIVER TO CHALLENGE THE VALIDITY OF A LAW ENFORCEMENT OFFICER'S INITIAL CONTACT WITH THE DRIVER.

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

SECTION 1. In Colorado Revised Statutes, 42-2-126, **amend** (8) (h) as follows:

42-2-126. Revocation of license based on administrative determination. (8) **Hearing.** (h) Pursuant to section 42-1-228, a driver may challenge the validity of the law enforcement officer's initial contact with the driver and the driver's subsequent arrest for DUI, DUI per se, or DWAI. ~~The hearing officer shall consider such issues when a driver raises them as defenses~~ **IF A DRIVER SO CHALLENGES THE VALIDITY OF THE LAW ENFORCEMENT OFFICER'S INITIAL CONTACT, AND THE EVIDENCE DOES NOT ESTABLISH THAT THE INITIAL CONTACT OR ARREST WAS CONSTITUTIONALLY AND STATUTORILY VALID, THE DRIVER IS NOT SUBJECT TO LICENSE REVOCATION.**

SECTION 2. In Colorado Revised Statutes, **amend** 42-1-228 as follows:

42-1-228. Revocation hearings - right of driver to challenge validity of initial traffic stop. In any administrative proceeding for a revocation of a driver's license pursuant to article 2 of this title, where the hearing officer is engaged in finding facts and applying law for an incident or offense reported directly to the department by a law enforcement officer, and where the revocation was not triggered in whole or in part by a record of a conviction, the driver may challenge the validity of the law enforcement officer's initial contact with the driver and subsequent arrest of the driver. ~~The hearing officer shall consider such issues when a driver raises them as defenses.~~ **IF A DRIVER SO CHALLENGES THE VALIDITY OF THE LAW ENFORCEMENT**

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

OFFICER'S INITIAL CONTACT, AND THE EVIDENCE DOES NOT ESTABLISH THAT THE INITIAL CONTACT OR ARREST WAS CONSTITUTIONALLY AND STATUTORILY VALID, THE DRIVER IS NOT SUBJECT TO LICENSE REVOCATION.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 10, 2015