

CHAPTER 373

TRANSPORTATION

HOUSE BILL 23-1102

BY REPRESENTATIVE(S) Evans and Bird, Armagost, Boesenecker, Duran, Frizzell, Hamrick, Jodeh, Lieder, Lynch, Michaelson Jenet, Ricks, Snyder, Soper, Young, McCluskie;
also SENATOR(S) Roberts and Hansen, Baisley, Fields, Gardner, Ginal, Hinrichsen, Jaquez Lewis, Kirkmeyer, Kolker, Lundeen, Moreno, Pelton B., Pelton R., Priola, Simpson, Smallwood, Van Winkle, Will.

AN ACT**CONCERNING THE HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING ENFORCEMENT PROGRAM.**

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

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

(a) Colorado is required to provide funding for alcohol and drug impaired driving enforcement pursuant to state law;

(b) Existing funding for alcohol and drug impaired driving programs is decreasing, and the department of transportation anticipates that money for alcohol and drug impaired driving enforcement will be exhausted by the end of state fiscal year 2023-2024;

(c) Existing funding through the first time drunk driving offender account and the law enforcement assistance fund for the prevention of drunken driving prioritizes programs that provide ignition locks, breathalyzer analysis, blood testing, and impaired driving public education ahead of high-visibility impaired driving enforcement;

(d) In Colorado, alcohol and drug impaired driving enforcement requires twelve episodes of statewide high-visibility enforcement funded by the department of transportation pursuant to section 901 of article 4 of title 43. In state fiscal year 2020-2021, the twelve enforcement episodes resulted in over seven thousand impaired driving arrests;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(e) In calendar year 2022, the department of transportation reported seven hundred thirty-six traffic fatalities. Of these, two hundred seventy-one fatalities involved a suspected impaired driver, which is an increase of fifty-four percent from one hundred seventy-six impaired driving fatalities in calendar year 2019; and

(f) Without the existing funding, many local governments will not have the ability to pay for increased high-visibility alcohol and drug impaired driving enforcement during high-risk times of the year, including Memorial Day, Independence Day, and New Year's Eve.

(2) Therefore, it is in the best interest for the safety and welfare of Coloradans to prioritize state funding for alcohol and drug impaired driving enforcement.

SECTION 2. In Colorado Revised Statutes, **amend** 43-4-901 as follows:

43-4-901. High-visibility alcohol and drug impaired driving enforcement.

The department of transportation, in implementing the strategic transportation project investment program, shall, as a priority, ~~increase to~~ COORDINATE AT LEAST twelve episodes annually ~~the number of high-visibility drunk~~ ALCOHOL AND DRUG IMPAIRED driving law enforcement episodes that the department oversees. The high-visibility ~~drunk~~ ALCOHOL AND DRUG IMPAIRED driving law enforcement episodes required by this section ~~shall~~ MUST be independent of, and in addition to, COORDINATED WITH the ~~drunk~~ ALCOHOL AND DRUG IMPAIRED driving prevention and law enforcement program described in part 4 of this ~~article~~ ARTICLE 4.

SECTION 3. In Colorado Revised Statutes, **add** 43-4-902 and 43-4-903 as follows:

43-4-902. Local high-visibility alcohol and drug impaired driving enforcement - qualified program - report - rules. (1) ANY MUNICIPALITY, CITY AND COUNTY, OR COUNTY THAT ESTABLISHES A QUALIFIED PROGRAM TO SUPPORT HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING ENFORCEMENT AND ENFORCE THE LAWS PERTAINING TO ALCOHOL- AND DRUG-RELATED TRAFFIC OFFENSES IS ELIGIBLE TO RECEIVE MONEY PURSUANT TO THIS PART 9 FOR HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING ENFORCEMENT.

(2)(a) THE DEPARTMENT OF TRANSPORTATION SHALL ALLOCATE NOT LESS THAN THIRTY PERCENT AND NOT MORE THAN FIFTY PERCENT OF THE MONEY ALLOCATED TO THE OFFICE OF TRANSPORTATION SAFETY IN THE DEPARTMENT OF TRANSPORTATION PURSUANT TO SECTION 43-4-903 TO COUNTIES THAT HAVE ESTABLISHED A QUALIFIED HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION ENFORCEMENT PROGRAM.

(b) THE DEPARTMENT OF TRANSPORTATION SHALL ALLOCATE NOT LESS THAN FIFTY PERCENT AND NOT MORE THAN SEVENTY PERCENT OF THE MONEY ALLOCATED TO THE OFFICE OF TRANSPORTATION SAFETY IN THE DEPARTMENT OF TRANSPORTATION PURSUANT TO SECTION 43-4-903 TO MUNICIPALITIES AND CITIES AND COUNTIES THAT HAVE ESTABLISHED A QUALIFIED HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION ENFORCEMENT PROGRAM.

(3) THE OFFICE OF TRANSPORTATION SAFETY IN THE DEPARTMENT OF TRANSPORTATION SHALL PROMULGATE RULES FOR THE ADMINISTRATION OF THIS SECTION. AT A MINIMUM, THE RULES MUST:

(a) ESTABLISH THE MINIMUM REQUIREMENTS FOR A QUALIFIED PROGRAM;

(b) ESTABLISH THE PROCESS FOR AWARDING AND ALLOCATING MONEY TO COUNTIES, CITIES AND COUNTIES, AND MUNICIPALITIES PURSUANT TO THIS SECTION;

(c) PERMIT QUALIFIED PROGRAMS TO USE MONEY AWARDED PURSUANT TO THIS SECTION TO EDUCATE THE PUBLIC AND INFORM COMMUNITIES ABOUT ALCOHOL- AND DRUG-RELATED TRAFFIC OFFENSES TO SUPPORT HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING ENFORCEMENT EPISODES;

(d) REQUIRE LAW ENFORCEMENT AGENCIES TO SUBMIT TO THE OFFICE OF TRANSPORTATION SAFETY THE WRITTEN POLICIES AND PROCEDURES DESCRIBED IN SECTION 24-31-309 (6);

(e) REQUIRE LAW ENFORCEMENT AGENCIES TO CERTIFY TO THE OFFICE OF TRANSPORTATION SAFETY THAT THE AGENCIES HAVE COMPLIED WITH THE REPORTING REQUIREMENTS OF SECTION 24-31-903 (2);

(f) PROHIBIT A LAW ENFORCEMENT AGENCY AND A PEACE OFFICER FROM REQUIRING A PEACE OFFICER TO ISSUE A SPECIFIED NUMBER OF CITATIONS TO INDIVIDUALS STOPPED DURING A HIGH-VISIBILITY ALCOHOL AND IMPAIRED DRIVING PREVENTION EPISODE DURING A SPECIFIED PERIOD OF TIME; AND

(g) REQUIRE A LAW ENFORCEMENT AGENCY AND A PEACE OFFICER TO:

(I) SATISFACTORILY COMPLETE ANNUAL IN-SERVICE TRAINING REQUIRED BY SECTION 24-31-315 FOR PEACE OFFICERS CONDUCTING HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION ENFORCEMENT EPISODES;

(II) FOR AGENCIES CONDUCTING HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION ENFORCEMENT EPISODE CHECKPOINTS, IMPLEMENT A RECOGNIZABLE PATTERN BY WHICH VEHICLES ARE STOPPED DURING A HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION ENFORCEMENT EPISODE TO PREVENT A BIAS-MOTIVATED STOP; AND

(III) LOCATE A HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION ENFORCEMENT EPISODE IN A GENERAL AREA WHERE AN EXPECTED CONCENTRATION OF ALCOHOL AND DRUG IMPAIRED DRIVING CRASHES ARE LIKELY TO OCCUR OR ORIGINATE.

(4) NO MONEY MAY BE ALLOCATED PURSUANT TO THIS SECTION TO ANY LAW ENFORCEMENT AGENCY THAT IS SUBJECT TO A JUDICIALLY-ORDERED CONSENT DECREE.

(5) THE OFFICE OF TRANSPORTATION SAFETY IN THE DEPARTMENT OF TRANSPORTATION, IN COLLABORATION WITH THE DEPARTMENT OF PUBLIC SAFETY,

SHALL CREATE AND PUBLISH AN ANNUAL REPORT WITH THE FOLLOWING INFORMATION:

(a) THE PARTICIPATING AGENCIES CONDUCTING ANY HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION ENFORCEMENT EPISODES;

(b) THE TIME, DATE, DURATION, AND LOCATION OF EACH HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION ENFORCEMENT EPISODE;

(c) THE PERCEIVED DEMOGRAPHIC INFORMATION OF EACH INDIVIDUAL CONTACTED WHO IS ASKED TO COMPLETE FURTHER INVESTIGATION DURING EACH HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION ENFORCEMENT EPISODE, AS REQUIRED BY SECTION 24-31-309 (3.5)(a); AND

(d) THE RESULT OF THE CONTACT WITH EACH INDIVIDUAL WHO IS ASKED TO COMPLETE FURTHER INVESTIGATION, INCLUDING IF AN ARREST WAS MADE AND THE OFFENSE NOTED IN THE WARNING OR CITATION OR FOR WHICH AN ARREST WAS MADE, AS REQUIRED BY SECTION 24-31-309 (3.5)(g).

(6) ANY LAW ENFORCEMENT AGENCY THAT DOES NOT COMPLY WITH, OR THAT HAS ENGAGED A PEACE OFFICER WHO DOES NOT COMPLY WITH THE REQUIREMENTS OF THIS SECTION, OR THE RULES, REGULATIONS, GUIDELINES, OR FUNDING TERMS ISSUED BY THE OFFICE OF TRANSPORTATION SAFETY IN ADMINISTERING THE HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION ENFORCEMENT PROGRAM, OR DOES NOT COMPLY WITH OTHER APPLICABLE LAW, IS SUBJECT TO SUSPENSION OF ITS FUNDING RECEIVED PURSUANT TO THE HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING PREVENTION ENFORCEMENT PROGRAM AND MAY BE REQUIRED TO RETURN THE MONEY.

(7) THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION TO ENFORCE THE PROVISIONS OF THIS SECTION.

43-4-903. High-visibility alcohol and drug impaired driving enforcement funding. FOR STATE FISCAL YEARS COMMENCING ON AND AFTER JULY 1, 2023, THE TRANSPORTATION COMMISSION SHALL ANNUALLY ALLOCATE FROM THE STATE HIGHWAY FUND TO THE OFFICE OF TRANSPORTATION SAFETY IN THE DEPARTMENT OF TRANSPORTATION ONE MILLION FIVE HUNDRED THOUSAND DOLLARS FOR HIGH-VISIBILITY ALCOHOL AND DRUG IMPAIRED DRIVING ENFORCEMENT DESCRIBED IN THIS PART 9.

SECTION 4. In Colorado Revised Statutes, 42-2-132, **amend** (4)(b)(II)(B) as follows:

42-2-132. Period of suspension or revocation. (4) (b) The department shall transmit the restoration fees collected under this subsection (4) to the state treasurer, who shall credit:

(II) (B) The ~~moneys~~ MONEY in the account ~~shall be~~ IS subject to annual appropriation by the general assembly on and after January 1, 2009, first to the department of revenue to pay its costs associated with the implementation of House Bill 08-1194, as enacted in 2008, and to pay its costs associated with the

implementation of House Bill 13-1240, enacted in 2013; second, to the department of revenue to pay a portion of the costs for an ignition interlock device as described by section 42-2-132.5 (4)(a)(II)(C) for a first time drunk OR IMPAIRED driving offender who is unable to pay the costs of the device; third, to the department of revenue to pay a portion of the costs for an ignition interlock device for a persistent drunk OR IMPAIRED driver who is unable to pay the costs of the device and who installs the ignition interlock device on his or her vehicle on or after January 1, 2014. ~~and then to provide two million dollars to the department of transportation for high-visibility drunk driving enforcement pursuant to section 43-4-901, C.R.S.,~~ Any ~~moneys~~ MONEY in the account not expended for these purposes may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of ~~moneys~~ MONEY in the account shall be credited to the account. At the end of each fiscal year, any unexpended and unencumbered ~~moneys~~ MONEY remaining in the account shall remain in the account and shall not be credited or transferred to the general fund, the highway users tax fund, or another fund.

SECTION 5. In Colorado Revised Statutes, 43-4-402, **amend** (2)(a) as follows:

43-4-402. Source of revenues - allocation of money - special account created.

(2) (a) The general assembly shall make an annual appropriation out of the money in the fund to the department of public health and environment in an amount sufficient to pay for the costs of evidential breath alcohol testing, including any education needs associated with testing, and implied consent specialists, the costs of which were previously paid out of the highway users tax fund. The general assembly shall also make an annual appropriation out of the money in the fund to the Colorado bureau of investigation to pay for the costs of toxicology laboratory services, including any education needs associated with the services. Of the money remaining in the fund, eighty percent shall be deposited in a special ~~drunken~~ ALCOHOL AND DRUG IMPAIRED driving account in the fund, which account is created, and be available immediately, without further appropriation, for allocation by the transportation commission to the office of transportation safety. The office of transportation safety shall allocate the money in accordance with the provisions of section 43-4-404 (1) and (2). The remaining twenty percent shall be appropriated by the general assembly to the OFFICE OF behavioral health ~~administration~~ in the department of human services, which shall use the money for the purposes stated in section 43-4-404 (3). The office of transportation safety and the OFFICE OF behavioral health ~~administration~~ in the department of human services may use amounts from the money allocated or appropriated to them ~~by~~ PURSUANT TO this subsection (2) as necessary for the purpose of paying the costs incurred by the office of transportation safety and the OFFICE OF behavioral health ~~administration~~ in administering the programs established pursuant to this part 4; except that ~~neither~~ the office of transportation safety ~~nor~~ AND the OFFICE OF behavioral health ~~administration~~ may NOT use for the purposes of this part 4 an amount exceeding eight percent of the money allocated or appropriated.

SECTION 6. In Colorado Revised Statutes, **amend** 43-4-403 as follows:

43-4-403. Alcohol and drug and impaired driving prevention enforcement program - minimum requirements. Any municipality, city and county, or county which establishes a qualified program to coordinate efforts to prevent ~~drunken~~

ALCOHOL AND DRUG IMPAIRED driving and enforce the laws pertaining to alcohol- and drug-related traffic offenses shall be eligible to receive ~~moneys~~ MONEY from the fund. The minimum requirements for such a qualified program shall be established by rules and regulations promulgated by the office of transportation safety in the department of transportation, which rules and regulations shall provide for programs, including but not limited to, programs to educate the public regarding alcohol- and drug-related traffic offenses.

SECTION 7. In Colorado Revised Statutes, 43-4-404, **amend** (1) and (2) as follows:

43-4-404. Formula for allocation of money - rules. (1) The office of transportation safety shall allocate not less than thirty percent and not more than fifty percent of the ~~moneys~~ MONEY allocated to the office pursuant to section 43-4-402 (2) to counties that have established a qualified ~~drunken~~ ALCOHOL AND DRUG IMPAIRED driving prevention and ~~law~~ enforcement program. The intent of the general assembly is that ~~these moneys be~~ THIS MONEY IS expended in a manner that will improve enforcement of ~~drunken~~ ALCOHOL AND DRUG IMPAIRED driving laws. To this end, rules for the distribution of ~~these moneys~~ THIS MONEY shall be developed by the office of transportation safety. All ~~moneys~~ MONEY appropriated ~~hereunder shall~~ MUST be used for ~~drunken~~ ALCOHOL AND DRUG IMPAIRED driving prevention and ~~law~~ enforcement improvement by counties and not for statewide programs.

(2) The office of transportation safety shall allocate not less than fifty percent and not more than seventy percent of the ~~moneys~~ MONEY to municipalities and ~~city~~ CITIES and counties that have established a qualified ~~drunken~~ ALCOHOL AND DRUG IMPAIRED driving prevention and ~~law~~ enforcement program. The intent of the general assembly is that ~~these moneys be~~ THIS MONEY IS expended in a manner that will improve enforcement of ~~drunken~~ ALCOHOL AND DRUG IMPAIRED driving laws. To this end, rules for the distribution of ~~these moneys~~ THIS MONEY shall be developed by the office of transportation safety. The office shall report annually to the transportation legislation review committee on the distribution and expenditure of ~~these funds~~ THIS MONEY and the nature and purpose of the programs. All ~~moneys~~ MONEY appropriated hereunder shall be used for ~~drunken~~ ALCOHOL AND DRUG IMPAIRED driving prevention and ~~law~~ enforcement improvement by municipalities and ~~city~~ CITIES and counties and not for statewide programs.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 5, 2023