

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 17-1090.01 Richard Sweetman x4333

HOUSE BILL 17-1315

HOUSE SPONSORSHIP

Singer and Lawrence,

SENATE SPONSORSHIP

Gardner and Fields,

House Committees

Judiciary
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ACQUISITION OF DATA TO ANALYZE THE TYPES OF**
102 **DUI OFFENSES BEING COMMITTED BY OFFENDERS AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires the division of criminal justice (division) within the department of public safety (department) to produce a report on or before December 1, 2017, and on or before December 1 each year thereafter, that includes, to the extent possible, certain data relating to substance-affected driving citations that occurred in the previous year.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
Amended 2nd Reading
May 2, 2017

For the purpose of producing the report, the division shall collect certain data from:

- ! The state judicial branch;
- ! Forensic toxicology laboratories;
- ! The department of public health and environment; and
- ! The division of probation services.

The bill creates a \$10 surcharge for persons convicted of substance-affected driving. Money collected as such surcharges must be deposited in the substance-affected driving data-analysis cash fund, which is created in the bill.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-33.5-520 as
3 follows:

4 **24-33.5-520. Study on drugged driving - substance-affected**
5 **driving data-analysis cash fund created - report - definitions.** (1) ON
6 AND AFTER THE EFFECTIVE DATE OF THIS ACT, THE DIVISION SHALL
7 PREPARE A REPORT THAT THE DEPARTMENT OF PUBLIC SAFETY SHALL
8 INCLUDE IN ITS ANNUAL REPORT TO THE HOUSE AND SENATE COMMITTEES
9 OF REFERENCE PURSUANT TO SECTION 2-7-203. THE REPORT OF THE
10 DIVISION MUST INCLUDE, TO THE EXTENT POSSIBLE, THE FOLLOWING
11 INFORMATION:

12 (a) THE TOTAL NUMBER OF CITATIONS MADE FOR SUSPECTED
13 SUBSTANCE-AFFECTED DRIVING VIOLATIONS DURING THE PREVIOUS
14 CALENDAR YEAR;

15 (b) OF THE TOTAL NUMBER OF CITATIONS MADE FOR SUSPECTED
16 SUBSTANCE-AFFECTED DRIVING DURING THE PREVIOUS CALENDAR YEAR,
17 THE TOTAL NUMBER OF SUCH CITATIONS THAT RESULTED IN THE FILING OF
18 A SUBSTANCE-AFFECTED DRIVING CHARGE AGAINST THE DRIVER,
19 INCLUDING AN INDICATION OF HOW MANY SUCH CASES INVOLVED
20 ALCOHOL, ONE OR MORE DRUGS, OR A COMBINATION OF ALCOHOL AND ONE

1 OR MORE DRUGS;

2 (c) OF THE FILED CASES, HOW MANY RESULTED IN AT LEAST ONE
3 CONVICTION FOR SUBSTANCE-AFFECTED DRIVING;

4 (d) OF THE CASES THAT RESULTED IN AT LEAST ONE CONVICTION
5 FOR SUBSTANCE-AFFECTED DRIVING, AND FOR WHICH EVIDENTIARY TEST
6 RESULTS ARE AVAILABLE, WHICH DRUGS, INCLUDING ALCOHOL, OR
7 COMBINATION OF DRUGS WERE PRESENT IN THE DEFENDANTS' BODIES,
8 AND, FOR ALCOHOL AND MARIJUANA, THE LABORATORY VALUES;

9 (e) THE TOTAL NUMBER OF DUI AND DWAI CASES DURING THE
10 PREVIOUS YEAR THAT INVOLVED:

11 (I) ALCOHOL;

12 (II) MARIJUANA;

13 (III) SCHEDULE I DRUGS, AS DESCRIBED IN SECTION 18-18-203,
14 OTHER THAN MARIJUANA; OR

15 (IV) OTHER DRUGS; AND

16 (f) FOR THOSE CASES IN WHICH EVIDENTIARY TEST RESULTS ARE
17 AVAILABLE, FOR EACH TYPE OF BIOLOGICAL SAMPLE TAKEN, THE TIME
18 THAT ELAPSED BETWEEN THE TIME THAT EACH TRAFFIC STOP OR TRAFFIC
19 INCIDENT OCCURRED AND THE TIME AT WHICH THE BIOLOGICAL SAMPLE
20 WAS TAKEN.

21 (2) (a) FOR THE PURPOSE OF PRODUCING THE REPORT DESCRIBED
22 IN SUBSECTION (1) OF THIS SECTION, THE DIVISION SHALL COLLECT AND
23 ANALYZE SUBSTANCE-AFFECTED DRIVING VIOLATION DATA AS FOLLOWS:

24 (I) FROM THE STATE JUDICIAL BRANCH, THE DIVISION SHALL
25 COLLECT CASE-IDENTIFIER DATA, EVENT DATA, FILING DATES, DATA
26 IDENTIFYING LAW ENFORCEMENT AGENCIES, DEMOGRAPHIC DATA
27 RELATING TO EACH DEFENDANT, DATA INDICATING THE CAUSE OF EACH

1 SUBSTANCE-AFFECTED DRIVING CITATION, COURT FINDINGS, AND
2 SENTENCES;

3 (II) FROM FORENSIC TOXICOLOGY LABORATORIES ONLY, AND FROM
4 NO OTHER SOURCE, THE DIVISION, TO THE EXTENT POSSIBLE, SHALL
5 COLLECT CASE-IDENTIFIER DATA, EVENT DATES AND TIMES, COLLECTION
6 DATES AND TIMES, AND CONFIRMATORY LABORATORY VALUES FROM
7 REPORTS CREATED FOR LAW ENFORCEMENT AGENCIES AND PROSECUTORS
8 AND SHALL SPECIFY THE NAME OF EACH DRUG THAT WAS CONFIRMED AND
9 ITS LABORATORY VALUE;

10 (III) FROM THE DEPARTMENT OF PUBLIC HEALTH AND
11 ENVIRONMENT, THE DIVISION SHALL COLLECT EVIDENTIARY BREATH
12 ALCOHOL TEST RESULTS, INCLUDING CASE-IDENTIFIER DATA, EVENT DATES
13 AND TIMES, AND THE RESULTS OBTAINED ON EVIDENTIARY BREATH
14 ALCOHOL TESTING DEVICES CERTIFIED BY THE DEPARTMENT OF PUBLIC
15 HEALTH AND ENVIRONMENT; AND

16 (IV) FROM THE DIVISION OF PROBATION SERVICES, THE DIVISION
17 SHALL COLLECT CASE-IDENTIFIER DATA AND, TO THE EXTENT POSSIBLE,
18 DATA CONCERNING THE CLASSES AND TYPES OF DRUGS THAT WERE
19 INVOLVED IN EACH SUBSTANCE-AFFECTED DRIVING INCIDENT.

20 (b) THE DATABASE COMPILED BY THE DIVISION CONTAINING
21 PERSONAL IDENTIFYING INFORMATION RELATING TO THE TEST RESULTS OF
22 PERSONS' BIOLOGICAL SAMPLES, AND ALL PERSONAL IDENTIFYING
23 INFORMATION THEREOF, ARE NOT PUBLIC INFORMATION AND ARE NOT
24 SUBJECT TO THE PROVISIONS OF THE "COLORADO OPEN RECORDS ACT",
25 PART 2 OF ARTICLE 72 OF THIS TITLE 24. THE DIVISION SHALL DISCLOSE
26 INFORMATION ONLY BY MEANS OF THE REPORT DESCRIBED IN SUBSECTION
27 (1) OF THIS SECTION, WHICH MUST NOT INCLUDE ANY PERSONAL

1 IDENTIFYING INFORMATION.

2 (3) A PUBLIC OR PRIVATE LABORATORY CARRYING OUT ANALYSIS
3 OF EVIDENTIARY SAMPLES THAT WERE TAKEN BY A LAW ENFORCEMENT
4 AGENCY AND SUBMITTED TO THE LABORATORY PURSUANT TO SECTION
5 42-4-1301.1 SHALL COLLECT AND SHARE TEST RESULTS WITH THE DIVISION
6 FOR THE PURPOSES OF THIS SECTION. THE DIVISION SHALL NOT DISCLOSE
7 ANY PERSONAL IDENTIFYING INFORMATION THAT IS INCLUDED IN SUCH
8 TEST RESULTS.

9 (4) (a) THERE IS CREATED IN THE STATE TREASURY THE
10 SUBSTANCE-AFFECTED DRIVING DATA-ANALYSIS CASH FUND, REFERRED
11 TO IN THIS SECTION AS THE "FUND", TO INCLUDE MONEY COLLECTED FROM
12 SURCHARGES ASSESSED PURSUANT TO SECTION 42-4-1307 (10)(e) AND
13 ANY MONEY CREDITED TO THE FUND PURSUANT TO SUBSECTION (4)(b) OF
14 THIS SECTION. THE MONEY IN THE FUND IS SUBJECT TO ANNUAL
15 APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DIVISION FOR THE
16 PURPOSE DESCRIBED IN SUBSECTION (1) OF THIS SECTION. ALL INTEREST
17 DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND
18 REMAINS IN THE FUND. ANY UNEXPENDED OR UNENCUMBERED MONEY
19 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE
20 FUND AND MAY NOT BE TRANSFERRED OR CREDITED TO THE GENERAL
21 FUND OR ANOTHER FUND.

22 (b) THE DIVISION MAY ACCEPT ANY GIFTS, GRANTS, OR DONATIONS
23 FROM ANY PRIVATE OR PUBLIC SOURCE ON BEHALF OF THE STATE FOR
24 PURPOSES OF THIS SECTION. THE DIVISION SHALL TRANSMIT ALL PRIVATE
25 AND PUBLIC MONEY RECEIVED THROUGH GRANTS, GIFTS, OR DONATIONS
26 TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

27 (c) THE DIVISION MAY USE MONEY IN THE FUND TO REIMBURSE

1 AND PROVIDE ADVANCE PAYMENTS TO STATE, MUNICIPAL, AND PRIVATE
2 AGENCIES AND LABORATORIES THAT APPLY TO THE DIVISION FOR PAYMENT
3 OF COSTS THEY INCUR IN COMPLYING WITH THIS SECTION.

4 (5) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT
5 DESCRIBED IN SUBSECTION (1) OF THIS SECTION IS NOT SUBJECT TO THE
6 EXPIRATION DATE DESCRIBED IN SAID SECTION 24-1-136 (11)(a)(I).

7 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT REQUIRES
8 OTHERWISE:

9 (a) "FORENSIC TOXICOLOGY LABORATORY" MEANS A FORENSIC
10 TOXICOLOGY LABORATORY THAT IS CERTIFIED BY THE DEPARTMENT OF
11 PUBLIC HEALTH AND ENVIRONMENT TO PERFORM TESTING OF SAMPLES
12 COLLECTED FROM INDIVIDUALS SUSPECTED OF DUI, DUI PER SE, OR
13 DWAI.

14 (b) "SUBSTANCE-AFFECTED DRIVING" MEANS DRIVING IN
15 VIOLATION OF SECTION 42-4-1301 (1)(a), (1)(b), OR (2)(a); SECTION
16 18-3-106 (1)(b); OR SECTION 18-3-205 (1)(b).

17 **SECTION 2.** In Colorado Revised Statutes, 42-4-1304, **amend**
18 (7) as follows:

19 **42-4-1304. Samples of blood or other bodily substance - duties**
20 **of department of public health and environment.** (7) The office of the
21 highway safety coordinator, the department, ~~and~~ the Colorado state patrol,
22 ~~shall~~ AND THE DIVISION OF CRIMINAL JUSTICE WITHIN THE DEPARTMENT OF
23 PUBLIC SAFETY have access to the results of the tests of ~~such~~ samples
24 taken as a result of a traffic crash for statistical analysis. The division of
25 parks and wildlife ~~shall have~~ HAS access to the results of the tests of ~~such~~
26 samples taken as a result of a boating accident for statistical analysis.

27 **SECTION 3.** In Colorado Revised Statutes, 42-4-1307, **add**

1 (10)(e) as follows:

2 **42-4-1307. Penalties for traffic offenses involving alcohol and**
3 **drugs - legislative declaration - definitions - repeal. (10) Additional**
4 **costs and surcharges.** In addition to the penalties prescribed in this
5 section:

6 (e) PERSONS CONVICTED OF DUI, DUI PER SE, DWAI, VEHICULAR
7 ASSAULT AS DESCRIBED IN SECTION 18-3-205 (1)(b), OR VEHICULAR
8 HOMICIDE AS DESCRIBED IN SECTION 18-3-106 (1)(b) SHALL PAY A
9 DATA-ANALYSIS SURCHARGE OF TWO DOLLARS TO BE TRANSMITTED TO
10 THE STATE TREASURER, WHO SHALL DEPOSIT MONEY COLLECTED FOR THE
11 SURCHARGE IN THE SUBSTANCE-AFFECTED DRIVING DATA-ANALYSIS CASH
12 FUND CREATED IN SECTION 24-33.5-520. EXCEPT IN THE CASE OF AN
13 INDIGENT DEFENDANT, THE COURT HAS NO DISCRETION TO WAIVE THIS
14 SURCHARGE.

15 **SECTION 4. Appropriation.** (1) For the 2017-18 state fiscal
16 year, \$20,352 is appropriated to the department of public safety. This
17 appropriation is from the substance-affected driving data-analysis cash
18 fund created in section 24-33.5-520 (4)(a), C.R.S. To implement this act,
19 the department may use this appropriation as follows:

20 (a) \$15,000 for use by the division of criminal justice for
21 payments to private laboratories; and

22 (b) \$5,352 for transfer to the department of public health and
23 environment.

24 (2) For the 2017-18 state fiscal year, \$5,352 is appropriated to the
25 department of public health and environment and is based on an
26 assumption that the department will require an additional 0.1 FTE. This
27 appropriation is from reappropriated funds received from the department

1 of public safety under subsection (1)(b) of this section. To implement this
2 act, the department may use this appropriation to provide breath alcohol
3 test results to the department of public safety.

4 **SECTION 5. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly (August
7 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
8 referendum petition is filed pursuant to section 1 (3) of article V of the
9 state constitution against this act or an item, section, or part of this act
10 within such period, then the act, item, section, or part will not take effect
11 unless approved by the people at the general election to be held in
12 November 2018 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.