

CHAPTER 337

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 17-1277

BY REPRESENTATIVE(S) Mitsch Bush, Benavidez, Covarrubias, Danielson, Exum, Ginal, Gray, Hamner, Hansen, Herod, Jackson, Kraft-Tharp, Lebsack, Lontine, McLachlan, Melton, Michaelson Jenet, Pettersen, Rosenthal, Saine, Salazar, Valdez, Van Winkle, Young;
also SENATOR(S) Martinez Humenik, Aguilar, Cooke, Court, Holbert, Jones, Kerr, Merrifield, Moreno, Smallwood, Tate, Todd, Williams A.

AN ACT

CONCERNING THE AUTHORITY OF THE DEPARTMENT OF REVENUE TO SUSPEND THE DRIVER'S LICENSE OF A DRIVER WHO LEAVES THE SCENE OF AN ACCIDENT INVOLVING SERIOUS BODILY INJURY.

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

SECTION 1. In Colorado Revised Statutes, **add** 42-2-127.9 as follows:

42-2-127.9. Authority to suspend driver's license - leaving the scene of an accident. (1) (a) THE DEPARTMENT MAY SUSPEND THE DRIVER'S LICENSE OF ANY PERSON UPON THE DEPARTMENT'S DETERMINATION THAT THERE IS PROOF BY A PREPONDERANCE OF THE EVIDENCE THAT THE PERSON WAS THE DRIVER OF A VEHICLE DIRECTLY INVOLVED IN AN ACCIDENT RESULTING IN SERIOUS BODILY INJURY TO OR DEATH OF ANY PERSON AND FAILED TO IMMEDIATELY STOP THE VEHICLE AT THE SCENE OF THE ACCIDENT, OR AS CLOSE TO THE SCENE AS POSSIBLE, OR IMMEDIATELY RETURN TO THE SCENE OF THE ACCIDENT, AS REQUIRED BY SECTION 42-4-1601.

(b) THE DEPARTMENT SHALL MAKE A DETERMINATION OF THE FACTS ON THE BASIS OF THE DOCUMENTS AND AFFIDAVIT OF AN OFFICER AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, AND THIS DETERMINATION SHALL BE FINAL UNLESS A HEARING IS REQUESTED AND HELD AS PROVIDED IN SUBSECTIONS (6) AND (7) OF THIS SECTION.

(c) FOR PURPOSES OF THIS SECTION:

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

(I) "LICENSE" INCLUDES ANY DRIVING PRIVILEGE.

(II) "OFFICER" MEANS A LAW ENFORCEMENT OFFICER.

(2) WHENEVER AN OFFICER DETERMINES THAT A PERSON HAS VIOLATED SECTION 42-4-1601, THE OFFICER MAKING THE DETERMINATION SHALL FORWARD TO THE DEPARTMENT AN AFFIDAVIT THAT INCLUDES A STATEMENT OF THE OFFICER'S PROBABLE CAUSE THAT THE PERSON COMMITTED THE VIOLATION AND A COPY OF THE CITATION AND COMPLAINT, IF ANY, FILED WITH THE COURT. THE AFFIDAVIT SHALL BE DATED, SIGNED, AND SWORN TO BY THE OFFICER UNDER PENALTY OF PERJURY, BUT NEED NOT BE NOTARIZED OR SWORN TO BEFORE ANY OTHER PERSON.

(3) (a) UPON RECEIPT BY THE DEPARTMENT OF THE AFFIDAVIT OF THE OFFICER AND THE RELEVANT DOCUMENTS REQUIRED BY SUBSECTION (2) OF THIS SECTION, THE DEPARTMENT SHALL MAKE THE DETERMINATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION BASED UPON THE INFORMATION CONTAINED IN THE AFFIDAVIT AND THE RELEVANT DOCUMENTS. IF THE DEPARTMENT DETERMINES THAT THE PERSON IS SUBJECT TO LICENSE SUSPENSION, THE DEPARTMENT MAY ISSUE A NOTICE OF SUSPENSION IF SUCH NOTICE HAS NOT ALREADY BEEN SERVED UPON THE PERSON BY THE OFFICER IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION.

(b) THE DEPARTMENT SHALL MAIL THE NOTICE OF SUSPENSION IN ACCORDANCE WITH SECTION 42-2-119 (2) TO THE PERSON AT THE LAST-KNOWN ADDRESS SHOWN ON THE DEPARTMENT'S RECORDS, IF ANY, AND TO ANY ADDRESS PROVIDED IN THE OFFICER'S AFFIDAVIT IF THAT ADDRESS DIFFERS FROM THE ADDRESS OF RECORD. THE NOTICE IS DEEMED RECEIVED THREE DAYS AFTER MAILING.

(c) THE NOTICE OF SUSPENSION MUST 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.

(d) IF THE DEPARTMENT DETERMINES THAT THE PERSON IS NOT SUBJECT TO LICENSE SUSPENSION:

(I) THE DEPARTMENT SHALL NOTIFY THE PERSON OF ITS DETERMINATION AND SHALL RESCIND ANY ORDER OF SUSPENSION SERVED UPON THE PERSON BY THE OFFICER;

(II) IF THE PERSON'S LICENSE WAS CONFISCATED BY AN OFFICER UNDER SUBSECTION (4) OF THIS SECTION, THE PERSON MAY OBTAIN THE LICENSE BY THE PAYMENT OF A FEE TO THE DEPARTMENT PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION. THE DEPARTMENT SHALL DETERMINE THE FEE IN ACCORDANCE WITH SECTION 42-2-114.5.

(4) (a) IF AN OFFICER DETERMINES THAT A PERSON HAS VIOLATED SECTION 42-4-1601, THE OFFICER, ACTING ON BEHALF OF THE DEPARTMENT, MAY SERVE THE NOTICE OF SUSPENSION PERSONALLY ON THE PERSON. IF THE LAW ENFORCEMENT OFFICER SERVES THE NOTICE OF SUSPENSION, THE OFFICER SHALL CONFISCATE ANY DRIVER'S LICENSE ISSUED BY THIS STATE OR ANY OTHER STATE THAT IS HELD BY THE

PERSON. WHEN THE OFFICER TAKES POSSESSION OF A VALID LICENSE, THE OFFICER, ACTING ON BEHALF OF THE DEPARTMENT, SHALL ISSUE A TEMPORARY PERMIT THAT IS VALID FOR SEVEN DAYS AFTER ITS DATE OF ISSUANCE.

(b) THE OFFICER SHALL FORWARD A COPY OF THE COMPLETED NOTICE OF SUSPENSION FORM, A COPY OF ANY COMPLETED TEMPORARY PERMIT FORM, AND ANY DRIVER'S, MINOR DRIVER'S, OR TEMPORARY DRIVER'S LICENSE OR ANY INSTRUCTION PERMIT TAKEN INTO POSSESSION UNDER THIS SECTION ALONG WITH THE AFFIDAVIT AND DOCUMENTS REQUIRED IN SUBSECTIONS (1) AND (2) OF THIS SECTION.

(c) THE DEPARTMENT SHALL PROVIDE FORMS FOR NOTICE OF SUSPENSION AND FOR TEMPORARY PERMITS TO LAW ENFORCEMENT AGENCIES. THE DEPARTMENT SHALL ESTABLISH A FORMAT FOR THE AFFIDAVITS REQUIRED BY THIS SECTION AND SHALL GIVE NOTICE OF SUCH FORMAT TO ALL LAW ENFORCEMENT AGENCIES THAT SUBMIT AFFIDAVITS TO THE DEPARTMENT. LAW ENFORCEMENT AGENCIES SHALL FOLLOW THE FORMAT DETERMINED BY THE DEPARTMENT.

(d) A TEMPORARY PERMIT SHALL NOT BE ISSUED TO ANY PERSON WHO IS ALREADY DRIVING WITH A TEMPORARY PERMIT ISSUED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION.

(5) (a) A LICENSE SUSPENSION IS EFFECTIVE SEVEN DAYS AFTER THE SUBJECT PERSON HAS RECEIVED THE NOTICE OF SUSPENSION AS PROVIDED IN SUBSECTION (4) OF THIS SECTION OR IS DEEMED TO HAVE RECEIVED THE NOTICE OF SUSPENSION BY MAIL AS PROVIDED IN SUBSECTION (3) OF THIS SECTION. IF A WRITTEN REQUEST FOR A HEARING IS RECEIVED BY THE DEPARTMENT WITHIN THAT SAME SEVEN-DAY PERIOD, THE EFFECTIVE DATE OF THE SUSPENSION IS STAYED UNTIL A FINAL ORDER IS ISSUED FOLLOWING THE HEARING; EXCEPT THAT ANY DELAY IN THE HEARING THAT IS CAUSED OR REQUESTED BY THE SUBJECT PERSON OR COUNSEL REPRESENTING THAT PERSON SHALL NOT RESULT IN A STAY OF THE SUSPENSION DURING THE PERIOD OF DELAY.

(b) THE PERIOD OF LICENSE SUSPENSION UNDER SUBSECTION (1)(a) OF THIS SECTION IS ONE YEAR. AFTER THE SUSPENSION PERIOD IS COMPLETE, THE PERSON MAY HAVE HIS OR HER DRIVER'S LICENSE RESTORED BY PAYING THE REQUIRED RESTORATION FEE PURSUANT TO SECTION 42-2-132 (4).

(6) (a) ANY PERSON WHO HAS RECEIVED A NOTICE OF SUSPENSION MAY MAKE A WRITTEN REQUEST FOR A REVIEW OF THE DEPARTMENT'S DETERMINATION AT A HEARING. THE REQUEST MAY BE MADE ON A FORM AVAILABLE AT EACH OFFICE OF THE DEPARTMENT. A PERSON WHO HAS RECEIVED A NOTICE OF SUSPENSION MAY ALSO REQUEST A HEARING FOR A PROBATIONARY LICENSE ISSUED IN ACCORDANCE WITH SUBSECTION (9) OF THIS SECTION.

(b) THE REQUEST FOR A HEARING MUST BE MADE IN WRITING WITHIN SEVEN DAYS AFTER THE DAY THE PERSON RECEIVED THE NOTICE OF SUSPENSION AS PROVIDED IN SUBSECTION (4) OF THIS SECTION OR IS DEEMED TO HAVE RECEIVED THE NOTICE BY MAIL AS PROVIDED IN SUBSECTION (3) OF THIS SECTION. IF WRITTEN REQUEST FOR A HEARING IS NOT RECEIVED WITHIN THE SEVEN-DAY PERIOD, THE RIGHT TO A HEARING IS WAIVED, AND THE DETERMINATION OF THE DEPARTMENT THAT IS BASED UPON THE DOCUMENTS AND AFFIDAVIT REQUIRED BY SUBSECTIONS (1) AND (2) OF THIS

SECTION BECOMES FINAL.

(c) AT THE TIME THAT A PERSON REQUESTS A HEARING, THE DEPARTMENT SHALL PROVIDE TO THE PERSON WRITTEN NOTICE ADVISING THE PERSON:

(I) OF THE RIGHT TO SUBPOENA THE LAW ENFORCEMENT OFFICER FOR THE HEARING AND THAT THE SUBPOENA MUST BE SERVED UPON THE LAW ENFORCEMENT OFFICER AT LEAST FIVE CALENDAR DAYS PRIOR TO THE HEARING;

(II) OF THE PERSON'S RIGHT TO NOTIFY THE DEPARTMENT IN WRITING THAT THE PERSON DESIRES THE LAW ENFORCEMENT OFFICER'S PRESENCE AT THE HEARING AND THAT, UPON RECEIVING THE NOTIFICATION, THE DEPARTMENT SHALL ISSUE A WRITTEN NOTICE FOR THE LAW ENFORCEMENT OFFICER TO APPEAR AT THE HEARING;

(III) THAT, IF THE LAW ENFORCEMENT OFFICER IS NOT REQUIRED TO APPEAR AT THE HEARING, DOCUMENTS AND AN AFFIDAVIT PREPARED AND SUBMITTED BY THE LAW ENFORCEMENT OFFICER WILL BE USED AT THE HEARING; AND

(IV) THAT THE AFFIDAVIT AND DOCUMENTS SUBMITTED BY THE LAW ENFORCEMENT OFFICER MAY BE REVIEWED BY THE PERSON PRIOR TO THE HEARING.

(d) IF A WRITTEN REQUEST FOR A HEARING IS MADE AFTER EXPIRATION OF THE SEVEN-DAY PERIOD AND IS ACCOMPANIED BY THE PERSON'S VERIFIED STATEMENT EXPLAINING THE FAILURE TO MAKE A TIMELY REQUEST FOR A HEARING, THE DEPARTMENT SHALL RECEIVE AND CONSIDER THE REQUEST. IF THE DEPARTMENT FINDS THAT THE PERSON WAS UNABLE TO MAKE A TIMELY REQUEST DUE TO LACK OF ACTUAL NOTICE OF THE SUSPENSION, FACTORS OF PHYSICAL INCAPACITY SUCH AS HOSPITALIZATION, OR INCARCERATION, THE DEPARTMENT SHALL WAIVE THE PERIOD OF LIMITATION, REOPEN THE MATTER, AND GRANT THE HEARING REQUEST. IN SUCH CASE, A STAY OF THE SUSPENSION PENDING ISSUANCE OF THE FINAL ORDER FOLLOWING THE HEARING SHALL NOT BE GRANTED.

(e)(I) THE HEARING SHALL BE SCHEDULED TO BE HELD AS SOON AS PRACTICABLE BUT NOT MORE THAN SIXTY DAYS AFTER THE DAY THAT THE REQUEST FOR A HEARING IS RECEIVED BY THE DEPARTMENT; EXCEPT THAT, IF A HEARING IS RESCHEDULED BECAUSE OF THE UNAVAILABILITY OF A HEARING OFFICER IN ACCORDANCE WITH SUBSECTION (6)(e)(II) OF THIS SECTION, THE HEARING MAY BE RESCHEDULED MORE THAN SIXTY DAYS AFTER THE DAY THAT THE REQUEST FOR THE HEARING IS RECEIVED BY THE DEPARTMENT, AND THE DEPARTMENT SHALL CONTINUE ANY TEMPORARY DRIVING PRIVILEGES HELD BY THE PERSON WHO REQUESTED THE HEARING UNTIL THE DATE THAT SUCH HEARING IS RESCHEDULED. THE DEPARTMENT SHALL PROVIDE A WRITTEN NOTICE OF THE TIME AND PLACE OF THE HEARING TO THE PERSON WHO REQUESTED THE HEARING IN THE MANNER PROVIDED IN SECTION 42-2-119(2) AT LEAST TEN DAYS BEFORE THE SCHEDULED OR RESCHEDULED HEARING UNLESS THE PARTIES AGREE TO WAIVE THIS REQUIREMENT. NOTWITHSTANDING SECTION 42-2-119, THE LAST-KNOWN ADDRESS OF THE PERSON WHO REQUESTED THE HEARING FOR PURPOSES OF NOTICE FOR ANY HEARING PURSUANT TO THIS SECTION IS THE ADDRESS STATED ON THE HEARING REQUEST FORM.

(II) IF A HEARING OFFICER CANNOT APPEAR AT ANY ORIGINAL OR RESCHEDULED

HEARING BECAUSE OF MEDICAL REASONS, A CONFLICTING OBLIGATION TO CONDUCT ANOTHER ADMINISTRATIVE HEARING, OR ANY OTHER LEGITIMATE JUST CAUSE, THE HEARING OFFICER OR THE DEPARTMENT MAY RESCHEDULE THE HEARING AT THE EARLIEST POSSIBLE TIME WHEN THE HEARING OFFICER WILL BE AVAILABLE.

(f) IF A HEARING IS HELD PURSUANT TO THIS SUBSECTION (6), THE DEPARTMENT SHALL REVIEW THE MATTER AND MAKE A FINAL DETERMINATION ON THE BASIS OF THE DOCUMENTS AND AFFIDAVIT SUBMITTED TO THE DEPARTMENT PURSUANT TO SUBSECTIONS (1) AND (2) OF THIS SECTION. THE OFFICER WHO SUBMITTED THE AFFIDAVIT NEED NOT BE PRESENT AT THE HEARING UNLESS REQUESTED IN ACCORDANCE WITH SUBSECTION (6)(c) OF THIS SECTION. THE DEPARTMENT SHALL CONSIDER ALL OTHER RELEVANT EVIDENCE AT THE HEARING, INCLUDING THE REPORTS OF OTHER OFFICERS THAT ARE SUBMITTED TO THE DEPARTMENT. THE REPORTS OF OTHER OFFICERS ARE NOT REQUIRED TO BE MADE UNDER OATH, BUT EACH SUCH REPORT MUST IDENTIFY THE OFFICER MAKING THE REPORT. THE DEPARTMENT MAY CONSIDER EVIDENCE CONTAINED IN AFFIDAVITS FROM PERSONS OTHER THAN THE PERSON REQUESTING THE HEARING, SO LONG AS EACH SUCH AFFIDAVIT INCLUDES THE AFFIANT'S HOME OR WORK ADDRESS AND TELEPHONE NUMBER AND IS DATED, SIGNED, AND SWORN TO BY THE AFFIANT UNDER PENALTY OF PERJURY. THE AFFIDAVIT NEED NOT BE NOTARIZED OR SWORN TO BEFORE ANY OTHER PERSON. THE PERSON REQUESTING THE HEARING MUST PRESENT EVIDENCE IN PERSON.

(7)(a) THE HEARING SHALL BE HELD IN THE DISTRICT OFFICE OF THE DEPARTMENT CLOSEST TO THE RESIDENCE OF THE PERSON; EXCEPT THAT ALL OR PART OF THE HEARING MAY, AT THE DISCRETION OF THE DEPARTMENT, BE CONDUCTED BY TELEPHONE OR OTHER ELECTRONIC MEANS, IN REAL TIME, IN ACCORDANCE WITH SECTION 42-1-218.5.

(b) THE PRESIDING HEARING OFFICER SHALL BE THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR AN AUTHORIZED REPRESENTATIVE DESIGNATED BY THE EXECUTIVE DIRECTOR. THE PRESIDING HEARING OFFICER MAY ADMINISTER OATHS AND AFFIRMATIONS; CONSIDER THE AFFIDAVIT OF THE OFFICER FILING SUCH AFFIDAVIT AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION; CONSIDER OTHER OFFICERS' REPORTS SUBMITTED TO THE DEPARTMENT PURSUANT TO SUBSECTION (6)(f) OF THIS SECTION; EXAMINE AND CONSIDER DOCUMENTS AND COPIES OF DOCUMENTS CONTAINING RELEVANT EVIDENCE; CONSIDER OTHER AFFIDAVITS SUBMITTED PURSUANT TO SUBSECTION (6)(f) OF THIS SECTION; TAKE JUDICIAL NOTICE AS DEFINED BY RULE 201 OF ARTICLE II OF THE COLORADO RULES OF EVIDENCE, SUBJECT TO SECTION 24-4-105 (8), INCLUDING JUDICIAL NOTICE OF GENERAL, TECHNICAL, OR SCIENTIFIC FACTS WITHIN THE HEARING OFFICER'S KNOWLEDGE; COMPEL WITNESSES TO TESTIFY OR PRODUCE BOOKS, RECORDS, OR OTHER EVIDENCE; EXAMINE WITNESSES AND TAKE TESTIMONY; RECEIVE AND CONSIDER ANY RELEVANT EVIDENCE NECESSARY TO PROPERLY PERFORM THE HEARING OFFICER'S DUTIES AS REQUIRED BY THIS SECTION; ISSUE SUBPOENAS DUCES TECUM TO PRODUCE BOOKS, DOCUMENTS, RECORDS, OR OTHER EVIDENCE; ISSUE SUBPOENAS FOR THE ATTENDANCE OF WITNESSES; TAKE DEPOSITIONS, OR CAUSE DEPOSITIONS OR INTERROGATORIES TO BE TAKEN; REGULATE THE COURSE AND CONDUCT OF THE HEARING; AND MAKE A FINAL RULING ON THE ISSUES.

(c) (I) WHEN A LICENSE IS SUSPENDED UNDER SUBSECTION (1)(a) OF THIS

SECTION, THE SOLE ISSUE AT THE HEARING SHALL BE WHETHER, BASED ON A PREPONDERANCE OF THE EVIDENCE, THE PERSON WAS THE DRIVER OF A VEHICLE DIRECTLY INVOLVED IN AN ACCIDENT RESULTING IN SERIOUS BODILY INJURY TO OR DEATH OF ANY PERSON AND FAILED TO IMMEDIATELY STOP THE VEHICLE AT THE SCENE OF THE ACCIDENT, OR AS CLOSE TO THE SCENE AS POSSIBLE, OR IMMEDIATELY RETURN TO THE SCENE OF THE ACCIDENT AS REQUIRED BY SECTION 42-4-1601. IF THE PRESIDING HEARING OFFICER FINDS IN THE AFFIRMATIVE ON THAT ISSUE, THE SUSPENSION ORDER SHALL BE SUSTAINED AND THE PRESIDING HEARING OFFICER SHALL THEN CONSIDER WHETHER OR NOT TO ISSUE A PROBATIONARY LICENSE IN ACCORDANCE WITH SUBSECTION (9) OF THIS SECTION. IF THE PRESIDING HEARING OFFICER FINDS IN THE NEGATIVE ON THAT ISSUE, THE SUSPENSION ORDER SHALL BE RESCINDED.

(II) THE PRESIDING HEARING OFFICER SHALL NOT CONSIDER ANY ISSUE NOT SPECIFIED IN THIS SUBSECTION (7)(c).

(d) THE HEARING SHALL BE RECORDED. THE PRESIDING HEARING OFFICER SHALL RENDER AN OPINION IN WRITING, AND A COPY SHALL BE PROVIDED TO THE PERSON WHO REQUESTED THE HEARING.

(e) IF THE PERSON WHO REQUESTED THE HEARING FAILS TO APPEAR WITHOUT JUST CAUSE, THE RIGHT TO A HEARING IS WAIVED, AND THE DETERMINATION OF THE DEPARTMENT BASED UPON THE DOCUMENTS AND AFFIDAVIT REQUIRED IN SUBSECTIONS (1) AND (2) OF THIS SECTION IS FINAL.

(8) (a) WITHIN THIRTY-FIVE DAYS AFTER THE ISSUANCE OF THE FINAL DETERMINATION OF THE DEPARTMENT UNDER THIS SECTION, A PERSON AGGRIEVED BY THE DETERMINATION HAS THE RIGHT TO FILE A PETITION FOR JUDICIAL REVIEW IN THE DISTRICT COURT IN THE COUNTY OF THE PERSON'S RESIDENCE.

(b) JUDICIAL REVIEW SHALL BE BASED ON THE RECORD WITHOUT TAKING ADDITIONAL TESTIMONY. IF THE COURT FINDS THAT THE DEPARTMENT EXCEEDED ITS CONSTITUTIONAL OR STATUTORY AUTHORITY, MADE AN ERRONEOUS INTERPRETATION OF THE LAW, ACTED IN AN ARBITRARY AND CAPRICIOUS MANNER, OR MADE A DETERMINATION THAT IS UNSUPPORTED BY THE EVIDENCE IN THE RECORD, THE COURT MAY REVERSE THE DEPARTMENT'S DETERMINATION.

(c) THE FILING OF A PETITION FOR JUDICIAL REVIEW DOES NOT RESULT IN AN AUTOMATIC STAY OF THE SUSPENSION ORDER. THE COURT MAY GRANT A STAY OF THE ORDER ONLY UPON MOTION AND HEARING AND UPON A FINDING THAT THERE IS A REASONABLE PROBABILITY THAT THE PERSON WILL PREVAIL ON THE MERITS AND THAT THE PERSON WILL SUFFER IRREPARABLE HARM IF THE ORDER IS NOT STAYED.

(9) A PRESIDING HEARING OFFICER MAY ISSUE A PROBATIONARY LICENSE FOR A PERIOD NOT TO EXCEED THE PERIOD OF SUSPENSION FOR THE PURPOSE OF DRIVING FOR REASONS OF EMPLOYMENT, EDUCATION, HEALTH, OR OTHER NECESSITIES AS DETERMINED BY THE PRESIDING HEARING OFFICER, WHICH LICENSE MAY CONTAIN SUCH RESTRICTIONS AS THE DEPARTMENT DEEMS REASONABLE AND NECESSARY AND WHICH MAY THEREAFTER BE SUBJECT TO CANCELLATION AS A RESULT OF ANY VIOLATION OF THE RESTRICTIONS IMPOSED THEREIN. THE PRESIDING HEARING OFFICER MAY REFUSE TO ISSUE A PROBATIONARY LICENSE IF THE DEPARTMENT FINDS

THAT AGGRAVATING CIRCUMSTANCES EXIST TO INDICATE THE INDIVIDUAL IS UNSAFE FOR DRIVING FOR ANY PURPOSE. IN REFUSING TO ISSUE A PROBATIONARY LICENSE, THE DEPARTMENT SHALL MAKE SPECIFIC FINDINGS OF FACT TO SUPPORT SUCH REFUSAL. SUCH AGGRAVATING CIRCUMSTANCES MUST BE MATTERS OTHER THAN THE FACTS AND CIRCUMSTANCES OF THE CASE GIVING RISE TO SUSPENSION UNDER THIS SECTION.

(10) THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, APPLIES TO THIS SECTION TO THE EXTENT IT IS CONSISTENT WITH SUBSECTIONS (6), (7), AND (8) OF THIS SECTION RELATING TO ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW.

SECTION 2. In Colorado Revised Statutes, 42-4-1601, **amend** (3) as follows:

42-4-1601. Accidents involving death or personal injuries - duties. (3) The department shall revoke the driver's license of the person so convicted. A REVOCATION PURSUANT TO THIS SUBSECTION (3) RUNS CONCURRENTLY WITH ANY SUSPENSION IMPOSED PURSUANT TO SECTION 42-2-127.9, IF IMPOSED AS A RESULT OF THE SAME EPISODE OF DRIVING.

SECTION 3. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state money is necessary to carry out the purposes of this act.

SECTION 4. Act subject to petition - effective date - applicability. (1) This act takes effect January 1, 2018; 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 the ninety-day period after final adjournment of the general assembly, 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 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to offenses committed on or after the applicable effective date of this act.

Approved: June 5, 2017