

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

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Date

March 21, 2017

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB17-1162 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 42-2-138, **amend**  
4 (1)(a) and (3); and **add** (1.5) and (2.5) as follows:

5 **42-2-138. Driving under restraint - penalty.** (1) (a) EXCEPT AS  
6 PROVIDED IN SUBSECTION (1.5) OF THIS SECTION, any person who drives  
7 a motor vehicle or off-highway vehicle upon any highway of this state  
8 with knowledge that the person's license or privilege to drive, either as a  
9 resident or a nonresident, is under restraint for any reason other than  
10 conviction of DUI, DUI per se, DWAI, or UDD is guilty of a  
11 misdemeanor. A court may sentence a person convicted of this  
12 misdemeanor to imprisonment in the county jail for a period of not more  
13 than six months and may impose a fine of not more than five hundred  
14 dollars.

15 (1.5) ANY PERSON WHO DRIVES A MOTOR VEHICLE OR  
16 OFF-HIGHWAY VEHICLE UPON ANY HIGHWAY OF THIS STATE WITH  
17 KNOWLEDGE THAT THE PERSON'S LICENSE OR PRIVILEGE TO DRIVE, EITHER  
18 AS A RESIDENT OR A NONRESIDENT, IS UNDER RESTRAINT FOR AN  
19 OUTSTANDING JUDGMENT IS GUILTY OF A CLASS A TRAFFIC INFRACTION AS  
20 DEFINED IN SECTION 42-4-1701 (3).

21 (2.5) A MUNICIPALITY MAY ENFORCE VIOLATIONS OF SUBSECTION  
22 (1.5) OF THIS SECTION IN MUNICIPAL COURT. A MUNICIPAL COURT SHALL  
23 NOT WAIVE OR REDUCE THE THREE-POINT PENALTY.

24 (3) The department, upon receiving a record of conviction or

1 accident report of any person for an offense committed while operating  
2 a motor vehicle, shall immediately examine its files to determine if the  
3 license or operating privilege of such person has been restrained. If it  
4 appears that said offense was committed while the license or operating  
5 privilege of such person was restrained FOR A REASON OTHER THAN AN  
6 OUTSTANDING JUDGMENT, except as permitted by section 42-2-132.5, the  
7 department shall not issue a new license or grant any driving privileges  
8 for an additional period of one year after the date such person would  
9 otherwise have been entitled to apply for a new license or for  
10 reinstatement of a suspended license and shall notify the district attorney  
11 in the county where such violation occurred and request prosecution of  
12 such person under subsection (1) of this section.

13 **SECTION 2.** In Colorado Revised Statutes, 42-2-127, **add** (5)(II)  
14 as follows:

15 **42-2-127. Authority to suspend license - to deny license - type**  
16 **of conviction - points.** (5) Point system schedule:

Type of conviction	Points
(II) DRIVING UNDER RESTRAINT IN VIOLATION OF SECTION 19 42-2-138 (1.5) .....	3

20 **SECTION 3.** In Colorado Revised Statutes, 42-2-202, **amend**  
21 (2)(a)(III) as follows:

22 **42-2-202. Habitual offenders - frequency and type of**  
23 **violations.** (2) (a) An habitual offender is a person having three or more  
24 convictions of any of the following separate and distinct offenses arising  
25 out of separate acts committed within a period of seven years:

26 (III) Driving a motor vehicle upon a highway while such person's  
27 license or privilege to drive a motor vehicle has been denied, suspended,  
28 or revoked, in violation of section ~~42-2-138~~ 42-2-138 (1);

29 **SECTION 4. Act subject to petition - effective date -**  
30 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
31 the expiration of the ninety-day period after final adjournment of the  
32 general assembly (August 9, 2017, if adjournment sine die is on May 10,  
33 2017); except that, if a referendum petition is filed pursuant to section 1  
34 (3) of article V of the state constitution against this act or an item, section,  
35 or part of this act within such period, then the act, item, section, or part  
36 will not take effect unless approved by the people at the general election  
37 to be held in November 2018 and, in such case, will take effect on the  
38 date of the official declaration of the vote thereon by the governor.

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

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