

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0768.01 Conrad Imel x2313

SENATE BILL 20-116

SENATE SPONSORSHIP

Woodward, Gonzales, Rodriguez

HOUSE SPONSORSHIP

Herod,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE PENALTIES FOR DRIVING UNDER RESTRAINT WHEN
102 THE LICENSE IS RESTRAINED FOR REASONS OTHER THAN AN
103 ALCOHOL-RELATED OFFENSE.

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>.)

Under existing law, the penalty for driving while a person's license or privilege to drive is under restraint includes that the person may not be issued a license or granted any driving privileges for a period of time beyond the initial restraint. This penalty is in addition to a sentence to the county jail or fines that may be imposed as a penalty for driving under

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

restraint.

The bill removes the penalty restricting a person's driving privileges beyond the initial restraint when the initial restraint is for reasons other than an alcohol-related offense.

Under existing law, the department of revenue is required to immediately revoke an habitual offender's driver's license. The bill removes this revocation requirement when a person is an habitual offender solely because of convictions for driving under restraint when the restraint is for reasons other than an alcohol-related offense.

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

2 **SECTION 1.** In Colorado Revised Statutes, 42-2-138, **amend** (3);
3 and **repeal** (1)(b) as follows:

4 **42-2-138. Driving under restraint - penalty.** (1) (b) ~~Upon a~~
5 ~~second or subsequent conviction under paragraph (a) of this subsection~~
6 ~~(1) within five years after the first conviction thereunder, in addition to~~
7 ~~any penalty imposed pursuant to said paragraph (a) of this subsection (1),~~
8 ~~except as may be permitted by section 42-2-132.5, the defendant shall not~~
9 ~~be eligible to be issued a driver's or minor driver's license or extended any~~
10 ~~driving privilege in this state for a period of three years after such second~~
11 ~~or subsequent conviction.~~

12 (3) The department, upon receiving a record of conviction or
13 accident report of any person for an offense committed while operating
14 a motor vehicle, shall immediately examine its files to determine if the
15 license or operating privilege of such person has been restrained. If it
16 appears that said offense was committed while the license or operating
17 privilege of such person was restrained for a reason other than an
18 outstanding judgment, except as permitted by section 42-2-132.5, the
19 department ~~shall not issue a new license or grant any driving privileges~~
20 ~~for an additional period of one year after the date such person would~~

1 ~~otherwise have been entitled to apply for a new license or for~~
2 ~~reinstatement of a suspended license and shall notify the district attorney~~
3 ~~in the county where such violation occurred and request prosecution of~~
4 ~~such person under subsection (1) of this section. IF IT APPEARS THAT SAID~~
5 ~~OFFENSE WAS COMMITTED WHILE THE LICENSE OR OPERATING PRIVILEGE~~
6 ~~OF SUCH PERSON WAS RESTRAINED SOLELY OR PARTIALLY BECAUSE OF A~~
7 ~~CONVICTION OF DUI, DUI PER SE, DWAI, OR UDD, OR IS RESTRAINED IN~~
8 ~~ANOTHER STATE SOLELY OR PARTIALLY BECAUSE OF AN~~
9 ~~ALCOHOL-RELATED DRIVING OFFENSE, THE DEPARTMENT SHALL NOT ISSUE~~
10 ~~A NEW LICENSE OR GRANT ANY DRIVING PRIVILEGES FOR AN ADDITIONAL~~
11 ~~PERIOD OF ONE YEAR AFTER THE DATE SUCH PERSON WOULD OTHERWISE~~
12 ~~HAVE BEEN ENTITLED TO APPLY FOR A NEW LICENSE OR FOR~~
13 ~~REINSTATEMENT OF A SUSPENDED LICENSE.~~

14 **SECTION 2.** In Colorado Revised Statutes, 42-2-205, **add** (2) as
15 follows:

16 **42-2-205. Prohibition.** (2) SUBSECTION (1) OF THIS SECTION DOES
17 NOT APPLY TO A PERSON WHO IS AN HABITUAL OFFENDER SOLELY BECAUSE
18 THE PERSON HAS THREE OR MORE CONVICTIONS WITHIN A PERIOD OF SEVEN
19 YEARS FOR DRIVING A MOTOR VEHICLE UPON A HIGHWAY WHILE SUCH
20 PERSON'S LICENSE OR PRIVILEGE TO DRIVE A MOTOR VEHICLE HAS BEEN
21 DENIED, SUSPENDED, OR REVOKED IF NONE OF THE CONVICTIONS WERE FOR
22 DUI, DUI PER SE, DWAI, OR UDD, IN VIOLATION OF SECTION 42-2-138
23 (1)(a).

24 **SECTION 3.** In Colorado Revised Statutes, **amend** 42-2-203 as
25 follows:

26 **42-2-203. Authority to revoke license of habitual offender.**
27 (1) The department shall immediately revoke the license of any person

1 whose record brings such person within the definition of an habitual
2 offender in section 42-2-202. The procedure specified in section 42-2-125
3 (3) and (4) shall be employed for the revocation.

4 (2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO A
5 PERSON WHO IS AN HABITUAL OFFENDER SOLELY BECAUSE THE PERSON
6 HAS THREE OR MORE CONVICTIONS WITHIN A PERIOD OF SEVEN YEARS FOR
7 DRIVING A MOTOR VEHICLE UPON A HIGHWAY WHILE SUCH PERSON'S
8 LICENSE OR PRIVILEGE TO DRIVE A MOTOR VEHICLE HAS BEEN DENIED,
9 SUSPENDED, OR REVOKED IF NONE OF THE CONVICTIONS WERE FOR DUI,
10 DUI PER SE, DWAI, OR UDD, IN VIOLATION OF SECTION 42-2-138 (1)(a).

11 **SECTION 4. Act subject to petition - effective date -**
12 **applicability.** (1) This act takes effect September 1, 2020; except that,
13 if a referendum petition is filed pursuant to section 1 (3) of article V of
14 the state constitution against this act or an item, section, or part of this act
15 within the ninety-day period after final adjournment of the general
16 assembly, then the act, item, section, or part will not take effect unless
17 approved by the people at the general election to be held in November
18 2020 and, in such case, will take effect on the date of the official
19 declaration of the vote thereon by the governor.

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