

CHAPTER 169

TRANSPORTATION

SENATE BILL 95-131

BY SENATORS Johnson, Mares, Rizzuto, Wells, and Pascoe;
also REPRESENTATIVE Anderson.

AN ACT

CONCERNING THE REPERCUSSIONS TO AN INDIVIDUAL OF CONDUCT THAT INITIALLY RESULTED IN THE RESTRICTION OF SUCH INDIVIDUAL'S DRIVING PRIVILEGE.

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

SECTION 1. 10-4-719.5 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-4-719.5. Discriminatory standards - premiums - surcharges - proof of financial responsibility requirements. (1) It shall be prohibited for any insurer to:

(a) Cancel or nonrenew, or increase the premium of, a policy of insurance on a motor vehicle used by any resident of the household of the named insured solely because of convictions for traffic violations which resulted in less than seven points being assessed under the point system schedule set forth in section 42-2-127 (5), C.R.S., resulting from violations while in the course of employment while the insured is driving a motor vehicle used primarily as a public or livery conveyance or licensed as a commercial vehicle; OR

(b) ADD A SURCHARGE TO THE POLICY PREMIUM OF AN INSURED OR A FAMILY MEMBER OF AN INSURED OR OTHER PERSON LIVING IN THE SAME HOUSEHOLD AS AN INSURED IN A MANNER THAT RESULTS IN AN EXCESSIVE OR UNFAIRLY DISCRIMINATORY PREMIUM PURSUANT TO SECTION 10-4-403.

SECTION 2. 42-2-122 (4), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended, and the said 42-2-122 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

42-2-122. Department may cancel license - provisional license for physical

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

or mental limitations. (2.5) (a) ANY PERSON WHO HAS HAD A DRIVER'S, MINOR DRIVER'S, OR PROVISIONAL DRIVER'S LICENSE OR DRIVING PRIVILEGE CANCELLED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION WHO IS RECEIVING OR HAS RECEIVED THERAPY TREATMENT FOR PHYSICAL OR MENTAL INCOMPETENCE OR AN EVALUATION FOR SUCH INCOMPETENCE THROUGH A REHABILITATION PROVIDER OR LICENSED PHYSICIAN CERTIFIED BY THE DEPARTMENT TO PROVIDE REHABILITATIVE DRIVING INSTRUCTION MAY RECEIVE A LIMITED LICENSE WITH SUCH LIMITATIONS AS THE DEPARTMENT DEEMS NECESSARY AFTER CONSULTATION WITH AND UPON THE RECOMMENDATION OF THE REHABILITATION PROVIDER OR LICENSED PHYSICIAN.

(b) (I) ANY PERSON LICENSED PURSUANT TO THIS SUBSECTION (2.5) SHALL BE SUBJECT TO THE EXAMINATION REQUIREMENTS SET FORTH IN SECTION 42-2-111.

(II) REHABILITATION PROVIDERS AND LICENSED PHYSICIANS SHALL BE SUBJECT TO THE PROVISIONS GOVERNING MEDICAL ADVICE IN SECTION 42-2-112.

(c) THE DEPARTMENT SHALL ADOPT RULES AS NECESSARY TO CARRY OUT THIS SUBSECTION (2.5).

(4) (a) Upon the holding of a hearing as provided in subsection (3) of this section, the license shall be returned if the licensee is able to prove that cancellation should not have been made. When the original cancellation is sustained by the department, such licensee may apply FOR and receive a new license whenever the licensee can show that the reason for the original cancellation no longer applies. The licensee may also appeal the decision of the department after the hearing to the district court as provided in section 42-2-135.

(b) A LICENSEE WHO HAS PROVED THAT CANCELLATION SHOULD NOT HAVE BEEN MADE SHALL NOT BE REQUIRED TO GIVE PROOF OF FINANCIAL RESPONSIBILITY PURSUANT TO ARTICLE 7 OF THIS TITLE.

SECTION 3. 42-7-103 (14), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended, and the said 42-7-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

42-7-103. Definitions. As used in this article, unless the context otherwise requires:

(6.5) (a) "EVIDENCE OF INSURANCE" MEANS PROOF BY THE INSURED IN PERSON AT THE DEPARTMENT A COPY OF A COMPLYING POLICY IN FULL FORCE AND EFFECT OR A CARD ISSUED TO THE INSURER TO EVIDENCE A COMPLYING POLICY IN FULL FORCE AND EFFECT.

(b) FOR PURPOSES OF THIS SUBSECTION (6.5), "COMPLYING POLICY" MEANS A POLICY OF INSURANCE AS DEFINED IN SECTION 10-4-703 (2), C.R.S.

(14) (a) "Proof of financial responsibility for the future", also referred to in this article as proof of financial responsibility, means proof of ability to respond in damages for liability, on account of accidents occurring ~~subsequent to~~ AFTER the effective date of said proof, arising out of the ownership, maintenance, or use of a motor vehicle, in the amount of twenty-five thousand dollars because of bodily injury

to or death of one person in any one accident, and, subject to said limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of fifteen thousand dollars because of injury to or destruction of property of others in any one accident.

(b) FOR PURPOSES OF THIS TITLE, THE FORM KNOWN AS THE "SR-22" FURNISHED TO THE DEPARTMENT MAY BE USED AS PROOF OF FINANCIAL RESPONSIBILITY IN COMPLIANCE WITH THIS ARTICLE.

SECTION 4. 42-7-403 (1) (d), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-7-403. Sufficiency of payments. (1) Every judgment referred to in this article and for the purposes of this article shall be deemed satisfied:

(d) WHEN three years, OR SUCH OTHER PERIOD AS AUTHORIZED PURSUANT TO SECTION 42-7-408 (1), have elapsed since the date that such judgment became final and the judgment debtor gives proof of financial responsibility.

SECTION 5. 42-7-406, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-7-406. Proof required under certain conditions. (1) Whenever the director revokes the license of any person under section 42-2-125 or 42-2-126, or cancels any license under section 42-2-122 because of the licensee's inability to operate a motor vehicle because of physical or mental incompetence, or cancels any probationary license under section 42-2-127, the director shall not issue to or continue in effect for any such person any new or renewal of license until permitted under the motor vehicle laws of this state, and not then until and unless such person files or has filed and maintains proof of financial responsibility as provided in this article; EXCEPT THAT PERSONS CANCELLED PURSUANT TO SECTION 42-2-122 (2.5) SHALL NOT BE REQUIRED TO FILE PROOF OF FINANCIAL RESPONSIBILITY IN ORDER TO BE RELICENSED.

(2) (a) Whenever the director suspends the license of any person under section 42-2-127, the director shall not issue a probationary license to such person, nor shall the director at the termination of such person's period of suspension reinstate, reissue, renew, or issue a new license to such person unless such person furnishes the director ~~a statement in writing under oath evidencing~~ EVIDENCE OF INSURANCE TO SHOW that the person is then insured, ~~under an automobile liability policy or bond or~~ unless such person has deposited or deposits money or securities as provided in section 42-7-418.

(b) EVIDENCE OF INSURANCE REQUIRED PURSUANT TO THIS SUBSECTION (2) DOES NOT REQUIRE THE USE OF THE FORM KNOWN AS THE "SR-22" OR ANY SUBSTANTIALLY SIMILAR FORM.

SECTION 6. 42-7-408 (1), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended, and the said 42-7-408 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

42-7-408. Proof of financial responsibility - methods of giving proof -

duration - exception. (1) (a) Proof of financial responsibility for the future, when required under this article, may be given by the following alternate methods:

(I) ~~Either by~~ Proof that a policy of liability insurance has been obtained and is in full force and effect or that a bond has been duly executed or that deposit has been made of money; or

(II) Securities as provided in section 42-7-418.

(b) Proof of financial responsibility for the future in the amounts provided in section 42-7-103 (14) shall be maintained for three years from the date last required and shall be furnished for each motor vehicle registered during that period; EXCEPT THAT IF, DURING SUCH THREE-YEAR PERIOD, THE INSURED HAS NOT BEEN LICENSED TO DRIVE PURSUANT TO THIS TITLE, THE INSURED SHALL BE CREDITED WITH THE NONLICENSED TIME TOWARD THE THREE-YEAR PERIOD.

(c) NOTWITHSTANDING THE THREE-YEAR REQUIREMENT IN PARAGRAPH (b) OF THIS SUBSECTION (1), IF AN INSURED HAS BEEN FOUND GUILTY OF A DRIVING OFFENSE PURSUANT TO SECTION 42-4-1301 (1) OR (2) ONLY ONE TIME AND NO ACCIDENT WAS INVOLVED IN SUCH OFFENSE, PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE SHALL BE REQUIRED TO BE MAINTAINED ONLY FOR AS LONG AS THE INSURED'S LICENSE HAS BEEN UNDER RESTRAINT.

(3) IF AN INSURED'S DRIVER'S LICENSE IS CANCELLED PURSUANT TO SECTION 42-2-125 (4), AND AFTER SUCH CANCELLATION NEITHER A COURT OF COMPETENT JURISDICTION NOR AN ADMINISTRATIVE HEARING OFFICER DETERMINES THAT THE CHARGES HAVE BEEN PROVED, THE INSURED SHALL NOT BE REQUIRED TO COMPLY WITH THE PROOF OF FINANCIAL RESPONSIBILITY REQUIREMENTS STATED IN THIS SECTION.

SECTION 7. 42-7-421 (1) (a) and (2), Colorado Revised Statutes, 1993 Repl. Vol., as amended, are amended to read:

42-7-421. When director may release evidence. (1) The director, upon request, shall cancel any bond or return any certificate of insurance, or the director shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this article as proof of financial responsibility, or waive the requirement of filing proof of financial responsibility in any of the following events:

(a) At any time after three years from the date such proof was required, OR AFTER ANY OTHER PERIOD DURING WHICH PROOF WAS REQUIRED PURSUANT TO SECTION 42-7-408 (1) IN THE CASE OF CERTAIN VIOLATIONS FOR AN ALCOHOL-RELATED DRIVING OFFENSE, ~~when~~ IF, during the ~~three-year~~ SUCH THREE-YEAR OR OTHER period preceding the request, the person furnishing such proof has not been convicted of any offense referred to in section 42-7-406; or

(2) Whenever any person to whom proof has been surrendered, as provided in paragraph (c) of subsection (1) of this section, applies for a license within a period of three years from the date proof of financial responsibility was originally required, OR WITHIN ANY OTHER PERIOD DURING WHICH PROOF OF FINANCIAL RESPONSIBILITY

WAS REQUIRED PURSUANT TO SECTION 42-7-408 (1), any such application shall be refused unless the applicant establishes such proof for the remainder of such period.

SECTION 8. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 23, 1995