

CHAPTER 236

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 95-1156

BY REPRESENTATIVES Swenson, Chavez, Hagedorn, and Owen;
also SENATOR Blickensderfer.

AN ACT

CONCERNING NONCOMPLIANCE WITH MANDATORY AUTOMOBILE INSURANCE PROVISIONS.

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

SECTION 1. 42-7-103 (6.5), Colorado Revised Statutes, 1993 Repl. Vol., as enacted by Senate Bill 95-131, enacted at the First Regular Session of the Sixtieth General Assembly, is amended to read:

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

(6.5) ~~(H)~~ (a) "Evidence of insurance" means proof GIVEN by the insured in person ~~at~~ TO the department THAT THE INSURED HAS A COMPLYING POLICY IN FULL FORCE AND EFFECT. PROOF MAY BE MADE THROUGH PRESENTATION OF a copy of ~~a~~ SUCH complying policy ~~in full force and effect~~ or a card issued to the ~~insurer to~~ INSURED AS evidence THAT a complying policy IS in full force and effect.

~~(H)~~ (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.

SECTION 2. 42-7-301, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

42-7-301. Security and proof of financial responsibility for the future required under certain circumstances. (7) (a) (I) THE SECURITY REQUIRED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION MAY, IN WHOLE OR IN PART, TAKE THE FORM OF A CONTRACT BETWEEN A PERSON HAVING A CLAIM FOR PROPERTY DAMAGE OR PERSONAL INJURY AND THE OPERATOR OR OWNER. ANY

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

SUCH CONTRACT SHALL REQUIRE NOTICE BY FIRST CLASS MAIL TO ANY OBLIGOR IN DEFAULT AT THE OBLIGOR'S LAST KNOWN ADDRESS AND ALLOWING AT LEAST A TEN-DAY PERIOD AFTER MAILING FOR THE OBLIGOR TO CURE THE DEFAULT BEFORE REMEDIES BECOME AVAILABLE.

(II) THE DIRECTOR SHALL PRESCRIBE THE FORM OF ANY CONTRACT AUTHORIZED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

(b) THE DIRECTOR SHALL IMMEDIATELY SUSPEND THE LICENSE OF A PERSON OBLIGATED UNDER A CONTRACT USED AS SECURITY PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (7), UPON RECEIPT OF EVIDENCE FROM THE CREDITOR IN THE FORM OF AN AFFIDAVIT THAT:

(I) THE OBLIGOR HAS DEFAULTED ON ANY PAYMENT OBLIGATION UNDER THE CONTRACT;

(II) NOTICE OF THE DEFAULT HAS BEEN SENT TO THE OBLIGOR BY CERTIFIED MAIL; AND

(III) THE OBLIGOR HAS FAILED TO CURE THE DEFAULT WITHIN FIFTEEN DAYS AFTER THE DATE OF MAILING OF THE NOTICE.

SECTION 3. The introductory portion to 42-7-303 (1) and 42-7-303 (1) (b), Colorado Revised Statutes, 1993 Repl. Vol., as amended, are amended, and the said 42-7-303 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

42-7-303. Duration of suspension. (1) The license or nonresident's operating privilege suspended under sections 42-7-202 and 42-7-301 shall remain so suspended and not be renewed, nor shall any such license be issued to such person, unless there is filed with the director evidence satisfactory to the director that such person has been released from liability, ~~or~~ HAS ENTERED INTO A CONTRACT USED AS SECURITY PURSUANT TO SECTION 42-7-301 (7), OR has been finally adjudicated not liable, or until:

(b) ~~One year has~~ THREE YEARS HAVE elapsed following the date of such accident and evidence satisfactory to the director has been filed with the director that during such period no action for damages arising out of such accident has been instituted, and such person has filed or then files and maintains proof of financial responsibility for the future as provided in section 42-7-408; EXCEPT THAT A CONTRACT USED AS SECURITY PURSUANT TO SECTION 42-7-301 (7) MAY PROVIDE FOR A DIFFERENT PERIOD OF TIME; OR

(c) THREE YEARS HAVE ELAPSED SINCE THE FAILURE TO TIMELY CURE ANY DEFAULT, AFTER NOTICE, UNDER A CONTRACT USED AS SECURITY PURSUANT TO SECTION 42-7-301 (7) AND EVIDENCE SATISFACTORY TO THE DIRECTOR HAS BEEN FILED WITH THE DIVISION SHOWING THAT NO CIVIL ACTION TO ENFORCE THE CONTRACT HAS BEEN FILED DURING SUCH PERIOD OF TIME.

SECTION 4. 42-7-401 (1), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-7-401. Proof required on judgments. (1) The director shall also suspend the license issued to any person upon receiving an ~~authenticated report~~ AFFIDAVIT FROM THE JUDGMENT CREDITOR that such person has failed for a period of thirty days to satisfy any final judgment in amounts and upon a cause of action as stated in this article, OR, IN A CRIMINAL PROCEEDING ARISING FROM THE USE OR OPERATION OF A MOTOR VEHICLE, HAS FAILED TO COMPLY WITH THE TERMS OF ANY ORDER OF RESTITUTION MADE AS A CONDITION OF PROBATION PURSUANT TO SECTION 16-11-204.5, C.R.S.

SECTION 5. 42-7-403 (1) (d), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended, and the said 42-7-403 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, 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) ~~Three~~ WHEN SIX years have elapsed since the date that such judgment became final; ~~and the judgment debtor gives proof of financial responsibility.~~ OR

(e) WHEN THREE YEARS HAVE ELAPSED SINCE THE JUDGMENT DEBTOR GIVES PROOF OF FINANCIAL RESPONSIBILITY; EXCEPT THAT THIS PARAGRAPH (e) SHALL NOT APPLY TO ANY JUDGMENT DEBTOR SUBJECT TO PARAGRAPH (d) OF THIS SUBSECTION (1).

SECTION 6. 42-7-404, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-7-404. Payment of judgment in installments. (1) The director shall not suspend a license and shall restore any suspended license following nonpayment of a final judgment when the judgment debtor gives proof of financial responsibility and ~~when the judgment debtor~~ obtains an order from the trial court in which such judgment was rendered permitting the payment of such judgment in installments of not less than twenty-five dollars per month, ~~and~~ while the payment of any said installment is not in default.

(2) A judgment debtor upon five days' notice to the judgment creditor may apply to the trial court in which the judgment was obtained for the privilege of paying such judgment in installments, and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order, fixing the amounts and times of, AND THE PERSON TO RECEIVE, payment of the installments.

(3) In the event the judgment debtor fails to pay any installment as permitted by the order of the court, upon notice of such default supported by an appropriate document from the court OR BY SWORN AFFIDAVIT OF EITHER THE JUDGMENT CREDITOR OR THE PERSON DESIGNATED TO RECEIVE PAYMENTS, the director shall immediately suspend the license of the judgment debtor until said judgment is satisfied as provided in this article.

SECTION 7. Effective date. This act shall take effect July 1, 1995; except that section 1 of this act shall only take effect if Senate Bill 95-131, enacted at the First Regular Session of the Sixtieth General Assembly, becomes law.

SECTION 8. 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 31, 1995