

CHAPTER 247

MOTOR VEHICLES AND TRAFFIC REGULATION

SENATE BILL 95-011

BY SENATORS R. Powers, Ament, Hopper, Perlmutter, L. Powers, Rupert, Schroeder, and Tanner;
also REPRESENTATIVES June, Kerns, Snyder, and Sullivant.

AN ACT

CONCERNING THE RESTRAINT OF DRIVING PRIVILEGES, AND, IN CONNECTION THEREWITH, AUTHORIZING ISSUANCE OF A PROBATIONARY LICENSE IF A PERSON WHOSE LICENSE IS REVOKED BECAUSE OF AN ALCOHOL VIOLATION OBTAINS AN IGNITION INTERLOCK DEVICE AND MAKING AN APPROPRIATION.

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

SECTION 1. 42-2-126 (6) (b), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS to read:

42-2-126. Revocation of license based on administrative determination.
(6) (b) (VI) THE PERIOD OF LICENSE REVOCATION UNDER SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION FOR A SECOND REFUSAL SHALL BE TWO YEARS.

(VII) THE PERIOD OF LICENSE REVOCATION UNDER SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION FOR A THIRD OR SUBSEQUENT REFUSAL SHALL BE THREE YEARS.

SECTION 2. 42-2-126 (7) (a), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-2-126. Revocation of license based on administrative determination.
(7) (a) The periods of revocation specified by subsection (6) of this section are intended to be minimum periods of revocation for the described conduct. No license shall be restored under any circumstances, and no probationary license shall be issued

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

during the revocation period; except that:

(I) A person whose privilege to drive a commercial motor vehicle has been revoked because ~~such~~ THE person drove a commercial motor vehicle when ~~such~~ THE person's blood alcohol content was 0.04 or greater, but less than 0.10, grams of alcohol per hundred milliliters of blood or per two hundred ten liters of breath may apply for a probationary license of another class or type for the period during which the privilege to drive a commercial motor vehicle is revoked, as long as there is no other statutory reason to deny ~~such~~ THE person ~~such~~ a license;

(II) A PERSON MAY OBTAIN A PROBATIONARY LICENSE IF THE PERSON HAS LEASED AN APPROVED IGNITION INTERLOCK DEVICE PURSUANT TO THE REQUIREMENTS OF SECTION 42-2-126.1.

SECTION 3. Part 1 of article 2 of title 42, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

42-2-126.1. Probationary licenses for persons convicted of alcohol-related driving offenses - ignition interlock devices - fees - interlock fund - violations of probationary license - repeal. (1) A PERSON WHOSE DRIVER'S LICENSE OR PROVISIONAL DRIVER'S LICENSE HAS BEEN REVOKED BECAUSE OF A VIOLATION OF ANY PROVISION OF SECTION 42-4-1301 (1) (a), (1) (b), OR (2), OR HAS BEEN REVOKED UNDER ANY PROVISION OF SECTION 42-2-125 (1) (g) OR (1) (i), 42-2-126, OR 42-2-202 MAY APPLY FOR A PROBATIONARY LICENSE UNDER THE PROVISIONS OF THIS SECTION AS FOLLOWS:

(a) ANY PERSON SUBJECT TO A THREE-MONTH REVOCATION MAY NOT APPLY UNTIL ONE MONTH HAS ELAPSED FROM THE BEGINNING OF THE REVOCATION PERIOD.

(b) ANY PERSON SUBJECT TO A ONE-YEAR REVOCATION MAY NOT APPLY UNTIL THREE MONTHS HAVE ELAPSED FROM THE BEGINNING OF THE REVOCATION PERIOD.

(c) ANY PERSON SUBJECT TO A TWO-YEAR REVOCATION MAY NOT APPLY UNTIL SIX MONTHS HAVE ELAPSED FROM THE BEGINNING OF THE REVOCATION PERIOD.

(d) ANY PERSON SUBJECT TO A THREE-YEAR REVOCATION MAY NOT APPLY UNTIL NINE MONTHS HAVE ELAPSED FROM THE BEGINNING OF THE REVOCATION PERIOD.

(e) ANY PERSON SUBJECT TO A FOUR-YEAR REVOCATION MAY NOT APPLY UNTIL ONE YEAR HAS ELAPSED FROM THE BEGINNING OF THE REVOCATION PERIOD.

(f) ANY PERSON SUBJECT TO A FIVE-YEAR OR GREATER REVOCATION MAY NOT APPLY UNTIL TWO YEARS HAVE ELAPSED FROM THE BEGINNING OF THE REVOCATION PERIOD.

(2) THE HEARING OFFICER SHALL HAVE THE AUTHORITY TO HEAR AN APPLICATION BY ANY PERSON FOR A PROBATIONARY LICENSE UNDER THE PROVISIONS OF THIS SECTION AT A PROBATIONARY LICENSE HEARING. THE HEARING OFFICER MAY APPROVE THE APPLICATION IF:

(a) THE PERSON'S LICENSE REVOCATION WAS IMPOSED PRIMARILY BECAUSE OF ALCOHOL-RELATED OFFENSES;

(b) THE PERSON HAS AGREED TO HAVE A LICENSE REVOCATION CONVERTED TO A LICENSE SUSPENSION WITH A PERIOD THAT IS TWICE THE LENGTH OF THE REMAINING LICENSE REVOCATION WITH A MINIMUM SUSPENSION PERIOD OF SIX MONTHS;

(c) THE PERSON HAS OBTAINED AT THE PERSON'S OWN EXPENSE A SIGNED LEASE AGREEMENT FOR THE INSTALLATION AND USE OF AN APPROVED IGNITION INTERLOCK DEVICE IN THE PERSON'S MOTOR VEHICLE AND THE PERIOD OF THE LEASE EXTENDS THROUGH THE REQUIRED SUSPENSION PERIOD;

(d) THE PERSON HAS OBTAINED THE WRITTEN CONSENT OF ANY OTHER OWNER OR CO-OWNER, IF ANY, OF THE MOTOR VEHICLE IN WHICH THE APPROVED IGNITION INTERLOCK DEVICE IS INSTALLED;

(e) THE PERSON AGREES THAT, DURING THE PERIOD OF SUSPENSION, THE PERSON WILL NOT DRIVE ANY MOTOR VEHICLE OTHER THAN THE MOTOR VEHICLE IN WHICH THE APPROVED IGNITION INTERLOCK DEVICE IS INSTALLED AND WILL NOT ALLOW ANY OTHER PERSON TO DRIVE SUCH VEHICLE OTHER THAN ANOTHER OWNER OR CO-OWNER, IF ANY, OF THE VEHICLE;

(f) THE PERSON AGREES TO DRIVE ONLY DURING THE HOURS AND UNDER THE TERMS PRESCRIBED BY THE HEARING OFFICER AT THE PROBATIONARY LICENSE HEARING AND THE PERSON IS ENROLLED IN AND AGREES TO COMPLETE AN ALCOHOL EDUCATION AND TREATMENT PROGRAM IF REQUIRED BY COURT ORDER OR STATUTE; AND

(g) THE PERSON HAS PROVIDED AND MAINTAINS PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE PURSUANT TO THE REQUIREMENTS OF THE "MOTOR VEHICLE FINANCIAL RESPONSIBILITY ACT", ARTICLE 7 OF THIS TITLE.

(2.5) THE LEASING AGENCY FOR ANY APPROVED IGNITION INTERLOCK DEVICE SHALL REMIT A FILING FEE IN THE AMOUNT OF THIRTY-THREE DOLLARS FOR EACH PERSON LEASING A DEVICE TO COVER PROGRAM START-UP AND OPERATIONAL COSTS INCURRED BY THE DEPARTMENT OF REVENUE AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT. THE LEASING AGENCY SHALL REMIT THE FEES TO THE STATE TREASURER, WHO SHALL CREDIT THE FEES TO THE INTERLOCK FUND, WHICH FUND IS HEREBY CREATED. ANY FEDERAL GRANT MONEYS RECEIVED FOR PURPOSES OF SUPPORTING THIS PILOT PROGRAM ALSO SHALL BE REMITTED TO THE INTERLOCK FUND. THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS OF THE ADMINISTRATION OF THIS SECTION. ANY INTEREST RECEIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND ON JULY 1, 1998, SHALL BE TRANSFERRED TO THE HIGHWAY USERS TAX FUND CREATED PURSUANT TO SECTION 43-4-201, C.R.S.

(3) THE LEASING AGENCY FOR ANY APPROVED IGNITION INTERLOCK DEVICE SHALL PROVIDE MONTHLY MONITORING REPORTS FOR THE DEVICE TO THE DEPARTMENT IN ORDER TO MONITOR COMPLIANCE WITH RESTRICTIONS OF THE PROBATIONARY

LICENSE. THE LEASING AGENCY SHALL CHECK THE DEVICE AT LEAST ONCE EVERY SIXTY DAYS TO ENSURE THAT THE DEVICE IS OPERATING AND THAT THERE HAS BEEN NO TAMPERING WITH THE DEVICE.

(4) IF ANY PERSON WHO HAS OBTAINED A PROBATIONARY LICENSE UNDER THE PROVISIONS OF THIS SECTION VIOLATES ANY PROVISION OF THIS SECTION OR VIOLATES THE TERMS OF THE PROBATIONARY LICENSE, THE LICENSE SUSPENSION SHALL BECOME A LICENSE REVOCATION WITH A PERIOD EQUAL TO THE REMAINING PERIOD OF THE LICENSE SUSPENSION OR SIX MONTHS, WHICHEVER IS GREATER. THE PERSON SHALL BE ENTITLED TO A HEARING ON THE QUESTION OF WHETHER A LICENSE SUSPENSION SHALL BE CONVERTED TO A LICENSE REVOCATION.

(5) THE DEPARTMENT MAY PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

(6) (a) FOR THE PURPOSES OF THIS SECTION, "APPROVED IGNITION INTERLOCK DEVICE" MEANS A DEVICE APPROVED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT THAT IS INSTALLED IN A MOTOR VEHICLE AND THAT MEASURES THE BREATH ALCOHOL CONTENT OF THE DRIVER BEFORE A VEHICLE IS STARTED AND THAT PERIODICALLY REQUIRES ADDITIONAL BREATH SAMPLES DURING VEHICLE OPERATION. THE DEVICE MAY NOT ALLOW A MOTOR VEHICLE TO BE STARTED OR TO CONTINUE NORMAL OPERATION IF THE DEVICE MEASURES AN ALCOHOL LEVEL ABOVE THE LEVEL ESTABLISHED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(b) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT MAY PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION (6) CONCERNING APPROVED IGNITION INTERLOCK DEVICES.

(7) THE OFFICE OF TRANSPORTATION SAFETY IN THE DEPARTMENT OF TRANSPORTATION SHALL CONDUCT AN ASSESSMENT OF THE IGNITION INTERLOCK DEVICE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION. THE DEPARTMENT SHALL PREPARE A WRITTEN REPORT REGARDING THE RESULTS OF THE ASSESSMENT AND SHALL PROVIDE THE REPORT TO THE GENERAL ASSEMBLY ON OR BEFORE JANUARY 1, 1998.

(8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1998.

42-2-126.3. Tampering with an ignition interlock device. (1) NO PERSON MAY INTERCEPT, BYPASS, OR INTERFERE WITH OR AID ANY OTHER PERSON IN INTERCEPTING, BYPASSING, OR INTERFERING WITH AN IGNITION INTERLOCK DEVICE FOR THE PURPOSE OF PREVENTING OR HINDERING THE LAWFUL OPERATION OR PURPOSE OF THE IGNITION INTERLOCK DEVICE UNDER SECTION 42-2-126.1.

(2) NO PERSON MAY DRIVE A MOTOR VEHICLE IN WHICH AN IGNITION INTERLOCK DEVICE IS INSTALLED PURSUANT TO SECTION 42-2-126.1 IF THE PERSON HAS KNOWLEDGE THAT ANY PERSON HAS INTERCEPTED, BYPASSED, OR INTERFERED WITH THE IGNITION INTERLOCK DEVICE.

(3) ANY PERSON VIOLATING ANY PROVISION OF THIS SECTION COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

SECTION 4. 42-2-127 (1) (a), (8), and (9) (a), Colorado Revised Statutes, 1993 Repl. Vol., as amended, are amended to read:

42-2-127. Authority to suspend license - to deny license - type of conviction - points. (1) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF SUBSECTION (8) OF THIS SECTION, the department has the authority to suspend the license of any driver who, in accordance with the schedule of points set forth in this section, has been convicted of traffic violations resulting in the accumulation of twelve points within any twelve consecutive months or eighteen points within any twenty-four consecutive months, or, in the case of a provisional driver, who has accumulated nine points within any twelve consecutive months, or twelve points within any twenty-four consecutive months, or fourteen points within the time period for which the license was issued, or, in the case of a minor driver, who has accumulated more than five points within any twelve consecutive months or more than six points within the time period for which the license was issued; except that the accumulation of points causing the subjection to suspension of the license of a chauffeur who, in the course of employment, has as a principal duty the operation of a motor vehicle shall be sixteen points in one year, twenty-four points in two years, or twenty-eight points in four years, if all ~~such~~ THE points are accumulated while said chauffeur is in the course of employment. Any provision of this section to the contrary notwithstanding, the license of a chauffeur who is convicted of a violation of section 42-4-1301 (1) or (2) or leaving the scene of an accident shall be suspended in the same manner as if the offense occurred outside the course of employment. Whenever a minor driver receives a summons for a traffic violation, the minor's parent or legal guardian or, if the minor is without parents or guardian, the person who signed the minor driver's application for a license shall immediately be notified by the court from which such summons was issued.

(8) (a) Except as otherwise provided in subsection (9) of this section, whenever the department's records show that a licensee has accumulated a sufficient number of points to be subject to license suspension, the department shall notify ~~such~~ THE licensee that a hearing will be held not less than twenty days after the date of ~~such~~ THE notice to determine whether the licensee's driver's license should be suspended. ~~Such~~ THE notification shall be given to the licensee in writing by regular mail, addressed to the address of the licensee as shown by the records of the department.

(b) (I) IF THE DEPARTMENT'S RECORDS INDICATE THAT A DRIVER HAS ACCUMULATED A SUFFICIENT NUMBER OF POINTS TO CAUSE A SUSPENSION UNDER SUBSECTION (1) OF THIS SECTION AND THE DRIVER IS SUBJECT TO A CURRENT OR PREVIOUS LICENSE RESTRAINT WITH A DETERMINED REINSTATEMENT DATE FOR THE SAME OFFENSE OR CONVICTION THAT CAUSED THE DRIVER TO ACCUMULATE SUFFICIENT POINTS TO WARRANT SUSPENSION, THE DEPARTMENT MAY NOT ORDER A POINT SUSPENSION OF THE LICENSE OF THE DRIVER UNLESS THE LICENSE OR DRIVING PRIVILEGE OF THE DRIVER WAS REVOKED PURSUANT TO SECTION 42-2-126(2) (a) (II).

(II) IF THE DEPARTMENT DOES NOT ORDER A POINT SUSPENSION AGAINST THE LICENSE OF A DRIVER BECAUSE OF THE EXISTENCE OF A CURRENT OR PREVIOUS LICENSE RESTRAINT WITH A DETERMINED REINSTATEMENT DATE UNDER THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE DEPARTMENT SHALL UTILIZE THE POINTS THAT WERE ASSESSED AGAINST THE DRIVER IN DETERMINING WHETHER TO IMPOSE ANY FUTURE LICENSE SUSPENSION IF THE DRIVER ACCUMULATES ANY MORE POINTS AGAINST THE DRIVER'S LICENSE.

(9) (a) Whenever the department receives notice that a person has pled guilty to, or been found guilty by a court or a jury of, a violation of section 42-4-1301 (1) (a), (1) (c), or (2) and receives the license surrendered by ~~such~~ THE person to the court pursuant to section 42-2-129, the department shall immediately suspend the license of ~~such~~ THE person for a period of not less than one year. IF THE DEPARTMENT IS ALSO REQUIRED TO ENTER A LICENSE REVOCATION FOR A PERIOD OF ONE YEAR OR LONGER UNDER ANY PROVISION OF THIS TITLE BASED ON THE SAME CONVICTION, THE SUSPENSION SHALL NOT BE ENTERED.

SECTION 5. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the interlock fund created pursuant to section 42-2-126.1 (2.5), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 1995, the sum of sixty-seven thousand six hundred ninety-eight dollars (\$67,698), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the interlock fund created pursuant to section 42-2-126.1 (2.5), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 1995, the sum of ten thousand eight hundred sixty-seven dollars (\$10,867), or so much thereof as may be necessary, for the implementation of this act.

SECTION 6. Effective date. This act shall take effect July 1, 1995.

SECTION 7. 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: June 5, 1995