

CHAPTER 255

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 97-1209

BY REPRESENTATIVES Anderson, Hagedorn, June, Swenson, Tucker, Allen, Entz, Gotlieb, Mace, Schwarz, and Swenson;
also SENATORS Lacy, Ament, Hernandez, and Mutzebaugh.

AN ACT

CONCERNING THE MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Part 6 of article 4 of title 10, Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

10-4-615. Motorist insurance identification database program - reporting required - fine. (1) BEFORE THE SEVENTH WORKING DAY OF EACH CALENDAR MONTH, EACH INSURER THAT ISSUES A POLICY PURSUANT TO THIS PART 6 OR PART 7 OF THIS ARTICLE SHALL PROVIDE TO THE DESIGNATED AGENT SELECTED IN ACCORDANCE WITH SECTION 42-7-604(4), C.R.S., A RECORD OF EACH POLICY ISSUED DURING THE IMMEDIATELY PRECEDING MONTH. SUCH RECORD SHALL COMPLY WITH THE REQUIREMENTS OF SUBSECTIONS (2) AND (3) OF THIS SECTION, EXCEPT AS MAY OTHERWISE BE PROVIDED FOR COMMERCIAL LINES OF INSURANCE IN RULES ADOPTED BY THE DEPARTMENT. THIS SUBSECTION (1) SHALL NOT BE CONSTRUED TO PROHIBIT MORE FREQUENT REPORTING.

(2) THE RECORD DESCRIBED IN SUBSECTION (1) OF THIS SECTION SHALL INCLUDE:

(a) THE NAME, DATE OF BIRTH, DRIVER'S LICENSE NUMBER, AND ADDRESS OF EACH NAMED INSURED OWNER OR OPERATOR;

(b) THE MAKE, YEAR, AND VEHICLE IDENTIFICATION NUMBER OF EACH INSURED MOTOR VEHICLE; AND

(c) THE POLICY NUMBER, EFFECTIVE DATE, AND EXPIRATION DATE OF EACH POLICY.

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

(3) EACH INSURER SHALL PROVIDE THE REQUIRED INFORMATION IN A FORM OR MANNER ACCEPTABLE TO THE DESIGNATED AGENT.

(4) (a) THE MOTOR VEHICLE DIVISION IN THE DEPARTMENT OF REVENUE SHALL ASSESS A FINE OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS AGAINST AN INSURER FOR EACH DAY SUCH INSURER FAILS TO COMPLY WITH THIS SECTION.

(b) THE COMMISSIONER SHALL EXCUSE THE FINE IF AN INSURER PROVIDES PROOF THAT ITS FAILURE TO COMPLY WAS INADVERTENT, ACCIDENTAL, OR THE RESULT OF EXCUSABLE NEGLIGENCE.

(5) THIS SECTION IS EFFECTIVE THIRTY DAYS AFTER NOTIFICATION IS GIVEN BY THE DESIGNATED AGENT, BUT NOT LATER THAN JANUARY 1, 1998.

(6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2001, UNLESS THE REVIEW CONDUCTED BY THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO SECTION 42-7-608, C.R.S., AND REPORTED TO THE GENERAL ASSEMBLY INDICATES THAT THE NUMBER OF UNINSURED MOTORIST CLAIMS REPORTED BY INSURERS DECLINED BETWEEN JULY 1, 1997, AND THE DATE OF THE DEPARTMENT'S REVIEW.

SECTION 2. 42-3-134 (1), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended, and the said 42-3-134 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

42-3-134. Registration fees - passenger and passenger-mile taxes. (1) (a) ~~For the purposes of this section, "declared gross vehicle weight" means the maximum combined weight of the vehicle and its cargo when operated on the public highways of this state. Such weight shall be declared by the vehicle owner at the time the vehicle is registered. Accurate records shall be kept of all miles operated by each vehicle over the public highways of this state by the owner of each vehicle.~~ NOT LATER THAN SEPTEMBER 1, 1997, IN ADDITION TO OTHER FEES SPECIFIED IN THIS SECTION, AN APPLICANT SHALL PAY A MOTORIST INSURANCE IDENTIFICATION FEE OF ONE DOLLAR WHEN APPLICATION IS MADE FOR REGISTRATION OR RENEWAL OF REGISTRATION OF A MOTOR VEHICLE UNDER THIS ARTICLE.

(b) THE FOLLOWING VEHICLES ARE EXEMPT FROM THE MOTORIST INSURANCE IDENTIFICATION FEE:

(I) VEHICLES THAT ARE EXEMPT FROM REGISTRATION FEES UNDER THIS SECTION OR ARE OWNED BY PERSONS WHO HAVE QUALIFIED AS SELF-INSURED PURSUANT TO SECTION 10-4-716, C.R.S.;

(II) TRUCKS AND TRUCK TRACTORS THAT ARE OWNED BY A FARMER OR RANCHER AND WHOSE ONLY COMMERCIAL USES ARE:

(A) TRANSPORTING TO MARKET OR PLACE OF STORAGE RAW AGRICULTURAL PRODUCTS ACTUALLY PRODUCED OR LIVESTOCK ACTUALLY RAISED BY SUCH FARMER OR RANCHER; OR

(B) TRANSPORTING COMMODITIES AND LIVESTOCK PURCHASED BY SUCH FARMER OR RANCHER FOR USE BY THE FARMER OR RANCHER IN FARMING OR RANCHING

OPERATIONS.

(c) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JULY 1, 2001, UNLESS THE REVIEW CONDUCTED BY THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO SECTION 42-7-608 AND REPORTED TO THE GENERAL ASSEMBLY INDICATES THAT THE NUMBER OF UNINSURED MOTORIST CLAIMS REPORTED BY INSURERS DECLINED BETWEEN JULY 1, 1997, AND THE DATE OF THE DEPARTMENT'S REVIEW.

(1.5) NOT LATER THAN SEPTEMBER 1, 1997, FOR THE PURPOSES OF THIS SECTION, "DECLARED GROSS VEHICLE WEIGHT" MEANS THE COMBINED WEIGHT OF THE VEHICLE AND ITS CARGO WHEN OPERATED ON THE PUBLIC HIGHWAYS OF THIS STATE. SUCH WEIGHT SHALL BE DECLARED BY THE VEHICLE OWNER AT THE TIME THE VEHICLE IS REGISTERED. ACCURATE RECORDS SHALL BE KEPT OF ALL MILES OPERATED BY EACH VEHICLE OVER THE PUBLIC HIGHWAYS OF THIS STATE BY THE OWNER OF EACH VEHICLE.

SECTION 3. 42-3-134 (26), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-3-134. Registration fees - passenger and passenger-mile taxes. (26) (d) (I) EFFECTIVE SEPTEMBER 1, 1997, IN ADDITION TO ANY OTHER FEE IMPOSED BY THIS SECTION, THERE SHALL BE COLLECTED, AT THE TIME OF REGISTRATION OF ANY MOTOR VEHICLE IN THE STATE, A MOTORIST INSURANCE IDENTIFICATION FEE. SUCH FEE SHALL BE ADJUSTED ANNUALLY BY THE DEPARTMENT OF REVENUE, BASED UPON MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY FOR THE OPERATION OF THE MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM. IN NO EVENT SHALL SUCH FEE EXCEED ONE DOLLAR. SUCH FEE SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO A SPECIAL ACCOUNT WITHIN THE HIGHWAY USERS TAX FUND, TO BE KNOWN AS THE MOTORIST INSURANCE IDENTIFICATION ACCOUNT, WHICH IS HEREBY CREATED. MONEYS IN THE MOTORIST INSURANCE IDENTIFICATION ACCOUNT SHALL BE USED, SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY, TO COVER THE COSTS OF ADMINISTRATION AND ENFORCEMENT OF THE MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM, CREATED IN SECTION 42-7-604.

(II) THIS PARAGRAPH (d) IS REPEALED, EFFECTIVE JULY 1, 2001, UNLESS THE REVIEW CONDUCTED BY THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO SECTION 42-7-608 AND REPORTED TO THE GENERAL ASSEMBLY INDICATES THAT THE NUMBER OF UNINSURED MOTORIST CLAIMS REPORTED BY INSURERS DECLINED BETWEEN JULY 1, 1997, AND THE DATE OF THE DEPARTMENT'S REVIEW.

SECTION 4. Part 3 of article 7 of title 42, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

42-7-301.5. Proof of financial responsibility. (1) ANY PERSON WHO PRESENTS AN ALTERED OR COUNTERFEIT LETTER OR ALTERED OR COUNTERFEIT INSURANCE IDENTIFICATION CARD FROM AN INSURER OR AGENT FOR THE PURPOSE OF PROVING FINANCIAL RESPONSIBILITY FOR PURPOSES OF THIS ARTICLE SHALL BE IN VIOLATION OF THIS SECTION AND SHALL BE PUNISHED BY A FINE OF FIVE HUNDRED DOLLARS. IF SUCH PRESENTATION IS SAID PERSON'S SECOND OR SUBSEQUENT OFFENSE THE FINE SHALL BE ONE THOUSAND DOLLARS AND SAID PERSON'S UNINSURED MOTOR VEHICLE

SHALL BE SEIZED.

(2) ANY PERSON WHO ALTERS OR CREATES A COUNTERFEIT LETTER OR INSURANCE IDENTIFICATION CARD FOR ANOTHER SHALL BE PUNISHED BY A FINE OF FIVE HUNDRED DOLLARS. IF SUCH ALTERATION OR CREATION IS SAID PERSON'S SECOND OR SUBSEQUENT OFFENSE, THE FINE SHALL BE ONE THOUSAND DOLLARS.

(3) IT SHALL BE AN AFFIRMATIVE DEFENSE THAT THE PERSON DID NOT KNOW OR COULD NOT HAVE KNOWN THAT THE PRESENTED DOCUMENT WAS ALTERED OR COUNTERFEIT.

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2001, UNLESS THE REVIEW CONDUCTED BY THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO SECTION 42-7-608 AND REPORTED TO THE GENERAL ASSEMBLY INDICATES THAT THE NUMBER OF UNINSURED MOTORIST CLAIMS REPORTED BY INSURERS DECLINED BETWEEN JULY 1, 1997, AND THE DATE OF THE DEPARTMENT'S REVIEW.

SECTION 5. 42-7-601, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-7-601. Short title. (1) This part 6 shall be known and may be cited as the "~~Uninsured~~ Motorist INSURANCE Identification Database Program Act".

(2) EFFECTIVE JULY 1, 2001, THIS PART 6 SHALL BE KNOWN AND MAY BE CITED AS THE "MOTORIST IDENTIFICATION DATABASE PROGRAM ACT" UNLESS THE REVIEW CONDUCTED BY THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO SECTION 42-7-608 AND REPORTED TO THE GENERAL ASSEMBLY INDICATES THAT THE NUMBER OF UNINSURED MOTORIST CLAIMS REPORTED BY INSURERS DECLINED BETWEEN JULY 1, 1997, AND THE DATE OF THE DEPARTMENT'S REVIEW.

SECTION 6. Part 6 of article 7 of title 42, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

42-7-603. Definitions. AS USED IN THIS PART 6, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DATABASE" MEANS THE MOTORIST INSURANCE IDENTIFICATION DATABASE, DESCRIBED IN SECTION 42-7-604 (5).

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

(3) "DESIGNATED AGENT" MEANS THE PARTY WITH WHICH THE DIVISION CONTRACTS UNDER SECTION 42-7-604.

(4) "DIVISION" MEANS THE MOTOR VEHICLE DIVISION IN THE DEPARTMENT OF REVENUE, CREATED IN SECTION 24-1-117, C.R.S.

(5) "PROGRAM" MEANS THE MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM, CREATED IN SECTION 42-7-604.

42-7-604. Motorist insurance identification database program - created - administration - selection of designated agent - legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE PURPOSE OF THIS SECTION IS TO HELP REDUCE THE UNINSURED MOTORIST POPULATION IN THIS STATE AND MEASURE THE EFFECTIVENESS OF THE MOTORIST INSURANCE IDENTIFICATION DATABASE CREATED HEREIN.

(2) THE GENERAL ASSEMBLY FURTHER RECOGNIZES THAT THE INFORMATION AND DATA REQUIRED TO BE DISCLOSED BY INSURERS IN CREATING AND MAINTAINING THE MOTORIST INSURANCE IDENTIFICATION DATABASE IS PROPRIETARY IN NATURE. ACCORDINGLY, THE PARTIES HANDLING SUCH INFORMATION AND DATA SHALL AT ALL TIMES MAINTAIN THEIR CONFIDENTIAL AND PROPRIETARY NATURE.

(3) THE MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM IS HEREBY CREATED FOR THE PURPOSE OF ESTABLISHING A DATABASE TO USE WHEN VERIFYING COMPLIANCE WITH THE MOTOR VEHICLE SECURITY REQUIREMENTS IN THIS ARTICLE. THE PROGRAM SHALL BE ADMINISTERED BY THE DIVISION.

(4) (a) NOT LATER THAN JANUARY 1, 1998, THE DIVISION SHALL CONTRACT WITH A DESIGNATED AGENT, WHICH SHALL MONITOR COMPLIANCE WITH THE FINANCIAL SECURITY REQUIREMENTS OF THIS ARTICLE; EXCEPT THAT THE DIVISION SHALL NOT ENTER INTO ANY CONTRACT UNDER THIS SUBSECTION (4) UNLESS AT LEAST TWO ENTITIES BID ON SAID CONTRACT.

(b) AFTER A CONTRACT HAS BEEN ENTERED INTO WITH A DESIGNATED AGENT, THE DEPARTMENT SHALL CONVENE A WORKING GROUP FOR THE PURPOSE OF FACILITATING THE IMPLEMENTATION OF THE PROGRAM. THE WORKING GROUP SHALL CONSIST OF REPRESENTATIVES OF THE INSURANCE INDUSTRY, THE DIVISION OF INSURANCE, THE DEPARTMENT OF PUBLIC SAFETY, THE DIVISION, AND THE DEPARTMENT.

(5) (a) NOT LATER THAN JANUARY 1, 1999, THE DESIGNATED AGENT, USING ITS OWN COMPUTER NETWORK, SHALL DEVELOP AND MAINTAIN A COMPUTER DATABASE WITH INFORMATION PROVIDED BY:

(I) INSURERS, PURSUANT TO SECTION 10-4-615, C.R.S.; EXCEPT THAT ANY PERSON WHO QUALIFIES AS SELF-INSURED PURSUANT TO SECTION 10-4-716, C.R.S., SHALL NOT BE REQUIRED TO PROVIDE INFORMATION TO THE DESIGNATED AGENT; AND

(II) THE DIVISION, WHICH SHALL PROVIDE THE DESIGNATED AGENT WITH THE NAME, DATE OF BIRTH, ADDRESS, AND DRIVER'S LICENSE NUMBER OF ALL PERSONS IN ITS COMPUTER DATABASE, AND THE MAKE, YEAR, AND VEHICLE IDENTIFICATION NUMBER OF ALL REGISTERED VEHICLES.

(b) THE DIVISION SHALL ESTABLISH GUIDELINES FOR THE DEVELOPMENT AND MAINTENANCE OF A DATABASE SO THAT SAID DATABASE CAN EASILY BE ACCESSED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES. SUCH ACCESS SHALL BE WITHIN PROCEDURES ALREADY ESTABLISHED AND SHALL NOT REQUIRE ADDITIONAL COMPUTER KEYSTROKES BY DISPATCH OR LAW ENFORCEMENT PERSONNEL OR ANY OTHER ADDITIONAL PROCEDURES.

(6) NOT LATER THAN JANUARY 1, 1999, THE DESIGNATED AGENT SHALL, AT LEAST

MONTHLY:

(a) UPDATE THE DATABASE WITH INFORMATION PROVIDED BY INSURERS IN ACCORDANCE WITH SECTION 10-4-615, C.R.S.;

(b) COMPARE THEN-CURRENT MOTOR VEHICLE REGISTRATIONS AGAINST THE DATABASE.

(6.5) ALL INSURERS ACTIVELY WRITING AUTOMOBILE INSURANCE WILL REPORT THEIR POLICYHOLDER AND UNINSURED MOTORIST CLAIM NUMBERS TO THE COMMISSIONER IN A MANNER PRESCRIBED BY THE COMMISSIONER, STARTING WITH DATA FOR THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING JULY 1, 1997.

(7) THE DIVISION OF INSURANCE IN THE DEPARTMENT OF REGULATORY AGENCIES SHALL CONTRACT WITH A COMPANY THAT GATHERS STATISTICAL INFORMATION CONCERNING PERSONAL LINES OF PROPERTY AND CASUALTY INSURANCE. SAID COMPANY SHALL BE PAID FROM THE MOTORIST INSURANCE IDENTIFICATION ACCOUNT WITHIN THE HIGHWAY USERS TAX FUND, AND SHALL REPORT THE FREQUENCY OF UNINSURED MOTORIST CLAIMS TO THE DIVISION OF INSURANCE ON A REGULAR BASIS. SUCH REPORT SHALL INCLUDE A COMPARISON OF THE NUMBER OF UNINSURED MOTORIST CLAIMS WITH THE AVERAGE NUMBER OF SUCH CLAIMS REPORTED FOR THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING JULY 1, 1997. THE DIVISION SHALL TRANSMIT SUCH INFORMATION TO THE GENERAL ASSEMBLY NO LATER THAN JANUARY 1, 1999, AND EACH JANUARY 1 THEREAFTER.

(8) THE DEPARTMENT, IN COOPERATION WITH THE DIVISION, SHALL PROMULGATE RULES AND DEVELOP PROCEDURES FOR ADMINISTERING AND ENFORCING THIS PART 6. SUCH RULES SHALL SPECIFY THE REPORTING REQUIREMENTS THAT ARE NECESSARY AND APPROPRIATE FOR COMMERCIAL LINES OF INSURANCE AND SHALL BE DEVELOPED WITH INPUT BY INSURERS AND THE DESIGNATED AGENT.

42-7-605. Notice of lack of financial responsibility. (1) IF THE COMPARISON MADE PURSUANT TO SECTION 42-7-604 (6) (b) SHOWS THAT A MOTOR VEHICLE HAS NOT BEEN INSURED FOR THREE CONSECUTIVE MONTHS, THE DIVISION SHALL DIRECT THE DESIGNATED AGENT TO NOTIFY THE OWNER OF THE MOTOR VEHICLE THAT SAID OWNER HAS FORTY-FIVE DAYS TO PROVIDE THE DESIGNATED AGENT WITH ONE OF THE FOLLOWING, OR SAID OWNER'S LICENSE PLATES WILL BE SUBJECT TO IMMEDIATE SEIZURE AFTER THE EXPIRATION OF SAID FORTY-FIVE DAY PERIOD:

(a) PROOF OF COMPLYING COVERAGE IN ACCORDANCE WITH SECTION 10-4-705, C.R.S., OR OF SELF-INSURANCE IN ACCORDANCE WITH SECTION 10-4-716, C.R.S.; OR

(b) PROOF OF EXEMPTION FROM THE FINANCIAL SECURITY REQUIREMENTS.

(2) ANY PERSON WHO STEALS A LICENSE PLATE SHALL BE IN VIOLATION OF SECTION 42-5-104 (2) (a).

(3) A LETTER FROM AN INSURER OR AGENT VERIFYING THAT THE PERSON HAD THE REQUIRED MOTOR VEHICLE INSURANCE COVERAGE ON THE DATE SPECIFIED SHALL BE CONSIDERED PROOF OF FINANCIAL RESPONSIBILITY FOR PURPOSES OF THIS SECTION. SUCH LETTER MAY BE MAILED TO THE DIVISION.

(4) THE PROVISIONS OF THIS SECTION SHALL TAKE EFFECT NOT LATER THAN JANUARY 1, 1999.

42-7-606. Disclosure of insurance information - penalty. (1) INFORMATION PROVIDED TO THE DESIGNATED AGENT BY INSURERS AND THE DIVISION FOR INCLUSION IN THE DATABASE ESTABLISHED PURSUANT TO SECTION 42-7-604 IS THE PROPERTY OF THE INSURER OR THE DIVISION, AS THE CASE MAY BE, AND MAY NOT BE DISCLOSED EXCEPT AS FOLLOWS:

(a) THE DESIGNATED AGENT SHALL VERIFY A PERSON'S INSURANCE COVERAGE UPON REQUEST BY ANY STATE OR LOCAL GOVERNMENT AGENCY INVESTIGATING, LITIGATING, OR ENFORCING SUCH PERSON'S COMPLIANCE WITH THE FINANCIAL SECURITY REQUIREMENTS.

(b) THE DIVISION SHALL DISCLOSE WHETHER AN INDIVIDUAL HAS THE REQUIRED INSURANCE COVERAGE UPON REQUEST BY THE FOLLOWING INDIVIDUALS AND AGENCIES ONLY:

(I) THE INDIVIDUAL;

(II) THE PARENT OR LEGAL GUARDIAN OF THE INDIVIDUAL IF THE INDIVIDUAL IS AN UNEMANCIPATED MINOR;

(III) THE LEGAL GUARDIAN OF THE INDIVIDUAL IF THE INDIVIDUAL IS LEGALLY INCAPACITATED;

(IV) ANY PERSON WHO HAS POWER OF ATTORNEY FROM THE INDIVIDUAL;

(V) ANY PERSON WHO SUBMITS A NOTARIZED RELEASE FROM THE INDIVIDUAL THAT IS DATED NO MORE THAN NINETY DAYS BEFORE THE DATE THE REQUEST IS MADE;

(VI) ANY PERSON SUFFERING LOSS OR INJURY IN A MOTOR VEHICLE ACCIDENT IN WHICH THE INDIVIDUAL IS INVOLVED, BUT ONLY AS PART OF AN ACCIDENT REPORT AUTHORIZED IN PART 16 OF ARTICLE 4 OF THIS TITLE; OR

(VII) THE OFFICE OF THE STATE AUDITOR, FOR THE PURPOSE OF CONDUCTING ANY AUDIT AUTHORIZED BY LAW.

(2) ANY PERSON OR AGENCY WHO KNOWINGLY DISCLOSES INFORMATION FROM THE DATABASE FOR A PURPOSE OR TO A PERSON OTHER THAN THOSE AUTHORIZED IN THIS SECTION COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

(3) THE STATE SHALL NOT BE LIABLE TO ANY PERSON FOR GATHERING, MANAGING, OR USING INFORMATION IN THE DATABASE PURSUANT TO THIS PART 6.

(4) THE DESIGNATED AGENT SHALL NOT BE LIABLE TO ANY PERSON FOR PERFORMING ITS DUTIES UNDER THIS PART 6, UNLESS AND TO THE EXTENT SAID AGENT COMMITS A WILLFUL AND WANTON ACT OR OMISSION. THE DESIGNATED AGENT SHALL BE LIABLE TO ANY INSURER DAMAGED BY THE DESIGNATED AGENT'S NEGLIGENT FAILURE TO PROTECT THE CONFIDENTIAL AND PROPRIETARY NATURE OF THE

INFORMATION AND DATA DISCLOSED BY THE INSURER TO THE DESIGNATED AGENT.

(5) THE DESIGNATED AGENT SHALL PROVIDE TO THIS STATE AN ERRORS AND OMISSIONS INSURANCE POLICY COVERING SAID DESIGNATED AGENT IN AN APPROPRIATE AMOUNT.

(6) NO INSURER SHALL BE LIABLE TO ANY PERSON FOR PERFORMING ITS DUTIES UNDER THIS PART 6, UNLESS AND TO THE EXTENT THE INSURER COMMITS A WILLFUL AND WANTON ACT OR OMISSION.

42-7-607. Part 6 not to supersede other provisions. THIS PART 6 SHALL NOT SUPERSEDE OTHER ACTIONS OR PENALTIES THAT MAY BE TAKEN OR IMPOSED FOR VIOLATION OF THE FINANCIAL SECURITY REQUIREMENTS OF THIS ARTICLE.

42-7-608. Review by department of regulatory agencies - repeal. (1) THE DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE OPERATION AND PERFORMANCE OF THE MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM PURSUANT TO SECTION 24-34-104, C.R.S., TO DETERMINE WHETHER THE NUMBER OF UNINSURED MOTORIST CLAIMS REPORTED BY INSURERS HAD DECLINED BETWEEN JULY 1, 1997, AND THE DATE OF THE REVIEW AND SHALL SUBMIT A REPORT OF ITS FINDINGS TO THE GENERAL ASSEMBLY NO LATER THAN OCTOBER 15, 1999. THE DEPARTMENT OF REGULATORY AGENCIES SHALL MAKE COPIES OF ITS REPORT AVAILABLE TO EACH MEMBER OF THE GENERAL ASSEMBLY.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2001.

42-7-609. Repeal of sections. SECTIONS 42-7-603 TO 42-7-609 ARE REPEALED, EFFECTIVE JULY 1, 2001, UNLESS THE REVIEW CONDUCTED BY THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO SECTION 42-7-608 AND REPORTED TO THE GENERAL ASSEMBLY INDICATES THAT THE NUMBER OF UNINSURED MOTORIST CLAIMS REPORTED BY INSURERS DECLINED BETWEEN JULY 1, 1997, AND THE DATE OF THE DEPARTMENT'S REVIEW.

SECTION 7. 24-34-104 (30) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (30) (a) The following functions of the specified agency shall terminate on July 1, 2001:

(VI) THE MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM CREATED IN SECTION 10-4-615, C.R.S., AS CONDUCTED BY THE DEPARTMENT OF REVENUE THROUGH THE DIVISION OF MOTOR VEHICLES.

SECTION 8. Repeal. Part 7 of article 4 of title 10, Colorado Revised Statutes, 1994 Repl. Vol., as amended, and sections 42-4-1409 and 42-4-1410, Colorado Revised Statutes, 1993 Repl. Vol., as amended, are repealed, effective July 1, 2001, unless the review conducted by the department of regulatory agencies pursuant to section 42-7-608, Colorado Revised Statutes, and reported to the general assembly during the 1999 regular session of the general assembly indicates that the number of

uninsured motorist claims reported by insurers declined between July 1, 1997, and the date of the department's review.

SECTION 9. Part 1 of article 2 of title 42, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

42-2-127.7. Authority to suspend license - uninsured motorists - legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE PURPOSE OF THIS SECTION IS TO INDUCE AND ENCOURAGE ALL MOTORISTS TO PROVIDE FOR THEIR FINANCIAL RESPONSIBILITY FOR THE PROTECTION OF OTHERS AND TO ASSURE THE WIDESPREAD AVAILABILITY TO THE INSURING PUBLIC OF INSURANCE PROTECTION AGAINST FINANCIAL LOSS CAUSED BY NEGLIGENT, FINANCIALLY IRRESPONSIBLE, MOTORISTS.

(2) (a) THE DEPARTMENT MAY SUSPEND THE LICENSE OF ANY PERSON UPON ITS DETERMINATION THAT THE PERSON DROVE A VEHICLE IN THIS STATE WITHOUT HAVING IN FULL FORCE AND EFFECT A COMPLYING POLICY OR CERTIFICATE OF SELF-INSURANCE AS REQUIRED BY SECTIONS 10-4-705 AND 10-4-716, C.R.S.

(b) THE DEPARTMENT SHALL MAKE A DETERMINATION OF SUCH FACTS ON THE BASIS OF THE DOCUMENTS AND AFFIDAVIT OF A LAW ENFORCEMENT OFFICER AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, AND THIS DETERMINATION SHALL BE FINAL UNLESS A HEARING IS REQUESTED AND HELD AS PROVIDED IN SUBSECTION (7) OF THIS SECTION.

(c) THE DETERMINATION OF THE FACTS SPECIFIED IN THIS SUBSECTION (2) BY THE DEPARTMENT IS INDEPENDENT OF THE SUSPENSION TAKEN UNDER ARTICLE 7 OF THIS TITLE.

(d) FOR PURPOSES OF THIS SECTION, "LICENSE" INCLUDES ANY DRIVING PRIVILEGE.

(3) WHENEVER A LAW ENFORCEMENT OFFICER DETERMINES, BY CHECKING THE MOTORIST INSURANCE IDENTIFICATION DATABASE CREATED IN SECTION 42-7-604, AND BY ANY OTHER MEANS AUTHORIZED BY LAW, THAT A DRIVER VIOLATES SECTION 42-4-1409 BY NOT HAVING A COMPLYING POLICY OR CERTIFICATE OF SELF-INSURANCE IN FULL FORCE AND EFFECT AS REQUIRED BY SECTIONS 10-4-705 AND 10-4-716, C.R.S., THE LAW ENFORCEMENT OFFICER MAKING SUCH DETERMINATION SHALL FORWARD TO THE DEPARTMENT AN AFFIDAVIT THAT INCLUDES A STATEMENT OF THE OFFICER'S PROBABLE CAUSE THAT THE PERSON COMMITTED SUCH VIOLATION, AND A COPY OF THE CITATION AND COMPLAINT, IF ANY, FILED WITH THE COURT. THE AFFIDAVIT SHALL BE DATED, SIGNED, AND SWORN TO BY THE LAW ENFORCEMENT OFFICER UNDER PENALTY OF PERJURY, BUT NEED NOT BE NOTARIZED OR SWORN TO BEFORE ANY OTHER PERSON.

(4) (a) UPON RECEIPT BY THE DEPARTMENT OF THE AFFIDAVIT OF THE LAW ENFORCEMENT OFFICER AND THE RELEVANT DOCUMENTS REQUIRED BY SUBSECTION (3) OF THIS SECTION, THE DEPARTMENT SHALL MAKE THE DETERMINATION DESCRIBED IN SUBSECTION (2) OF THIS SECTION. THE DETERMINATION SHALL BE BASED UPON THE INFORMATION CONTAINED IN THE AFFIDAVIT AND THE RELEVANT DOCUMENTS. IF THE DEPARTMENT DETERMINES THAT THE PERSON IS SUBJECT TO LICENSE SUSPENSION, THE DEPARTMENT MAY ISSUE A NOTICE OF SUSPENSION IF SUCH NOTICE HAS NOT ALREADY

BEEN SERVED UPON THE PERSON BY THE LAW ENFORCEMENT OFFICER AS REQUIRED IN SUBSECTION (5) OF THIS SECTION.

(b) THE NOTICE OF SUSPENSION SENT BY THE DEPARTMENT SHALL BE MAILED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 42-2-119 (2) TO THE PERSON AT THE LAST-KNOWN ADDRESS SHOWN ON THE DEPARTMENT'S RECORDS, IF ANY, AND TO ANY ADDRESS PROVIDED IN THE LAW ENFORCEMENT OFFICER'S AFFIDAVIT IF THAT ADDRESS DIFFERS FROM THE ADDRESS OF RECORD. THE NOTICE SHALL BE DEEMED RECEIVED THREE DAYS AFTER MAILING.

(c) THE NOTICE OF SUSPENSION SHALL CLEARLY SPECIFY THE REASON AND STATUTORY GROUNDS FOR THE SUSPENSION, THE EFFECTIVE DATE OF THE SUSPENSION, THE RIGHT OF THE PERSON TO REQUEST A HEARING, THE PROCEDURE FOR REQUESTING A HEARING, AND THE DATE BY WHICH THAT REQUEST FOR A HEARING MUST BE MADE. THE NOTICE SHALL ALSO STATE THAT THE PERSON MAY AVOID SUSPENSION BY FILING WITH THE DEPARTMENT PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE, OR BY COMPLIANCE WITH SECTION 42-7-302. IF THE PERSON FILES PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE, SUCH PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE SHALL BE MAINTAINED FOR THREE YEARS FROM THE DATE SUCH PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE IS RECEIVED BY THE DEPARTMENT.

(d) IF THE DEPARTMENT DETERMINES THAT THE PERSON IS NOT SUBJECT TO LICENSE SUSPENSION:

(I) THE DEPARTMENT SHALL NOTIFY THE PERSON OF ITS DETERMINATION AND SHALL RESCIND ANY ORDER OF SUSPENSION SERVED UPON THE PERSON BY THE LAW ENFORCEMENT OFFICER;

(II) THE PERSON WHOSE DRIVER'S LICENSE WAS TAKEN POSSESSION OF BY A LAW ENFORCEMENT OFFICER PURSUANT TO THIS SECTION MAY OBTAIN SUCH LICENSE BY THE PAYMENT OF A FEE OF FIVE DOLLARS TO THE DEPARTMENT.

(5) (a) WHENEVER A LAW ENFORCEMENT OFFICER DETERMINES, BY CHECKING THE MOTORIST INSURANCE IDENTIFICATION DATABASE CREATED IN SECTION 42-7-604, AND BY ANY OTHER MEANS AUTHORIZED BY LAW, THAT A DRIVER VIOLATES SECTION 42-4-1409 BY NOT HAVING A COMPLYING POLICY OR CERTIFICATE OF SELF-INSURANCE AS REQUIRED BY SECTIONS 10-4-705 AND 10-4-716, C.R.S., THE OFFICER, ACTING ON BEHALF OF THE DEPARTMENT MAY SERVE THE NOTICE OF SUSPENSION PERSONALLY ON SUCH DRIVER. IF THE LAW ENFORCEMENT OFFICER SERVES THE NOTICE OF SUSPENSION, THE OFFICER SHALL TAKE POSSESSION OF ANY DRIVER'S LICENSE ISSUED BY THIS STATE OR ANY OTHER STATE WHICH IS HELD BY THE PERSON. WHEN THE OFFICER TAKES POSSESSION OF A VALID LICENSE, THE OFFICER, ACTING ON BEHALF OF THE DEPARTMENT, SHALL ISSUE A TEMPORARY PERMIT WHICH IS VALID FOR SEVEN DAYS AFTER ITS DATE OF ISSUANCE.

(b) A COPY OF THE COMPLETED NOTICE OF SUSPENSION FORM, A COPY OF ANY COMPLETED TEMPORARY PERMIT FORM, AND ANY DRIVER'S, MINOR DRIVER'S, PROVISIONAL DRIVER'S, OR TEMPORARY DRIVER'S LICENSE OR ANY INSTRUCTION PERMIT TAKEN INTO POSSESSION UNDER THIS SECTION SHALL BE FORWARDED TO THE DEPARTMENT BY THE LAW ENFORCEMENT OFFICER ALONG WITH THE AFFIDAVIT AND DOCUMENTS REQUIRED IN SUBSECTIONS (2) AND (3) OF THIS SECTION.

(c) THE DEPARTMENT SHALL PROVIDE FORMS FOR NOTICE OF SUSPENSION AND FOR TEMPORARY PERMITS TO LAW ENFORCEMENT AGENCIES. THE DEPARTMENT SHALL ESTABLISH A FORMAT FOR THE AFFIDAVITS REQUIRED BY THIS SECTION AND SHALL GIVE NOTICE OF SUCH FORMAT TO ALL LAW ENFORCEMENT AGENCIES WHICH SUBMIT AFFIDAVITS TO THE DEPARTMENT. SUCH LAW ENFORCEMENT AGENCIES SHALL FOLLOW THE FORMAT DETERMINED BY THE DEPARTMENT.

(d) A TEMPORARY PERMIT MAY NOT BE ISSUED TO ANY PERSON WHO IS ALREADY DRIVING WITH A TEMPORARY PERMIT ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5).

(6) (a) THE LICENSE SUSPENSION SHALL BECOME EFFECTIVE SEVEN DAYS AFTER THE SUBJECT PERSON HAS RECEIVED THE NOTICE OF SUSPENSION AS PROVIDED IN SUBSECTION (5) OF THIS SECTION OR IS DEEMED TO HAVE RECEIVED THE NOTICE OF SUSPENSION BY MAIL AS PROVIDED IN SUBSECTION (4) OF THIS SECTION UNLESS THE PERSON FILES WITH THE DEPARTMENT PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE OR COMPLIES WITH SECTION 42-7-302 PRIOR TO THE EFFECTIVE DATE OF THE SUSPENSION. IF THE PERSON FILES PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE, SUCH PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE MUST BE MAINTAINED FOR THREE YEARS FROM THE DATE SUCH PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE IS RECEIVED BY THE DEPARTMENT. IF A WRITTEN REQUEST FOR A HEARING AND EVIDENCE OF CURRENT LIABILITY INSURANCE IN THE RESPONDENT'S NAME IS RECEIVED BY THE DEPARTMENT WITHIN THAT SAME SEVEN-DAY PERIOD, THE EFFECTIVE DATE OF THE SUSPENSION SHALL BE STAYED UNTIL A FINAL ORDER IS ISSUED FOLLOWING THE HEARING; EXCEPT THAT ANY DELAY IN THE HEARING THAT IS CAUSED OR REQUESTED BY THE SUBJECT PERSON OR COUNSEL REPRESENTING THAT PERSON SHALL NOT RESULT IN A STAY OF THE SUSPENSION DURING THE PERIOD OF DELAY.

(b) THE PERIOD OF LICENSE SUSPENSION UNDER PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION SHALL BE FOR AN INDEFINITE PERIOD. THE PERSON MAY REINSTATE AT ANY TIME BY COMPLYING WITH SECTION 42-7-302 OR BY FILING WITH THE DEPARTMENT PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE AND PAYING THE REQUIRED REINSTATEMENT FEE PURSUANT TO SECTION 42-2-132. IF THE PERSON FILES PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE, SUCH PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE MUST BE MAINTAINED FOR THREE YEARS FROM THE DATE SUCH PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE IS RECEIVED BY THE DEPARTMENT.

(7) (a) ANY PERSON WHO HAS RECEIVED A NOTICE OF SUSPENSION MAY MAKE A WRITTEN REQUEST FOR A REVIEW OF THE DEPARTMENT'S DETERMINATION AT A HEARING. THE REQUEST MAY BE MADE ON A FORM AVAILABLE AT EACH OFFICE OF THE DEPARTMENT. EVIDENCE OF CURRENT LIABILITY INSURANCE IN THE RESPONDENT'S NAME AND THE PERSON'S DRIVER'S LICENSE, IF THE LICENSE HAS NOT BEEN PREVIOUSLY SURRENDERED, SHALL BE SUBMITTED AT THE TIME THE REQUEST FOR A HEARING IS MADE.

(b) THE REQUEST FOR A HEARING SHALL BE MADE IN WRITING WITHIN SEVEN DAYS AFTER THE DAY THE PERSON RECEIVED THE NOTICE OF SUSPENSION AS PROVIDED IN SUBSECTION (5) OF THIS SECTION OR IS DEEMED TO HAVE RECEIVED THE NOTICE BY MAIL AS PROVIDED IN SUBSECTION (4) OF THIS SECTION. IF WRITTEN REQUEST FOR A

HEARING AND EVIDENCE OF CURRENT LIABILITY INSURANCE IN THE RESPONDENT'S NAME IS NOT RECEIVED WITHIN THE SEVEN-DAY PERIOD, THE RIGHT TO A HEARING IS WAIVED, AND THE DETERMINATION OF THE DEPARTMENT THAT IS BASED UPON THE DOCUMENTS AND AFFIDAVIT REQUIRED BY SUBSECTIONS (2) AND (3) OF THIS SECTION BECOMES FINAL.

(c) IF A WRITTEN REQUEST FOR A HEARING IS MADE AFTER EXPIRATION OF THE SEVEN-DAY PERIOD AND IF IT IS ACCOMPANIED BY THE APPLICANT'S VERIFIED STATEMENT EXPLAINING THE FAILURE TO MAKE A TIMELY REQUEST FOR A HEARING, THE DEPARTMENT SHALL RECEIVE AND CONSIDER THE REQUEST. IF THE DEPARTMENT FINDS THAT THE PERSON WAS UNABLE TO MAKE A TIMELY REQUEST DUE TO LACK OF ACTUAL NOTICE OF THE SUSPENSION OR DUE TO FACTORS OF PHYSICAL INCAPACITY SUCH AS HOSPITALIZATION OR INCARCERATION, THE DEPARTMENT SHALL WAIVE THE PERIOD OF LIMITATION, REOPEN THE MATTER, AND GRANT THE HEARING REQUEST UPON RECEIPT OF EVIDENCE OF CURRENT LIABILITY INSURANCE IN THE RESPONDENT'S NAME. IN SUCH A CASE, A STAY OF THE SUSPENSION PENDING ISSUANCE OF THE FINAL ORDER FOLLOWING THE HEARING SHALL NOT BE GRANTED.

(d) AT THE TIME THE REQUEST FOR A HEARING IS MADE, IF IT APPEARS FROM THE RECORD THAT THE PERSON IS THE HOLDER OF A VALID DRIVER'S, MINOR DRIVER'S, OR PROVISIONAL DRIVER'S LICENSE OR ANY INSTRUCTION PERMIT ISSUED BY THIS STATE OR TEMPORARY PERMIT ISSUED PURSUANT TO SUBSECTION (5) OF THIS SECTION AND THAT THE LICENSE HAS BEEN SURRENDERED AS REQUIRED PURSUANT TO SUBSECTION (5) OF THIS SECTION, THE DEPARTMENT SHALL ISSUE A TEMPORARY PERMIT UPON THE RECEIPT OF EVIDENCE OF CURRENT LIABILITY INSURANCE IN THE RESPONDENT'S NAME. THE TEMPORARY PERMIT WILL BE VALID UNTIL THE SCHEDULED DATE FOR THE HEARING. IF NECESSARY, THE DEPARTMENT MAY LATER ISSUE AN ADDITIONAL TEMPORARY PERMIT OR PERMITS IN ORDER TO STAY THE EFFECTIVE DATE OF THE SUSPENSION UNTIL THE FINAL ORDER IS ISSUED FOLLOWING THE HEARING, AS REQUIRED BY SUBSECTION (6) OF THIS SECTION.

(e) (I) THE HEARING SHALL BE SCHEDULED TO BE HELD AS QUICKLY AS PRACTICABLE BUT NOT MORE THAN SIXTY DAYS AFTER THE DAY THAT THE REQUEST FOR A HEARING IS RECEIVED BY THE DEPARTMENT; EXCEPT THAT, IF A HEARING IS RESCHEDULED BECAUSE OF THE UNAVAILABILITY OF THE HEARING OFFICER IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH (e), THE HEARING MAY BE RESCHEDULED MORE THAN SIXTY DAYS AFTER THE DAY THAT THE REQUEST FOR THE HEARING IS RECEIVED BY THE DEPARTMENT, AND THE DEPARTMENT SHALL CONTINUE ANY TEMPORARY DRIVING PRIVILEGES HELD BY THE RESPONDENT UNTIL THE DATE THAT SUCH HEARING IS RESCHEDULED. THE DEPARTMENT SHALL PROVIDE A WRITTEN NOTICE OF THE TIME AND PLACE OF THE HEARING TO THE RESPONDENT IN THE MANNER PROVIDED IN SECTION 42-2-119 (2) AT LEAST TEN DAYS PRIOR TO THE SCHEDULED OR RESCHEDULED HEARING, UNLESS THE PARTIES AGREE TO WAIVE THIS REQUIREMENT. NOTWITHSTANDING THE PROVISIONS OF SECTION 42-2-119, THE LAST-KNOWN ADDRESS OF THE RESPONDENT FOR PURPOSES OF NOTICE FOR ANY HEARING PURSUANT TO THIS SECTION SHALL BE THE ADDRESS STATED ON THE HEARING REQUEST FORM.

(II) IF A HEARING OFFICER CANNOT APPEAR AT ANY ORIGINAL OR RESCHEDULED HEARING BECAUSE OF MEDICAL REASONS, ANOTHER ADMINISTRATIVE HEARING, OR ANY OTHER LEGITIMATE JUST CAUSE, SUCH HEARING OFFICER OR THE DEPARTMENT

MAY RESCHEDULE THE HEARING AT THE EARLIEST POSSIBLE TIME WHEN THE HEARING OFFICER WILL BE AVAILABLE.

(f) IF A HEARING IS HELD PURSUANT TO SUBSECTION (7) OF THIS SECTION, THE DEPARTMENT SHALL REVIEW THE MATTER AND MAKE A FINAL DETERMINATION ON THE BASIS OF THE DOCUMENTS AND AFFIDAVIT SUBMITTED TO THE DEPARTMENT PURSUANT TO SUBSECTIONS (2) AND (3) OF THIS SECTION. THE LAW ENFORCEMENT OFFICER WHO SUBMITTED THE AFFIDAVIT NEED NOT BE PRESENT AT THE HEARING. THE DEPARTMENT SHALL CONSIDER ALL OTHER RELEVANT EVIDENCE AT THE HEARING, INCLUDING THE REPORTS OF LAW ENFORCEMENT OFFICERS THAT ARE SUBMITTED TO THE DEPARTMENT. THE REPORTS OF LAW ENFORCEMENT OFFICERS SHALL NOT BE REQUIRED TO BE MADE UNDER OATH, BUT SUCH REPORTS SHALL IDENTIFY THE OFFICERS MAKING THE REPORTS. THE DEPARTMENT MAY CONSIDER EVIDENCE CONTAINED IN AFFIDAVITS FROM PERSONS OTHER THAN THE RESPONDENT, SO LONG AS SUCH AFFIDAVITS INCLUDE THE AFFIANT'S HOME OR WORK ADDRESS AND TELEPHONE NUMBER AND ARE DATED, SIGNED, AND SWORN TO BY THE AFFIANT UNDER PENALTY OF PERJURY. THE AFFIDAVIT NEED NOT BE NOTARIZED OR SWORN TO BEFORE ANY OTHER PERSON. THE RESPONDENT MUST PRESENT EVIDENCE IN PERSON.

(8) (a) THE HEARING SHALL BE HELD IN THE DISTRICT OFFICE OF THE DEPARTMENT CLOSEST TO THE RESIDENCE OF THE DRIVER. THE PERSON REQUESTING THE HEARING MAY BE REFERRED TO AS THE RESPONDENT.

(b) THE PRESIDING HEARING OFFICER SHALL BE THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR AN AUTHORIZED REPRESENTATIVE DESIGNATED BY THE EXECUTIVE DIRECTOR. THE PRESIDING HEARING OFFICER SHALL HAVE AUTHORITY TO ADMINISTER OATHS AND AFFIRMATIONS; TO CONSIDER THE AFFIDAVIT OF THE LAW ENFORCEMENT OFFICER FILING SUCH AFFIDAVIT AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION; TO CONSIDER OTHER LAW ENFORCEMENT OFFICERS' REPORTS THAT ARE SUBMITTED TO THE DEPARTMENT, WHICH REPORTS NEED NOT BE UNDER OATH BUT SHALL IDENTIFY THE OFFICERS MAKING THE REPORTS; TO EXAMINE AND CONSIDER DOCUMENTS AND COPIES OF DOCUMENTS CONTAINING RELEVANT EVIDENCE; TO CONSIDER OTHER AFFIDAVITS THAT ARE DATED, SIGNED, AND SWORN TO BY THE AFFIANT UNDER PENALTY OF PERJURY, WHICH AFFIDAVITS NEED NOT BE NOTARIZED OR SWORN TO BEFORE ANY OTHER PERSON BUT SHALL CONTAIN THE AFFIANT'S HOME OR WORK ADDRESS AND TELEPHONE NUMBER; TO TAKE JUDICIAL NOTICE AS DEFINED BY RULE 201 OF ARTICLE II OF THE COLORADO RULES OF EVIDENCE, SUBJECT TO THE PROVISIONS OF SECTION 24-4-105 (8), C.R.S., WHICH SHALL INCLUDE JUDICIAL NOTICE OF GENERAL, TECHNICAL, OR SCIENTIFIC FACTS WITHIN THE HEARING OFFICER'S KNOWLEDGE; TO COMPEL WITNESSES TO TESTIFY OR PRODUCE BOOKS, RECORDS, OR OTHER EVIDENCE; TO EXAMINE WITNESSES AND TAKE TESTIMONY; TO RECEIVE AND CONSIDER ANY RELEVANT EVIDENCE NECESSARY TO PROPERLY PERFORM THE HEARING OFFICER'S DUTIES AS REQUIRED BY THIS SECTION; TO ISSUE SUBPOENAS DUCES TECUM TO PRODUCE BOOKS, DOCUMENTS, RECORDS, OR OTHER EVIDENCE; TO ISSUE SUBPOENAS FOR THE ATTENDANCE OF WITNESSES; TO TAKE DEPOSITIONS, OR CAUSE DEPOSITIONS OR INTERROGATORIES TO BE TAKEN; TO REGULATE THE COURSE AND CONDUCT OF THE HEARING; AND TO MAKE A FINAL RULING ON THE ISSUES.

(c) (I) WHEN A LICENSE IS SUSPENDED UNDER PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, THE SOLE ISSUE AT THE HEARING SHALL BE WHETHER BY A

PREPONDERANCE OF THE EVIDENCE THE PERSON DROVE A VEHICLE IN THIS STATE WITHOUT HAVING IN FORCE A COMPLYING POLICY OR CERTIFICATE OF SELF-INSURANCE AS REQUIRED BY SECTIONS 10-4-705 AND 10-4-716, C.R.S. IF THE PRESIDING HEARING OFFICER FINDS THE AFFIRMATIVE OF THE ISSUE, THE SUSPENSION ORDER SHALL BE SUSTAINED. IF THE PRESIDING HEARING OFFICER FINDS THE NEGATIVE OF THE ISSUE, THE SUSPENSION ORDER SHALL BE RESCINDED.

(II) UNDER NO CIRCUMSTANCES SHALL THE PRESIDING HEARING OFFICER CONSIDER ANY ISSUE NOT SPECIFIED IN THIS PARAGRAPH (c).

(d) THE HEARING SHALL BE RECORDED. THE DECISION OF THE PRESIDING HEARING OFFICER SHALL BE RENDERED IN WRITING, AND A COPY SHALL BE PROVIDED TO THE PERSON WHO REQUESTED THE HEARING.

(e) IF THE PERSON WHO REQUESTED THE HEARING FAILS TO APPEAR WITHOUT JUST CAUSE, THE RIGHT TO A HEARING SHALL BE WAIVED, AND THE DETERMINATION OF THE DEPARTMENT WHICH IS BASED UPON THE DOCUMENTS AND AFFIDAVIT REQUIRED IN SUBSECTIONS (2) AND (3) OF THIS SECTION SHALL BECOME FINAL.

(9) (a) WITHIN THIRTY DAYS OF THE ISSUANCE OF THE FINAL DETERMINATION OF THE DEPARTMENT UNDER THIS SECTION, A PERSON AGGRIEVED BY THE DETERMINATION SHALL HAVE THE RIGHT TO FILE A PETITION FOR JUDICIAL REVIEW IN THE DISTRICT COURT IN THE COUNTY OF THE PERSON'S RESIDENCE.

(b) THE REVIEW SHALL BE ON THE RECORD WITHOUT TAKING ADDITIONAL TESTIMONY. IF THE COURT FINDS THAT THE DEPARTMENT EXCEEDED ITS CONSTITUTIONAL OR STATUTORY AUTHORITY, MADE AN ERRONEOUS INTERPRETATION OF THE LAW, ACTED IN AN ARBITRARY AND CAPRICIOUS MANNER, OR MADE A DETERMINATION WHICH IS UNSUPPORTED BY THE EVIDENCE IN THE RECORD, THE COURT MAY REVERSE THE DEPARTMENT'S DETERMINATION.

(c) THE FILING OF A PETITION FOR JUDICIAL REVIEW SHALL NOT RESULT IN AN AUTOMATIC STAY OF THE SUSPENSION ORDER. THE COURT MAY GRANT A STAY OF THE ORDER ONLY UPON MOTION AND HEARING AND UPON A FINDING THAT THERE IS A REASONABLE PROBABILITY THAT THE PETITIONER WILL PREVAIL UPON THE MERITS AND THAT THE PETITIONER WILL SUFFER IRREPARABLE HARM IF THE ORDER IS NOT STAYED.

(10) THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., SHALL APPLY TO THIS SECTION TO THE EXTENT IT IS CONSISTENT WITH SUBSECTIONS (7), (8), AND (9) OF THIS SECTION RELATING TO ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW.

(11) THIS SECTION SHALL TAKE EFFECT WHEN THE MOTORIST INSURANCE IDENTIFICATION DATABASE, CREATED IN SECTION 42-7-604, HAS BEEN DEVELOPED AND IS OPERATIONAL, BUT NOT LATER THAN JANUARY 1, 1999.

SECTION 10. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the motorist insurance identification account in the highway users tax fund not otherwise appropriated, to the department of revenue, for allocation to the division of motor vehicles, for the fiscal year

beginning July 1, 1997, the sum of three million three hundred seventy-four thousand five hundred dollars (\$3,374,500), or so much thereof as may be necessary, for the implementation of this act.

SECTION 11. Effective date. This act shall take effect July 1, 1997.

SECTION 12. 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 3, 1997