

CHAPTER 286

MOTOR VEHICLES AND TRAFFIC REGULATION

SENATE BILL 97-036

BY SENATORS Mutzebaugh, Congrove, and Wells;
also REPRESENTATIVES May, Arrington, Dean, Lamborn, Miller, Owen, Paschall, and Sullivant.

AN ACT

CONCERNING SERVICE OF PROCESS FOR TRAFFIC OFFENSES.

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

SECTION 1. Part 1 of article 4 of title 42, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-110.5. Automated vehicle identification systems. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE ENFORCEMENT OF TRAFFIC LAWS THROUGH THE USE OF AUTOMATED VEHICLE IDENTIFICATION SYSTEMS UNDER THIS SECTION IS A MATTER OF STATEWIDE CONCERN AND IS AN AREA IN WHICH UNIFORM STATE STANDARDS ARE NECESSARY.

(2) A MUNICIPALITY MAY ADOPT AN ORDINANCE AUTHORIZING THE USE OF AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM TO DETECT VIOLATIONS OF TRAFFIC REGULATIONS ADOPTED BY THE MUNICIPALITY, OR THE STATE, A COUNTY, OR A MUNICIPALITY MAY UTILIZE AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM TO DETECT TRAFFIC VIOLATIONS UNDER STATE LAW, SUBJECT TO THE FOLLOWING CONDITIONS AND LIMITATIONS:

(a) (I) IN ORDER FOR A MUNICIPAL COURT TO ESTABLISH PERSONAL JURISDICTION OVER A DEFENDANT IN ANY CASE INVOLVING AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM, A PENALTY ASSESSMENT NOTICE OR SUMMONS AND COMPLAINT SHALL BE SERVED UPON THE DEFENDANT IN ACCORDANCE WITH SECTION 13-10-111, C.R.S., AND RULE 204 OF THE COLORADO MUNICIPAL COURT RULES OF PROCEDURE. IN ORDER FOR THE STATE OR A COUNTY TO ESTABLISH PERSONAL JURISDICTION OVER A DEFENDANT IN ANY CASE INVOLVING AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM, A PENALTY ASSESSMENT NOTICE OR SUMMONS AND COMPLAINT SHALL BE PERSONALLY SERVED UPON THE DEFENDANT. NOTHING IN THIS

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

SECTION MAY BE DEEMED TO PREVENT THE STATE, A COUNTY, OR A MUNICIPALITY FROM MAILING A WRITTEN NOTICE TO THE DEFENDANT ADVISING THE DEFENDANT OF THE ALLEGED VIOLATION AND PERMITTING THE DEFENDANT TO WAIVE SUCH SERVICE OF PROCESS.

(II) IF THE STATE, A COUNTY, OR A MUNICIPALITY DETECTS ANY ALLEGED VIOLATION OF A MUNICIPAL TRAFFIC REGULATION OR A TRAFFIC VIOLATION UNDER STATE LAW THROUGH THE USE OF AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM, THEN THE STATE, COUNTY, OR MUNICIPALITY SHALL SERVE THE PENALTY ASSESSMENT NOTICE OR SUMMONS AND COMPLAINT FOR THE ALLEGED VIOLATION ON THE DEFENDANT PURSUANT TO THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) NO LATER THAN NINETY DAYS AFTER THE ALLEGED VIOLATION OCCURRED.

(b) NOTWITHSTANDING ANY OTHER PROVISION OF THE STATUTES TO THE CONTRARY, THE STATE, A COUNTY, OR A MUNICIPALITY MAY NOT REPORT TO THE DEPARTMENT ANY CONVICTION OR ENTRY OF JUDGMENT AGAINST A DEFENDANT FOR VIOLATION OF A MUNICIPAL TRAFFIC REGULATION OR A TRAFFIC VIOLATION UNDER STATE LAW IF THE VIOLATION WAS DETECTED THROUGH THE USE OF AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM.

(c) THE STATE, A COUNTY, OR A MUNICIPALITY MAY NOT REPORT TO THE DEPARTMENT ANY OUTSTANDING JUDGMENT OR WARRANT FOR PURPOSES OF SECTION 42-2-107 (5) OR 42-2-118 (3) BASED UPON ANY VIOLATION OR ALLEGED VIOLATION OF A MUNICIPAL TRAFFIC REGULATION OR TRAFFIC VIOLATION UNDER STATE LAW DETECTED THROUGH THE USE OF AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM.

(3) THE DEPARTMENT HAS NO AUTHORITY TO ASSESS ANY POINTS AGAINST A LICENSE UNDER SECTION 42-2-127 UPON ENTRY OF A CONVICTION OR JUDGMENT FOR A VIOLATION OF A MUNICIPAL TRAFFIC REGULATION OR A TRAFFIC VIOLATION UNDER STATE LAW IF THE VIOLATION WAS DETECTED THROUGH THE USE OF AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM. THE DEPARTMENT MAY NOT KEEP ANY RECORD OF SUCH VIOLATION IN THE OFFICIAL RECORDS MAINTAINED BY THE DEPARTMENT UNDER SECTION 42-2-121.

(4) (a) IF THE STATE, A COUNTY, OR A MUNICIPALITY DETECTS A SPEEDING VIOLATION OF LESS THAN TEN MILES PER HOUR OVER THE REASONABLE AND PRUDENT SPEED UNDER A MUNICIPAL TRAFFIC REGULATION OR UNDER STATE LAW THROUGH THE USE OF AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM AND THE VIOLATION IS THE FIRST VIOLATION BY SUCH DRIVER THAT THE STATE, COUNTY, OR MUNICIPALITY HAS DETECTED USING AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM, THEN THE STATE, COUNTY, OR MUNICIPALITY SHALL MAIL SUCH DRIVER A WARNING REGARDING THE VIOLATION AND THE STATE, COUNTY, OR MUNICIPALITY MAY NOT IMPOSE ANY PENALTY OR SURCHARGE FOR SUCH FIRST VIOLATION.

(b) IF THE STATE, A COUNTY, OR A MUNICIPALITY DETECTS A SECOND OR SUBSEQUENT TRAFFIC VIOLATION UNDER A MUNICIPAL TRAFFIC REGULATION OR UNDER STATE LAW BY A DRIVER, OR A FIRST SUCH VIOLATION BY THE DRIVER IF THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (4) DO NOT APPLY, THROUGH THE USE OF AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM, THEN THE MAXIMUM PENALTY THAT THE STATE, COUNTY, OR MUNICIPALITY MAY IMPOSE FOR SUCH

VIOLATION, INCLUDING ANY SURCHARGE, IS FORTY DOLLARS.

(5) IF THE STATE, A COUNTY, OR A MUNICIPALITY HAS ESTABLISHED AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM FOR THE ENFORCEMENT OF MUNICIPAL TRAFFIC REGULATIONS OR STATE TRAFFIC LAWS, THEN NO PORTION OF ANY FINE COLLECTED THROUGH THE USE OF SUCH SYSTEM MAY BE PAID TO THE MANUFACTURER OR VENDOR OF THE AUTOMATED VEHICLE IDENTIFICATION SYSTEM EQUIPMENT. THE COMPENSATION PAID BY THE STATE, COUNTY, OR MUNICIPALITY FOR SUCH EQUIPMENT SHALL BE BASED UPON THE VALUE OF SUCH EQUIPMENT AND MAY NOT BE BASED UPON THE NUMBER OF TRAFFIC CITATIONS ISSUED OR THE REVENUE GENERATED BY SUCH EQUIPMENT.

(6) AS USED IN THIS SECTION, THE TERM "AUTOMATED VEHICLE IDENTIFICATION SYSTEM" MEANS A SYSTEM WHEREBY:

(a) A MACHINE IS USED TO AUTOMATICALLY DETECT A VIOLATION OF A TRAFFIC REGULATION AND SIMULTANEOUSLY RECORD A PHOTOGRAPH OF THE VEHICLE, THE OPERATOR OF THE VEHICLE, AND THE LICENSE PLATE OF THE VEHICLE; AND

(b) A PENALTY ASSESSMENT NOTICE OR SUMMONS AND COMPLAINT IS ISSUED TO THE REGISTERED OWNER OF THE MOTOR VEHICLE.

SECTION 2. 42-2-107 (5) (a), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-2-107. Application for license or instruction permit - anatomical gifts - donations to organ and tissue donation awareness fund - legislative declaration.

(5) (a) (I) Prior to the issuance of a driver's, minor driver's, or provisional driver's license, the department shall determine if there are any outstanding judgments or warrants entered or issued against the applicant pursuant to section 42-4-1709 (7).

(II) FOR THE PURPOSES OF THIS SUBSECTION (5), "OUTSTANDING JUDGMENTS OR WARRANTS" DOES NOT INCLUDE ANY JUDGMENT OR WARRANT REPORTED TO THE DEPARTMENT IN VIOLATION OF THE PROVISIONS OF SECTION 42-4-110.5 (2) (c).

SECTION 3. 42-2-118 (3) (a), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-2-118. Renewal of license - donations to organ and tissue donation awareness fund.

(3) (a) (I) Prior to the renewal of a permanent driver's license or the issuance or renewal of a probationary license, the department shall determine if the applicant has any outstanding judgments or warrants entered or issued against the applicant as set forth in section 42-4-1709 (7).

(II) FOR THE PURPOSES OF THIS SUBSECTION (3), "OUTSTANDING JUDGMENTS OR WARRANTS" DOES NOT INCLUDE ANY JUDGMENT OR WARRANT REPORTED TO THE DEPARTMENT IN VIOLATION OF THE PROVISIONS OF SECTION 42-4-110.5 (2) (c).

SECTION 4. 42-2-127, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

42-2-127. Authority to suspend license - to deny license - type of conviction - points. (5.8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DEPARTMENT MAY NOT ASSESS ANY POINTS FOR A VIOLATION IF SUCH ASSESSMENT OF POINTS IS PROHIBITED UNDER SECTION 42-4-110.5 (3).

SECTION 5. Effective date - applicability. This act shall take effect upon passage, and shall apply to any penalty assessment notice or summons and complaint issued on or after said date.

SECTION 6. 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, 1997