

CHAPTER 69

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 98-1127

BY REPRESENTATIVES Tucker, K. Alexander, and Epps;
also SENATORS Schroeder, Hernandez, and Hopper.

AN ACT

CONCERNING CLARIFICATION OF PROVISIONS REGARDING UNDERAGE PERSONS DRIVING WITH ALCOHOL CONTENT, AND, IN CONNECTION THEREWITH, CLARIFYING THAT DRIVING A MOTOR VEHICLE WHILE UNDER TWENTY-ONE YEARS OF AGE WHILE HAVING A BLOOD OR BREATH ALCOHOL CONTENT OF AT LEAST 0.02 BUT NOT MORE THAN 0.05 IS A TRAFFIC INFRACTION.

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

SECTION 1. The introductory portion to 42-2-121 (5) (a) and 42-2-121 (5) (a) (III), Colorado Revised Statutes, are amended to read:

42-2-121. Records to be kept by the department - admission of records in court. (5) (a) Upon application by a person, the department shall expunge all records concerning a conviction of a person for driving any vehicle in this state with an alcohol level of at least 0.02 but ~~less~~ NOT MORE than 0.05 grams of alcohol per hundred milliliters of blood or at least 0.02 but ~~less~~ NOT MORE than 0.05 grams of alcohol per two hundred ten liters of breath while under twenty-one years of age pursuant to section 42-4-1301 (2) (a.5) and any records concerning an administrative determination resulting in a revocation under section 42-2-126 (2) (a) (I.5) or (2) (a) (IV) if:

(III) The person has not been convicted for any other offense under section 42-4-1301 that was committed while such person was under twenty-one years of age and is not subject to any other administrative determination resulting in a revocation under section 42-2-126 ~~(2) (a) (I.5) or (2) (a) (IV)~~ for any other occurrence while such person was under twenty-one years of age; and

SECTION 2. The introductory portion to 42-2-125 (2.5), Colorado Revised Statutes, is amended to read:

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

42-2-125. Mandatory revocation of license and permit. (2.5) The period of revocation under paragraph (g.5) of subsection (1) of this section for a person who is less than twenty-one years of age at the time of the offense and who is convicted of driving with an alcohol content of at least 0.02 but ~~less~~ NOT MORE than 0.05 under section 42-4-1301 (2) (a.5) is as follows:

SECTION 3. 42-2-126 (6) (b) (IX) (A), Colorado Revised Statutes, is amended to read:

42-2-126. Revocation of license based on administrative determination. (6) (b) (IX) (A) A person whose license is revoked for a first offense under subparagraph (I.5) ~~or (IV)~~ of paragraph (a) of subsection (2) of this section AND WHOSE BLOOD ALCOHOL CONTENT WAS NOT MORE THAN 0.05 GRAMS OF ALCOHOL PER ONE HUNDRED MILLILITERS OF BLOOD OR NOT MORE THAN 0.05 GRAMS OF ALCOHOL PER TWO HUNDRED TEN LITERS OF BREATH may request that, in lieu of the three-month revocation, the person's license be revoked for a period of not less than thirty days, to be followed by a suspension period of such length that the total period of revocation and suspension equals three months. If the hearing officer approves such request, the hearing officer may grant such person a probationary license that may be used only for the reasons provided in section 42-2-127 (14) (a).

SECTION 4. 42-2-127 (5) (b) (IV), Colorado Revised Statutes, is amended to read:

42-2-127. Authority to suspend license - to deny license - type of conviction - points. (5) Point system schedule:
Type of conviction **Points**

(b) (IV) For a person under twenty-one years of age, driving with an alcohol content of at least 0.02 but ~~less~~ NOT MORE than 0.05 pursuant to section 42-4-1301 (2) (a.5) 4

SECTION 5. 42-2-403 (2) (d) (II), Colorado Revised Statutes, is amended to read:

42-2-403. Department authority - rules and regulations - federal requirements. (2) (d) The department may not consider the following with regard to an application from a person for a commercial driver's license:

(II) A license revocation imposed under section 42-2-126 (2) (a) (I.5) if the person was under twenty-one years of age at the time of the offense and such person drove a motor vehicle while such person's blood alcohol content was at least 0.02 but ~~less~~ NOT MORE than 0.05 grams of alcohol per one hundred milliliters of blood or at least 0.02 but ~~less~~ NOT MORE than 0.05 grams of alcohol per two hundred ten liters of breath; or

SECTION 6. 42-4-1301 (2) (a.5), (9) (a), and (9) (b) (III), Colorado Revised Statutes, are amended to read:

42-4-1301. Driving under the influence - driving while impaired - driving with excessive alcoholic content - tests - penalties - useful public service

program - alcohol and drug driving safety program. (2) (a.5) It is a class A traffic infraction for any person under twenty-one years of age to drive any vehicle in this state when the amount of alcohol, as shown by analysis of the person's blood or breath, in such person's blood is at least 0.02 but ~~less~~ NOT MORE than 0.05 grams of alcohol per one hundred milliliters of blood or at least 0.02 but ~~less~~ NOT MORE than 0.05 grams of alcohol per two hundred ten liters of breath at the time of driving or within two hours after driving.

(9) (a) (I) Every person who is convicted of a violation of paragraph (a) or (c) of subsection (1) or PARAGRAPH (a) OF subsection (2) of this section shall be punished by imprisonment in the county jail for not less than five days nor more than one year, and, in addition, the court may impose a fine of not less than three hundred dollars nor more than one thousand dollars. Except as provided in subparagraph (II) of paragraph (f) of this subsection (9), the minimum period of imprisonment provided for such violation shall be mandatory. In addition to any other penalty ~~which~~ THAT is imposed, every person who is convicted of a violation to which this subparagraph (I) applies shall perform not less than forty-eight hours nor more than ninety-six hours of useful public service. The performance of the minimum period of service shall be mandatory, and the court shall have no discretion to suspend the mandatory minimum period of performance of such service.

(II) Upon a conviction of a violation of paragraph (a) or (c) of subsection (1) or PARAGRAPH (a) OF subsection (2) of this section, which violation occurred within five years ~~of~~ AFTER the date of a previous violation, for which there has been a conviction, of paragraph (a) or (c) of subsection (1) or PARAGRAPH (a) OF subsection (2) of this section, or of section 18-3-106 (1) (b) (I) or 18-3-205 (1) (b) (I), C.R.S., the offender shall be punished by imprisonment in the county jail for not less than ninety days nor more than one year, and, in addition, the court may impose a fine of not less than five hundred dollars nor more than one thousand five hundred dollars. The minimum period of imprisonment as provided for such violation shall be mandatory, but the court may suspend up to eighty-three days of the period of imprisonment if the offender complies with the provisions of subparagraph (I) of paragraph (f) of this subsection (9). In addition to any other penalty ~~which~~ THAT is imposed, every person who is convicted of a violation to which this subparagraph (II) applies shall perform not less than sixty hours nor more than one hundred twenty hours of useful public service. The performance of the minimum period of service shall be mandatory, and the court shall have no discretion to suspend the mandatory minimum period of performance of such service.

(III) Upon conviction of a violation of paragraph (a) or (c) of subsection (1) or PARAGRAPH (a) OF subsection (2) of this section, which violation occurred within five years ~~of~~ AFTER the date of a previous violation, for which there has been a conviction, of paragraph (b) of subsection (1) of this section, the offender shall be punished by imprisonment in the county jail for not less than seventy days nor more than one year, and, in addition, the court may impose a fine of not less than four hundred fifty dollars nor more than one thousand five hundred dollars. The minimum period of imprisonment as provided for such violation shall be mandatory, but the court may suspend up to sixty-three days of the period of imprisonment if the offender complies with the provisions of subparagraph (I) of paragraph (f) of this subsection (9). In addition to any other penalty ~~which~~ THAT is imposed, every person who is convicted of a violation to which this subparagraph (III) applies shall perform not less than

fifty-six hours nor more than one hundred twelve hours of useful public service. The performance of the minimum period of service shall be mandatory, and the court shall have no discretion to suspend the mandatory minimum period of performance of such service.

(b) (III) Upon conviction of a violation of paragraph (b) of subsection (1) of this section, which violation occurred within five years ~~of~~ AFTER the date of a previous violation, for which there has been a conviction, of paragraph (a) or (c) of subsection (1) or PARAGRAPH (a) OF subsection (2) of this section, or of section 18-3-106 (1) (b) (I) or 18-3-205 (1) (b) (I), C.R.S., the offender shall be punished by imprisonment in the county jail for not less than sixty days nor more than one year, and, in addition, the court may impose a fine of not less than four hundred dollars nor more than one thousand two hundred dollars. The minimum period of imprisonment as provided for such violation shall be mandatory, but the court may suspend up to fifty-four days of the period of imprisonment if the offender complies with the provisions of subparagraph (I) of paragraph (f) of this subsection (9). In addition to any other penalty ~~which~~ THAT is imposed, every person who is convicted of a violation to which this subparagraph (III) applies shall perform not less than fifty-two hours nor more than one hundred four hours of useful public service. The performance of the minimum period of service shall be mandatory, and the court shall have no discretion to suspend the mandatory minimum period of performance of such service.

SECTION 7. The introductory portion to 42-4-1715 (1) (b) (I), Colorado Revised Statutes, is amended to read:

42-4-1715. Convictions, judgments, and charges recorded - public inspection.

(1) (b) (I) Upon application by a person, the court shall expunge all records concerning a conviction of the person for driving any vehicle in this state with an alcohol level of at least 0.02 but ~~less~~ NOT MORE than 0.05 grams of alcohol per hundred milliliters of blood or at least 0.02 but ~~less~~ NOT MORE than 0.05 grams of alcohol per two hundred ten liters of breath while under twenty-one years of age pursuant to section 42-4-1301 (2) (a.5) if:

SECTION 8. 42-7-408 (1) (c) (II), Colorado Revised Statutes, is amended to read:

42-7-408. Proof of financial responsibility - methods of giving proof - duration - exception - repeal. (1) (c) Notwithstanding the three-year requirement in paragraph (b) of this subsection (1):

(II) If an insured has been found guilty of a second or subsequent offense of driving with an alcohol content of at least 0.02 but ~~less~~ NOT MORE than 0.05 while under twenty-one years of age under section 42-4-1301 (2) (a.5) or if the insured's driver's license has been revoked because of a second or subsequent offense pursuant to section 42-2-126 (2) (a) (I.5) or (2) (a) (IV), proof of financial responsibility for the future shall be required to be maintained only for as long as the insured's driving privilege is ordered to be under restraint. The time period for maintaining the future proof of liability insurance shall begin at the time the driver reinstates his or her driving privilege.

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: April 6, 1998