

## CHAPTER 185

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**MOTOR VEHICLES AND TRAFFIC REGULATION**

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**HOUSE BILL 99-1364**

BY REPRESENTATIVES Dean, May, Lee, Fairbank, Mitchell, Alexander, Clapp, Decker, George, Hefley, Hoppe, Kaufman, Kester, King, Larson, Lawrence, McKay, McPherson, Miller, Nunez, Scott, Sinclair, Smith, Spence, Spradley, Stengel, Taylor, Tool, Webster, T. Williams, Young, and McElhany;  
also SENATORS Sullivant and Owen.

**AN ACT**

CONCERNING THE USE OF AUTOMATED VEHICLE IDENTIFICATION DEVICES.

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

**SECTION 1.** 42-4-110.5 (2), (4), and (5), Colorado Revised Statutes, are amended, and the said 42-4-110.5 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**42-4-110.5. Automated vehicle identification systems.** (1.5) EXCEPT FOR THE PROVISIONS CONCERNING SERVICE OF PROCESS CONTAINED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, NOTHING IN THIS SECTION SHALL APPLY TO A VIOLATION DETECTED BY AN AUTOMATED VEHICLE IDENTIFICATION DEVICE FOR DRIVING TWENTY-FIVE MILES PER HOUR OR MORE IN EXCESS OF THE REASONABLE AND PRUDENT SPEED OR TWENTY-FIVE MILES PER HOUR OR MORE IN EXCESS OF THE MAXIMUM SPEED LIMIT OF SEVENTY-FIVE MILES PER HOUR DETECTED BY THE USE OF AN AUTOMATED VEHICLE IDENTIFICATION DEVICE.

(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, A CITY AND 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) (A) ~~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~~

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

~~court rules of procedure.~~ In order for the state, ~~or~~ a county, A CITY AND COUNTY, OR 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 personally served BY A PEACE OFFICER, LEVEL I OR A PEACE OFFICER LEVEL Ia, AS DEFINED IN SECTION 18-1-901 (3) (1), C.R.S., OR BY A DEPUTY SHERIFF OF A CITY AND COUNTY UPON the defendant IN ACCORDANCE WITH RULE 4.1 (b) (1) OF THE COLORADO RULES OF CRIMINAL PROCEDURE, EXCEPT THAT SERVICE BY MAIL SHALL NOT BE PERMITTED. THE STATE, A COUNTY, A CITY AND COUNTY, OR A MUNICIPALITY MAY CHARGE THE ACTUAL COSTS OF THE SERVICE OF PROCESS.

(B) Nothing in this section may be deemed to prevent the state, a county, A CITY AND COUNTY, or a municipality from ~~mailing~~ SENDING BY CERTIFIED MAIL a written notice, THAT SHALL INCLUDE A COPY OF THE PHOTOGRAPH OR IMAGE OF THE DRIVER, to the defendant advising the defendant of the alleged violation and permitting the defendant to waive such service of process. ANY SUCH NOTICE SHALL CONTAIN ON THE TOP OF THE FIRST PAGE OF THE NOTICE IN FOURTEEN-POINT TYPE OR LARGER THE FOLLOWING STATEMENT:

"UNDER COLORADO LAW YOU MAY HAVE CERTAIN RIGHTS CONCERNING THIS VIOLATION, INCLUDING THE RIGHT NOT TO PAY ANY FINE UNTIL A CITATION HAS BEEN PERSONALLY SERVED UPON YOU BY A CERTIFIED PEACE OFFICER."

(II) If the state, a county, A CITY AND 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, CITY AND 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, A CITY AND 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, A CITY AND 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.

(d) (I) THE STATE, A COUNTY, A CITY AND COUNTY, OR A MUNICIPALITY MAY NOT USE AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM UNLESS THERE IS POSTED AN APPROPRIATE SIGN IN A CONSPICUOUS PLACE BEFORE THE AREA IN WHICH THE AUTOMATED VEHICLE IDENTIFICATION DEVICE IS TO BE USED NOTIFYING THE PUBLIC THAT AN AUTOMATED VEHICLE IDENTIFICATION DEVICE IS IN USE IMMEDIATELY AHEAD.

(II) THIS PARAGRAPH (d) SHALL NOT APPLY TO AN AUTOMATED VEHICLE

IDENTIFICATION SYSTEM DESIGNED TO DETECT VIOLATIONS FOR DISOBEDIENCE TO A TRAFFIC CONTROL DEVICE.

(e) THE STATE, A COUNTY, A CITY AND COUNTY, OR A MUNICIPALITY MAY NOT REQUIRE A REGISTERED OWNER OF A VEHICLE TO DISCLOSE THE IDENTITY OF A DRIVER OF THE VEHICLE WHO IS DETECTED THROUGH THE USE OF AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM. HOWEVER, THE REGISTERED OWNER MAY BE REQUIRED TO SUBMIT EVIDENCE THAT THE OWNER WAS NOT THE DRIVER AT THE TIME OF THE ALLEGED VIOLATION.

(4) (a) If the state, a county, A CITY AND 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, CITY AND COUNTY or municipality has detected using an automated vehicle identification system, then the state, county, CITY AND COUNTY, or municipality shall mail such driver a warning regarding the violation and the state, county, CITY AND COUNTY, or municipality may not impose any penalty or surcharge for such first violation.

(b) (I) If the state, a county, A CITY AND COUNTY, or a municipality detects a second or subsequent traffic SPEEDING 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, EXCEPT AS MAY BE PERMITTED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), the maximum penalty that the state, county, CITY AND COUNTY, or municipality may impose for such violation, including any surcharge, is forty dollars.

(II) IF ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) OCCURS WITHIN A SCHOOL ZONE, AS DEFINED IN SECTION 42-4-615, THE MAXIMUM PENALTY THAT MAY BE IMPOSED SHALL BE DOUBLED.

(4.5) IF THE STATE, A COUNTY, A CITY AND COUNTY, OR A MUNICIPALITY DETECTS A VIOLATION UNDER A MUNICIPAL TRAFFIC REGULATION OR UNDER STATE LAW FOR DISOBEDIENCE TO A TRAFFIC CONTROL DEVICE THROUGH THE USE OF AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM, THE MAXIMUM PENALTY THAT THE STATE, A COUNTY, A CITY AND COUNTY, OR A MUNICIPALITY MAY IMPOSE FOR SUCH VIOLATION, INCLUDING ANY SURCHARGE, IS SEVENTY-FIVE DOLLARS.

(5) If the state, a county, A CITY AND 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, CITY AND 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.

**SECTION 2.** 42-3-112, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**42-3-112. Records of application and registration.** (14) (a) WHENEVER A PERSON ASKS THE DEPARTMENT OR ANY OTHER STATE DEPARTMENT OR AGENCY FOR THE NAME OR ADDRESS OF THE OWNER OF A MOTOR VEHICLE REGISTERED UNDER THIS SECTION, THE DEPARTMENT OR AGENCY SHALL REQUIRE THE PERSON TO DISCLOSE IF THE PURPOSE OF THE REQUEST IS TO DETERMINE THE NAME OR ADDRESS OF A PERSON SUSPECTED OF A VIOLATION OF A STATE OR MUNICIPAL LAW DETECTED THROUGH THE USE OF AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM AS DESCRIBED IN SECTION 42-4-110.5. IF THE PURPOSE OF THE REQUEST IS TO DETERMINE THE NAME OR ADDRESS OF SUCH A SUSPECT, THE DEPARTMENT OR AGENCY SHALL RELEASE SUCH INFORMATION ONLY IF THE COUNTY, CITY AND COUNTY, OR MUNICIPALITY FOR WHICH THE REQUEST IS MADE COMPLIES WITH SECTION 42-4-110.5.

(b) NO PERSON WHO RECEIVES THE NAME OR ADDRESS OF THE REGISTERED OWNER OF A MOTOR VEHICLE FROM THE DEPARTMENT OR FROM A PERSON WHO RECEIVES THE INFORMATION FROM THE DEPARTMENT SHALL RELEASE SUCH INFORMATION TO A COUNTY, A CITY AND COUNTY, OR A MUNICIPALITY UNLESS THE COUNTY, A CITY AND COUNTY, OR A MUNICIPALITY COMPLIES WITH STATE LAWS CONCERNING THE USE OF AUTOMATED IDENTIFICATION DEVICES.

**SECTION 3. 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 17, 1999