

CHAPTER 120

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 01-1351

BY REPRESENTATIVE(S) Larson, Coleman, Sinclair, Swenson, Weddig, and Williams S.;
also SENATOR(S) Dyer (Durango).

AN ACT

CONCERNING THE REVOCATION OF COLORADO DRIVING PRIVILEGES AFTER THE REVOCATION OF TRIBAL
DRIVING PRIVILEGES UNDER TRIBAL LAW.

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

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

**42-2-126.5. Revocation of license based on administrative actions taken
under tribal law - repeal.** (1) AS USED IN THIS SECTION:

(a) "INDIAN" MEANS A PERSON WHO IS A MEMBER OF A FEDERALLY RECOGNIZED
INDIAN TRIBE.

(b) "RESERVATION" MEANS THE SOUTHERN UTE INDIAN RESERVATION, THE
EXTERIOR BOUNDARIES OF WHICH WERE CONFIRMED IN THE ACT OF MAY 21, 1984,
P. L. 98-290, 98 STAT. 201, 202 (FOUND AT "OTHER PROVISIONS" NOTE TO 25 U.S.C.
SEC. 668).

(c) "RESERVATION DRIVING PRIVILEGE" MEANS THE DRIVING PRIVILEGE OF AN
INDIAN THAT ARISES UNDER AND IS GOVERNED BY THE TRIBAL CODE WHEN THE
INDIAN IS OPERATING A MOTOR VEHICLE WITHIN THE BOUNDARIES OF THE
RESERVATION.

(d) "TRIBAL CODE" MEANS THE LAWS ADOPTED BY THE TRIBE PURSUANT TO THE
TRIBE'S CONSTITUTION.

(e) "TRIBE" MEANS THE SOUTHERN UTE INDIAN TRIBE.

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

(2) **Legislative declaration.** (a) THE GENERAL ASSEMBLY FINDS THAT:

(I) THE TRIBAL CODE, INCLUDING TRAFFIC PROVISIONS, GOVERNS THE CONDUCT OF INDIANS WITHIN THE RESERVATION;

(II) THE TRIBAL CODE GRANTS RESERVATION DRIVING PRIVILEGES TO INDIANS BASED ON POSSESSION OF A STATE-ISSUED DRIVER'S LICENSE BUT DOES NOT AUTHORIZE APPLICATION OF STATE DRIVER'S LICENSE REVOCATION LAWS BASED ON THE CONDUCT OF INDIANS WITHIN THE RESERVATION; AND

(III) WHEN INDIANS DRIVE OUTSIDE OF THE RESERVATION, STATE AND MUNICIPAL TRAFFIC LAWS APPLY TO THEIR STATE DRIVING PRIVILEGES.

(b) IN ENACTING THIS SECTION, THE GENERAL ASSEMBLY INTENDS TO PROVIDE SAFETY FOR ALL PERSONS USING THE HIGHWAYS OF THE STATE BY AUTHORIZING A PROCESS WHEREBY THE STATE SHALL REVOKE THE COLORADO DRIVING PRIVILEGES OF A PERSON AFTER THE TRIBE HAS ENTERED A FINAL ORDER UNDER THE TRIBAL CODE REVOKING THE RESERVATION DRIVING PRIVILEGES OF THAT PERSON, IN A MANNER SIMILAR TO HOW THE STATE REVOKES THE STATE DRIVING PRIVILEGES OF A COLORADO LICENSEE WHOSE DRIVING PRIVILEGES ARE REVOKED FOR AN ACTION OCCURRING AND ADJUDICATED IN A FOREIGN JURISDICTION.

(3) WHEN THE TRIBE INITIALLY REVOKES THE RESERVATION DRIVING PRIVILEGE OF AN INDIAN PURSUANT TO THE TRIBAL CODE PENDING A TRIBAL HEARING, THE TRIBE SHALL TAKE POSSESSION OF THE PERSON'S COLORADO DRIVER'S LICENSE. THE TRIBE IS AUTHORIZED TO ISSUE A TEMPORARY PERMIT WHICH SHALL PROVIDE TEMPORARY COLORADO DRIVING PRIVILEGES TO THE PERSON UNTIL THE TRIBE ENTERS A FINAL ORDER OF REVOCATION OF THE PERSON'S RESERVATION DRIVING PRIVILEGES.

(4) IF THE TRIBE ENTERS A FINAL ORDER OF REVOCATION OF THE PERSON'S RESERVATION DRIVING PRIVILEGES, THE TRIBE SHALL SEND NOTICE OF SUCH REVOCATION TO THE DEPARTMENT VIA FAX, MAIL, OR ELECTRONIC MEANS.

(5) THE STATE SHALL GIVE FULL FAITH AND CREDIT TO A TRIBAL ADMINISTRATIVE OR JUDICIAL DETERMINATION RELATED TO THE TRIBE'S REVOCATION OF THE RESERVATION DRIVING PRIVILEGES OF AN INDIAN.

(6) UPON RECEIVING NOTICE OF REVOCATION FROM THE TRIBE PERTAINING TO ANY INDIAN, THE DEPARTMENT SHALL IMMEDIATELY REVOKE THE COLORADO DRIVING PRIVILEGES OF THAT PERSON. THE PERIOD OF THE STATE REVOCATION SHALL RUN CONCURRENTLY WITH THE REVOCATION ACTION TAKEN BY THE TRIBE. THE STATE'S DRIVER RECORD FOR THE REVOKED INDIVIDUAL SHALL INDICATE CONCURRENT DATES FOR THE REVOCATION PERIOD. THE DEPARTMENT SHALL SEND NOTICE OF REVOCATION BY FIRST-CLASS MAIL TO THE PERSON AT THE ADDRESS LAST SHOWN ON THE DEPARTMENT'S RECORDS.

(7) THE DEPARTMENT'S REVOCATION OF THE PERSON'S COLORADO DRIVING PRIVILEGES SHALL BE A FINAL AGENCY ACTION OF THE DEPARTMENT. ANY APPEAL OF THE STATE'S FINAL REVOCATION ACTION MAY BE TAKEN IN ACCORDANCE WITH SECTION 42-2-135 AND SECTION 24-4-106, C.R.S. BECAUSE THE STATE IS GIVING FULL FAITH AND CREDIT TO THE TRIBAL DETERMINATION, THE DEPARTMENT'S

REVOCACTION ACTION SHALL BE AFFIRMED IF, UPON REVIEW, THE REVIEWING COURT DETERMINES THAT THE TRIBE'S REVOCATION OF TRIBAL DRIVING PRIVILEGES MET BOTH OF THE FOLLOWING CONDITIONS:

(a) THE REVOCATION OCCURRED AFTER PROVIDING THE PERSON WHOSE DRIVING PRIVILEGE WAS REVOKED REASONABLE NOTICE AND AN OPPORTUNITY TO BE HEARD SUFFICIENT TO PROTECT DUE PROCESS RIGHTS; AND

(b) THE TRIBAL ADMINISTRATIVE OR JUDICIAL TRIBUNAL THAT MADE THE DETERMINATION HAD JURISDICTION OVER THE PARTIES AND OVER THE SUBJECT MATTER.

(8) WHEN A PERSON WHOSE LICENSE IS REVOKED UNDER THIS SECTION HAS COMPLETED THE TERMS AND CONDITIONS OF THE TRIBAL REVOCATION ORDER, THE TRIBE SHALL PROVIDE THE PERSON WITH WRITTEN NOTIFICATION OF SUCH COMPLETION AND SHALL ALSO SEND WRITTEN NOTICE TO THE DEPARTMENT. WHEN THE DEPARTMENT RECEIVES THE TRIBE'S WRITTEN NOTIFICATION OF SUCH COMPLETION, THE PERSON MAY SEEK REINSTATEMENT OF HIS OR HER COLORADO DRIVING PRIVILEGES. SUCH PERSON MUST COMPLY WITH SECTIONS 42-2-126 (7) (c), 42-2-132, AND 42-7-406 TO OBTAIN A NEW LICENSE OR OTHERWISE RESTORE HIS OR HER COLORADO DRIVING PRIVILEGES.

(9) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO THE DEPARTMENT'S REVOCATION, SUSPENSION, CANCELLATION, OR DENIAL OF A COLORADO DRIVER'S LICENSE OF AN INDIAN FOR ANY DRIVING OFFENSE THAT OCCURS WHILE OPERATING A MOTOR VEHICLE OUTSIDE THE BOUNDARIES OF THE RESERVATION.

(10) THIS SECTION SHALL AUTOMATICALLY REPEAL ON THE OCCURRENCE OF ANY ONE OR MORE OF THE FOLLOWING EVENTS:

(a) THE TRIBE REPEALS THE EXPRESS CONSENT LAW OF THE TRIBAL CODE;

(b) EITHER THE TRIBE OR THE STATE TERMINATES ANY INTERGOVERNMENTAL AGREEMENT BETWEEN THE PARTIES PERTAINING TO DRIVER'S LICENSE REVOCATIONS OF INDIANS; OR

(c) A REPEAL OF THIS SECTION BY THE GENERAL ASSEMBLY ACTING BY SEPARATE BILL.

SECTION 2. 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 12, 2001