

CHAPTER 289

**CRIMINAL LAW AND PROCEDURE**

**HOUSE BILL 02-1247**

BY REPRESENTATIVE(S) Decker, Jameson, Mace, Schultheis, Swenson, Webster, Alexander, Groff, Larson, Madden, Rhodes, Romanoff, Stafford, Stengel, and Young;  
also SENATOR(S) Epps, Hernandez, Cairns, Evans, Isgar, Lamborn, May, Owen, Perlmutter, and Taylor.

**AN ACT**

**CONCERNING THE PENALTY FOR THEFT OF MOTOR FUEL, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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

**SECTION 1.** Part 4 of article 4 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**18-4-418. Fuel piracy.** (1) A PERSON COMMITS FUEL PIRACY WHEN SUCH PERSON KNOWINGLY LEAVES THE PREMISES OF AN ESTABLISHMENT THAT OFFERS FUEL FOR SALE AFTER DISPENSING FUEL AND KNOWINGLY FAILS TO PAY FOR SUCH FUEL.

(2) FUEL PIRACY IS:

(a) A CLASS 3 MISDEMEANOR IF THE VALUE OF SUCH FUEL IS LESS THAN ONE HUNDRED DOLLARS;

(b) A CLASS 2 MISDEMEANOR IF THE VALUE OF SUCH FUEL IS ONE HUNDRED DOLLARS OR MORE BUT LESS THAN FIVE HUNDRED DOLLARS.

(3) IN ADDITION TO ANY OTHER PENALTY AUTHORIZED BY LAW, AFTER A DEFENDANT HAS BEEN CONVICTED OF OR HAS ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO FUEL PIRACY, THE MANDATORY MINIMUM FINE SHALL BE TWO HUNDRED FIFTY DOLLARS.

**SECTION 2.** 42-2-127, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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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.*

**42-2-127. Authority to suspend license - to deny license - type of conviction - points.** (15) (a) (I) WHENEVER THE DEPARTMENT RECEIVES NOTICE THAT A PERSON HAS TWICE BEEN CONVICTED OF, ADJUDICATED FOR, OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO A VIOLATION OF SECTION 18-4-418, C.R.S., THE DEPARTMENT SHALL SUSPEND THE LICENSE OF THE PERSON FOR A PERIOD OF SIX MONTHS.

(II) WHENEVER THE DEPARTMENT RECEIVES NOTICE THAT A PERSON HAS THREE OR MORE TIMES BEEN CONVICTED OF, ADJUDICATED FOR, OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO A VIOLATION OF SECTION 18-4-418, C.R.S., THE DEPARTMENT SHALL SUSPEND THE LICENSE OF THE PERSON FOR A PERIOD OF ONE YEAR.

(b) UPON SUSPENDING THE LICENSE OF ANY PERSON AS REQUIRED BY THIS SUBSECTION (15), THE DEPARTMENT SHALL IMMEDIATELY NOTIFY THE LICENSEE AS PROVIDED IN SECTION 42-2-119 (2).

(c) UPON A LICENSEE'S RECEIPT OF THE NOTICE OF SUSPENSION, THE LICENSEE OR THE LICENSEE'S ATTORNEY MAY SUBMIT A WRITTEN REQUEST TO THE DEPARTMENT FOR A HEARING. THE DEPARTMENT SHALL HOLD A HEARING NOT LESS THAN THIRTY DAYS AFTER RECEIVING SUCH REQUEST. THE HEARING SHALL BE CONDUCTED BY A HEARING COMMISSIONER APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, AND SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-4-105, C.R.S.

(d) IF A DRIVER WHO HAS HAD A LICENSE SUSPENDED UNDER THIS SUBSECTION (15) IS SUBSEQUENTLY ACQUITTED OF SUCH CHARGE BY A COURT OF RECORD, THE DEPARTMENT SHALL IMMEDIATELY, OR IN ANY EVENT NO LATER THAN TEN DAYS AFTER THE RECEIPT OF NOTICE OF SUCH ACQUITTAL, REINSTATE SAID LICENSE.

**SECTION 3.** Part 2 of article 1 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**42-1-221. Fuel piracy computer reprogramming cash fund - repeal.** (1) THERE IS HEREBY CREATED THE FUEL PIRACY COMPUTER REPROGRAMMING CASH FUND FOR THE PURPOSE OF IMPLEMENTING SECTION 42-2-127 (15). MONEYS RECEIVED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO SUCH CASH FUND. MONEYS IN THE FUEL PIRACY COMPUTER REPROGRAMMING CASH FUND SHALL BE USED, SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY, TO COVER THE COSTS OF IMPLEMENTING SECTION 42-2-127 (15).

(2) THE DEPARTMENT IS AUTHORIZED TO ACCEPT AND EXPEND ON BEHALF OF THE STATE ANY GIFTS, GRANTS, OR DONATIONS FROM ANY PRIVATE OR PUBLIC SOURCE FOR THE PURPOSE OF IMPLEMENTING SECTION 42-2-127 (15); EXCEPT THAT NO GIFT, GRANT, OR DONATION SHALL BE ACCEPTED IF THE CONDITIONS ATTACHED TO SUCH GIFT, GRANT, OR DONATION REQUIRE THE EXPENDITURE OF SUCH MONEYS IN A MANNER CONTRARY TO LAW. ALL MONEYS ACCEPTED BY THE DEPARTMENT FOR THE PURPOSE OF IMPLEMENTING SECTION 42-2-127 (15) SHALL BE TRANSMITTED TO THE STATE TREASURER FOR CREDIT TO THE FUEL PIRACY COMPUTER REPROGRAMMING CASH FUND.

(3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2003.

**SECTION 4. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the fuel piracy computer reprogramming cash fund created in section 42-1-221, Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2002, the sum of one thousand six hundred eighty dollars (\$1,680), or so much thereof as may be necessary, for the implementation of this act.

**SECTION 5. Effective date - applicability.** This act shall take effect July 1, 2002, and shall apply to acts committed 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 3, 2002