

CHAPTER 415

MOTOR VEHICLES AND TRAFFIC REGULATION

SENATE BILL 03-239

BY SENATOR(S) Chlouber, Entz, and Isgar;
also REPRESENTATIVE(S) Berry, Coleman, Hefley, Hodge, McFadyen, Merrifield, Miller, Paccione, Spence, Stafford, Weddig,
Weissmann, and Williams S.

AN ACT

CONCERNING THE ENFORCEMENT OF COMPULSORY MOTOR VEHICLE INSURANCE, AND, IN CONNECTION THEREWITH, CONTINUING THE MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 10-4-615 (1), (4) (a), and (6), Colorado Revised Statutes, are amended to read:

10-4-615. Motorist insurance identification database program - reporting required - fine - repeal. (1) (a) ~~Before the seventh working day of each calendar month,~~ Each insurer that issues a policy pursuant to this part 6 or part 7 of this article shall provide to the designated agent selected in accordance with section 42-7-604 (4), C.R.S., a record of each policy issued during the immediately preceding ~~month~~ PERIOD. Such record shall comply with the requirements of subsections (2) and (3) of this section, except as may otherwise be provided for commercial lines of insurance in rules adopted by the department. This subsection (1) shall not be construed to prohibit more frequent reporting. SUCH POLICY INFORMATION SHALL BE PROVIDED TO THE DESIGNATED AGENT AS FOLLOWS:

(I) PRIOR TO JANUARY 1, 2004, EACH INSURER SHALL PROVIDE SUCH POLICY INFORMATION BEFORE THE SEVENTH WORKING DAY OF EACH CALENDAR MONTH FOR THE PRECEDING MONTH.

(II) BEGINNING JANUARY 1, 2004, EACH INSURER THAT HAS TEN THOUSAND OR MORE CURRENT POLICIES IN PLACE FOR THE PRECEDING SIX MONTHS SHALL PROVIDE SUCH POLICY INFORMATION IN EACH OF TWENTY-SIX REPORTING PERIODS FOR THE IMMEDIATELY PRECEDING TWO-WEEK PERIOD. SUCH INFORMATION SHALL BE

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

REPORTED NO LATER THAN SEVEN WORKING DAYS AFTER THE LAST DATE OF THE REPORT PERIOD.

(III) BEGINNING JULY 1, 2004, EACH INSURER THAT HAS TEN THOUSAND OR MORE CURRENT POLICIES IN PLACE FOR THE PRECEDING SIX MONTHS SHALL PROVIDE SUCH POLICY INFORMATION EVERY WEEK FOR THE IMMEDIATELY PRECEDING WEEK. SUCH INFORMATION SHALL BE REPORTED NO LATER THAN SEVEN WORKING DAYS AFTER THE LAST DATE OF THE WEEK REPORTED ON.

(b) BEGINNING JANUARY 1, 2004, EACH INSURER SHALL PROVIDE POLICY INFORMATION ON ALL EXISTING POLICES ISSUED BY SUCH INSURER TO THE DESIGNATED AGENT AT LEAST EVERY SIX MONTHS. THE DESIGNATED AGENT AND THE WORKING GROUP CREATED IN SECTION 42-7-604 (4) (b), C.R.S., SHALL DETERMINE IF ANY NEW MEANS OF TRANSMITTAL OF SUCH INFORMATION MAY BE UTILIZED. EACH INSURER SHALL PROVIDE INFORMATION REGARDING CHANGES TO EXISTING POLICIES TO THE DESIGNATED AGENT AT THE TIME OF RECEIPT OF SUCH INFORMATION.

(4) (a) The ~~department of revenue~~ DIVISION OF INSURANCE shall assess a fine of not more than two hundred fifty dollars against an insurer for each day such insurer fails to ~~comply with~~ REPORT TIMELY AND ACCURATE INFORMATION IN ACCORDANCE WITH this section or with rules promulgated pursuant to section 42-7-604 (8), C.R.S. ANY ADMINISTRATIVE COSTS INCURRED BY THE DIVISION OF INSURANCE SHALL BE PAID FROM THE FINES ASSESSED PURSUANT TO THIS PARAGRAPH (a).

(6) This section is repealed, effective July 1, 2003, ~~unless the review conducted by the department of regulatory agencies pursuant to section 42-7-608, C.R.S., and reported to the general assembly indicates that the proportion of uninsured motorists declined between July 1, 2000, and the date of the department's review~~ JULY 1, 2006, UNLESS THE MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM CREATED IN SECTION 42-7-604, C.R.S., IS EXTENDED BY THE GENERAL ASSEMBLY BEYOND SUCH DATE.

SECTION 2. Repeal. 42-7-608, Colorado Revised Statutes, is repealed as follows:

42-7-608. Review by department of regulatory agencies - repeal. ~~(1) The department of regulatory agencies shall review the operation and performance of the motorist insurance identification database program pursuant to section 24-34-104, C.R.S., to determine whether the proportion of uninsured motorists had declined between July 1, 2000, and the date of the review and shall submit a report of its findings to the general assembly no later than October 15, 2002. The department of regulatory agencies shall make copies of its report available to each member of the general assembly.~~

~~(2) This section is repealed, effective July 1, 2003.~~

SECTION 3. 42-7-609, Colorado Revised Statutes, is amended to read:

42-7-609. Repeal of sections. Sections 42-7-603 to ~~42-7-609~~ 42-7-607 AND THIS SECTION are repealed, effective July 1, 2003, ~~unless the review conducted by the department of regulatory agencies pursuant to section 42-7-608 and reported to the~~

~~general assembly indicates that the proportion of uninsured motorists declined between July 1, 2000, and the date of the department's review~~ JULY 1, 2006. PRIOR TO SUCH REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM, CREATED IN SECTION 42-7-604, PURSUANT TO SECTION 24-34-104, C.R.S. IN ITS REVIEW, THE DEPARTMENT SHALL CONSIDER WHETHER, SINCE THE INCEPTION OF THE PROGRAM, THE RATE OF UNINSURED DRIVERS HAS DECREASED; THE NUMBER OF LETTERS SENT PURSUANT TO SECTION 42-7-604 (5) (c) (III), AND THEIR EFFECT ON THE RATE OF UNINSURED DRIVERS; THE DEGREE TO WHICH LAW ENFORCEMENT USES THE MOTORIST INSURANCE IDENTIFICATION DATABASE; AND THE USE AND EFFECTIVENESS OF THE INTERNET OPTION REQUIRED PURSUANT TO SECTION 42-7-604 (5) (c) (I). IN CONDUCTING ITS REVIEW PURSUANT TO SECTION 24-34-104, C.R.S., THE DEPARTMENT SHALL ONLY CONSIDER SUBPARAGRAPHS (I), (III), (IV), AND (IX) OF PARAGRAPH (b) OF SUBSECTION (9) OF SUCH SECTION.

SECTION 4. Repeal. 24-34-104 (32.5) (g), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (32.5) The following agencies, functions, or both, shall terminate on July 1, 2003:

~~(g) The motorist insurance identification database program created in section 42-7-604, C.R.S.~~

SECTION 5. 24-34-104 (37), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (37) The following agencies, functions, or both, shall terminate on July 1, 2006:

~~(e) THE MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM CREATED IN SECTION 42-7-604, C.R.S.~~

SECTION 6. 42-3-134 (1) (c) and (26) (d) (II), Colorado Revised Statutes, are amended to read:

42-3-134. Registration fees - passenger and passenger-mile taxes - fee schedule for years of TABOR surplus revenue - refund - clean screen fund - repeal. (1) (c) This subsection (1) is repealed, effective July 1, ~~2003~~ 2008, unless the ~~review conducted by the department of regulatory agencies pursuant to section 42-7-608 and reported to the general assembly indicates that the proportion of uninsured motorists declined between July 1, 2000, and the date of the department's review~~ MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM CREATED IN SECTION 42-7-604 IS EXTENDED BY THE GENERAL ASSEMBLY BEYOND SUCH DATE.

~~(26) (d) (II) This paragraph (d) is repealed, effective July 1, 2003, unless the review conducted by the department of regulatory agencies pursuant to section 42-7-608 and reported to the general assembly indicates that the proportion of uninsured motorists declined between July 1, 2000, and the date of the department's~~

~~review~~ JULY 1, 2006, UNLESS THE MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM CREATED IN SECTION 42-7-604 IS EXTENDED BY THE GENERAL ASSEMBLY BEYOND SUCH DATE.

SECTION 7. 42-4-1409 (1), (2), (3), (4), (5), (6), and (8), Colorado Revised Statutes, are amended to read:

42-4-1409. Compulsory insurance - penalty. (1) No owner of a motor vehicle required to be registered in this state shall operate the vehicle or permit it to be operated on the public highways of this state when the owner has failed to have a complying policy or certificate of self-insurance in full force and effect as required by ~~sections 10-4-705 and 10-4-716, C.R.S.~~ LAW.

(2) No person shall operate a motor vehicle on the public highways of this state without a complying policy or certificate of self-insurance in full force and effect as required by ~~sections 10-4-705 and 10-4-716, C.R.S.~~ LAW.

(3) When an accident occurs, or when requested to do so following any lawful traffic contact or during any traffic investigation by a peace officer, no owner or operator of a motor vehicle shall fail to present to the requesting officer immediate evidence of a complying policy or certificate of self-insurance in full force and effect as required by ~~sections 10-4-705 and 10-4-716, C.R.S.~~ LAW.

(4) (a) Any person who violates the provisions of subsection (1), (2), or (3) of this section commits a class 1 misdemeanor traffic offense. The minimum fine imposed by section 42-4-1701 (3) (a) (II) (A) shall be mandatory, and the court shall not suspend such minimum fine, in whole or in part, unless it is established that appropriate insurance as required ~~under sections 10-4-705 and 10-4-716, C.R.S.~~, BY LAW has been obtained. Nothing in this paragraph (a) shall be construed to prevent the court from imposing a fine greater than the minimum mandatory fine.

(b) Upon a second or subsequent conviction under this section within a period of two years following a prior conviction under this section, in addition to any imprisonment imposed pursuant to section 42-4-1701 (3) (a) (II) (A), the defendant shall be punished by a minimum mandatory fine of not less than two hundred dollars, and the court shall not suspend such minimum fine, in whole or in part, unless it is established that appropriate insurance as required ~~under sections 10-4-705 and 10-4-716, C.R.S.~~, BY LAW has been obtained. Nothing in this paragraph (b) shall be construed to prevent the court from imposing a fine greater than the minimum mandatory fine.

(c) In addition to the penalties prescribed in paragraphs (a) and (b) of this subsection (4), any person convicted pursuant to this section may, at the discretion of the court, be sentenced to perform not less than forty hours of community service, subject to the provisions of section 18-1.3-507, C.R.S.

(5) Testimony of the failure of any owner or operator of a motor vehicle to present immediate evidence of a complying policy or certificate of self-insurance in full force and effect as required by ~~sections 10-4-705 and 10-4-716, C.R.S.~~ LAW, when requested to do so by a peace officer, shall constitute prima facie evidence, at a trial concerning a violation charged under subsection (1) or (2) of this section, that such

owner or operator of a motor vehicle violated subsection (1) or (2) of this section.

(6) No person charged with violating subsection (1), (2), or (3) of this section shall be convicted if the person produces in court a bona fide complying policy or certificate of self-insurance ~~which~~ THAT was in full force and effect as required by ~~sections 10-4-705 and 10-4-716, C.R.S.,~~ LAW at the time of the alleged violation.

~~(8) This section is repealed, effective July 1, 2003, unless the review conducted by the department of regulatory agencies pursuant to section 42-7-608 and reported to the general assembly indicates that the proportion of uninsured motorists declined between July 1, 2000, and the date of the department's review.~~

SECTION 8. 42-4-1410 (3), Colorado Revised Statutes, is amended to read:

42-4-1410. Proof of financial responsibility required - suspension of license - repeal. (3) This section is repealed, effective July 1, ~~2003~~ 2006, unless the review conducted by the department of regulatory agencies pursuant to section 42-7-608 and reported to the general assembly indicates that the proportion of uninsured motorists declined between July 1, 2000, and the date of the department's review. MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM CREATED IN SECTION 42-7-604 IS EXTENDED BY THE GENERAL ASSEMBLY BEYOND SUCH DATE.

SECTION 9. 42-5-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

42-5-104. Theft of motor vehicle parts - theft of license plates. (4) ANY PERSON WHO STEALS A LICENSE PLATE SHALL BE IN VIOLATION OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

SECTION 10. 42-7-301.5 (4), Colorado Revised Statutes, is amended to read:

42-7-301.5. Proof of financial responsibility - repeal. (4) This section is repealed, effective July 1, ~~2003~~ 2006, unless the review conducted by the department of regulatory agencies pursuant to section 42-7-608 and reported to the general assembly indicates that the proportion of uninsured motorists declined between July 1, 2000, and the date of the department's review. MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM CREATED IN SECTION 42-7-604 IS EXTENDED BY THE GENERAL ASSEMBLY BEYOND SUCH DATE.

SECTION 11. Repeal. 42-7-601 (2), Colorado Revised Statutes, is repealed as follows:

42-7-601. Short title. (2) ~~Effective July 1, 2001, this part 6 shall be known and may be cited as the "Motorist Identification Database Program Act" unless the review conducted by the department of regulatory agencies pursuant to section 42-7-608 and reported to the general assembly indicates that the number of uninsured motorist claims reported by insurers declined between July 1, 1997, and the date of the department's review.~~

SECTION 12. 42-7-604 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-7-604. Motorist insurance identification database program - creation - administration - selection of designated agent - legislative declaration.

(5) (c) THE DESIGNATED AGENT SHALL:

(I) PROVIDE AN INTERNET OPTION THAT ALLOWS CITIZENS, COUNTY CLERKS, AND INSURERS AND THEIR AGENTS, INCLUDING COMMERCIAL INSURERS, TO SUBMIT INSURANCE INFORMATION DIRECTLY TO THE DESIGNATED AGENT. SUCH INFORMATION SHALL BE VERIFIED BY THE DESIGNATED AGENT. EACH INSURER SHALL COOPERATE WITH THE DESIGNATED AGENT'S VERIFICATION PROCESS.

(II) PROVIDE A REASONABLE AND ADEQUATE QUALITY CONTROL PROCESS TO ENSURE THE ACCURATE INPUT OF DATA, INCLUDING THE VEHICLE IDENTIFICATION NUMBERS AND INSURANCE INFORMATION PROVIDED TO SUCH DESIGNATED AGENT.

(III) UPON RECEIPT OF INFORMATION THAT A VEHICLE HAS BEEN OPERATED ON PUBLIC HIGHWAYS OR STREETS AND UNINSURED UNDER THE SAME OWNER FOR A PERIOD OF SIXTY CONSECUTIVE DAYS, SEND A LETTER OF NONCOMPLIANCE TO SUCH OWNER PURSUANT TO SECTION 42-7-605 (1). SUCH LETTER SHALL STATE IN BOLD-FACED TYPE IN THE SAME FONT AS THE REST OF THE LETTER THAT THE OWNER OF THE VEHICLE IS RESPONSIBLE FOR PROVIDING PROOF OF INSURANCE TO THE DESIGNATED AGENT AND THAT SUCH PROOF SHALL NOT BE TRANSMITTED BY THE DEPARTMENT OR BY THE COUNTY CLERK OR OTHER LOCAL OFFICIAL.

(IV) PROVIDE THE DEPARTMENT OF REVENUE ACCESS TO THE DESIGNATED AGENT'S DATABASE OF INSURANCE INFORMATION IN ORDER TO PROVIDE EACH COUNTY CLERK ACCESS TO THE MOST CURRENTLY AVAILABLE DATA.

SECTION 13. Repeal. 42-7-604 (6.5) and (7), Colorado Revised Statutes, are repealed as follows:

42-7-604. Motorist insurance identification database program - creation - administration - selection of designated agent - legislative declaration.

~~(6.5) All insurers actively writing automobile insurance will report their policyholder and uninsured motorist claim numbers to the commissioner in a manner prescribed by the commissioner, starting with data for the twelve-month period immediately preceding July 1, 1997.~~

~~(7) The division of insurance in the department of regulatory agencies shall contract with a company that gathers statistical information concerning personal lines of property and casualty insurance. Said company shall be paid from the motorist insurance identification account within the highway users tax fund, and shall report the frequency of uninsured motorist claims to the division of insurance on a regular basis. Such report shall include the proportion of uninsured motorists for the twelve-month period immediately preceding July 1, 2001.~~

SECTION 14. Appropriation - adjustments in 2003 long bill. For the implementation of this act, appropriations made in the annual general appropriations act for the fiscal year beginning July 1, 2003, shall be adjusted as follows: The appropriation to the department of regulatory agencies, division of insurance, is decreased by twelve thousand five hundred dollars (\$12,500). Said sum shall be cash funds exempt from the motorist insurance identification account, created in section

43-4-201, Colorado Revised Statutes.

SECTION 15. Effective date - applicability. This act shall take effect July 1, 2003, and shall apply to acts committed on or after said date.

SECTION 16. 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, 2003