

CHAPTER 301

MOTOR VEHICLES AND TRAFFIC REGULATION

SENATE BILL 04-196

BY SENATOR(S) Hagedorn, Evans, Groff, Hanna, Tapia, Tupa, and Veiga;
also REPRESENTATIVE(S) Smith, and Coleman.

AN ACT**CONCERNING CONSEQUENCES FOR COMMISSION OF SUBSTANCE-RELATED TRAFFIC OFFENSES.**

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

SECTION 1. 42-2-132.5 (3) (a), Colorado Revised Statutes, is amended, and the said 42-2-132.5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

42-2-132.5. Mandatory and voluntary restricted licenses following alcohol conviction. (1.7) A PERSON REQUIRED TO HOLD A RESTRICTED LICENSE PURSUANT TO THIS SECTION WHO IS A PERSISTENT DRUNK DRIVER AS DEFINED IN SECTION 42-1-102 (68.5), BASED ON AN OFFENSE THAT OCCURRED ON OR AFTER JULY 1, 2004, SHALL BE REQUIRED TO HOLD THE RESTRICTED LICENSE FOR AT LEAST TWO YEARS PRIOR TO BEING ELIGIBLE TO OBTAIN ANY OTHER DRIVER'S LICENSE ISSUED UNDER THIS ARTICLE.

(3) (a) The department shall issue a restricted license under this section if the department receives from a person described in subsection (1), ~~or~~ (1.5), OR (1.7) of this section an affidavit stating that the person has obtained at the person's own expense a signed lease agreement for the installation and use of an approved ignition interlock device in each motor vehicle on which the person's name appears on the registration and any other vehicle that the person may drive during the period of the restricted license. A copy of each signed lease agreement shall be attached to the affidavit.

SECTION 2. 42-4-1301 (2) (a.5) and (7) (e), Colorado Revised Statutes, are amended, and the said 42-4-1301 is further amended BY THE ADDITION OF A NEW SUBSECTION, 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.

42-4-1301. Driving under the influence - driving while impaired - driving with excessive alcoholic content - penalties. (2) (a.5) (I) 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 person's BAC, as shown by analysis of the person's breath, is at least 0.02 but not more than 0.05 at the time of driving or within two hours after driving. THE COURT, UPON SENTENCING A DEFENDANT PURSUANT TO THIS SUBPARAGRAPH (I), MAY, IN ADDITION TO ANY PENALTY IMPOSED UNDER A CLASS A TRAFFIC INFRACTION, ORDER THAT THE DEFENDANT PERFORM UP TO TWENTY-FOUR HOURS OF USEFUL PUBLIC SERVICE, SUBJECT TO THE CONDITIONS AND RESTRICTIONS OF SECTION 18-1.3-507, C.R.S., AND MAY FURTHER ORDER THAT THE DEFENDANT SUBMIT TO AND COMPLETE AN ALCOHOL EVALUATION OR ASSESSMENT, AN ALCOHOL EDUCATION PROGRAM, OR AN ALCOHOL TREATMENT PROGRAM AT SUCH DEFENDANT'S OWN EXPENSE.

(II) A SECOND OR SUBSEQUENT VIOLATION OF THIS PARAGRAPH (a.5) SHALL BE A CLASS 2 TRAFFIC MISDEMEANOR.

(7) **Penalties.** (e) In addition to any other penalty provided by law, the court may sentence a defendant who is convicted pursuant to this section to a period of probation for purposes of treatment not to exceed two years; IN ADDITION, A COURT MAY ALSO SENTENCE A DEFENDANT WHO IS TWICE OR MORE CONVICTED PURSUANT TO THIS SECTION TO A PERIOD OF PROBATION NOT TO EXCEED TWO ADDITIONAL YEARS FOR THE PURPOSE OF MONITORING COMPLIANCE WITH COURT ORDERS. As a condition of probation, the defendant shall be required to make restitution in accordance with the provisions of section 18-1.3-205, C.R.S.

(8) A SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION COMMITTED BY A PERSON UNDER EIGHTEEN YEARS OF AGE MAY BE FILED IN JUVENILE COURT.

SECTION 3. 19-2-104 (5), Colorado Revised Statutes, is amended to read:

19-2-104. Jurisdiction. (5) Notwithstanding any other provision of this section to the contrary, the juvenile court and the county court shall have concurrent jurisdiction over a juvenile who is under eighteen years of age and who is charged with a violation of section 18-13-122, 18-18-406 (1) or (3), 18-18-428, 18-18-429, ~~or~~ 18-18-430, OR 42-4-1301, C.R.S.; except that, if the juvenile court accepts jurisdiction over such a juvenile, the county court jurisdiction shall terminate.

SECTION 4. 42-2-124 (4), Colorado Revised Statutes, is amended to read:

42-2-124. When court to report convictions. (4) For the purposes of section 42-2-125 (1) (g), (1) (g.5), (1) (m), and (1) (n) and section 42-2-127.3, an adjudication of delinquency under title 19, C.R.S., for the acts described in such sections shall be considered to be a conviction for purposes of this section. However, an expungement of an adjudication of delinquency shall not result in a rescission of the revocation or suspension of the driving privilege unless said expungement is a result of a reversal of the adjudication on appeal.

SECTION 5. Effective date - applicability. This act shall take effect July 1, 2004, and shall apply to offenses 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: May 27, 2004