

CHAPTER 137

**MOTOR VEHICLES AND TRAFFIC REGULATION**

HOUSE BILL 07-1166

BY REPRESENTATIVE(S) Kerr J., Gardner C., Hicks, Looper, Massey, Roberts, Rose, Solano, and Labuda;  
also SENATOR(S) Veiga, and Williams.

**AN ACT**

**CONCERNING THE CLARIFICATION OF EXISTING LAWS REGARDING CERTAIN DRIVER'S LICENSE RESTRAINTS.**

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

**SECTION 1.** 42-2-126 (2) (a) (I.5), (2) (a) (I.7), (6) (b) (IX) (A.5), and (9) (c) (I), Colorado Revised Statutes, are amended to read:

**42-2-126. Revocation of license based on administrative determination.**  
(2) (a) The department shall revoke the license of any person upon its determination that the person:

(I.5) Drove a vehicle in this state when such person was under twenty-one years of age and when the amount of alcohol, as shown by analysis of the person's blood or breath, SUBJECT TO SECTION 42-4-1301.1, in ~~such~~ THE person's blood was in excess of ~~0.05~~ 0.02 but less than 0.08 grams of alcohol per one hundred milliliters of blood or in excess of ~~0.05~~ 0.02 but less than 0.08 grams of alcohol per two hundred ten liters of breath at the time of driving or within two hours after driving. If the preponderance of the evidence establishes that such person consumed alcohol between the time that the person stopped driving and the time of testing, the preponderance of the evidence must also establish that the minimum required blood or breath alcohol content was reached as a result of alcohol consumed before the person stopped driving.

(I.7) ~~Drove a vehicle in this state when such person was under twenty-one years of age and when the amount of alcohol, as shown by analysis of the person's breath, subject to section 42-4-1301.1, in such person's blood was at least 0.02 but not in excess of 0.05 grams of alcohol per one hundred milliliters of blood at the time of driving or within two hours after driving. If the preponderance of the evidence~~

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

~~establishes that such person consumed alcohol between the time that the person stopped driving and the time of testing, the preponderance of the evidence must also establish that the minimum 0.02 breath alcohol content was reached as a result of alcohol consumed before the person stopped driving.~~

(6) (b) (IX) (A.5) A person TWENTY-ONE YEARS OF AGE OR OLDER AT THE TIME OF THE VIOLATION whose license is revoked for a first offense under subparagraph (I) of paragraph (a) of subsection (2) of this section may request that, in lieu of the three-month revocation, the person's license be revoked for a period of not less than thirty days, to be followed by a suspension period of such length that the total period of revocation and suspension equals six months. If the person is a persistent drunk driver, as defined in section 42-1-102 (68.5), the probationary license shall be conditioned on the use of an approved ignition interlock device, as defined in section 42-2-132.5 (7) (a). The time served under a probationary license shall not be credited against any mandatory interlock restriction imposed pursuant to section 42-2-132.5. If the hearing officer approves the request, the hearing officer may grant the person a probationary license that may be used only for the reasons provided in section 42-2-127 (14) (a).

(9) (c) (I) Where a license is revoked under subparagraph (I) OR (I.5) ~~OR (I.7)~~ of paragraph (a) of subsection (2) of this section, the sole issue at the hearing shall be whether, by a preponderance of the evidence, the person drove a vehicle in this state when the amount of alcohol, as shown by analysis of the person's blood or breath, in such person's blood was 0.08 or more grams of alcohol per one hundred milliliters of blood or 0.08 or more grams of alcohol per two hundred ten liters of breath at the time of driving or within two hours after driving ~~if the person was twenty-one years of age or older at the time of driving the vehicle or, subject to section 42-4-1301.1, at least 0.02 but not in excess of 0.05 grams of alcohol per two hundred ten liters of breath at the time of driving or within two hours after driving~~ GRAMS OF ALCOHOL PER ONE HUNDRED MILLILITERS OF BLOOD OR AT LEAST 0.02 GRAMS OF ALCOHOL PER TWO HUNDRED TEN LITERS OF BREATH AT THE TIME OF DRIVING OR WITHIN TWO HOURS AFTER DRIVING ~~if the person was under twenty-one years of age at the time of driving the vehicle. or in excess of 0.05 grams of alcohol per one hundred milliliters of blood or in excess of 0.05 grams of alcohol per two hundred ten liters of breath at the time of driving or within two hours after driving if the person was under twenty-one years of age at the time of driving the vehicle.~~ If the preponderance of the evidence establishes that ~~such~~ THE person consumed alcohol between the time that the person stopped driving and the time that testing occurred, the preponderance of the evidence must also establish that the minimum 0.08 blood or breath alcohol content required in subparagraph (I) of paragraph (a) of subsection (2) of this section, OR the minimum ~~0.05~~ 0.02 blood or breath alcohol content required in subparagraph (I.5) of paragraph (a) of subsection (2) of this section ~~or the minimum 0.02 breath alcohol content required in subparagraph (I.7) of paragraph (a) of subsection (2) of this section~~ was reached as a result of alcohol consumed before the person stopped driving; or, where a license is revoked under subparagraph (II) of paragraph (a) of subsection (2) of this section, whether the person refused to take or to complete or to cooperate in the completing of any test or tests of the person's blood, breath, saliva, or urine as required by section 42-4-1301.1. If the presiding hearing officer finds the affirmative of the issue, the revocation order shall be sustained. If the presiding hearing officer finds the negative of the issue, the revocation order shall be rescinded.

**SECTION 2.** The introductory portion to 42-2-104 (2) and 42-2-104 (2) (a) and (2) (b), Colorado Revised Statutes, are amended, and the said 42-2-104 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**42-2-104. Licenses issued - denied.** (2) ~~No~~ EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, a person shall NOT be licensed by the department to operate any motor vehicle in this state:

(a) ~~While any license issued to such person has been suspended;~~

(b) ~~Whose license has been revoked until the expiration of twelve months after such revocation;~~

(b.5) WHILE THE PERSON'S PRIVILEGE TO DRIVE IS UNDER RESTRAINT;

**SECTION 3.** 42-2-125 (1) (d), (1) (o), (2), (2.3), (2.8), and (3), the introductory portion to 42-2-125 (6) (a), and 42-2-125 (6) (b) and (8), Colorado Revised Statutes, are amended to read:

**42-2-125. Mandatory revocation of license and permit.** (1) The department shall immediately revoke the license or permit of any driver or minor driver upon receiving a record showing that such driver has:

(d) Been convicted of failing to stop and render aid as required by ~~sections 42-4-1601 and 42-4-1602 in the event of a motor vehicle accident resulting in the death or injury of another~~ SECTION 42-4-1601;

(o) Been: ~~convicted of:~~

(I) CONVICTED OF an offense described in section 18-4-501, C.R.S., OR A COMPARABLE MUNICIPAL CHARTER OR ORDINANCE OFFENSE, if the court determines that the criminal mischief involves damage to a motor vehicle; or

(II) CONVICTED OF, OR HAS RECEIVED A DEFERRED JUDGMENT FOR, an offense described in section 18-4-409 or 18-4-503 (1) (c), C.R.S., OR A COMPARABLE MUNICIPAL CHARTER OR ORDINANCE OFFENSE. ~~or~~

(III) ~~A comparable municipal charter or ordinance offense.~~

(2) UNLESS OTHERWISE PROVIDED IN THIS SECTION, the period of revocation SHALL BE NOT LESS THAN ONE YEAR, EXCEPT THAT THE PERIOD OF REVOCATION based on paragraphs (b), (c), and (k) of subsection (1) of this section ~~shall be one year; except that any violation involving a commercial motor vehicle transporting hazardous materials as defined under section 42-2-402 (7) shall result in a revocation period of three years.~~

(2.3) ~~The period of revocation under subparagraph (I) of paragraph (g) of subsection (1) of this section shall be for not less than one year.~~

(2.8) ~~The period of revocation for~~ A person whose license has been revoked pursuant to paragraph (o) of subsection (1) of this section ~~shall be for not less than~~

~~one year, and the person shall not be eligible for reinstatement of his or her license until the department receives proof that the person has satisfied any order for restitution entered in connection with the conviction.~~

(3) Upon revoking the license of any person as required by this section, the department shall immediately notify the licensee as provided in section 42-2-119 (2). Where a minor driver's license is revoked under paragraph ~~(k)~~ ~~(H)~~; (m) or (n) of subsection (1) of this section, such revocation shall not run concurrently with any previous or subsequent suspension, revocation, cancellation, or denial that is provided for by law.

(6) (a) Any person ~~under seventeen years of age~~ who has a minor driver's license revoked pursuant to paragraph ~~(k)~~ ~~(H)~~ or (m) of subsection (1) of this section shall be subject to a revocation period that shall continue for the period of time described hereafter:

(b) Any person ~~seventeen years of age or older who has a minor driver's license revoked pursuant to paragraph (k) (H) or (m) of subsection (1) of this section shall be subject to a revocation period that shall continue for the period of time described hereafter:~~

~~(f) After one conviction, twenty-four hours of public service if ordered by the court, or three months;~~

~~(H) After a second conviction, six months;~~

~~(H) After any third or subsequent conviction, one year.~~

(8) If a suspension or revocation of a license is authorized or required for conviction of an offense under state law, a final finding of guilt for a violation of a municipal ordinance governing a substantially equivalent offense in a municipality, county, or another state for purposes of a suspension or revocation shall be deemed as a conviction of the corresponding offense under state law. ~~The department may suspend a driver's or minor driver's license pending a final determination of a conviction on appeal.~~ A STAY OF SENTENCE OR A PENDING APPEAL SHALL NOT DEPRIVE THE DEPARTMENT OF THE AUTHORITY TO SUSPEND, REVOKE, OR DENY A DRIVER'S LICENSE OR MINOR DRIVER'S LICENSE PENDING A FINAL DETERMINATION OF A CONVICTION ON APPEAL.

**SECTION 4. Effective date.** This act shall take effect July 1, 2007.

**SECTION 5. 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 16, 2007