

CHAPTER 148

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 08-1121

BY REPRESENTATIVE(S) Marostica, Buescher, Garza-Hicks, Jahn, Kerr J., Rose, Labuda, and Stafford;
also SENATOR(S) Takis.

AN ACT

CONCERNING CHANGES IN COLORADO LAW TO COMPLY WITH FEDERAL REQUIREMENTS FOR THE ADMINISTRATION OF A COMMERCIAL DRIVER'S LICENSE UNDER THE FEDERAL "MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999", AND, IN CONNECTION THEREWITH, BROADENING THE SCOPE OF A CONVICTION FOR A VEHICLE OFFENSE, PROHIBITING DIVERSION PROGRAMS FOR HOLDERS OF A COMMERCIAL DRIVER'S LICENSE, DELETING REDUNDANT LANGUAGE, ENSURING THAT CONVICTION NOTICES ARE PROVIDED IN A TIMELY MANNER, AND LIMITING A COMMERCIAL DRIVER'S LICENSE PERMIT TO ONE YEAR.

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

SECTION 1. 24-72-308 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-72-308. Sealing of records. (3) Exceptions. (e) THIS SECTION SHALL NOT APPLY TO RECORDS PERTAINING TO A CONVICTION OF AN OFFENSE CONCERNING THE HOLDER OF A COMMERCIAL DRIVER'S LICENSE AS DEFINED IN SECTION 42-2-402, C.R.S., OR THE OPERATOR OF A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 42-2-402, C.R.S.

SECTION 2. 42-1-102 (19), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-1-102. Definitions. As used in articles 1 to 4 of this title, unless the context otherwise requires:

(19) "Convicted" or "conviction" means:

(e) AS TO A HOLDER OF A COMMERCIAL DRIVER'S LICENSE AS DEFINED IN SECTION 42-2-402 OR THE OPERATOR OF A COMMERCIAL MOTOR VEHICLE AS DEFINED IN

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

SECTION 42-2-402:

(I) AN UNVACATED ADJUDICATION OF GUILT OR A DETERMINATION BY AN AUTHORIZED ADMINISTRATIVE HEARING THAT A PERSON HAS VIOLATED OR FAILED TO COMPLY WITH THE LAW;

(II) AN UNVACATED FORFEITURE OF BAIL OR COLLATERAL DEPOSITED TO SECURE THE PERSON'S APPEARANCE IN COURT;

(III) THE PAYMENT OF A FINE OR COURT COST OR VIOLATION OF A CONDITION OF RELEASE WITHOUT BAIL, REGARDLESS OF WHETHER OR NOT THE PENALTY IS REBATED, SUSPENDED, OR PROBATED; OR

(IV) A DEFERRED SENTENCE.

SECTION 3. 42-2-106 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-2-106. Instruction permits and temporary licenses.

(1) (f) NOTWITHSTANDING PARAGRAPHS (a) TO (d) OF THIS SUBSECTION (1), A TEMPORARY INSTRUCTION PERMIT TO OPERATE A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 42-2-402 SHALL EXPIRE ONE YEAR AFTER ISSUANCE.

SECTION 4. The introductory portion to 42-2-121 (5) (a), Colorado Revised Statutes, is amended, and the said 42-2-121 (5) (a) is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS, to read:

42-2-121. Records to be kept by department - admission of records in court.

(5) (a) Upon application by a person, the department shall expunge all records concerning a conviction of a person for driving any vehicle in this state with an alcohol level of at least 0.02 but not more than 0.05 grams of alcohol per hundred milliliters of blood or at least 0.02 but not more than 0.05 grams of alcohol per two hundred ten liters of breath while under twenty-one years of age pursuant to section 42-4-1301 (2) (a.5) and any records concerning an administrative determination resulting in a revocation under section 42-2-126 (2) (a) (I.5) ~~or (2) (a) (IV)~~ if:

(V) SUCH PERSON HAS NEVER HELD A COMMERCIAL DRIVER'S LICENSE AS DEFINED IN SECTION 42-2-402; AND

(VI) SUCH PERSON WAS NOT OPERATING A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 42-2-402.

SECTION 5. 42-4-1715 (1) (b) (I), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUB-SUBPARAGRAPHS to read:

42-4-1715. Convictions, judgments, and charges recorded - public inspection. (1) (b) (I) Upon application by a person, the court shall expunge all records concerning a conviction of the person for driving any vehicle in this state with an alcohol level of at least 0.02 but not more than 0.05 grams of alcohol per hundred milliliters of blood or at least 0.02 but not more than 0.05 grams of alcohol

per two hundred ten liters of breath while under twenty-one years of age pursuant to section 42-4-1301 (2) (a.5) if:

(E) SUCH PERSON HAS NEVER HELD A COMMERCIAL DRIVER'S LICENSE AS DEFINED IN SECTION 42-2-402; AND

(F) SUCH PERSON WAS NOT OPERATING A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 42-2-402.

SECTION 6. 42-4-1715 (2) and (4) (b), Colorado Revised Statutes, are amended to read:

42-4-1715. Convictions, judgments, and charges recorded - public inspection. (2) (a) ~~SUBJECT TO PARAGRAPH (b) OF THIS SUBSECTION (2),~~ within ten days after the entry of a judgment, conviction, or forfeiture of bail of a person upon a charge of violating ~~any provision of this article or other law regulating the operation of vehicles on highways,~~ the judge or clerk of the court in which the entry of a judgment was made, ~~or the conviction was had, or bail was forfeited shall prepare and immediately forward to the department an abstract of the record of said~~ THE court covering every case in which ~~said~~ THE person had a judgment entered against him or her, was ~~so~~ convicted, or forfeited bail, which abstract ~~must~~ SHALL be certified by the ~~person so required to prepare the same~~ PREPARER to be true and correct.

(b) FOR THE HOLDER OF A COMMERCIAL DRIVER'S LICENSE AS DEFINED IN SECTION 42-2-402 OR AN OFFENSE COMMITTED BY A PERSON OPERATING A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 42-2-402, WITHIN FIVE DAYS AFTER CONVICTION OF A PERSON UPON A CHARGE OF VIOLATING THIS ARTICLE OR OTHER LAW REGULATING THE OPERATION OF VEHICLES ON HIGHWAYS, THE JUDGE OR CLERK OF THE COURT IN WHICH THE PERSON WAS CONVICTED SHALL PREPARE AND FORWARD TO THE DEPARTMENT AN ABSTRACT OF THE RECORD OF THE COURT COVERING EVERY CASE IN WHICH THE PERSON WAS CONVICTED, WHICH ABSTRACT SHALL BE CERTIFIED BY THE PREPARER TO BE TRUE AND CORRECT.

~~(4) (b) Every juvenile court shall forward a like report to the department upon the adjudication of delinquency of any juvenile based upon conduct which would establish vehicular homicide if committed by an adult.~~

SECTION 7. Part 17 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-1719. Violations - commercial driver's licenses - compliance with federal regulation. AS TO A HOLDER OF A COMMERCIAL DRIVER'S LICENSE AS DEFINED IN SECTION 42-2-402 OR THE OPERATOR OF A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 42-2-402, A COURT SHALL NOT DEFER IMPOSITION OF JUDGMENT OR ALLOW A PERSON TO ENTER INTO A DIVERSION PROGRAM THAT WOULD PREVENT A DRIVER'S CONVICTION FOR ANY VIOLATION, IN ANY TYPE OF MOTOR VEHICLE, OF A TRAFFIC CONTROL LAW FROM APPEARING ON THE DRIVER'S RECORD.

SECTION 8. Effective date - applicability. This act shall take effect July 1, 2008, and shall apply to offenses occurring on or after said date.

SECTION 9. 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 17, 2008