

CHAPTER 346

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 09-1246

BY REPRESENTATIVE(S) Peniston, Schafer S., Todd, Green;
also SENATOR(S) Morse.**AN ACT****CONCERNING THE EVALUATION OF DRIVING SCHOOLS ATTENDED AS A RESULT OF A COURT ORDER RESULTING FROM A VIOLATION OF A LAW REGULATING THE OPERATION OF A MOTOR VEHICLE, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** Part 2 of article 1 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-1-223. Monitoring driving improvement schools - fund - rules. (1) THE DEFENSIVE DRIVING SCHOOL FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY CREATED IN THE STATE TREASURY. THE FUND SHALL CONSIST OF PENALTY SURCHARGES COLLECTED PURSUANT TO SECTION 42-4-1717 (3). THE MONEYS IN THE FUND SHALL BE USED TO IMPLEMENT A PROGRAM TO MONITOR AND EVALUATE DRIVER IMPROVEMENT SCHOOLS PURSUANT TO THIS SECTION. THE MONEYS IN THE FUND AT THE END OF EACH FISCAL YEAR SHALL NOT REVERT TO THE GENERAL FUND.

(2) THE DEPARTMENT SHALL, IN ACCORDANCE WITH ARTICLE 103 OF TITLE 24, C.R.S., CONTRACT WITH A PRIVATE ENTITY BY JULY 1, 2010, TO MONITOR AND EVALUATE THE CURRICULUM AND EFFECTIVENESS OF DRIVER IMPROVEMENT CLASSES REQUIRED BY SECTION 42-4-1717. THE PRIVATE ENTITY SHALL SUBMIT A REPORT TO THE REFERRING COURT WITHIN THREE MONTHS AFTER A SCHOOL HAS BEEN EVALUATED SUMMARIZING THE CURRICULUM, LOCATION, SECURITY, QUALITY, AND EFFECTIVENESS OF THE CLASSES. THE PRIVATE ENTITY SHALL ALSO SUBMIT AN ABSTRACT OF SUCH REPORTS TO THE DEPARTMENT ANNUALLY.

(3) THE DEPARTMENT MAY PROMULGATE RULES SETTING STANDARDS FOR FREQUENCY AND TYPES OF EVALUATIONS BASED UPON THE REVENUE RECEIVED

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

PURSUANT TO SECTION 42-4-1717 AND THE EXPECTED EFFECTIVENESS OF FREQUENCIES AND TYPES OF EVALUATIONS.

SECTION 2. 42-4-1717 (1), Colorado Revised Statutes, is amended, and the said 42-4-1717 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

42-4-1717. Conviction - attendance at driver improvement school - rules.

(1) Except as otherwise provided in subsection (2) of this section, ~~whenever~~ IF a person has been convicted of violating ~~any provision of this article or ANY other law regulating the operation of MOTOR vehicles on highways, the court, in addition to the penalty provided for the violation or as a condition of either the probation or the suspension of all or any portion of any fine or sentence of imprisonment for a violation other than a traffic infraction, may require the defendant, at the defendant's own expense, if any,~~ OTHER THAN A VIOLATION OF SECTION 42-4-1301, THE COURT MAY REQUIRE THE DEFENDANT, OR, IF THE DEFENDANT HAS NOT BEEN CONVICTED OF A VIOLATION OF THIS ARTICLE OR ANY OTHER LAW REGULATING THE OPERATION OF MOTOR VEHICLES WITHIN THE LAST EIGHTEEN MONTHS, THE COURT SHALL OFFER THE DEFENDANT AN OPPORTUNITY, AT THE DEFENDANT'S EXPENSE, to attend and satisfactorily complete a course of instruction at any designated driver improvement school ~~located and operating in the county of the defendant's residence and~~ providing instruction in the traffic laws of this state, instruction in recognition of hazardous traffic situations, and instruction in traffic accident prevention. UPON COMPLETION OF THE COURSE, THE COURT MAY SUSPEND ALL OR A PORTION OF THE FINE OR SENTENCE OF IMPRISONMENT. Unless otherwise provided by law, such school shall be approved by the court.

(3) (a) EFFECTIVE JANUARY 1, 2010, A PERSON WHO IS REQUIRED TO ATTEND A COURSE OF INSTRUCTION PURSUANT TO SUBSECTION (1) OR (2) OF THIS SECTION SHALL PAY, IN ADDITION TO ANY OTHER PENALTIES, A PENALTY SURCHARGE AS DETERMINED BY RULES PROMULGATED BY THE DEPARTMENT. THE DRIVER IMPROVEMENT SCHOOL SHALL COLLECT THE PENALTY SURCHARGE AND REMIT IT TO THE DEPARTMENT AT LEAST MONTHLY IN ACCORDANCE WITH RULES PROMULGATED BY THE DEPARTMENT. THE DEPARTMENT SHALL SET THE PENALTY SURCHARGE IN AN AMOUNT TO OFFSET THE DIRECT AND INDIRECT COST OF IMPLEMENTING SECTION 42-1-223. THE PENALTY SURCHARGE SHALL BE TRANSFERRED TO THE STATE TREASURER AND CREDITED TO THE DEFENSIVE DRIVING SCHOOL FUND CREATED IN SECTION 42-1-223.

(b) THE COURT SHALL INCLUDE ON THE REFERRAL FORM INFORMATION CONCERNING THE AMOUNT AND PURPOSE OF THE PENALTY SURCHARGE. IF THE COURT DETERMINES THAT A PERSON IS UNABLE TO PAY THE COST OF THE PENALTY SURCHARGE, THE COURT MAY WAIVE THE SURCHARGE AND THE DRIVER IMPROVEMENT SCHOOL SHALL NOT COLLECT NOR REMIT THE PENALTY SURCHARGE TO THE DEPARTMENT.

(c) A PERSON WHO IS REQUIRED TO ATTEND A COURSE OF INSTRUCTION PURSUANT TO SUBSECTION (1) OR (2) OF THIS SECTION SHALL REGISTER WITH THE ENTITY THAT MONITORS THE DRIVER IMPROVEMENT SCHOOL PURSUANT TO SECTION 42-1-223. IF THE PERSON SATISFACTORILY COMPLETES THE COURSE, THE DRIVER IMPROVEMENT SCHOOL SHALL ELECTRONICALLY NOTIFY THE ENTITY.

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the defensive driving school fund created in section 42-1-223 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2009, the sum of twenty-nine thousand one hundred seventy dollars (\$29,170) cash funds and 0.5 FTE, or so much thereof as may be necessary, for oversight of the entity providing the monitoring services necessary for the implementation of this act.

SECTION 4. Act subject to petition - effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 5, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to court orders requiring attendance of a driver improvement school issued on or after the applicable effective date of this act.

Approved: June 1, 2009