

CHAPTER 397

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 09-1119

BY REPRESENTATIVE(S) Vigil, Court, Labuda, Pace, Todd, Hullinghorst, McFadyen, Ryden, Schafer S., Solano, Summers, Fischer, Green, Massey, Merrifield, Roberts;
also SENATOR(S) Schwartz, Boyd, Carroll M., Foster, Gibbs, Groff, Heath, Hodge, Hudak, Morse, Newell, Shaffer B., Tapia, Tochtrop, Williams.

AN ACT

**CONCERNING CREATION OF A PROGRAM TO ASSIST ENTITIES PROVIDING PROGRAMS TO ADDRESS
SUBSTANCE ABUSE PROBLEMS IN RURAL AREAS OF COLORADO.**

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

SECTION 1. Part 2 of article 1 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-1-217. Rural alcohol and substance abuse prevention and treatment program - creation - administration - definitions - cash fund - repeal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "PROGRAM" MEANS THE RURAL ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAM CREATED PURSUANT TO SUBSECTION (2) OF THIS SECTION THAT SHALL CONSIST OF THE RURAL YOUTH ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT PROJECT AND THE RURAL DETOXIFICATION PROJECT.

(b) "RURAL AREA" MEANS A COUNTY WITH A POPULATION OF LESS THAN THIRTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS.

(c) "YOUTH" MEANS AN INDIVIDUAL WHO IS AT LEAST EIGHT YEARS OF AGE BUT WHO IS LESS THAN EIGHTEEN YEARS OF AGE.

(2) (a) (I) THERE IS HEREBY CREATED THE RURAL ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAM WITHIN THE DIVISION TO PROVIDE:

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

(A) PREVENTION AND TREATMENT SERVICES TO YOUTH IN RURAL AREAS, WHICH SERVICES MAY INCLUDE BUT NEED NOT BE LIMITED TO PROVIDING ALTERNATIVE ACTIVITIES FOR YOUTH THROUGH THE RURAL YOUTH ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT PROJECT; AND

(B) TREATMENT SERVICES TO PERSONS ADDICTED TO ALCOHOL OR DRUGS THROUGH THE RURAL DETOXIFICATION PROJECT.

(II) THE DIVISION SHALL ADMINISTER THE PROGRAM PURSUANT TO RULES ADOPTED BY THE STATE BOARD OF HUMAN SERVICES AS OF THE EFFECTIVE DATE OF THIS SECTION OR AS AMENDED BY THE STATE BOARD THEREAFTER.

(b) THE DIVISION SHALL INCORPORATE PROVISIONS TO IMPLEMENT THE PROGRAM INTO ITS REGULAR CONTRACTING MECHANISM FOR THE PURCHASE OF PREVENTION AND TREATMENT SERVICES PURSUANT TO SECTION 25-1-206, INCLUDING BUT NOT LIMITED TO DETOXIFICATION PROGRAMS. THE DIVISION SHALL DEVELOP A METHOD TO EQUITABLY DISTRIBUTE AND PROVIDE ADDITIONAL MONEYS THROUGH CONTRACTS TO PROVIDE FOR PREVENTION SERVICES FOR AND TREATMENT OF PERSONS IN RURAL AREAS.

(c) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE DIVISION SHALL IMPLEMENT THE PROGRAM ON OR AFTER JANUARY 1, 2011, SUBJECT TO THE AVAILABILITY OF SUFFICIENT MONEYS TO OPERATE AN EFFECTIVE PROGRAM, AS DETERMINED BY THE DIVISION.

(3) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE RURAL ALCOHOL AND SUBSTANCE ABUSE CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND", THAT SHALL CONSIST OF THE RURAL YOUTH ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT ACCOUNT, REFERRED TO IN THIS SECTION AS THE "YOUTH ACCOUNT", AND THE RURAL DETOXIFICATION ACCOUNT, REFERRED TO IN THIS SECTION AS THE "DETOXIFICATION ACCOUNT". THE FUND SHALL BE COMPRISED OF MONEYS COLLECTED FROM SURCHARGES ASSESSED PURSUANT TO SECTIONS 18-19-103.5, 42-4-1301 (7) (d) (IV), AND 42-4-1701 (4) (f), C.R.S., WHICH MONEYS SHALL BE DIVIDED EQUALLY BETWEEN THE YOUTH ACCOUNT AND THE DETOXIFICATION ACCOUNT, AND ANY MONEYS CREDITED TO THE FUND PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3), WHICH MONEYS SHALL BE DIVIDED EQUALLY BETWEEN THE YOUTH ACCOUNT AND THE DETOXIFICATION ACCOUNT UNLESS THE GRANTEE OR DONOR SPECIFIES TO WHICH ACCOUNT THE GRANT, GIFT, OR DONATION SHALL BE CREDITED. THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DIVISION FOR THE PURPOSE OF IMPLEMENTING THE PROGRAM. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL REMAIN IN THE FUND. ANY UNEXPENDED OR UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED OR CREDITED TO THE GENERAL FUND OR ANOTHER FUND; EXCEPT THAT ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AS OF JUNE 30, 2016, SHALL BE CREDITED TO THE GENERAL FUND.

(b) THE DIVISION IS AUTHORIZED TO ACCEPT ANY GRANTS, GIFTS, OR DONATIONS FROM ANY PRIVATE OR PUBLIC SOURCE ON BEHALF OF THE STATE FOR THE PURPOSE

OF THE PROGRAM. THE DIVISION SHALL TRANSMIT ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GRANTS, GIFTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

(4) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

(b) PRIOR TO SUCH REPEAL, THE PROGRAM SHALL BE REVIEWED AS PROVIDED IN SECTION 24-34-104, C.R.S.

SECTION 2. 24-34-104 (47), 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. (47) The following agencies, functions, or both, shall terminate on July 1, 2016:

(c) THE RURAL ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAM CREATED PURSUANT TO SECTION 25-1-217, C.R.S., WITHIN THE DIVISION OF ALCOHOL AND DRUG ABUSE IN THE DEPARTMENT OF HUMAN SERVICES.

SECTION 3. 42-4-1301 (7) (d), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

42-4-1301. Driving under the influence - driving while impaired - driving with excessive alcoholic content - definitions - penalties - repeal. (7) Penalties. (d) In addition to the penalties prescribed in this subsection (7):

(IV) (A) PERSONS CONVICTED OF DUI, DUI PER SE, DWAI, AND HABITUAL USER, ARE SUBJECT TO AN ADDITIONAL PENALTY SURCHARGE OF NOT LESS THAN ONE DOLLAR AND NOT MORE THAN TEN DOLLARS FOR PROGRAMS TO ADDRESS ALCOHOL AND SUBSTANCE ABUSE PROBLEMS AMONG PERSONS IN RURAL AREAS. THE MINIMUM PENALTY SURCHARGE SHALL BE MANDATORY, AND THE COURT SHALL HAVE NO DISCRETION TO SUSPEND OR WAIVE THE SURCHARGE; EXCEPT THAT THE COURT MAY SUSPEND OR WAIVE THE SURCHARGE FOR A DEFENDANT DETERMINED BY THE COURT TO BE INDIGENT. ANY MONEYS COLLECTED FOR THE SURCHARGE SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE RURAL ALCOHOL AND SUBSTANCE ABUSE CASH FUND CREATED IN SECTION 25-1-217 (3), C.R.S.

(B) THIS SUBPARAGRAPH (IV) IS REPEALED, EFFECTIVE JULY 1, 2016, UNLESS THE GENERAL ASSEMBLY EXTENDS THE REPEAL OF THE RURAL ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAM CREATED IN SECTION 25-1-217, C.R.S.

SECTION 4. 42-4-1701 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule - repeal. (4) (f) (I) IN ADDITION TO THE SURCHARGE SPECIFIED IN SUB-SUBPARAGRAPH (N) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (4), AN ADDITIONAL SURCHARGE OF FIVE DOLLARS SHALL BE ASSESSED

FOR A VIOLATION OF SECTION 42-4-1301 (2) (a.5). MONEYS COLLECTED PURSUANT TO THIS PARAGRAPH (f) SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL DEPOSIT SUCH MONEYS IN THE RURAL ALCOHOL AND SUBSTANCE ABUSE CASH FUND CREATED IN SECTION 25-1-217 (3), C.R.S., WITHIN FOURTEEN DAYS AFTER THE END OF EACH QUARTER, TO BE USED FOR THE PURPOSES SET FORTH IN SECTION 25-1-217, C.R.S.

(II) IF THE ADDITIONAL SURCHARGE IS COLLECTED BY A COUNTY COURT, THE ADDITIONAL SURCHARGE SHALL BE SIX DOLLARS OF WHICH ONE DOLLAR SHALL BE RETAINED BY THE COUNTY AND THE REMAINING FIVE DOLLARS SHALL BE TRANSMITTED TO THE STATE TREASURER AND CREDITED TO THE RURAL ALCOHOL AND SUBSTANCE ABUSE CASH FUND CREATED IN SECTION 25-1-217 (3), C.R.S., WITHIN FOURTEEN DAYS AFTER THE END OF EACH QUARTER, TO BE USED FOR THE PURPOSES SET FORTH IN SECTION 25-1-217, C.R.S.

(III) THIS PARAGRAPH (f) IS REPEALED, EFFECTIVE JULY 1, 2016, UNLESS THE GENERAL ASSEMBLY EXTENDS THE REPEAL OF THE RURAL ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAM CREATED IN SECTION 25-1-217, C.R.S.

SECTION 5. 18-19-102 (1), Colorado Revised Statutes, is amended, and the said 18-19-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

18-19-102. Definitions. As used in this article, unless the context otherwise requires:

(1) ~~"Convicted" and "conviction" means a plea of guilty, including a plea of guilty entered pursuant to a deferred sentence under section 18-1.3-102, or a verdict of guilty by a judge or jury, and includes a plea of no contest accepted by the court.~~ "ALCOHOL- OR DRUG-RELATED OFFENDER" MEANS A PERSON CONVICTED OF ANY OF THE FOLLOWING OFFENSES OR OF ATTEMPT TO COMMIT ANY OF THE FOLLOWING OFFENSES:

(a) VIOLATION OF A PROTECTION ORDER AS DESCRIBED IN SECTION 18-1-1001 (4), IF THE PROTECTION ORDER PROHIBITED THE POSSESSION OR CONSUMPTION OF ALCOHOL OR CONTROLLED SUBSTANCES AND THE VIOLATION RELATED TO SUCH PROVISIONS;

(b) VEHICULAR HOMICIDE AS DESCRIBED IN SECTION 18-3-106 (1) (b);

(c) VEHICULAR ASSAULT AS DESCRIBED IN SECTION 18-3-205 (1) (b);

(d) BRINGING ALCOHOL BEVERAGES INTO THE MAJOR LEAGUE STADIUM AS DESCRIBED IN SECTION 18-9-123 (1) (a) (I); OR

(e) ILLEGAL POSSESSION OR CONSUMPTION OF ETHYL ALCOHOL BY AN UNDERAGE PERSON AS DESCRIBED IN SECTION 18-13-122.

(1.5) "CONVICTED" AND "CONVICTION" MEANS A PLEA OF GUILTY, INCLUDING A PLEA OF GUILTY ENTERED PURSUANT TO A DEFERRED SENTENCE UNDER SECTION

18-1.3-102, OR A VERDICT OF GUILTY BY A JUDGE OR JURY, AND INCLUDES A PLEA OF NO CONTEST ACCEPTED BY THE COURT.

SECTION 6. Article 19 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18-19-103.5. Rural alcohol and substance abuse surcharge. (1) IN ADDITION TO THE SURCHARGES ESTABLISHED IN SECTION 18-19-103, EACH DRUG OFFENDER AND EACH ALCOHOL- OR DRUG-RELATED OFFENDER WHO IS CONVICTED, OR RECEIVES A DEFERRED SENTENCE PURSUANT TO SECTION 18-1.3-102, SHALL BE REQUIRED TO PAY A SURCHARGE TO THE CLERK OF THE COURT IN THE COUNTY IN WHICH THE CONVICTION OCCURS OR IN WHICH THE DEFERRED SENTENCE IS ENTERED. THE SURCHARGE SHALL BE IN AN AMOUNT DETERMINED BY THE JUDGE BUT SHALL BE NOT LESS THAN ONE DOLLAR NOR MORE THAN TEN DOLLARS.

(2) THE CLERK OF THE COURT SHALL DISBURSE THE SURCHARGE REQUIRED BY SUBSECTION (1) OF THIS SECTION AS FOLLOWS:

(a) FIVE PERCENT SHALL BE RETAINED BY THE CLERK FOR PURPOSES OF ADMINISTERING THE DISBURSAL OF THE SURCHARGE PURSUANT TO THIS SUBSECTION (2);

(b) NINETY-FIVE PERCENT SHALL BE DISBURSED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE RURAL ALCOHOL AND SUBSTANCE ABUSE CASH FUND CREATED IN SECTION 25-1-217 (3), C.R.S.

(3) THE MINIMUM PENALTY SURCHARGE SHALL BE MANDATORY, AND THE COURT SHALL HAVE NO DISCRETION TO SUSPEND OR WAIVE THE SURCHARGE; EXCEPT THAT THE COURT MAY SUSPEND OR WAIVE THE SURCHARGE FOR A DEFENDANT DETERMINED BY THE COURT TO BE INDIGENT.

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016, UNLESS THE GENERAL ASSEMBLY EXTENDS THE REPEAL OF THE RURAL ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAM CREATED IN SECTION 25-1-217, C.R.S.

SECTION 7. Effective date - applicability. This act shall take effect January 1, 2010, and shall apply to offenses committed on or after said date.

SECTION 8. 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 2, 2009