

CHAPTER 45

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 10-1090

BY REPRESENTATIVE(S) Waller, Court, Kagan, Levy, Merrifield, Pace, Ryden, Schafer S., Todd, Vigil;
also SENATOR(S) Morse, Williams.

AN ACT

**CONCERNING THE PUNISHMENT FOR A PERSON WHO IS CONVICTED OF DRIVING A MOTOR VEHICLE
WITH KNOWLEDGE THAT HIS OR HER DRIVER'S LICENSE IS UNDER RESTRAINT.**

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

SECTION 1. 42-2-138 (1) (a), (1) (b), and (1) (f), Colorado Revised Statutes, are amended to read:

42-2-138. Driving under restraint - penalty. (1) (a) Any person who drives a motor vehicle or off-highway vehicle upon any highway of this state with knowledge that the person's license or privilege to drive, either as a resident or a nonresident, is under restraint for any reason other than conviction of DUI, DUI per se, DWAI, habitual user, or UDD is guilty of a misdemeanor. ~~and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than five days nor more than six months, and, in the discretion of the court, a fine of not less than fifty dollars nor more than five hundred dollars may be imposed. The minimum sentence imposed by this paragraph (a) shall be mandatory, and the court shall not grant probation or a suspended sentence, in whole or in part, or reduce or suspend the fine under this paragraph (a); but, in a case where the defendant is convicted although the defendant established that he or she had to drive the motor vehicle in violation of this paragraph (a) because of an emergency, the mandatory jail sentence or the fine, if any, shall not apply, and the A court may impose a sentence of A PERSON CONVICTED OF THIS MISDEMEANOR TO imprisonment in the county jail for a period of not more than six months and MAY IMPOSE a fine of not more than five hundred dollars. Such minimum sentence need not be five consecutive days but may be served during any thirty-day period.~~

(b) Upon a second or subsequent conviction under paragraph (a) of this subsection (1) within five years after the first conviction thereunder, in addition to

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

~~the~~ ANY penalty ~~prescribed in~~ IMPOSED PURSUANT TO said paragraph (a) of this subsection (1), except as may be permitted by section 42-2-132.5, the defendant shall not be eligible to be issued a driver's or minor driver's license or extended any driving privilege in this state for a period of three years after such second or subsequent conviction.

~~(f) Upon entry of a plea of guilty or nolo contendere to a violation of paragraph (a) or (d) of this subsection (1), or upon a verdict or judgment of guilt for such~~ A violation OF PARAGRAPH (a) OR (d) OF THIS SUBSECTION (1), the court shall require the offender to immediately surrender his or her driver's license, minor driver's license, provisional driver's license, temporary driver's license, or instruction permit issued by this state, another state, or a foreign country. The court shall forward to the department a notice of the ~~plea,~~ verdict or judgment OF GUILT on the form prescribed by the department, together with the offender's surrendered license or permit. Any person who violates the provisions of this paragraph (f) by failing to surrender his or her license or permit to the court commits a class 2 misdemeanor traffic offense.

SECTION 2. 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 (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act shall apply to offenses committed on or after the applicable effective date of this act.

Approved: March 29, 2010