

CHAPTER 196

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 13-1077

BY REPRESENTATIVE(S) Salazar, Fields, Foote, Gardner, Ginal, Hullinghorst, Kraft-Tharp, Labuda, May, McLachlan, Melton, Pabon, Schafer, Singer, Waller, Williams, Young, Buckner, Gerou, Kagan, Levy, Ryden;
also SENATOR(S) Ulibarri.

AN ACT

CONCERNING A DRIVER'S RIGHT TO CHALLENGE THE LAWFULNESS OF A LAW ENFORCEMENT OFFICER'S INITIAL CONTACT IN AN ADMINISTRATIVE PROCEEDING FOR A REVOCATION OF A DRIVER'S LICENSE.

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

SECTION 1. In Colorado Revised Statutes, 42-2-126, **add** (8) (h) as follows:

42-2-126. Revocation of license based on administrative determination.
(8) Hearing. (h) PURSUANT TO SECTION 42-1-228, A DRIVER MAY CHALLENGE THE VALIDITY OF THE LAW ENFORCEMENT OFFICER'S INITIAL CONTACT WITH THE DRIVER AND THE DRIVER'S SUBSEQUENT ARREST FOR DUI, DUI PER SE, OR DWAI. THE HEARING OFFICER SHALL CONSIDER SUCH ISSUES WHEN A DRIVER RAISES THEM AS DEFENSES.

SECTION 2. In Colorado Revised Statutes, **add** 42-1-228 as follows:

42-1-228. Revocation hearings - right of driver to challenge validity of initial traffic stop. IN ANY ADMINISTRATIVE PROCEEDING FOR A REVOCATION OF A DRIVER'S LICENSE PURSUANT TO ARTICLE 2 OF THIS TITLE, WHERE THE HEARING OFFICER IS ENGAGED IN FINDING FACTS AND APPLYING LAW FOR AN INCIDENT OR OFFENSE REPORTED DIRECTLY TO THE DEPARTMENT BY A LAW ENFORCEMENT OFFICER, AND WHERE THE REVOCATION WAS NOT TRIGGERED IN WHOLE OR IN PART BY A RECORD OF A CONVICTION, THE DRIVER MAY CHALLENGE THE VALIDITY OF THE LAW ENFORCEMENT OFFICER'S INITIAL CONTACT WITH THE DRIVER AND SUBSEQUENT ARREST OF THE DRIVER. THE HEARING OFFICER SHALL CONSIDER SUCH ISSUES WHEN A DRIVER RAISES THEM AS DEFENSES.

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 3. 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: May 11, 2013