

CHAPTER 221

MOTOR VEHICLES AND TRAFFIC REGULATION

SENATE BILL 16-132

BY SENATOR(S) Cooke, Aguilar, Baumgardner, Crowder, Garcia, Grantham, Heath, Hill, Hodge, Jahn, Kefalas, Lambert, Lundberg, Marble, Martinez Humenik, Merrifield, Neville T., Newell, Roberts, Scheffel, Scott, Sonnenberg, Tate, Todd, Woods, Cadman;
also REPRESENTATIVE(S) Foote, Duran, Ginal, Moreno, Ryden, Vigil.

AN ACT

CONCERNING CLARIFYING THAT TEST RESULTS RELATING TO CERTAIN DUI OFFENSES ARE NOT PUBLIC INFORMATION.

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

SECTION 1. In Colorado Revised Statutes, 42-4-1301, **amend** (6) (c) as follows:

42-4-1301. Driving under the influence - driving while impaired - driving with excessive alcoholic content - definitions - penalties. (6) (c) (I) In all actions, suits, and judicial proceedings in any court of this state concerning alcohol-related or drug-related traffic offenses, the court shall take judicial notice of methods of testing a person's alcohol or drug level and of the design and operation of devices, as certified by the department of public health and environment, for testing a person's blood, breath, saliva, or urine to determine such person's alcohol or drug level. The department of public health and environment may, by rule, determine that, because of the reliability of the results from certain devices, the collection or preservation of a second sample of a person's blood, saliva, or urine or the collection and preservation of a delayed breath alcohol specimen is not required.

(II) NOTHING IN this paragraph (c) ~~shall not prevent~~ PREVENTS the necessity of establishing during a trial that the testing devices used were working properly and ~~that such testing devices were properly operated.~~ Nothing in this paragraph (c) ~~shall preclude~~ PRECLUDES a defendant from offering evidence concerning the accuracy of testing devices.

(III) THE DATABASE COMPILED BY THE DEPARTMENT OF PUBLIC HEALTH AND

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

ENVIRONMENT CONTAINING PERSONAL IDENTIFYING INFORMATION RELATING TO THE RESULTS OF TESTS OF PERSONS' BREATH ALCOHOL CONTENT, AND ALL PERSONAL IDENTIFYING INFORMATION THEREOF, ARE NOT PUBLIC INFORMATION. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL DISCLOSE SUCH INFORMATION ONLY TO:

(A) THE INDIVIDUAL WHO IS THE SUBJECT OF THE TEST, OR TO HIS OR HER LEGAL REPRESENTATIVE;

(B) A NAMED INTERESTED PARTY IN A CIVIL OR CRIMINAL ACTION IN WHICH THE TEST RESULTS ARE DIRECTLY RELATED, OR TO HIS OR HER LEGAL REPRESENTATIVE;

(C) ANY PROSECUTING ATTORNEY, LAW ENFORCEMENT OFFICER, STATE AGENCY, OR STATE AND LOCAL PUBLIC OFFICIAL LEGALLY AUTHORIZED TO UTILIZE SUCH INFORMATION TO CARRY OUT HIS OR HER DUTIES; OR

(D) ANY PARTY WHO OBTAINS AN ORDER IN A PENDING CIVIL OR CRIMINAL CASE IF THE COURT FINDS THE PARTY HAS SHOWN GOOD CAUSE TO HAVE THE INFORMATION. IN DETERMINING WHETHER THERE IS GOOD CAUSE, THE COURT SHALL CONSIDER WHETHER THE MATERIALS SOUGHT EXIST; WHETHER THE MATERIALS SOUGHT ARE EVIDENTIARY AND RELEVANT; WHETHER THE MATERIALS ARE NOT OTHERWISE PROCURABLE REASONABLY IN ADVANCE OF THE PROCEEDING BY THE EXERCISE OF DUE DILIGENCE; WHETHER THE PARTY CANNOT PROPERLY PREPARE FOR THE PROCEEDING WITHOUT SUCH PRODUCTION AND INSPECTION IN ADVANCE OF THE PROCEEDING, AND THE FAILURE TO OBTAIN SUCH INSPECTION MAY TEND TO UNREASONABLY DELAY THE PROCEEDING; AND WHETHER THE REQUEST FOR THE INFORMATION IS MADE IN GOOD FAITH AND IS NOT FOR THE PURPOSES OF GENERAL DISCOVERY.

(IV) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT MAY RELEASE NON-PERSONAL IDENTIFYING INFORMATION FROM THE DATABASE IN ACCORDANCE WITH SECTIONS 24-72-101 TO 24-72-402, C.R.S.

SECTION 2. Act subject to petition - effective date. This act takes 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 10, 2016, if adjournment sine die is on May 11, 2016); 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 will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 6, 2016