

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 17-1090.01 Richard Sweetman x4333

**HOUSE BILL 17-1315**

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**HOUSE SPONSORSHIP**

**Singer and Lawrence,**

**SENATE SPONSORSHIP**

**Gardner and Fields,**

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**House Committees**

Judiciary  
Finance  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE ACQUISITION OF DATA TO ANALYZE THE TYPES OF**  
102 **DUI OFFENSES BEING COMMITTED BY OFFENDERS AND, IN**  
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill requires the division of criminal justice (division) within the department of public safety (department) to produce a report on or before December 1, 2017, and on or before December 1 each year thereafter, that includes, to the extent possible, certain data relating to substance-affected driving citations that occurred in the previous year.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

HOUSE  
3rd Reading Unamended  
May 3, 2017

HOUSE  
Amended 2nd Reading  
May 2, 2017

For the purpose of producing the report, the division shall collect certain data from:

- ! The state judicial branch;
- ! Forensic toxicology laboratories;
- ! The department of public health and environment; and
- ! The division of probation services.

The bill creates a \$10 surcharge for persons convicted of substance-affected driving. Money collected as such surcharges must be deposited in the substance-affected driving data-analysis cash fund, which is created in the bill.

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** 24-33.5-520 as  
3 follows:

4           **24-33.5-520. Study on drugged driving - substance-affected**  
5 **driving data-analysis cash fund created - report - definitions.** (1) ON  
6 AND AFTER THE EFFECTIVE DATE OF THIS ACT, THE DIVISION SHALL  
7 PREPARE A REPORT THAT THE DEPARTMENT OF PUBLIC SAFETY SHALL  
8 INCLUDE IN ITS ANNUAL REPORT TO THE HOUSE AND SENATE COMMITTEES  
9 OF REFERENCE PURSUANT TO SECTION 2-7-203. THE REPORT OF THE  
10 DIVISION MUST INCLUDE, TO THE EXTENT POSSIBLE, THE FOLLOWING  
11 INFORMATION:

12           (a) THE TOTAL NUMBER OF CITATIONS MADE FOR SUSPECTED  
13 SUBSTANCE-AFFECTED DRIVING VIOLATIONS DURING THE PREVIOUS  
14 CALENDAR YEAR;

15           (b) OF THE TOTAL NUMBER OF CITATIONS MADE FOR SUSPECTED  
16 SUBSTANCE-AFFECTED DRIVING DURING THE PREVIOUS CALENDAR YEAR,  
17 THE TOTAL NUMBER OF SUCH CITATIONS THAT RESULTED IN THE FILING OF  
18 A SUBSTANCE-AFFECTED DRIVING CHARGE AGAINST THE DRIVER,  
19 INCLUDING AN INDICATION OF HOW MANY SUCH CASES INVOLVED  
20 ALCOHOL, ONE OR MORE DRUGS, OR A COMBINATION OF ALCOHOL AND ONE

1 OR MORE DRUGS;

2 (c) OF THE FILED CASES, HOW MANY RESULTED IN AT LEAST ONE  
3 CONVICTION FOR SUBSTANCE-AFFECTED DRIVING;

4 (d) OF THE CASES THAT RESULTED IN AT LEAST ONE CONVICTION  
5 FOR SUBSTANCE-AFFECTED DRIVING, AND FOR WHICH EVIDENTIARY TEST  
6 RESULTS ARE AVAILABLE, WHICH DRUGS, INCLUDING ALCOHOL, OR  
7 COMBINATION OF DRUGS WERE PRESENT IN THE DEFENDANTS' BODIES,  
8 AND, FOR ALCOHOL AND MARIJUANA, THE LABORATORY VALUES;

9 (e) THE TOTAL NUMBER OF DUI AND DWAI CASES DURING THE  
10 PREVIOUS YEAR THAT INVOLVED:

11 (I) ALCOHOL;

12 (II) MARIJUANA;

13 (III) SCHEDULE I DRUGS, AS DESCRIBED IN SECTION 18-18-203,  
14 OTHER THAN MARIJUANA; OR

15 (IV) OTHER DRUGS; AND

16 (f) FOR THOSE CASES IN WHICH EVIDENTIARY TEST RESULTS ARE  
17 AVAILABLE, FOR EACH TYPE OF BIOLOGICAL SAMPLE TAKEN, THE TIME  
18 THAT ELAPSED BETWEEN THE TIME THAT EACH TRAFFIC STOP OR TRAFFIC  
19 INCIDENT OCCURRED AND THE TIME AT WHICH THE BIOLOGICAL SAMPLE  
20 WAS TAKEN.

21 (2) (a) FOR THE PURPOSE OF PRODUCING THE REPORT DESCRIBED  
22 IN SUBSECTION (1) OF THIS SECTION, THE DIVISION SHALL COLLECT AND  
23 ANALYZE SUBSTANCE-AFFECTED DRIVING VIOLATION DATA AS FOLLOWS:

24 (I) FROM THE STATE JUDICIAL BRANCH, THE DIVISION SHALL  
25 COLLECT CASE-IDENTIFIER DATA, EVENT DATA, FILING DATES, DATA  
26 IDENTIFYING LAW ENFORCEMENT AGENCIES, DEMOGRAPHIC DATA  
27 RELATING TO EACH DEFENDANT, DATA INDICATING THE CAUSE OF EACH

1 SUBSTANCE-AFFECTED DRIVING CITATION, COURT FINDINGS, AND  
2 SENTENCES;

3 (II) FROM FORENSIC TOXICOLOGY LABORATORIES ONLY, AND FROM  
4 NO OTHER SOURCE, THE DIVISION, TO THE EXTENT POSSIBLE, SHALL  
5 COLLECT CASE-IDENTIFIER DATA, EVENT DATES AND TIMES, COLLECTION  
6 DATES AND TIMES, AND CONFIRMATORY LABORATORY VALUES FROM  
7 REPORTS CREATED FOR LAW ENFORCEMENT AGENCIES AND PROSECUTORS  
8 AND SHALL SPECIFY THE NAME OF EACH DRUG THAT WAS CONFIRMED AND  
9 ITS LABORATORY VALUE;

10 (III) FROM THE DEPARTMENT OF PUBLIC HEALTH AND  
11 ENVIRONMENT, THE DIVISION SHALL COLLECT EVIDENTIARY BREATH  
12 ALCOHOL TEST RESULTS, INCLUDING CASE-IDENTIFIER DATA, EVENT DATES  
13 AND TIMES, AND THE RESULTS OBTAINED ON EVIDENTIARY BREATH  
14 ALCOHOL TESTING DEVICES CERTIFIED BY THE DEPARTMENT OF PUBLIC  
15 HEALTH AND ENVIRONMENT; AND

16 (IV) FROM THE DIVISION OF PROBATION SERVICES, THE DIVISION  
17 SHALL COLLECT CASE-IDENTIFIER DATA AND, TO THE EXTENT POSSIBLE,  
18 DATA CONCERNING THE CLASSES AND TYPES OF DRUGS THAT WERE  
19 INVOLVED IN EACH SUBSTANCE-AFFECTED DRIVING INCIDENT.

20 (b) THE DATABASE COMPILED BY THE DIVISION CONTAINING  
21 PERSONAL IDENTIFYING INFORMATION RELATING TO THE TEST RESULTS OF  
22 PERSONS' BIOLOGICAL SAMPLES, AND ALL PERSONAL IDENTIFYING  
23 INFORMATION THEREOF, ARE NOT PUBLIC INFORMATION AND ARE NOT  
24 SUBJECT TO THE PROVISIONS OF THE "COLORADO OPEN RECORDS ACT",  
25 PART 2 OF ARTICLE 72 OF THIS TITLE 24. THE DIVISION SHALL DISCLOSE  
26 INFORMATION ONLY BY MEANS OF THE REPORT DESCRIBED IN SUBSECTION  
27 (1) OF THIS SECTION, WHICH MUST NOT INCLUDE ANY PERSONAL

1 IDENTIFYING INFORMATION.

2 (3) A PUBLIC OR PRIVATE LABORATORY CARRYING OUT ANALYSIS  
3 OF EVIDENTIARY SAMPLES THAT WERE TAKEN BY A LAW ENFORCEMENT  
4 AGENCY AND SUBMITTED TO THE LABORATORY PURSUANT TO SECTION  
5 42-4-1301.1 SHALL COLLECT AND SHARE TEST RESULTS WITH THE DIVISION  
6 FOR THE PURPOSES OF THIS SECTION. THE DIVISION SHALL NOT DISCLOSE  
7 ANY PERSONAL IDENTIFYING INFORMATION THAT IS INCLUDED IN SUCH  
8 TEST RESULTS.

9 (4) (a) THERE IS CREATED IN THE STATE TREASURY THE  
10 SUBSTANCE-AFFECTED DRIVING DATA-ANALYSIS CASH FUND, REFERRED  
11 TO IN THIS SECTION AS THE "FUND", TO INCLUDE MONEY COLLECTED FROM  
12 SURCHARGES ASSESSED PURSUANT TO SECTION 42-4-1307 (10)(e) AND  
13 ANY MONEY CREDITED TO THE FUND PURSUANT TO SUBSECTION (4)(b) OF  
14 THIS SECTION. THE MONEY IN THE FUND IS SUBJECT TO ANNUAL  
15 APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DIVISION FOR THE  
16 PURPOSE DESCRIBED IN SUBSECTION (1) OF THIS SECTION. ALL INTEREST  
17 DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND  
18 REMAINS IN THE FUND. ANY UNEXPENDED OR UNENCUMBERED MONEY  
19 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE  
20 FUND AND MAY NOT BE TRANSFERRED OR CREDITED TO THE GENERAL  
21 FUND OR ANOTHER FUND.

22 (b) THE DIVISION MAY ACCEPT ANY GIFTS, GRANTS, OR DONATIONS  
23 FROM ANY PRIVATE OR PUBLIC SOURCE ON BEHALF OF THE STATE FOR  
24 PURPOSES OF THIS SECTION. THE DIVISION SHALL TRANSMIT ALL PRIVATE  
25 AND PUBLIC MONEY RECEIVED THROUGH GRANTS, GIFTS, OR DONATIONS  
26 TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

27 (c) THE DIVISION MAY USE MONEY IN THE FUND TO REIMBURSE

1 AND PROVIDE ADVANCE PAYMENTS TO STATE, MUNICIPAL, AND PRIVATE  
2 AGENCIES AND LABORATORIES THAT APPLY TO THE DIVISION FOR PAYMENT  
3 OF COSTS THEY INCUR IN COMPLYING WITH THIS SECTION.

4 (5) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT  
5 DESCRIBED IN SUBSECTION (1) OF THIS SECTION IS NOT SUBJECT TO THE  
6 EXPIRATION DATE DESCRIBED IN SAID SECTION 24-1-136 (11)(a)(I).

7 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT REQUIRES  
8 OTHERWISE:

9 (a) "FORENSIC TOXICOLOGY LABORATORY" MEANS A FORENSIC  
10 TOXICOLOGY LABORATORY THAT IS CERTIFIED BY THE DEPARTMENT OF  
11 PUBLIC HEALTH AND ENVIRONMENT TO PERFORM TESTING OF SAMPLES  
12 COLLECTED FROM INDIVIDUALS SUSPECTED OF DUI, DUI PER SE, OR  
13 DWAI.

14 (b) "SUBSTANCE-AFFECTED DRIVING" MEANS DRIVING IN  
15 VIOLATION OF SECTION 42-4-1301 (1)(a), (1)(b), OR (2)(a); SECTION  
16 18-3-106 (1)(b); OR SECTION 18-3-205 (1)(b).

17 **SECTION 2.** In Colorado Revised Statutes, 42-4-1304, **amend**  
18 (7) as follows:

19 **42-4-1304. Samples of blood or other bodily substance - duties**  
20 **of department of public health and environment.** (7) The office of the  
21 highway safety coordinator, the department, ~~and~~ the Colorado state patrol,  
22 ~~shall~~ AND THE DIVISION OF CRIMINAL JUSTICE WITHIN THE DEPARTMENT OF  
23 PUBLIC SAFETY have access to the results of the tests of ~~such~~ samples  
24 taken as a result of a traffic crash for statistical analysis. The division of  
25 parks and wildlife ~~shall have~~ HAS access to the results of the tests of ~~such~~  
26 samples taken as a result of a boating accident for statistical analysis.

27 **SECTION 3.** In Colorado Revised Statutes, 42-4-1307, **add**

1 (10)(e) as follows:

2 **42-4-1307. Penalties for traffic offenses involving alcohol and**  
3 **drugs - legislative declaration - definitions - repeal. (10) Additional**  
4 **costs and surcharges.** In addition to the penalties prescribed in this  
5 section:

6 (e) PERSONS CONVICTED OF DUI, DUI PER SE, DWAI, VEHICULAR  
7 ASSAULT AS DESCRIBED IN SECTION 18-3-205 (1)(b), OR VEHICULAR  
8 HOMICIDE AS DESCRIBED IN SECTION 18-3-106 (1)(b) SHALL PAY A  
9 DATA-ANALYSIS SURCHARGE OF TWO DOLLARS TO BE TRANSMITTED TO  
10 THE STATE TREASURER, WHO SHALL DEPOSIT MONEY COLLECTED FOR THE  
11 SURCHARGE IN THE SUBSTANCE-AFFECTED DRIVING DATA-ANALYSIS CASH  
12 FUND CREATED IN SECTION 24-33.5-520. EXCEPT IN THE CASE OF AN  
13 INDIGENT DEFENDANT, THE COURT HAS NO DISCRETION TO WAIVE THIS  
14 SURCHARGE.

15 **SECTION 4. Appropriation.** (1) For the 2017-18 state fiscal  
16 year, \$20,352 is appropriated to the department of public safety. This  
17 appropriation is from the substance-affected driving data-analysis cash  
18 fund created in section 24-33.5-520 (4)(a), C.R.S. To implement this act,  
19 the department may use this appropriation as follows:

20 (a) \$15,000 for use by the division of criminal justice for  
21 payments to private laboratories; and

22 (b) \$5,352 for transfer to the department of public health and  
23 environment.

24 (2) For the 2017-18 state fiscal year, \$5,352 is appropriated to the  
25 department of public health and environment and is based on an  
26 assumption that the department will require an additional 0.1 FTE. This  
27 appropriation is from reappropriated funds received from the department

1 of public safety under subsection (1)(b) of this section. To implement this  
2 act, the department may use this appropriation to provide breath alcohol  
3 test results to the department of public safety.

4           **SECTION 5. Act subject to petition - effective date.** This act  
5 takes effect at 12:01 a.m. on the day following the expiration of the  
6 ninety-day period after final adjournment of the general assembly (August  
7 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a  
8 referendum petition is filed pursuant to section 1 (3) of article V of the  
9 state constitution against this act or an item, section, or part of this act  
10 within such period, then the act, item, section, or part will not take effect  
11 unless approved by the people at the general election to be held in  
12 November 2018 and, in such case, will take effect on the date of the  
13 official declaration of the vote thereon by the governor.