

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-1090.01 Richard Sweetman x4333

HOUSE BILL 17-1315

HOUSE SPONSORSHIP

Singer and Lawrence,

SENATE SPONSORSHIP

Gardner and Fields,

House Committees

Judiciary
Finance
Appropriations

Senate Committees

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.**

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.*

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.

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 OR BEFORE MARCH 1, 2018, AND ON OR BEFORE MARCH 1 EACH YEAR
7 THEREAFTER, THE DIVISION SHALL SUBMIT A REPORT TO THE JUDICIARY
8 COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, OR TO ANY
9 SUCCESSOR COMMITTEES, THAT INCLUDES, TO THE EXTENT POSSIBLE, THE
10 FOLLOWING INFORMATION:

11 (a) THE TOTAL NUMBER OF CITATIONS MADE FOR SUSPECTED
12 SUBSTANCE-AFFECTED DRIVING VIOLATIONS DURING THE REPORTING
13 PERIOD;

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

20 (c) OF THE FILED CASES, HOW MANY RESULTED IN AT LEAST ONE

1 CONVICTION FOR SUBSTANCE-AFFECTED DRIVING;

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

7 (e) THE TOTAL NUMBER OF DUI AND DWAI CASES DURING THE
8 REPORTING PERIOD THAT INVOLVED:

9 (I) ALCOHOL;

10 (II) MARIJUANA;

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

13 (IV) OTHER DRUGS; AND

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

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

22 (I) FROM THE STATE JUDICIAL BRANCH, THE DIVISION SHALL
23 COLLECT CASE-IDENTIFIER DATA, EVENT DATA, FILING DATES, DATA
24 IDENTIFYING LAW ENFORCEMENT AGENCIES, DEMOGRAPHIC DATA
25 RELATING TO EACH DEFENDANT, DATA INDICATING THE CAUSE OF EACH
26 SUBSTANCE-AFFECTED DRIVING CITATION, COURT FINDINGS, AND
27 SENTENCES;

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

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

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

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

27 (3) A PUBLIC OR PRIVATE LABORATORY CARRYING OUT ANALYSIS

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

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

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

25 (c) THE DIVISION MAY USE MONEY IN THE FUND TO REIMBURSE
26 AND PROVIDE ADVANCE PAYMENTS TO STATE, MUNICIPAL, AND PRIVATE
27 AGENCIES AND LABORATORIES THAT APPLY TO THE DIVISION FOR PAYMENT

1 OF COSTS THEY INCUR IN COMPLYING WITH THIS SECTION.

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

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

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

12 (b) "REPORTING PERIOD" MEANS THE CALENDAR YEAR ENDING
13 FOURTEEN MONTHS BEFORE THE MARCH 1 DUE DATE OF THE REPORT.

14 (c) "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.