

CHAPTER 208

**MOTOR VEHICLES AND TRAFFIC REGULATION**

**HOUSE BILL 17-1162**

BY REPRESENTATIVE(S) Gray, Becker K., Benavidez, Exum, Foote, Hansen, Herod, Kennedy, Kraft-Tharp, Lebsock, Lee, Lontine, Pettersen, Singer, Weissman, Young, Duran; also SENATOR(S) Gardner, Kefalas.

**AN ACT**

**CONCERNING ACTION THAT CAN BE TAKEN AGAINST AN INDIVIDUAL BASED ON THE INDIVIDUAL'S FAILURE TO PAY FOR A TRAFFIC VIOLATION, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1.** In Colorado Revised Statutes, 42-2-138, **amend** (1)(a) and (3); and **add** (1.5) and (2.5) as follows:

**42-2-138. Driving under restraint - penalty.** (1) (a) EXCEPT AS PROVIDED IN SUBSECTION (1.5) OF THIS SECTION, 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, or UDD is guilty of a misdemeanor. A court may sentence 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.

(1.5) 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 AN OUTSTANDING JUDGMENT IS GUILTY OF A CLASS A TRAFFIC INFRACTION AS DEFINED IN SECTION 42-4-1701 (3).

(2.5) A MUNICIPALITY MAY ENFORCE VIOLATIONS OF SUBSECTION (1.5) OF THIS SECTION IN MUNICIPAL COURT. A MUNICIPAL COURT SHALL NOT WAIVE OR REDUCE THE THREE-POINT PENALTY.

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

(3) The department, upon receiving a record of conviction or accident report of any person for an offense committed while operating a motor vehicle, shall immediately examine its files to determine if the license or operating privilege of such person has been restrained. If it appears that said offense was committed while the license or operating privilege of such person was restrained FOR A REASON OTHER THAN AN OUTSTANDING JUDGMENT, except as permitted by section 42-2-132.5, the department shall not issue a new license or grant any driving privileges for an additional period of one year after the date such person would otherwise have been entitled to apply for a new license or for reinstatement of a suspended license and shall notify the district attorney in the county where such violation occurred and request prosecution of such person under subsection (1) of this section.

**SECTION 2.** In Colorado Revised Statutes, 42-2-127, **add** (5)(mm) as follows:

**42-2-127. Authority to suspend license - to deny license - type of conviction - points.** (5) Point system schedule:

| Type of conviction   | Points |
|--|--------|
| (mm) DRIVING UNDER RESTRAINT IN VIOLATION OF SECTION 42-2-138 (1.5)..... | 3      |

**SECTION 3.** In Colorado Revised Statutes, 42-2-202, **amend** (2)(a)(III) as follows:

**42-2-202. Habitual offenders - frequency and type of violations.** (2) (a) An habitual offender is a person having three or more convictions of any of the following separate and distinct offenses arising out of separate acts committed within a period of seven years:

(III) Driving a motor vehicle upon a highway while such person's license or privilege to drive a motor vehicle has been denied, suspended, or revoked, in violation of section ~~42-2-138~~ 42-2-138 (1);

**SECTION 4. Appropriation.** For the 2017-18 state fiscal year, \$108,000 is appropriated to the department of revenue. This appropriation is from the licensing services cash fund created in section 42-2-114.5 (1), C.R.S. To implement this act, the department may use this appropriation for DMV IT system (DRIVES) support.

**SECTION 5. Act subject to petition - effective date - applicability.** (1) 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 9, 2017, if adjournment sine die is on May 10, 2017); 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 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to offenses committed on or after the applicable effective date of this act.

Approved: May 18, 2017