

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

ENGROSSED

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

LLS NO. 21-0100.02 Jery Payne x2157

SENATE BILL 21-040

SENATE SPONSORSHIP

Scott,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE USE OF A PERSON'S DRIVER'S HISTORY RECORD TO**
102 **MAKE DECISIONS THAT CONCERN THE PRACTICE OF AN**
103 **OCCUPATION.**

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 limits the time the appropriate regulatory authority in the department of revenue and the department of regulatory agencies may use a driver's history to make certain decisions about a license, permit, certification, or registration that is necessary to practice an occupation or profession or to operate a business.

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

SENATE
Amended 2nd Reading
March 5, 2021

The decisions that are limited by the bill concern:

- Issuing, renewing, reinstating, or reactivating the license, permit, certification, or registration; and
- Taking disciplinary action against the holder of the license, permit, certification, or registration.

The events in a driver's history used to make these decisions may be used only if the event occurred within 3 years before:

- The person applied for the license, permit, certification, or registration; or
- The act upon which the discipline is based.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-20-102, **add** (7.5)
3 as follows:

4 **12-20-102. Definitions.** As used in this title 12, unless the context
5 otherwise requires:

6 (7.5) (a) "DRIVER'S HISTORY" MEANS A DRIVER'S HISTORY RECORD
7 MADE AND MAINTAINED IN ACCORDANCE WITH SECTION 42-2-121 (2).

8 (b) "DRIVER'S HISTORY" DOES NOT INCLUDE A MISDEMEANOR OR
9 FELONY CONVICTION, NOTWITHSTANDING THAT THE CONVICTION IS
10 INCLUDED WITHIN THE DRIVER'S HISTORY RECORD MADE AND MAINTAINED
11 IN ACCORDANCE WITH SECTION 42-2-121 (2).

12 **SECTION 2.** In Colorado Revised Statutes, 12-20-202, **add** (5.5)
13 as follows:

14 **12-20-202. Licenses, certifications, and registrations - renewal**
15 **- reinstatement - fees - occupational credential portability program**
16 **- temporary authority for military spouses - definitions - exceptions**
17 **for military personnel - rules - consideration of criminal convictions**
18 **or driver's history - executive director authority. (5.5) Driver's**
19 **history.** A REGULATOR SHALL NOT CONSIDER AN EVENT IN AN
20 APPLICANT'S DRIVER'S HISTORY WHEN DETERMINING WHETHER TO ISSUE

1 TO THE APPLICANT A NEW, RENEWAL, REACTIVATED, OR REINSTATED
2 LICENSE, CERTIFICATION, OR REGISTRATION UNLESS:

3 (a) THE EVENT IS RELEVANT TO THE ETHICS OF OR PERFORMANCE
4 OF THE PROFESSION OR OCCUPATION THAT IS THE SUBJECT OF THE
5 APPLICATION; AND

6 (b) (I) THE OPERATION OF A MOTOR VEHICLE IS A DUTY OF THE
7 PROFESSION OR OCCUPATION THAT IS THE SUBJECT OF THE APPLICATION;

8 (II) THE EVENT IS A PART OF A PATTERN OF BEHAVIOR THAT IS
9 RELEVANT TO THE ETHICS OF OR PERFORMANCE OF THE PROFESSION OR
10 OCCUPATION THAT IS THE SUBJECT OF THE APPLICATION; OR

11 (III) THE EVENT OCCURRED WITHIN THREE YEARS BEFORE THE
12 DATE THAT THE APPLICANT SUBMITTED THE APPLICATION TO THE
13 REGULATOR.

14 **SECTION 3.** In Colorado Revised Statutes, 12-20-403, **add** (4)
15 as follows:

16 **12-20-403. Disciplinary procedures - investigations - hearings**
17 **- oaths - witness statements - subpoenas - appointment of**
18 **administrative law judge - driver's history.** (4) (a) UNLESS
19 SUBSECTION (4)(b) OF THIS SECTION APPLIES, A REGULATOR SHALL NOT
20 CONSIDER AN EVENT WITHIN THE DRIVER'S HISTORY OF A LICENSEE,
21 CERTIFICANT, OR REGISTRANT WHEN DETERMINING:

22 (I) WHETHER TO IMPOSE DISCIPLINE;

23 (II) THE TYPE OF DISCIPLINE TO IMPOSE; OR

24 (III) THE SEVERITY OF DISCIPLINE TO IMPOSE.

25 (b) A REGULATOR MAY CONSIDER AN EVENT WITHIN A DRIVER'S
26 HISTORY IF:

27 (I) THE EVENT IS RELEVANT TO THE ETHICS OF OR PERFORMANCE

1 OF THE PROFESSION OR OCCUPATION FOR WHICH THE LICENSEE,
2 CERTIFICANT, OR REGISTRANT IS LICENSED, CERTIFIED, OR REGISTERED;

3 AND

4 (II) (A) THE OPERATION OF A MOTOR VEHICLE IS A DUTY OF THE
5 PROFESSION OR OCCUPATION FOR WHICH THE LICENSEE, CERTIFICANT, OR
6 REGISTRANT IS LICENSED, CERTIFIED, OR REGISTERED;

7 (B) THE EVENT IS A PART OF A PATTERN OF BEHAVIOR THAT IS
8 RELEVANT TO THE ETHICS OF OR PERFORMANCE OF THE PROFESSION OR
9 OCCUPATION FOR WHICH THE LICENSEE, CERTIFICANT, OR REGISTRANT IS
10 LICENSED, CERTIFIED, OR REGISTERED; OR

11 (C) THE EVENT OCCURRED WITHIN THREE YEARS BEFORE THE ACT
12 UPON WHICH THE DISCIPLINE IS BASED.

13 **SECTION 4.** In Colorado Revised Statutes, 44-1-103, **add** (1.5)
14 as follows:

15 **44-1-103. Definitions.** As used in this title 44, unless the context
16 otherwise requires:

17 (1.5) (a) "DRIVER'S HISTORY" MEANS A DRIVER'S HISTORY RECORD
18 MADE AND MAINTAINED IN ACCORDANCE WITH SECTION 42-2-121 (2).

19 (b) "DRIVER'S HISTORY" DOES NOT INCLUDE A MISDEMEANOR OR
20 FELONY CONVICTION, NOTWITHSTANDING THAT THE CONVICTION IS
21 INCLUDED WITHIN THE DRIVER'S HISTORY RECORD MADE AND MAINTAINED
22 IN ACCORDANCE WITH SECTION 42-2-121 (2).

23 **SECTION 5.** In Colorado Revised Statutes, **add** 44-1-104 as
24 follows:

25 **44-1-104. Use of driver's history for professional licensing,**
26 **permit, or registration decisions.** (1) WHEN A PERSON APPLIES FOR A
27 LICENSE, PERMIT, OR REGISTRATION UNDER THIS TITLE 44, THE

1 DEPARTMENT SHALL NOT CONSIDER AN EVENT IN THE APPLICANT'S
2 DRIVER'S HISTORY WHEN DETERMINING WHETHER TO ISSUE TO THE
3 APPLICANT A NEW, RENEWAL, OR REINSTATED LICENSE, PERMIT, OR
4 REGISTRATION UNLESS:

5 (a) THE EVENT IS RELEVANT TO THE ETHICS OF OR PERFORMANCE
6 OF THE PROFESSION OR OCCUPATION THAT IS THE SUBJECT OF THE
7 APPLICATION; AND

8 (b) (I) THE OPERATION OF A MOTOR VEHICLE IS A DUTY OF THE
9 PROFESSION OR OCCUPATION THAT IS THE SUBJECT OF THE APPLICATION;

10 (II) THE EVENT IS A PART OF A PATTERN OF BEHAVIOR THAT IS
11 RELEVANT TO THE ETHICS OF OR PERFORMANCE OF THE PROFESSION OR
12 OCCUPATION THAT IS THE SUBJECT OF THE APPLICATION; OR

13 (III) THE EVENT OCCURRED WITHIN THREE YEARS BEFORE THE
14 DATE THAT THE APPLICANT SUBMITTED THE APPLICATION TO THE
15 DEPARTMENT.

16 (2) (a) UNLESS SUBSECTION (2)(b) OF THIS SECTION APPLIES, THE
17 DEPARTMENT SHALL NOT CONSIDER AN EVENT WITHIN THE DRIVER'S
18 HISTORY OF A LICENSE HOLDER, PERMIT HOLDER, OR REGISTRANT WHEN
19 DETERMINING:

20 (I) WHETHER TO IMPOSE DISCIPLINE;

21 (II) THE TYPE OF DISCIPLINE TO IMPOSE; OR

22 (III) THE SEVERITY OF DISCIPLINE TO IMPOSE.

23 (b) THE DEPARTMENT MAY CONSIDER AN EVENT WITHIN A
24 DRIVER'S HISTORY IF:

25 (I) THE EVENT IS RELEVANT TO THE ETHICS OF OR PERFORMANCE
26 OF THE PROFESSION OR OCCUPATION FOR WHICH THE LICENSE HOLDER,
27 PERMIT HOLDER, OR REGISTRANT IS LICENSED, PERMITTED, OR

1 REGISTERED; AND

2 (II) (A) THE OPERATION OF A MOTOR VEHICLE IS A DUTY OF THE
3 PROFESSION OR OCCUPATION FOR WHICH THE LICENSE HOLDER, PERMIT
4 HOLDER, OR REGISTRANT IS LICENSED, PERMITTED, OR REGISTERED;

5 (B) THE EVENT IS A PART OF A PATTERN OF BEHAVIOR THAT IS
6 RELEVANT TO THE ETHICS OF OR PERFORMANCE OF THE PROFESSION OR
7 OCCUPATION FOR WHICH THE LICENSE HOLDER, PERMIT HOLDER, OR
8 REGISTRANT IS LICENSED, PERMITTED, OR REGISTERED; OR

9 (C) THE EVENT OCCURRED WITHIN THREE YEARS BEFORE THE ACT
10 UPON WHICH THE DISCIPLINE IS BASED.

11 **SECTION 6. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly; except
14 that, if a referendum petition is filed pursuant to section 1 (3) of article V
15 of the state constitution against this act or an item, section, or part of this
16 act within such period, then the act, item, section, or part will not take
17 effect unless approved by the people at the general election to be held in
18 November 2022 and, in such case, will take effect on the date of the
19 official declaration of the vote thereon by the governor.