

HB1321_L.004

HOUSE COMMITTEE OF REFERENCE REPORT

 Chairman of Committee

 Date
Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB09-1321 be amended as follows:

1 Amend printed bill, page 7, after line 26, insert the following:

2 "SECTION 4. Title 18, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 25**

5 **Juvenile Confinement Cost and Surcharge**

6 **18-25-101. Juvenile confinement cost and surcharge.** (1)(a) A
7 COST OF ONE DOLLAR AND FIFTY CENTS IS HEREBY LEVIED ON EACH
8 CRIMINAL ACTION RESULTING IN A CONVICTION OR IN A DEFERRED
9 JUDGMENT AND SENTENCE, AS PROVIDED IN SECTION 18-1.3-102 FOR A
10 FELONY, A MISDEMEANOR, OR MISDEMEANOR TRAFFIC OFFENSE, CHARGED
11 PURSUANT TO STATE STATUTE. THE DEFENDANT SHALL PAY THE COSTS TO
12 THE CLERK OF THE COURT. EACH CLERK SHALL TRANSMIT THE MONEYS TO
13 THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE GENERAL
14 FUND.

15 (b) THE PROVISIONS OF SECTIONS 18-1.3-701 AND 18-1.3-702
16 SHALL APPLY AS TO THE COLLECTION OF COSTS LEVIED PURSUANT TO THIS
17 SUBSECTION (1).

18 (2) A SURCHARGE OF ONE DOLLAR AND FIFTY CENTS IS HEREBY
19 LEVIED AGAINST EACH PENALTY ASSESSMENT NOTICE ISSUED PURSUANT
20 TO SECTION 42-4-1701, C.R.S., FOR A MISDEMEANOR OR A CLASS 1 OR
21 CLASS 2 MISDEMEANOR TRAFFIC OFFENSE UNDER STATE STATUTE THAT



1 RESULTS IN PAYMENT OF THE PENALTY ASSESSMENT WITHOUT THE
2 COMMENCEMENT OF A CRIMINAL ACTION. ALL MONEYS COLLECTED BY
3 THE DEPARTMENT OF REVENUE PURSUANT TO THIS SUBSECTION (2) SHALL
4 BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE
5 SAME TO THE GENERAL FUND.

6 (3) A COST OF ONE DOLLAR AND FIFTY CENTS IS HEREBY LEVIED
7 AGAINST EACH CIVIL ACTION RESULTING IN AN ADMISSION OF LIABILITY OR
8 A JUDGMENT AGAINST THE DEFENDANT FOR A CLASS A OR CLASS B
9 TRAFFIC INFRACTION CHARGED PURSUANT TO STATE STATUTE. THE
10 DEFENDANT SHALL PAY THE COST TO THE CLERK OF THE COURT. EACH
11 CLERK SHALL TRANSMIT THE MONEYS TO THE STATE TREASURER, WHO
12 SHALL CREDIT THE SAME TO THE GENERAL FUND.

13 (4) A SURCHARGE OF ONE DOLLAR AND FIFTY CENTS IS HEREBY
14 LEVIED AGAINST EACH PENALTY ASSESSMENT NOTICE ISSUED PURSUANT
15 TO SECTION 42-4-1701, C.R.S., FOR A CLASS A OR CLASS B TRAFFIC
16 INFRACTION UNDER STATE STATUTE THAT RESULTS IN PAYMENT OF THE
17 PENALTY ASSESSMENT WITHOUT THE COMMENCEMENT OF A CIVIL ACTION.
18 ALL MONEYS COLLECTED BY THE DEPARTMENT OF REVENUE PURSUANT TO
19 THIS SUBSECTION (4) SHALL BE TRANSMITTED TO THE STATE TREASURER,
20 WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

21 (5) A SURCHARGE OF ONE DOLLAR AND FIFTY CENTS IS HEREBY
22 LEVIED AGAINST EACH PENALTY ASSESSMENT ISSUED PURSUANT TO
23 SECTION 33-6-104, C.R.S., THAT RESULTS IN PAYMENT OF THE PENALTY
24 ASSESSMENT WITHOUT THE COMMENCEMENT OF A CRIMINAL ACTION. ALL
25 MONEYS COLLECTED BY THE DIVISION OF WILDLIFE IN THE DEPARTMENT
26 OF NATURAL RESOURCES PURSUANT TO THIS SUBSECTION (5) SHALL BE
27 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
28 TO THE GENERAL FUND.

29 (6) A SURCHARGE OF ONE DOLLAR AND FIFTY CENTS IS HEREBY
30 LEVIED AGAINST EACH PENALTY ASSESSMENT ISSUED PURSUANT TO
31 SECTION 33-15-102, C.R.S., THAT RESULTS IN PAYMENT OF THE PENALTY
32 ASSESSMENT WITHOUT THE COMMENCEMENT OF A CRIMINAL ACTION. ALL
33 MONEYS COLLECTED BY THE DIVISION OF PARKS AND OUTDOOR
34 RECREATION IN THE DEPARTMENT OF NATURAL RESOURCES PURSUANT TO
35 THIS SUBSECTION (6) SHALL BE TRANSMITTED TO THE STATE TREASURER,
36 WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

1 (7) THE COURT MAY WAIVE A COST OR SURCHARGE LEVIED
2 PURSUANT TO THIS SECTION IF THE COURT DETERMINES THE DEFENDANT
3 IS INDIGENT.

4 (8) THE MONEY TRANSFERRED TO THE GENERAL FUND PURSUANT
5 TO THIS SECTION SHALL BE USED TO FOR THE COST OF IMPLEMENTING
6 SECTION 19-2-508, C.R.S.

7 SECTION 5. 42-4-1701, Colorado Revised Statutes, is amended
8 BY THE ADDITION OF A NEW SUBSECTION to read:

9 **42-4-1701. Traffic offenses and infractions classified -**
10 **penalties - penalty and surcharge schedule.** (8) THE SURCHARGES
11 DESCRIBED IN SUBSECTIONS (4) TO (6) OF THIS SECTION ARE SEPARATE
12 AND DISTINCT FROM A SURCHARGE LEVIED PURSUANT TO SECTION
13 18-25-101, C.R.S.

14 SECTION 6. 42-4-1707 (3) (a) and (6), Colorado Revised
15 Statutes, are amended to read:

16 **42-4-1707. Summons and complaint or penalty assessment**
17 **notice for misdemeanors, petty offenses, and misdemeanor traffic**
18 **offenses - release - registration.** (3) (a) Whenever a penalty assessment
19 notice for a misdemeanor, petty offense, or misdemeanor traffic offense
20 is issued pursuant to section 42-4-1701 (5) (a), the penalty assessment
21 notice ~~which~~ THAT shall be served upon the defendant by the peace
22 officer shall contain the name and address of the defendant, the license
23 number of the vehicle involved, if any, the number of the defendant's
24 driver's license, if any, a citation of the statute alleged to have been
25 violated, a brief description of the offense, the date and approximate
26 location thereof, the amount of the penalty prescribed for the offense, the
27 amount of the ~~surcharge~~ SURCHARGES thereon pursuant to sections
28 ~~24-4.1-119 (1) (f) and 24-4.2-104 (1)~~ 18-25-101, 24-4.1-119 (1) (f), AND
29 24-4.2-104 (1), C.R.S., the number of points, if any, prescribed for the
30 offense pursuant to section 42-2-127, and the date the penalty assessment
31 notice is served on the defendant; shall direct the defendant to appear in
32 a specified county court at a specified time and place in the event the
33 penalty and ~~surcharge~~ SURCHARGES thereon are not paid; shall be signed
34 by the peace officer; and shall contain a place for the defendant to elect
35 to execute a signed acknowledgment of guilt and an agreement to pay the
36 penalty prescribed and ~~surcharge~~ SURCHARGES thereon within twenty

1 days, as well as such other information as may be required by law to
2 constitute the penalty assessment notice to be a summons and complaint,
3 should the prescribed penalty and surcharge SURCHARGES thereon not be
4 paid within the time allowed in section 42-4-1701.

5 (6) If the defendant is otherwise eligible to be issued a summons
6 and complaint or a penalty assessment notice for a violation of this title
7 punishable as a misdemeanor, petty offense, or misdemeanor traffic
8 offense and if the defendant does not possess a valid Colorado driver's
9 license, the defendant, in order to secure release, as provided in this
10 section, must either consent to be taken by the officer to the nearest
11 mailbox and to mail the amount of the penalty and surcharge
12 SURCHARGES thereon to the department or must execute a promise to
13 appear in court on the penalty assessment notice or on the summons and
14 complaint. If the defendant does possess a valid Colorado driver's
15 license, the defendant shall not be required to execute a promise to appear
16 on the penalty assessment notice or on the summons and complaint. The
17 peace officer shall not require any person who is eligible to be issued a
18 summons and complaint or a penalty assessment notice for a violation of
19 this title to produce or divulge such person's social security number.

20 SECTION 7. 42-4-1709 (1), Colorado Revised Statutes, is
21 amended to read:

22 **42-4-1709. Penalty assessment notice for traffic infractions -**
23 **violations of provisions by officer - driver's license.** (1) Whenever a
24 penalty assessment notice for a traffic infraction is issued pursuant to
25 section 42-4-1701 (5) (a), the penalty assessment notice ~~which~~ THAT shall
26 be served upon the defendant by the peace officer shall contain the name
27 and address of the defendant, the license number of the vehicle involved,
28 if any, the number of the defendant's driver's license, if any, a citation of
29 the statute alleged to have been violated, a brief description of the traffic
30 infraction, the date and approximate location thereof, the amount of the
31 penalty prescribed for the traffic infraction, the amount of the surcharge
32 SURCHARGES thereon pursuant to sections ~~24-4.1-119 (1) (f) and~~
33 ~~24-4.2-104(1)~~ 18-25-101, 24-4.1-119(1) (f), AND 24-4.2-104(1), C.R.S.,
34 the number of points, if any, prescribed for the traffic infraction pursuant
35 to section 42-2-127, and the date the penalty assessment notice is served
36 on the defendant; shall direct the defendant to appear in a specified
37 county court at a specified time and place in the event the penalty and
38 surcharge SURCHARGES thereon is ARE not paid; shall be signed by the



1 peace officer; and shall contain a place for the defendant to elect to
2 execute a signed acknowledgment of liability and an agreement to pay the
3 penalty prescribed and surcharge SURCHARGES thereon within twenty
4 days, as well as such other information as may be required by law to
5 constitute the penalty assessment notice to be a summons and complaint,
6 should the prescribed penalty and surcharge SURCHARGES thereon not be
7 paid within the time allowed in section 42-4-1701.

8 **SECTION 8.** 33-6-104, Colorado Revised Statutes, is amended
9 to read:

10 **33-6-104. Imposition of penalty - procedures.** (1) Any person
11 who violates any of the provisions of articles 1 to 6 of this title or any rule
12 or regulation of the commission that does not have a specific penalty
13 listed is guilty of a misdemeanor and, upon conviction thereof, shall be
14 punished by a fine of fifty dollars, A SURCHARGE AS DESCRIBED IN
15 SECTION 18-25-101, C.R.S., and an assessment of five license suspension
16 points.

17 (2) At the time that any person is charged with violating any
18 misdemeanor provisions of articles 1 to 6 of this title or any rule or
19 regulation of the commission, the officer shall issue a summons and
20 complaint to the alleged offender or, in the case of a violation for which
21 a fine of a fixed amount is prescribed, may give the alleged offender an
22 opportunity to voluntarily pay the fine AND SURCHARGE in the form of a
23 penalty assessment. Penalty assessments shall not be issued for violations
24 for which minimum and maximum fines have been established. The
25 penalty assessment notice given to the alleged offender shall contain the
26 information required in and be in the form of a summons and complaint
27 and shall specify in dollars the amount of the penalty to be assessed for
28 the alleged offense and the amount of the surcharge SURCHARGES to be
29 collected pursuant to ~~section 24-4.2-104 (1)~~ SECTIONS 18-25-101 AND
30 24-4.2-104 (1), C.R.S. If the alleged offender accepts such notice and
31 pays the fine and the surcharge SURCHARGES entered thereon to the
32 division within fifteen days of issuance of the notice, such acceptance and
33 payment shall constitute an acknowledgment of guilt by such person of
34 the violation set forth in the penalty assessment notice. Any person who
35 accepts a penalty assessment notice but who does not furnish satisfactory
36 evidence of identity or who the officer has reasonable and probable
37 grounds to believe will disregard a written promise to pay the specified
38 fine and surcharge SURCHARGES may be taken by the officer to the nearest

1 known post-office facility and BE required to remit the amount of the
2 specified fine and surcharge SURCHARGES to the division immediately by
3 mail in United States currency or other legal tender by money order or
4 personal check. Refusal or inability to remit the specified fine and
5 surcharge SURCHARGES by mail when required shall constitute a refusal
6 to accept a penalty assessment notice. The officer shall advise the person
7 arrested of the license suspension points to be assessed in accordance
8 with section 33-6-106. Checks tendered by the violator to and accepted
9 by the division and on which payment is received by the division shall be
10 deemed sufficient receipt. If the fine and surcharge SURCHARGES are not
11 so paid, then the officer who issued the penalty assessment notice shall
12 docket the summons and complaint with a court of competent jurisdiction
13 for appearance by the person to answer the charges therein contained at
14 such time and place as is specified in the summons and complaint.

15 **SECTION 9.** 33-15-102 (2), Colorado Revised Statutes, is
16 amended to read:

17 **33-15-102. Imposition of penalty - procedures.** (2) At the time
18 that any person is charged with violating any petty offense or
19 misdemeanor provisions of articles 10 to 15 or 32 of this title or any rule
20 of the board, the officer shall issue a summons and complaint to the
21 alleged offender or, in the case of a violation for which a fine of a fixed
22 amount is prescribed, may give the alleged offender an opportunity to
23 voluntarily pay the fine AND SURCHARGE in the form of a penalty
24 assessment. Penalty assessments shall not be issued for violations for
25 which minimum and maximum fines have been established. The penalty
26 assessment notice given to the alleged offender shall contain the
27 information required in and be in the form of a summons and complaint
28 and shall specify in dollars the amount of the penalty to be assessed for
29 the alleged offense AND THE AMOUNT OF THE SURCHARGE TO BE
30 COLLECTED PURSUANT TO SECTION 18-25-101, C.R.S. If the alleged
31 offender accepts such notice and pays the fine AND SURCHARGE entered
32 thereon to the division within twenty days of issuance of the notice, such
33 acceptance and payment shall constitute an acknowledgment of guilt by
34 such person of the violation set forth in the penalty assessment notice.
35 Any person who accepts a penalty assessment notice but who does not
36 furnish satisfactory evidence of identity or who the officer has reasonable
37 and probable grounds to believe will disregard a written promise to pay
38 the specified fine AND SURCHARGE may be taken by the officer to the
39 nearest known post-office facility and BE required to remit the amount of



1 the specified fine AND SURCHARGE to the division immediately by mail in
2 United States currency or other legal tender or by money order or
3 personal check. Refusal or inability to remit the specified fine AND
4 SURCHARGE by mail when required shall constitute a refusal to accept a
5 penalty assessment notice. Checks tendered by the violator to and
6 accepted by the division and on which payment is received by the division
7 shall be deemed sufficient receipt. If the fine is AND SURCHARGE ARE not
8 so paid, then the officer who issued the penalty assessment notice shall
9 docket the summons and complaint with a court of competent jurisdiction
10 for appearance by the person to answer the charges therein contained at
11 such time and place as is specified in the summons and complaint."

12 Renumber succeeding section accordingly.

** ** ** ** **



