

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0277.02 Jery Payne

SENATE BILL 09-146

SENATE SPONSORSHIP

Schultheis,

HOUSE SPONSORSHIP

Lambert,

Senate Committees
State, Veterans & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ENFORCEMENT OF THE TRAFFIC LAWS TO PREVENT**
102 **UNLICENSED DRIVERS FROM OPERATING MOTOR VEHICLES UPON**
103 **THE HIGHWAYS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Prohibits an owner of a motor vehicle from authorizing an unlicensed driver to operate the vehicle. Requires a nonresident who operates a motor vehicle pursuant to a license from another country to have in his or her immediate possession a passport or document that authorizes travel in the United States.

Provides for a 30-day impound or immobilization for motor

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.

vehicles operated without a valid driver's license or minor driver's license. Requires notice of impoundment or immobilization be given to the owner and any lienholder of the motor vehicle. Sets standards and timelines for the notice. Authorizes the owner of a motor vehicle to retrieve the vehicle if the owner did not knowingly authorize the operation of the vehicle. Authorizes the recovery of impound fees. Authorizes a lienholder to retrieve the motor vehicle upon payment of fees. Prohibits releasing the motor vehicle if the person who retrieves the vehicle is not towing the vehicle or does not hold a valid driver's license or minor driver's license and the vehicle is not registered or exempted from registration.

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

2 **SECTION 1.** 42-2-101 (1), Colorado Revised Statutes, is
3 amended to read:

4 **42-2-101. Licenses for drivers required.** (1) (a) Except as
5 otherwise provided in part 4 of this article for commercial drivers AND
6 SECTION 42-2-102, no person shall drive ~~any~~ A motor vehicle upon a
7 ~~highway in this state~~ ROADWAY unless ~~such~~ THE person has been issued
8 a currently valid driver's ~~or~~ LICENSE, minor driver's license, or ~~an~~
9 instruction permit by the department under this article.

10 (b) EXCEPT AS OTHERWISE PROVIDED IN PART 4 OF THIS ARTICLE
11 FOR COMMERCIAL DRIVERS AND SECTION 42-2-102, NO OWNER OF A
12 MOTOR VEHICLE SHALL AUTHORIZE A PERSON TO OPERATE THE MOTOR
13 VEHICLE UPON A ROADWAY UNLESS THE OPERATOR HAS BEEN ISSUED A
14 CURRENTLY VALID DRIVER'S LICENSE, MINOR DRIVER'S LICENSE, OR
15 INSTRUCTION PERMIT BY THE DEPARTMENT UNDER THIS ARTICLE.

16 **SECTION 2.** The introductory portion to 42-2-102 (1) and
17 42-2-102 (1) (c), Colorado Revised Statutes, are amended to read:

18 **42-2-102. Persons exempt from license.** (1) The following
19 persons need not obtain a Colorado driver's license TO OPERATE A MOTOR

1 VEHICLE:

2 (c) ~~Any~~ A nonresident who is at least sixteen years of age and
3 who has in his or her immediate possession a valid driver's license issued
4 to ~~such~~ THE nonresident by his or her state or country of residence AND,
5 IF THE NONRESIDENT IS DOMICILED IN ANOTHER COUNTRY, THE
6 NONRESIDENT HAS IN HIS OR HER IMMEDIATE POSSESSION A PASSPORT OR
7 DOCUMENT THAT AUTHORIZES PRESENCE IN THE UNITED STATES, ISSUED
8 BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES. A
9 nonresident who is at least sixteen years of age and whose state or country
10 of residence does not require the licensing of drivers may operate a motor
11 vehicle as a driver for not more than ninety days in any calendar year, if
12 ~~said~~ THE nonresident is the owner of the vehicle driven and if the motor
13 vehicle so operated is duly registered in ~~such~~ THE nonresident's state or
14 country of residence and ~~such~~ THE nonresident has in his or her
15 immediate possession a registration card evidencing such ownership and
16 registration in his or her own state or country AND, IF THE NONRESIDENT
17 IS DOMICILED IN ANOTHER COUNTRY, THE NONRESIDENT HAS IN HIS OR HER
18 IMMEDIATE POSSESSION A PASSPORT OR DOCUMENT THAT AUTHORIZES
19 PRESENCE IN THE UNITED STATES, ISSUED BY THE UNITED STATES
20 CITIZENSHIP AND IMMIGRATION SERVICES.

21 **SECTION 3.** Part 17 of article 4 of title 42, Colorado Revised
22 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
23 read:

24 **42-4-1720. Vehicle impoundment or immobilization for**
25 **driving without a valid license or minor license.** (1) WHENEVER A
26 POLICE OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT A PERSON IS
27 OPERATING A MOTOR VEHICLE WITHOUT A VALID DRIVER'S LICENSE OR

1 MINOR DRIVER'S LICENSE IN VIOLATION OF SECTION 42-2-101 (1) OR
2 42-2-138, THE POLICE OFFICER SHALL TAKE POSSESSION OF THE MOTOR
3 VEHICLE AND IMPOUND OR IMMOBILIZE THE MOTOR VEHICLE FOR THIRTY
4 DAYS.

5 (2) (a) UPON TAKING POSSESSION OF A MOTOR VEHICLE, THE
6 RESPONSIBLE LAW ENFORCEMENT AGENCY SHALL ASCERTAIN, IF POSSIBLE,
7 WHETHER OR NOT THE MOTOR VEHICLE HAS BEEN REPORTED STOLEN, AND,
8 IF IT HAS BEEN SO REPORTED, THE AGENCY SHALL RECOVER AND SECURE
9 THE MOTOR VEHICLE AND NOTIFY ITS OWNER AND THE LAW ENFORCEMENT
10 AGENCY THAT REPORTED THE MOTOR VEHICLE STOLEN. THE RESPONSIBLE
11 LAW ENFORCEMENT AGENCY AND THE TOWING CARRIER SHALL HAVE THE
12 RIGHT TO RECOVER FROM THE OWNER THEIR REASONABLE COSTS AND FEES
13 FOR RECOVERING AND SECURING THE MOTOR VEHICLE. NOTHING IN THIS
14 SECTION SHALL BE CONSTRUED TO AUTHORIZE FEES FOR SERVICES THAT
15 WERE NOT PROVIDED OR THAT WERE PROVIDED BY ANOTHER PERSON OR
16 ENTITY.

17 (b) AS SOON AS PRACTICABLE, BUT IN NO EVENT LATER THAN TWO
18 WEEKDAYS AFTER TAKING POSSESSION OF A MOTOR VEHICLE, THE
19 RESPONSIBLE LAW ENFORCEMENT AGENCY SHALL REPORT THE SAME TO
20 THE DEPARTMENT BY FIRST-CLASS OR CERTIFIED MAIL, BY PERSONAL
21 DELIVERY, OR BY INTERNET COMMUNICATION. THE REPORT SHALL BE ON
22 A FORM PRESCRIBED AND SUPPLIED BY THE DEPARTMENT.

23 (c) THE REPORT REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION
24 (2) SHALL CONTAIN THE FOLLOWING INFORMATION:

25 (I) THE FACT OF POSSESSION, INCLUDING THE DATE POSSESSION
26 WAS TAKEN, THE LOCATION OF STORAGE OF THE MOTOR VEHICLE, THE
27 IDENTITY OF THE RESPONSIBLE LAW ENFORCEMENT AGENCY, AND THE

1 BUSINESS ADDRESS, TELEPHONE NUMBER, AND NAME AND SIGNATURE OF
2 A REPRESENTATIVE FROM THE RESPONSIBLE LAW ENFORCEMENT AGENCY;

3 (II) IF APPLICABLE, THE IDENTITY OF THE TOWING CARRIER
4 POSSESSING THE MOTOR VEHICLE, TOGETHER WITH THE CARRIER'S
5 BUSINESS ADDRESS AND TELEPHONE NUMBER AND THE CARRIER NUMBER
6 ASSIGNED BY THE PUBLIC UTILITIES COMMISSION; AND

7 (III) A DESCRIPTION OF THE MOTOR VEHICLE, INCLUDING THE
8 MAKE, MODEL, COLOR, AND YEAR; THE NUMBER, ISSUING STATE, AND
9 EXPIRATION DATE OF THE LICENSE PLATE; AND THE VEHICLE
10 IDENTIFICATION NUMBER.

11 (3) UPON RECEIPT OF THE REPORT REQUIRED BY SUBSECTION (2)
12 OF THIS SECTION, THE DEPARTMENT SHALL SEARCH ITS RECORDS AND THE
13 RECORDS OF OTHER STATES TO ASCERTAIN THE LAST-KNOWN OWNER OF
14 RECORD FOR THE MOTOR VEHICLE AND ANY LIENHOLDER AND SHALL
15 NOTIFY THE RESPONSIBLE LAW ENFORCEMENT AGENCY OF THE NAMES OF
16 ANY OWNERS AND LIENHOLDERS DISCOVERED DURING THE SEARCH. THE
17 DEPARTMENT SHALL SEND THE NOTICE WITHIN TEN DAYS AFTER SUCH
18 RECEIPT.

19 (4) THE RESPONSIBLE LAW ENFORCEMENT AGENCY, UPON ITS
20 RECEIPT OF THE INFORMATION FROM THE DEPARTMENT REQUIRED UNDER
21 SUBSECTION (3) OF THIS SECTION, SHALL DETERMINE, FROM ALL
22 AVAILABLE INFORMATION AND AFTER REASONABLE INQUIRY, WHETHER OR
23 NOT THE MOTOR VEHICLE HAS BEEN REPORTED STOLEN, AND, IF IT HAS
24 BEEN SO REPORTED, THE AGENCY SHALL RECOVER AND SECURE THE
25 MOTOR VEHICLE AND NOTIFY THE OWNER AND THE LAW ENFORCEMENT
26 AGENCY THAT REPORTED THE MOTOR VEHICLE STOLEN. THE RESPONSIBLE
27 LAW ENFORCEMENT AGENCY SHALL HAVE THE RIGHT TO RECOVER FROM

1 THE PERSON WHO STOLE THE MOTOR VEHICLE ITS REASONABLE COSTS TO
2 RECOVER AND SECURE THE MOTOR VEHICLE.

3 (5) (a) THE RESPONSIBLE LAW ENFORCEMENT AGENCY, WITHIN TEN
4 DAYS AFTER RECEIVING THE INFORMATION FROM THE DEPARTMENT IN
5 ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION, SHALL NOTIFY BY
6 CERTIFIED MAIL THE OWNER OF RECORD, IF ASCERTAINED, AND ANY
7 LIENHOLDER, IF ASCERTAINED, OF THE FACT OF POSSESSION OF THE MOTOR
8 VEHICLE BY THE RESPONSIBLE LAW ENFORCEMENT AGENCY AND SHALL
9 SEND A COPY OF SUCH NOTICE TO THE TOWING CARRIER. THE NOTICE
10 SHALL CONTAIN THE LOCATION OF THE MOTOR VEHICLE, THAT THE MOTOR
11 VEHICLE IS TO BE IMPOUNDED OR IMMOBILIZED FOR THIRTY DAYS, AND
12 THAT, UNLESS CLAIMED WITHIN SIXTY-THREE DAYS AFTER THE DATE THE
13 NOTICE WAS SENT AS DETERMINED FROM THE POSTMARK ON THE NOTICE,
14 THE MOTOR VEHICLE IS SUBJECT TO SALE. THE NOTICE SHALL ALSO
15 INFORM THE OWNER OF RECORD OF THE OPPORTUNITY TO REQUEST A
16 HEARING CONCERNING THE OWNER'S RIGHT TO RETRIEVE THE MOTOR
17 VEHICLE IF AN OWNER OF RECORD WAS NOT THE PERSON WHO OPERATED
18 THE MOTOR VEHICLE WITHOUT A VALID DRIVER'S LICENSE OR MINOR
19 DRIVER'S LICENSE, AND SHALL ALSO INFORM THE OWNER OF RECORD OF
20 THE RESPONSIBLE LAW ENFORCEMENT AGENCY TO CONTACT TO REQUEST
21 THE HEARING.

22 (b) (I) AN OWNER OF RECORD MAY REQUEST A HEARING TO OBTAIN
23 RELEASE OF THE MOTOR VEHICLE. THE REQUEST SHALL BE MADE IN
24 WRITING TO THE RESPONSIBLE LAW ENFORCEMENT AGENCY WITHIN TEN
25 DAYS AFTER THE NOTICE WAS SENT PURSUANT TO PARAGRAPH (a) OF THIS
26 SUBSECTION (5), AS DETERMINED BY THE POSTMARK.

27 (II) THE HEARING, IF REQUESTED, SHALL BE CONDUCTED

1 PURSUANT TO SECTION 24-4-105, C.R.S., IF THE RESPONSIBLE LAW
2 ENFORCEMENT AGENCY IS THE COLORADO STATE PATROL. IF A LOCAL
3 POLITICAL SUBDIVISION IS THE RESPONSIBLE LAW ENFORCEMENT AGENCY,
4 SUCH HEARING SHALL BE CONDUCTED PURSUANT TO LOCAL HEARING
5 PROCEDURES. THE MOTOR VEHICLE SHALL BE RELEASED TO THE OWNER
6 IF:

7 (A) IT IS DETERMINED AT THE HEARING THAT AN OWNER OF
8 RECORD OF THE MOTOR VEHICLE DID NOT AUTHORIZE THE OPERATION OF
9 THE MOTOR VEHICLE OR AUTHORIZED THE OPERATION OF THE MOTOR
10 VEHICLE WITHOUT THE KNOWLEDGE THAT THE DRIVER LACKED A VALID
11 DRIVER'S LICENSE OR MINOR DRIVER'S LICENSE; AND

12 (B) THE OWNER OF RECORD PAYS THE TOW AND STORAGE FEES.

13 (c) (I) A LIENHOLDER MAY TAKE POSSESSION OF THE MOTOR
14 VEHICLE AT ANY TIME IF THE LIENHOLDER PAYS THE REASONABLE TOWING
15 AND STORAGE FEES AND THE LIENHOLDER SIGNS A STATEMENT PROMISING
16 NOT TO GIVE POSSESSION OF THE MOTOR VEHICLE TO THE PERSON WHO
17 OPERATED THE MOTOR VEHICLE WITHOUT A VALID DRIVER'S LICENSE OR
18 MINOR DRIVER'S LICENSE AS IDENTIFIED BY THE RESPONSIBLE LAW
19 ENFORCEMENT AGENCY.

20 (II) THE LIENHOLDER MAY REQUIRE THE OWNER TO REIMBURSE
21 THE LIENHOLDER FOR ANY FEES PAID TO OBTAIN THE MOTOR VEHICLE
22 BEFORE RELEASING THE MOTOR VEHICLE TO THE OWNER.

23 (III) KNOWINGLY GIVING POSSESSION OF A MOTOR VEHICLE TO THE
24 OPERATOR IN VIOLATION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) IS
25 A CLASS B TRAFFIC OFFENSE.

26 (d) FAILURE TO NOTIFY THE OWNER PURSUANT TO THIS
27 SUBSECTION (5) SHALL PRECLUDE THE RESPONSIBLE LAW ENFORCEMENT

1 AGENCY OR TOWING CARRIER FROM CHARGING THE OWNER FOR STORAGE
2 OF THE MOTOR VEHICLE FOR MORE THAN FIFTEEN DAYS.

3 (e) IF THE MOTOR VEHICLE IS NOT RETRIEVED BY AN OWNER OR
4 LIENHOLDER WITHIN THIRTY-THREE DAYS AFTER THE NOTICE IS SENT
5 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5), THE MOTOR
6 VEHICLE SHALL BE DEEMED ABANDONED AND SUBJECT TO PART 18 OF THIS
7 ARTICLE; EXCEPT THAT COMPLIANCE WITH SUBSECTIONS (2) TO (5) OF THIS
8 SECTION SHALL BE DEEMED TO BE COMPLIANCE WITH SECTION 42-4-1804.

9 (6) A MOTOR VEHICLE HELD BY A LAW ENFORCEMENT AGENCY, A
10 TOWING CARRIER, A LIENHOLDER, OR ANY OTHER PERSON SHALL BE
11 SURRENDERED TO THE APPROPRIATE PERSON UPON AN ORDER OF THE
12 COURT.

13 (7) NO MOTOR VEHICLE SHALL BE RELEASED PURSUANT TO THIS
14 SECTION UNLESS THE MOTOR VEHICLE IS BEING TOWED OR THE DRIVER OF
15 THE MOTOR VEHICLE PRESENTS A VALID DRIVER'S LICENSE OR MINOR
16 DRIVER'S LICENSE AND PROOF OF REGISTRATION, OR AN EXCEPTION TO
17 REGISTRATION PURSUANT TO SECTION 42-3-103 OR 42-3-104, TO THE
18 RESPONSIBLE LAW ENFORCEMENT AGENCY OR TOWING CARRIER.

19 **SECTION 4. Act subject to petition - effective date -**
20 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
21 following the expiration of the ninety-day period after final adjournment
22 of the general assembly that is allowed for submitting a referendum
23 petition pursuant to article V, section 1 (3) of the state constitution,
24 (August 4, 2009, if adjournment sine die is on May 6, 2009); except that,
25 if a referendum petition is filed against this act or an item, section, or part
26 of this act within such period, then the act, item, section, or part, if
27 approved by the people, shall take effect on the date of the official

- 1 declaration of the vote thereon by proclamation of the governor.
- 2 (2) The provisions of this act shall apply to offenses committed on
- 3 or after the applicable effective date of this act.