

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

PREAMENDED

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

LLS NO. 10-1087.01 Jery Payne

HOUSE BILL 10-1420

HOUSE SPONSORSHIP

Peniston,

SENATE SPONSORSHIP

Morse,

House Committees

Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING COLLECTION OF THE PENALTY SURCHARGE IMPOSED ON**
102 **PERSONS REFERRED TO A DRIVER IMPROVEMENT SCHOOL BY A**
103 **COURT FOR A TRAFFIC VIOLATION.**

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://www.leg.state.co.us/billsummaries>.)

The bill imposes a penalty of \$15 plus 10% of the amount due plus .5% of such amount per month since the due date and interest on a driver improvement school for failure to collect or remit the fee the school is required to collect from people who are referred to the school by a court.

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.*

Procedures and standards are set for notifying and collecting from the school and holding a hearing or appealing a hearing if requested. The department may place a lien on the property of the school to collect on the delinquency and penalties, but the lien does not take priority over previously recorded liens. The executive director of the department of revenue (director) is required to release the lien when the amount is paid. Procedures and standards are set for the lien, lien release, and court actions. A civil action is also authorized to collect the delinquency and penalties. The director is authorized to waive the penalties for good cause.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that, on account of the mobility of drivers and the frequent use of
4 driver improvement schools as a sentencing option for violators of traffic
5 laws, the competence of driver improvement schools is important to the
6 entire traveling public and the citizens of Colorado. Therefore, the
7 general assembly hereby declares that this is a matter of statewide
8 concern and applies to all courts and driver improvement schools that
9 teach students within Colorado.

10 (2) In 2009, the general assembly passed House Bill 09-1246 to
11 provide some oversight and evaluation of driver improvement schools
12 because members of the general assembly heard from concerned citizens
13 about the quality of services provided by driver improvement schools.
14 The passage of House Bill 09-1246 did not give the department of
15 revenue sufficient tools to adequately implement a program of oversight
16 and evaluation of driver improvement schools. The department of
17 revenue, through rule-making, plans to meet with stakeholders to provide
18 further input into the development of an oversight mechanism for driver
19 improvement schools. Therefore, the general assembly determines that
20 this act is necessary to adequately provide the department of revenue with

1 the tools it needs to oversee driver improvement schools.

2 **SECTION 2.** 42-1-223 (1) and (2), Colorado Revised Statutes,
3 are amended, and the said 42-1-223 is further amended BY THE
4 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

5 **42-1-223. Monitoring driver improvement schools - fund -**
6 **registration - rules.** (1) The defensive driving school fund, referred to
7 in this section as the "fund", is hereby created in the state treasury. The
8 fund shall consist of ~~penalty surcharges~~ FEES collected pursuant to section
9 42-4-1717 (3). The moneys in the fund shall be used to implement a
10 program to monitor and evaluate driver improvement schools pursuant to
11 this section, INCLUDING THE REGISTRATION OF DRIVER IMPROVEMENT
12 SCHOOLS. The moneys in the fund at the end of each fiscal year shall not
13 revert to the general fund.

14 (2) (a) The department shall, in accordance with article 103 of title
15 24, C.R.S., contract with a private entity by ~~July 1, 2010~~, MARCH 1, 2011,
16 to monitor and evaluate the curriculum and effectiveness of driver
17 improvement classes required by section 42-4-1717.

18 (b) The ~~private entity~~ VENDOR shall submit a report to the
19 referring court within three months after a school has been evaluated
20 summarizing the curriculum, location, security, quality, and effectiveness
21 of the classes. The private entity shall also submit an abstract of such
22 reports to the department annually.

23 (4) NO PERSON WHO OPERATES A DRIVER IMPROVEMENT SCHOOL,
24 INCLUDING INTERNET SCHOOLS, SHALL ACCEPT STUDENTS WHO ARE
25 LICENSED DRIVERS UNLESS THE PERSON REGISTERS THE SCHOOL WITH THE
26 DEPARTMENT OF REVENUE OR THE VENDOR IN COMPLIANCE WITH THIS
27 SUBSECTION (4). THE PERSON SHALL ANNUALLY RENEW THE SCHOOL'S

1 REGISTRATION.

2 (5) FOR THE PURPOSES OF THIS SECTION, UNLESS THE CONTEXT
3 OTHERWISE REQUIRES:

4 (a) "DRIVER IMPROVEMENT SCHOOL" MEANS A SCHOOL THAT
5 ACCEPTS STUDENTS WHO POSSESS A VALID DRIVER'S LICENSE. "DRIVER
6 IMPROVEMENT SCHOOL" DOES NOT MEAN A DRIVING SCHOOL THAT
7 TEACHES DRIVING SKILLS TO NEW OR UNSKILLED DRIVERS FOR THE
8 PURPOSES OF LICENSING OR A COMMERCIAL DRIVING SCHOOL OR
9 INSTRUCTOR REGULATED PURSUANT TO ARTICLE 15 OF TITLE 12, C.R.S.

10 (b) "VENDOR" MEANS THE PRIVATE ENTITY WHO CONTRACTS WITH
11 THE DEPARTMENT OF REVENUE TO MONITOR AND EVALUATE THE
12 CURRICULUM AND EFFECTIVENESS OF DRIVER IMPROVEMENT CLASSES
13 PURSUANT TO SUBSECTION (2) OF THIS SECTION.

14 **SECTION 3.** 42-4-1717 (3), Colorado Revised Statutes, is
15 amended to read:

16 **42-4-1717. Conviction - attendance at driver improvement**
17 **school - rules.** (3) (a) (I) Effective January 1, 2010, a ~~person~~ LICENSED
18 DRIVER who is ~~required to attend~~ ATTENDS a course of instruction
19 ~~pursuant to subsection (1) or (2) of this section~~ TO IMPROVE THE PERSON'S
20 DRIVING SAFETY AND COMPLIANCE WITH TRAFFIC LAWS shall pay, in
21 addition to any other penalties, a ~~penalty surcharge~~ FEE as determined by
22 rules promulgated by the department.

23 (II) The driver improvement school shall collect the ~~penalty~~
24 ~~surcharge~~ FEE and remit it to the department OR VENDOR AS DEFINED IN
25 SECTION 42-1-223 at least monthly in accordance with rules promulgated
26 by the department.

27 (III) The department shall set the ~~penalty surcharge~~ FEE in an

1 amount to offset the direct and indirect cost of implementing section
2 42-1-223. The ~~penalty surcharge~~ FEE shall be transferred to the state
3 treasurer and credited to the defensive driving school fund created in
4 section 42-1-223.

5 (b) The court shall include on the referral form information
6 concerning the amount and purpose of the ~~penalty surcharge~~ FEE. If the
7 court determines that a person is unable to pay the cost of the ~~penalty~~
8 ~~surcharge~~ FEE, the court may waive the ~~surcharge~~ FEE and the driver
9 improvement school shall not collect nor remit the ~~penalty surcharge~~ FEE
10 to the department.

11 (c) A person who is required to attend a course of instruction
12 pursuant to subsection (1) or (2) of this section shall register with the
13 entity that monitors the driver improvement school pursuant to section
14 42-1-223. If the person satisfactorily completes the course, the driver
15 improvement school shall electronically notify the entity.

16 **SECTION 4. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.