

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 16-1027.01 Richard Sweetman x4333

SENATE BILL 16-132

SENATE SPONSORSHIP

Cooke,

HOUSE SPONSORSHIP

Foote,

Senate Committees
Judiciary

House Committees
Judiciary

A BILL FOR AN ACT

101 **CONCERNING CLARIFYING THAT TEST RESULTS RELATING TO CERTAIN**
102 **DUI OFFENSES ARE NOT PUBLIC INFORMATION.**

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 states that the database compiled by the department of public health and environment (department) containing the results of tests of persons' blood alcohol content and drug content, and all records and data thereof, are not public information. The department shall disclose the results of such a test only to:

! The individual who is the subject of the test, or to his or her

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.

SENATE
3rd Reading Unamended
March 9, 2016

SENATE
Amended 2nd Reading
March 8, 2016

- ! legal representative; or
- ! A named interested party in a civil or criminal action in which the test results are directly related, or to his or her legal representative.

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

2 **SECTION 1.** In Colorado Revised Statutes, 42-4-1301, **amend**
3 (6) (c) as follows:

4 **42-4-1301. Driving under the influence - driving while**
5 **impaired - driving with excessive alcoholic content - definitions -**
6 **penalties.** (6) (c) (I) In all actions, suits, and judicial proceedings in any
7 court of this state concerning alcohol-related or drug-related traffic
8 offenses, the court shall take judicial notice of methods of testing a
9 person's alcohol or drug level and of the design and operation of devices,
10 as certified by the department of public health and environment, for
11 testing a person's blood, breath, saliva, or urine to determine such person's
12 alcohol or drug level. The department of public health and environment
13 may, by rule, determine that, because of the reliability of the results from
14 certain devices, the collection or preservation of a second sample of a
15 person's blood, saliva, or urine or the collection and preservation of a
16 delayed breath alcohol specimen is not required.

17 (II) NOTHING IN this paragraph (c) ~~shall not prevent~~ PREVENTS the
18 necessity of establishing during a trial that the testing devices used were
19 working properly and ~~that such testing devices~~ were properly operated.
20 Nothing in this paragraph (c) ~~shall preclude~~ PRECLUDES a defendant from
21 offering evidence concerning the accuracy of testing devices.

22 (III) THE DATABASE COMPILED BY THE DEPARTMENT OF PUBLIC
23 HEALTH AND ENVIRONMENT CONTAINING PERSONAL IDENTIFYING

1 INFORMATION RELATING TO THE RESULTS OF TESTS OF PERSONS' BREATH
2 ALCOHOL CONTENT, AND ALL PERSONAL IDENTIFYING INFORMATION
3 THEREOF, ARE NOT PUBLIC INFORMATION. THE DEPARTMENT OF PUBLIC
4 HEALTH AND ENVIRONMENT SHALL DISCLOSE SUCH INFORMATION ONLY
5 TO:

6 (A) THE INDIVIDUAL WHO IS THE SUBJECT OF THE TEST, OR TO HIS
7 OR HER LEGAL REPRESENTATIVE;

8 (B) A NAMED INTERESTED PARTY IN A CIVIL OR CRIMINAL ACTION
9 IN WHICH THE TEST RESULTS ARE DIRECTLY RELATED, OR TO HIS OR HER
10 LEGAL REPRESENTATIVE;

11 (C) ANY PROSECUTING ATTORNEY, LAW ENFORCEMENT OFFICER,
12 STATE AGENCY, OR STATE AND LOCAL PUBLIC OFFICIAL LEGALLY
13 AUTHORIZED TO UTILIZE SUCH INFORMATION TO CARRY OUT HIS OR HER
14 DUTIES; OR

15 (D) ANY PARTY WHO OBTAINS AN ORDER IN A PENDING CIVIL OR
16 CRIMINAL CASE IF THE COURT FINDS THE PARTY HAS SHOWN GOOD CAUSE
17 TO HAVE THE INFORMATION. IN DETERMINING WHETHER THERE IS GOOD
18 CAUSE, THE COURT SHALL CONSIDER WHETHER THE MATERIALS SOUGHT
19 EXIST; WHETHER THE MATERIALS SOUGHT ARE EVIDENTIARY AND
20 RELEVANT; WHETHER THE MATERIALS ARE NOT OTHERWISE PROCURABLE
21 REASONABLY IN ADVANCE OF THE PROCEEDING BY THE EXERCISE OF DUE
22 DILIGENCE; WHETHER THE PARTY CANNOT PROPERLY PREPARE FOR THE
23 PROCEEDING WITHOUT SUCH PRODUCTION AND INSPECTION IN ADVANCE
24 OF THE PROCEEDING, AND THE FAILURE TO OBTAIN SUCH INSPECTION MAY
25 TEND TO UNREASONABLY DELAY THE PROCEEDING; AND WHETHER THE
26 REQUEST FOR THE INFORMATION IS MADE IN GOOD FAITH AND IS NOT FOR
27 THE PURPOSES OF GENERAL DISCOVERY.

1 (IV) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
2 MAY RELEASE NON-PERSONAL IDENTIFYING INFORMATION FROM THE
3 DATABASE IN ACCORDANCE WITH SECTIONS 24-72-101 TO 24-72-402,
4 C.R.S.

5 **SECTION 2. Act subject to petition - effective date.** This act
6 takes effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly (August
8 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
9 referendum petition is filed pursuant to section 1 (3) of article V of the
10 state constitution against this act or an item, section, or part of this act
11 within such period, then the act, item, section, or part will not take effect
12 unless approved by the people at the general election to be held in
13 November 2016 and, in such case, will take effect on the date of the
14 official declaration of the vote thereon by the governor.