

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

PREAMENDED

LLS NO. 01-0452.01 Michael Dohr

HOUSE BILL 01-1044

HOUSE SPONSORSHIP

Jahn

SENATE SPONSORSHIP

(None)

House Committees

Transportation & Energy

Education

Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING COMPULSORY PUBLIC SCHOOL ATTENDANCE**
102 **REQUIREMENTS, AND, IN CONNECTION THEREWITH,**
103 **CONDITIONING RECEIPT AND REVOCATION OF DRIVER'S**
104 **LICENSES ON COMPLIANCE WITH COMPULSORY ATTENDANCE**
105 **REQUIREMENTS.**

Bill Summary

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

Increases the maximum age of compulsory school attendance from 16 to 17 years of age. Exempts children with a GED or other high school graduation equivalent from public school attendance.

Conditions receipt and retention of an instruction permit or minor

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.

driver's license on certification of school attendance or GED. Requires school district boards of education ("school boards") to provide verification of attendance to students upon request. Compels school boards to report to the department of revenue students not complying with attendance policies. Allows the department of revenue to revoke an instruction permit or minor driver's license for failure to comply with attendance policies. Creates a hearing procedure to challenge the revocation of an instruction permit or minor driver's license.

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

2 **SECTION 1.** 22-33-104 (1), (2) (j), and (5) (a), Colorado Revised
3 Statutes, are amended, and the said 22-33-104 (2) is further amended BY
4 THE ADDITION OF A NEW PARAGRAPH, to read:

5 **22-33-104. Compulsory school attendance.** (1) Except as
6 otherwise provided in subsection (2) of this section, every child who has
7 attained the age of seven years and is under the age of ~~sixteen~~ SEVENTEEN
8 years, except as provided by this section, shall attend public school for at
9 least one thousand fifty-six hours if a secondary school pupil or nine
10 hundred sixty-eight hours if an elementary school pupil during each
11 school year; except that in no case shall a school or schools be in session
12 for fewer than one hundred sixty days without the specific prior approval
13 of the commissioner of education.

14 (2) The provisions of subsection (1) of this section shall not apply
15 to a child:

16 (j) Who is enrolled in a school where the state board of education
17 has approved a lesser number of days; OR

18 (k) WHO HAS A GED OR OTHER HIGH SCHOOL EQUIVALENCY
19 CERTIFICATION.

20 (5) (a) The general assembly hereby declares that two of the most
21 important factors in ensuring a child's educational development are

1 parental involvement and parental responsibility. The general assembly
2 further declares that it is the obligation of every parent to ensure that
3 every child under such parent's care and supervision receives adequate
4 education and training. Therefore, every parent of a child who has
5 attained the age of seven years and is under the age of ~~sixteen~~ SEVENTEEN
6 years shall ensure that such child attends the public school in which such
7 child is enrolled in compliance with this section.

8 **SECTION 2.** 22-33-107 (3) (a), Colorado Revised Statutes, is
9 amended to read:

10 **22-33-107. Enforcement of compulsory school**
11 **attendance.** (3) (a) As used in this subsection (3), a child who is
12 "habitually truant" means a child who has attained the age of seven years
13 and is under the age of ~~sixteen~~ SEVENTEEN years having four unexcused
14 absences from public school in any one month or ten unexcused absences
15 from public school during any school year. Absences due to suspension
16 or expulsion of a child shall be considered excused absences for purposes
17 of this subsection (3).

18 **SECTION 3.** 42-2-108, Colorado Revised Statutes, is amended
19 BY THE ADDITION OF A NEW SUBSECTION to read:

20 **42-2-108. Application of minors - repeal.** (1.7) IN ADDITION TO
21 ANY OTHER REQUIREMENTS IMPOSED BY THIS SECTION, THE APPLICATION
22 OF ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS FOR AN INSTRUCTION
23 PERMIT OR MINOR DRIVER'S LICENSE SHALL BE ACCOMPANIED BY ONE OF
24 THE FOLLOWING:

25 (a) A COPY OF THE APPLICANT'S MOST RECENT SCHOOL TRANSCRIPT
26 OR GRADE REPORT AND A [REDACTED] VERIFICATION FORM FROM THE
27 [REDACTED] DEPARTMENT OF EDUCATION OR THE DEPARTMENT OF REVENUE SIGNED BY

1 THE APPLICANT'S SCHOOL PRINCIPAL OR THE PRINCIPAL'S DESIGNEE
2 VERIFYING THE STUDENT IS CURRENTLY ENROLLED AT THE SCHOOL AND IS
3 IN SUBSTANTIAL COMPLIANCE WITH THE ATTENDANCE POLICY OF THE
4 SCHOOL;

5 (b) WRITTEN VERIFICATION FROM THE DEPARTMENT OF EDUCATION
6 OR THE DEPARTMENT OF REVENUE THE APPLICANT HAS A HIGH SCHOOL
7 DIPLOMA, A GED OR OTHER HIGH SCHOOL EQUIVALENCY CERTIFICATION;

8 (c) WRITTEN VERIFICATION FROM THE DEPARTMENT OF EDUCATION
9 OR THE DEPARTMENT OF REVENUE THE APPLICANT IS ENROLLED IN A
10 COURSE OF STUDY IN PREPARATION FOR A GED TEST OR OTHER HIGH
11 SCHOOL EQUIVALENCY CERTIFICATION; OR

12 (d) WRITTEN VERIFICATION FROM THE DEPARTMENT OF EDUCATION
13 OR THE DEPARTMENT OF REVENUE THE APPLICANT IS RECEIVING A
14 NONPUBLIC HOME-BASED EDUCATION AS DEFINED IN SECTION 22-33-104.5,
15 C.R.S., AND IS SUBSTANTIALLY COMPLYING WITH THE ATTENDANCE POLICY
16 OF THE HOME SCHOOL.

17 **SECTION 4.** Part 1 of article 2 of title 42, Colorado Revised
18 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

19 **42-2-126.5. Loss of minor driver's license or instruction permit.**

20 (1) THE DEPARTMENT MAY CAUSE A PERSON WHO IS UNDER EIGHTEEN
21 YEARS OF AGE TO LOSE HIS OR HER MINOR DRIVER'S LICENSE OR
22 INSTRUCTION PERMIT IF THE DEPARTMENT
23 RECEIVES NOTICE THE MINOR IS A DROPOUT, AS DEFINED IN SECTION 22-2-
24 114.1 (3) (a), C.R.S. THIS SECTION SHALL NOT APPLY IF THE
25 MINOR FILED WRITTEN EVIDENCE HE OR SHE GRADUATED FROM HIGH
26 SCHOOL OR OBTAINED A GENERAL EDUCATIONAL DEVELOPMENT
27 CERTIFICATE, AS PROVIDED IN SECTION 42-2-108 (1.7).

1 (2) UPON RECEIPT OF WRITTEN NOTICE FROM THE SCHOOL DISTRICT
2 IN WHICH THE MINOR IS ENROLLED THAT THE MINOR IS A DROPOUT, AS
3 DEFINED IN SECTION 22-2-114.1 (3) (a), C.R.S., THE DEPARTMENT SHALL
4 NOTIFY THE MINOR, AS PROVIDED IN SECTION 42-2-119 (2), THE
5 DEPARTMENT INTENDS TO CAUSE THE MINOR TO LOSE HIS OR HER MINOR'S
6 DRIVER'S LICENSE OR INSTRUCTION PERMIT THIRTY DAYS AFTER THE DATE
7 OF THE LETTER IF THE MINOR DOES NOT DISPUTE THE ALLEGATION OF
8 NONCOMPLIANCE. THE NOTICE IS DEEMED RECEIVED THREE DAYS AFTER
9 MAILING UNLESS RETURNED BY POSTAL AUTHORITIES. THE NOTICE
10 SHALL CLEARLY SPECIFY THE REASON AND STATUTORY GROUNDS FOR THE
11 REVOCATION, THE EFFECTIVE DATE OF THE NOTICE, THE MINOR'S RIGHT TO
12 REQUEST A HEARING, THE PROCEDURE FOR REQUESTING A HEARING, AND
13 THE DATE BY WHICH THE MINOR MUST REQUEST A HEARING.

14 (3) (a) IF THE MINOR INTENDS TO DISPUTE THE ALLEGATION OF
15 BEING A DROPOUT, AS DEFINED IN SECTION 22-2-114.1 (3) (a), C.R.S., THE
16 MINOR SHALL NOTIFY THE DEPARTMENT IN WRITING WITHIN THIRTY DAYS
17 AFTER THE DATE OF THE LETTER AND REQUEST AN ADMINISTRATIVE
18 HEARING BEFORE A REPRESENTATIVE OF THE DEPARTMENT. THE MINOR
19 SHALL RETAIN HIS OR HER MINOR'S DRIVER'S LICENSE OR INSTRUCTION
20 PERMIT UNTIL THE CONCLUSION OF THE HEARING PROCESS.

21 (b) THE HEARING DATE SHALL BE SET WITHIN SIXTY DAYS.
22 THE DEPARTMENT SHALL
23 PROVIDE THE MINOR WRITTEN NOTICE OF THE TIME AND PLACE OF THE
24 HEARING AT LEAST TWENTY DAYS PRIOR TO THE SCHEDULED HEARING,
25 UNLESS THE MINOR AGREES TO WAIVE THIS REQUIREMENT. THE HEARING
26 SHALL BE HELD IN THE DISTRICT OFFICE NEAREST TO WHERE THE MINOR
27 RESIDES, UNLESS THE MINOR AND THE DEPARTMENT AGREE TO A DIFFERENT

1 LOCATION.

2 (c) THE PRESIDING HEARING OFFICER AT THE HEARING SHALL BE
3 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE EXECUTIVE
4 DIRECTOR'S DESIGNEE. THE HEARING OFFICER IS AUTHORIZED TO:

5 (I) ADMINISTER OATHS AND AFFIRMATIONS;

6 (II) EXAMINE WITNESSES AND TAKE TESTIMONY;

7 (III) RECEIVE RELEVANT EVIDENCE;

8 (IV) ISSUE SUBPOENAS, TAKE DEPOSITIONS, OR CAUSE DEPOSITIONS
9 OR INTERROGATORIES TO BE TAKEN;

10 (V) REGULATE THE COURSE AND CONDUCT OF THE HEARING; AND

11 (VI) MAKE A FINAL RULING ON THE ISSUE.

12 (d) THE SOLE ISSUE AT THE HEARING SHALL BE WHETHER THE
13 MINOR CAN SHOW BY A PREPONDERANCE OF THE EVIDENCE HE OR SHE IS
14 NOT A DROPOUT, AS DEFINED IN SECTION 22-2-114.1 (3) (a), C.R.S. IF THE
15 HEARING OFFICER DETERMINES THE MINOR FAILED TO MEET THIS BURDEN,
16 THE MINOR WILL LOSE HIS OR HER MINOR'S DRIVER'S LICENSE OR
17 INSTRUCTION PERMIT. IF THE HEARING OFFICER FINDS IN FAVOR
18 OF THE MINOR, THE MINOR SHALL RETAIN HIS OR HER MINOR'S DRIVER'S
19 LICENSE OR INSTRUCTION PERMIT.

20 (4)(a) THE HEARING SHALL BE RECORDED. THE HEARING OFFICER'S
21 DECISION SHALL BE RENDERED IN WRITING, AND A COPY SHALL BE
22 PROVIDED TO THE MINOR. IF THE MINOR FAILS TO APPEAR WITHOUT JUST
23 CAUSE, THE MINOR SHALL LOSE HIS OR HER MINOR'S DRIVER'S LICENSE OR
24 INSTRUCTION PERMIT. IF THE HEARING OFFICER FINDS AGAINST THE MINOR,
25 THE MINOR SHALL BE ASSESSED THE COST OF THE HEARING, PAYABLE TO
26 THE DEPARTMENT OF REVENUE. ANY FUNDS RECEIVED PURSUANT TO THIS
27 PARAGRAPH (a) SHALL BE RETAINED BY THE DEPARTMENT OF REVENUE IN

1 ORDER TO OFFSET THE COSTS OF THE HEARING.

2 (b) WITHIN THIRTY DAYS AFTER THE ISSUANCE OF THE FINAL
3 DETERMINATION OF THE HEARING OFFICER UNDER THIS SECTION, A PERSON
4 AGGRIEVED BY THE DETERMINATION SHALL HAVE THE RIGHT TO FILE A
5 PETITION FOR JUDICIAL REVIEW IN THE DISTRICT COURT IN THE COUNTY OF
6 THE PERSON'S RESIDENCE. THE REVIEW SHALL BE ON THE RECORD
7 WITHOUT TAKING ADDITIONAL TESTIMONY. IF THE COURT FINDS THE
8 DEPARTMENT EXCEEDED ITS CONSTITUTIONAL OR STATUTORY AUTHORITY,
9 MADE AN ERRONEOUS INTERPRETATION OF THE LAW, ACTED IN AN
10 ARBITRARY AND CAPRICIOUS MANNER, OR MADE A DETERMINATION WHICH
11 IS UNSUPPORTED BY THE EVIDENCE IN THE RECORD, THE COURT MAY
12 REVERSE THE DEPARTMENT'S DETERMINATION.

13 (5) A MINOR MAY REAPPLY FOR A MINOR DRIVER'S LICENSE OR
14 INSTRUCTION PERMIT AT ANY TIME AFTER LOSING HIS OR HER MINOR'S
15 DRIVER'S LICENSE OR INSTRUCTION PERMIT IF THE MINOR CAN MEET THE
16 REQUIREMENTS OF SECTION 42-2-108 (1.7).

17 **SECTION 5.** 22-32-109 (1), Colorado Revised Statutes, is
18 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19 **22-32-109. Board of education - specific duties - repeal.** (1) In
20 addition to any other duty required to be performed by law, each board of
21 education shall have and perform the following specific duties:

22 (dd) (I) UPON A STUDENT'S REQUEST FOR PURPOSES OF APPLYING
23 FOR A MINOR DRIVER'S LICENSE OR INSTRUCTION PERMIT PURSUANT TO
24 SECTION 42-2-108 (1.7), C.R.S., TO PROVIDE WRITTEN EVIDENCE IN A FORM
25 APPROVED BY THE DEPARTMENT OF REVENUE THROUGH THE STUDENT'S
26 PRINCIPAL OR THE PRINCIPAL'S DESIGNEE ATTESTING TO THE EXTENT OF THE
27 STUDENT'S COMPLIANCE WITH THE ATTENDANCE POLICIES OF THE SCHOOL

1 IN WHICH THE STUDENT IS ENROLLED, THE SCHOOL DISTRICT, OR THE
2 DEPARTMENT OF EDUCATION.

3 (II) TO NOTIFY THE DEPARTMENT OF REVENUE IN WRITING OF ANY
4 STUDENT UNDER THE AGE OF EIGHTEEN WHO HAS A MINOR DRIVER'S
5 LICENSE OR AN INSTRUCTION PERMIT WHO IS A DROPOUT, AS DEFINED IN
6 SECTION 22-2-114.1 (3) (a), C.R.S.

7 **SECTION 6. Effective date - applicability.** This act shall take
8 effect July 1, 2001, and sections 3 through 5 of this act shall apply to
9 noncompliance with attendance policies occurring on or after said date.

10 **SECTION 7. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, and safety.