

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 06-1084

BY REPRESENTATIVE(S) Liston, Berens, Borodkin, Crane, Decker, Frangas, Garcia, Kerr, Knoedler, Merrifield, and Pommer;
also SENATOR(S) Kester.

CONCERNING ILLEGAL SPEEDING ACTIVITIES INVOLVING MOTOR VEHICLES.

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

SECTION 1. 42-4-1105, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

42-4-1105. Speed contests - speed exhibitions - aiding and facilitating - immobilization of motor vehicle - definitions.

(1) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION, IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY ENGAGE IN A SPEED CONTEST ON A HIGHWAY.

(b) FOR PURPOSES OF THIS SECTION, "SPEED CONTEST" MEANS THE OPERATION OF ONE OR MORE MOTOR VEHICLES TO CONDUCT A RACE OR A TIME TRIAL, INCLUDING BUT NOT LIMITED TO RAPID ACCELERATION, EXCEEDING REASONABLE AND PRUDENT SPEEDS FOR HIGHWAYS AND EXISTING TRAFFIC CONDITIONS, VYING FOR POSITION, OR PERFORMING ONE OR MORE LANE CHANGES IN AN ATTEMPT TO GAIN ADVANTAGE OVER ONE OR

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

MORE OF THE OTHER RACE PARTICIPANTS.

(c) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBSECTION (1) COMMITS A CLASS 1 MISDEMEANOR TRAFFIC OFFENSE.

(2) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION, IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY ENGAGE IN A SPEED EXHIBITION ON A HIGHWAY.

(b) FOR PURPOSES OF THIS SECTION, "SPEED EXHIBITION" MEANS THE OPERATION OF A MOTOR VEHICLE TO PRESENT A DISPLAY OF SPEED OR POWER. "SPEED EXHIBITION" INCLUDES, BUT IS NOT LIMITED TO, SQUEALING THE TIRES OF A MOTOR VEHICLE WHILE IT IS STATIONARY OR IN MOTION, RAPID ACCELERATION, RAPID SWERVING OR WEAVING IN AND OUT OF TRAFFIC, PRODUCING SMOKE FROM TIRE SLIPPAGE, OR LEAVING VISIBLE TIRE ACCELERATION MARKS ON THE SURFACE OF THE HIGHWAY OR GROUND.

(c) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBSECTION (2) COMMITS A CLASS 2 MISDEMEANOR TRAFFIC OFFENSE.

(3) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION, A PERSON SHALL NOT, FOR THE PURPOSE OF FACILITATING OR AIDING OR AS AN INCIDENT TO ANY SPEED CONTEST OR SPEED EXHIBITION UPON A HIGHWAY, IN ANY MANNER OBSTRUCT OR PLACE A BARRICADE OR OBSTRUCTION, OR ASSIST OR PARTICIPATE IN PLACING ANY SUCH BARRICADE OR OBSTRUCTION, UPON A HIGHWAY.

(b) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBSECTION (3) COMMITS, PURSUANT TO SECTION 42-4-1703, THE OFFENSE THAT THE PERSON AIDED IN OR FACILITATED THE COMMISSION OF. NOTHING IN THIS SUBSECTION (3) SHALL BE CONSTRUED TO PRECLUDE CHARGING A PERSON UNDER SECTION 42-4-1703 FOR OTHERWISE BEING A PARTY TO THE CRIME OF ENGAGING IN A SPEED CONTEST OR ENGAGING IN A SPEED EXHIBITION.

(4) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE OPERATION OF A MOTOR VEHICLE IN AN ORGANIZED COMPETITION ACCORDING TO ACCEPTED RULES ON A DESIGNATED AND DULY AUTHORIZED RACE TRACK, RACE COURSE, OR DRAG STRIP.

(5) (a) IN ADDITION TO A SENTENCE IMPOSED PURSUANT TO THIS

SECTION OR PURSUANT TO ANY OTHER PROVISION OF LAW:

(I) UPON THE SECOND CONVICTION FOR AN OFFENSE SPECIFIED IN SUBSECTION (1) OR (2) OF THIS SECTION, OR ANY OTHER CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT TO INCLUDE AN ACT OF OPERATING A MOTOR VEHICLE IN VIOLATION OF SUBSECTION (1) OR (2) OF THIS SECTION, THE COURT MAY, IN ITS DISCRETION, ORDER THE PRIMARY LAW ENFORCEMENT AGENCY INVOLVED WITH THE CASE TO PLACE AN IMMOBILIZATION DEVICE ON THE MOTOR VEHICLE OR MOTOR VEHICLES SO OPERATED FOR A PERIOD OF UP TO FOURTEEN DAYS.

(II) UPON THE THIRD OR SUBSEQUENT CONVICTION FOR AN OFFENSE SPECIFIED IN SUBSECTION (1) OR (2) OF THIS SECTION, OR ANY OTHER CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT TO INCLUDE AN ACT OF OPERATING A MOTOR VEHICLE IN VIOLATION OF SUBSECTION (1) OR (2) OF THIS SECTION, THE COURT MAY, IN ITS DISCRETION, ORDER THE PRIMARY LAW ENFORCEMENT AGENCY INVOLVED WITH THE CASE TO PLACE AN IMMOBILIZATION DEVICE ON THE MOTOR VEHICLE OR MOTOR VEHICLES SO OPERATED FOR A PERIOD OF UP TO THIRTY DAYS BUT MORE THAN FOURTEEN DAYS.

(b) THE PERIOD DURING WHICH A MOTOR VEHICLE MAY BE FITTED WITH AN IMMOBILIZATION DEVICE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5) SHALL BE IN ADDITION TO ANY PERIOD DURING WHICH THE MOTOR VEHICLE WAS IMPOUNDED PRIOR TO SENTENCING.

(c) AN ORDER ISSUED UNDER THIS SUBSECTION (5) SHALL STATE THE REQUIREMENTS INCLUDED IN SUBSECTIONS (7) AND (8) OF THIS SECTION.

(d) FOR PURPOSES OF THIS SECTION, "IMMOBILIZATION DEVICE" MEANS A DEVICE LOCKED INTO PLACE OVER A WHEEL OF A MOTOR VEHICLE THAT PREVENTS THE MOTOR VEHICLE FROM BEING MOVED. "IMMOBILIZATION DEVICE" INCLUDES BUT IS NOT LIMITED TO A DEVICE COMMONLY REFERRED TO AS A "TRAFFIC BOOT" OR "BOOT".

(6) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (9) OF THIS SECTION, A LAW ENFORCEMENT AGENCY THAT IS ORDERED TO PLACE AN IMMOBILIZATION DEVICE ON A MOTOR VEHICLE PURSUANT TO SUBSECTION (5) OF THIS SECTION SHALL ATTEMPT TO LOCATE THE MOTOR VEHICLE WITHIN ITS JURISDICTION. THE LAW ENFORCEMENT AGENCY MAY, IN ITS

DISCRETION, ATTEMPT TO LOCATE THE MOTOR VEHICLE OUTSIDE OF ITS JURISDICTION.

(b) NOTHING IN THIS SUBSECTION (6) SHALL BE CONSTRUED TO:

(I) PROHIBIT A LAW ENFORCEMENT AGENCY FROM SEEKING THE ASSISTANCE OF ANOTHER LAW ENFORCEMENT AGENCY FOR THE PURPOSE OF PLACING AN IMMOBILIZATION DEVICE ON A MOTOR VEHICLE OR REMOVING THE DEVICE IN ACCORDANCE WITH THIS SECTION; OR

(II) REQUIRE A LAW ENFORCEMENT AGENCY TO EXPEND EXCESSIVE TIME OR COMMIT EXCESSIVE STAFF TO THE TASK OF LOCATING A MOTOR VEHICLE SUBJECT TO IMMOBILIZATION UNDER THIS SECTION.

(c) THE TIME SPENT BY A LAW ENFORCEMENT AGENCY IN LOCATING A MOTOR VEHICLE IN ACCORDANCE WITH THIS SUBSECTION (6) SHALL NOT ALTER THE IMMOBILIZATION PERIOD ORDERED BY THE COURT UNDER SUBSECTION (5) OF THIS SECTION.

(d) A LAW ENFORCEMENT AGENCY THAT PLACES AN IMMOBILIZATION DEVICE ON A MOTOR VEHICLE PURSUANT TO THIS SECTION SHALL AFFIX A NOTICE TO THE IMMOBILIZED MOTOR VEHICLE STATING THE INFORMATION DESCRIBED IN SUBSECTIONS (7) AND (8) OF THIS SECTION.

(e) A PEACE OFFICER WHO LOCATES OR ATTEMPTS TO LOCATE A MOTOR VEHICLE, OR WHO PLACES OR REMOVES, OR ASSISTS WITH THE PLACEMENT OR REMOVAL OF, AN IMMOBILIZATION DEVICE IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION SHALL BE IMMUNE FROM CIVIL LIABILITY FOR DAMAGES, EXCEPT FOR DAMAGES ARISING FROM WILLFUL AND WANTON CONDUCT.

(7) (a) THE OWNER OF A MOTOR VEHICLE IMMOBILIZED UNDER THIS SECTION SHALL BE ASSESSED A FEE OF THIRTY-FIVE DOLLARS FOR EACH DAY THE MOTOR VEHICLE IS ORDERED IMMOBILIZED AND, EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (7), THIRTY-FIVE DOLLARS FOR EACH DAY UP TO FOURTEEN DAYS AFTER THE IMMOBILIZATION PERIOD THAT THE FEE FOR THE IMMOBILIZATION PERIOD IS NOT PAID. THE OWNER SHALL PAY THE FEE TO THE LAW ENFORCEMENT AGENCY THAT PLACES THE IMMOBILIZATION DEVICE ON THE MOTOR VEHICLE.

(b) THE OWNER, WITHIN FOURTEEN DAYS AFTER THE END OF THE IMMOBILIZATION PERIOD ORDERED BY THE COURT, MAY OBTAIN REMOVAL OF THE IMMOBILIZATION DEVICE BY THE LAW ENFORCEMENT AGENCY THAT PLACED IT BY REQUESTING THE REMOVAL AND PAYING THE FEE REQUIRED UNDER PARAGRAPH (a) OF THIS SUBSECTION (7).

(c) THE FAILURE OF THE OWNER OF THE IMMOBILIZED MOTOR VEHICLE TO REQUEST REMOVAL OF THE IMMOBILIZATION DEVICE AND PAY THE FEE WITHIN FOURTEEN DAYS AFTER THE END OF THE IMMOBILIZATION PERIOD ORDERED BY THE COURT OR WITHIN THE ADDITIONAL TIME GRANTED BY THE COURT PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (7), WHICHEVER IS APPLICABLE, SHALL RESULT IN THE MOTOR VEHICLE BEING DEEMED AN "ABANDONED MOTOR VEHICLE", AS DEFINED IN SECTIONS 42-4-1802 (1) (d) AND 42-4-2102 (1) (d), AND SUBJECT TO THE PROVISIONS OF PART 18 OR 21 OF THIS ARTICLE, WHICHEVER IS APPLICABLE. THE LAW ENFORCEMENT AGENCY ENTITLED TO PAYMENT OF THE FEE UNDER THIS SUBSECTION (7) SHALL BE ELIGIBLE TO RECOVER THE FEE IF THE ABANDONED MOTOR VEHICLE IS SOLD, PURSUANT TO SECTION 42-4-1809 (2) (b.5) OR 42-4-2108 (2) (a.5).

(d) UPON APPLICATION OF THE OWNER OF AN IMMOBILIZED MOTOR VEHICLE, THE COURT THAT ORDERED THE IMMOBILIZATION MAY, IN ITS DISCRETION, GRANT ADDITIONAL TIME TO PAY THE IMMOBILIZATION FEE REQUIRED UNDER PARAGRAPH (a) OF THIS SUBSECTION (7). IF ADDITIONAL TIME IS GRANTED, THE COURT SHALL NOTIFY THE LAW ENFORCEMENT AGENCY THAT PLACED THE IMMOBILIZATION DEVICE.

(8) (a) A PERSON MAY NOT REMOVE AN IMMOBILIZATION DEVICE THAT IS PLACED ON A MOTOR VEHICLE PURSUANT TO THIS SECTION DURING THE IMMOBILIZATION PERIOD ORDERED BY THE COURT.

(b) NO PERSON MAY REMOVE THE IMMOBILIZATION DEVICE AFTER THE END OF THE IMMOBILIZATION PERIOD EXCEPT THE LAW ENFORCEMENT AGENCY THAT PLACED THE IMMOBILIZATION DEVICE AND THAT HAS BEEN REQUESTED BY THE OWNER TO REMOVE THE DEVICE AND TO WHICH THE OWNER HAS PROPERLY PAID THE FEE REQUIRED BY SUBSECTION (7) OF THIS SECTION. NOTHING IN THIS SUBSECTION (8) SHALL BE CONSTRUED TO PREVENT THE REMOVAL OF AN IMMOBILIZATION DEVICE IN ORDER TO COMPLY WITH THE PROVISIONS OF PART 18 OR 21 OF THIS ARTICLE.

(c) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBSECTION (8) COMMITS A CLASS 2 MISDEMEANOR TRAFFIC OFFENSE.

(9) (a) A LAW ENFORCEMENT AGENCY THAT IS ORDERED TO PLACE AN IMMOBILIZATION DEVICE ON A MOTOR VEHICLE PURSUANT TO SUBSECTION (5) OF THIS SECTION SHALL INFORM THE COURT AT SENTENCING IF IT IS UNABLE TO COMPLY WITH THE COURT'S ORDER EITHER BECAUSE THE LAW ENFORCEMENT AGENCY IS NOT YET EQUIPPED WITH AN IMMOBILIZATION DEVICE OR BECAUSE IT DOES NOT HAVE A SUFFICIENT NUMBER OF IMMOBILIZATION DEVICES. THE COURT, UPON BEING SO INFORMED, SHALL, IN LIEU OF ORDERING IMMOBILIZATION, ORDER THE LAW ENFORCEMENT AGENCY TO IMPOUND THE MOTOR VEHICLE FOR THE SAME TIME PERIOD THAT THE COURT INITIALLY ORDERED THE MOTOR VEHICLE TO BE IMMOBILIZED.

(b) IF A MOTOR VEHICLE IS ORDERED TO BE IMPOUNDED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (9), THE PROVISIONS OF SUBSECTIONS (6) TO (8) OF THIS SECTION SHALL NOT APPLY.

SECTION 2. 42-4-1802 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-4-1802. Definitions. As used in this part 18, unless the context otherwise requires:

(1) "Abandoned motor vehicle" means:

(d) A MOTOR VEHICLE FITTED WITH AN IMMOBILIZATION DEVICE THAT IS ON PUBLIC PROPERTY AND DEEMED TO BE ABANDONED PURSUANT TO SECTION 42-4-1105 (7) (c).

SECTION 3. 42-4-1809 (2) (c), Colorado Revised Statutes, is amended, and the said 42-4-1809 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

42-4-1809. Proceeds of sale. (2) If the sale of any motor vehicle and its attached accessories or equipment under the provisions of section 42-4-1805 produces an amount greater than the sum of all charges of the operator who has perfected his or her lien:

(b.5) IN THE CASE OF THE SALE OF AN ABANDONED MOTOR VEHICLE

DESCRIBED IN SECTION 42-4-1802 (1) (d), ANY BALANCE REMAINING AFTER PAYMENT PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) SHALL BE PAID TO THE LAW ENFORCEMENT AGENCY THAT IS OWED A FEE FOR THE COURT-ORDERED PLACEMENT OF AN IMMOBILIZATION DEVICE ON THE MOTOR VEHICLE PURSUANT TO SECTION 42-4-1105.

(c) Any balance remaining after payment pursuant to ~~paragraph (b)~~ PARAGRAPHS (b) AND (b.5) of this subsection (2) shall be forwarded to the department, and the department may recover from such balance any taxes, fees, and penalties due and payable to it with respect to such motor vehicle.

SECTION 4. 42-4-2102 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-4-2102. Definitions. As used in this part 21, unless the context otherwise requires:

(1) "Abandoned motor vehicle", except as otherwise defined in section 42-4-2104.5 (2) (a) for purposes of section 42-4-2104.5, means:

(d) A MOTOR VEHICLE FITTED WITH AN IMMOBILIZATION DEVICE THAT IS ON PRIVATE PROPERTY AND DEEMED TO BE ABANDONED PURSUANT TO SECTION 42-4-1105 (7) (c).

SECTION 5. 42-4-2108 (2) (b), Colorado Revised Statutes, is amended, and the said 42-4-2108 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

42-4-2108. Proceeds of sale. (2) If the sale of any motor vehicle and its attached accessories or equipment under the provisions of section 42-4-2104 produces an amount greater than the sum of all charges of the operator who has perfected his or her lien:

(a.5) IN THE CASE OF THE SALE OF AN ABANDONED MOTOR VEHICLE DESCRIBED IN SECTION 42-4-2102 (1) (d), ANY BALANCE REMAINING AFTER PAYMENT PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL BE PAID TO THE LAW ENFORCEMENT AGENCY THAT IS OWED A FEE FOR THE COURT-ORDERED PLACEMENT OF AN IMMOBILIZATION DEVICE ON THE MOTOR VEHICLE PURSUANT TO SECTION 42-4-1105.

(b) Any balance remaining after payment pursuant to ~~paragraph (a)~~ PARAGRAPHS (a) AND (a.5) of this subsection (2) shall be forwarded to the department, and the department may recover from such balance any taxes, fees, and penalties due and payable to it with respect to such motor vehicle.

SECTION 6. 42-2-127 (5) (c), Colorado Revised Statutes, is amended to read:

42-2-127. Authority to suspend license - to deny license - type of conviction - points. (5) Point system schedule:

Type of conviction	Points
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(c) (I) ENGAGING IN A speed contests CONTEST IN VIOLATION OF SECTION 42-4-1105 (1)	12
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(II) AIDING OR FACILITATING ENGAGING IN A SPEED CONTEST IN VIOLATION OF SECTION 42-4-1105 (3)	12
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(III) ENGAGING IN A SPEED EXHIBITION IN VIOLATION OF SECTION 42-4-1105 (2)	5
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(IV) AIDING OR FACILITATING ENGAGING IN A SPEED EXHIBITION IN VIOLATION OF SECTION 42-4-1105 (3)	5
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SECTION 7. Effective date - applicability. This act shall take effect July 1, 2006, and shall apply to offenses committed on or after said date.

SECTION 8. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Joan Fitz-Gerald
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO