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HOUSE BILL 03-1188

BY REPRESENTATIVE(S) King, Cloer, Butcher, Crane, Decker, Harvey, Larson, Marshall, Rhodes, and Weddig;
also SENATOR(S) McElhany, Arnold, Cairns, Jones, and May R.

CONCERNING COMPULSORY INSURANCE COVERAGE FOR MOTOR VEHICLES.

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

SECTION 1. 10-4-601, Colorado Revised Statutes, is amended to read:

10-4-601. Definitions. As used in this part 6, unless the context otherwise requires:

(1) "COMPLYING POLICY" MEANS A POLICY OF INSURANCE THAT PROVIDES THE COVERAGES AND IS SUBJECT TO THE TERMS AND CONDITIONS REQUIRED BY THIS PART 6, AND IS CERTIFIED BY THE INSURER AND THE INSURER HAS FILED A CERTIFICATION WITH THE COMMISSIONER THAT SUCH POLICY, CONTRACT, OR ENDORSEMENT CONFORMS TO COLORADO LAW AND ANY RULES PROMULGATED BY THE COMMISSIONER.

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

(2) "CONVERTER" MEANS A PERSON OTHER THAN A NAMED INSURED OR RESIDENT RELATIVE WHO OPERATES OR USES A MOTOR VEHICLE IN A MANNER THAT A REASONABLE PERSON WOULD DETERMINE WAS UNAUTHORIZED OR BEYOND THE SCOPE OF PERMISSION GIVEN BY A NAMED INSURED OR RESIDENT RELATIVE. IN DETERMINING WHETHER A PERSON IS A CONVERTER, THE FOLLOWING FACTORS SHOULD BE CONSIDERED:

(a) THE DURATION OF THE PERSON'S CONTROL OVER THE MOTOR VEHICLE;

(b) THE CIRCUMSTANCES SURROUNDING THE CONDUCT OF THE PERSON OPERATING OR USING THE MOTOR VEHICLE; AND

(c) THE PERSON'S GOOD FAITH.

(3) "DESCRIBED MOTOR VEHICLE" MEANS THE MOTOR VEHICLE DESCRIBED IN THE COMPLYING POLICY.

(4) "INSURED" MEANS THE NAMED INSURED, RELATIVES OF THE NAMED INSURED WHO RESIDE IN THE SAME HOUSEHOLD AS THE NAMED INSURED, AND ANY PERSON USING THE DESCRIBED MOTOR VEHICLE WITH THE PERMISSION OF THE NAMED INSURED.

(5) "MOTOR VEHICLE" MEANS ANY VEHICLE OF A TYPE REQUIRED TO BE REGISTERED AND LICENSED UNDER THE LAWS OF THIS STATE AND THAT IS DESIGNED TO BE PROPELLED BY AN ENGINE OR MOTOR; EXCEPT THAT "MOTOR VEHICLE" DOES NOT INCLUDE MINIBIKES, SNOWMOBILES, BICYCLES WITH MOTOR OR ENGINE ATTACHED, ANY VEHICLE DESIGNED PRIMARILY FOR USE OFF THE ROAD OR ON RAILS, OR MOTORCYCLES AND MOTORSCOOTERS AS DEFINED IN SECTION 42-1-102, C.R.S.

(H) (6) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on the policy, or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

(7) "OWNER" MEANS A PERSON WHO HOLDS THE LEGAL TITLE TO A VEHICLE; EXCEPT THAT, IF THE VEHICLE IS THE SUBJECT OF AN AGREEMENT FOR THE CONDITIONAL SALE OR LEASE THEREOF WITH THE RIGHT OF PURCHASE UPON PERFORMANCE OF THE CONDITIONS STATED IN THE

AGREEMENT AND WITH AN IMMEDIATE RIGHT OF POSSESSION VESTED IN THE CONDITIONAL VENDEE OR LESSEE, OR IF A MORTGAGOR OF THE VEHICLE IS ENTITLED TO POSSESSION, THEN SUCH CONDITIONAL VENDEE OR LESSEE OR MORTGAGOR SHALL BE DEEMED THE OWNER FOR THE PURPOSE OF THIS PART 6.

(8) "PERSON" MEANS EVERY NATURAL PERSON, FIRM, PARTNERSHIP, ASSOCIATION, OR CORPORATION.

~~(2)~~ (9) "Policy" means an automobile insurance policy providing coverage for all or any of the following coverages: Collision, comprehensive, bodily injury liability, property damage liability, medical payments, and uninsured motorist coverage, or a combination automobile policy providing bodily injury liability, property damage liability, medical payments, uninsured motorist, and physical damage coverage, delivered or issued for delivery in this state, insuring a single individual, or husband and wife, or family members residing in the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

(a) A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers nor rented to others pursuant to the terms of a motor vehicle rental agreement; or

(b) Any other four-wheel motor vehicle with a load capacity of fifteen hundred pounds or less ~~which~~ THAT is not used in the occupation, profession, or business of the insured.

~~(3)~~ (10) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of the policy beyond its policy period or term; but any policy with a policy period or term of less than six months shall, for the purpose of this part 6, be considered as if written for a policy period or term of six months; and any policy written for a term longer than one year, or any policy with no fixed expiration date, shall, for the purpose of this part 6, be considered as if written for successive policy periods or terms of one year, and such policy may be terminated at the expiration of any annual period upon giving twenty days' notice of cancellation prior to such anniversary date, and such cancellation shall not be subject to any other provisions of this part 6.

(11) "RESIDENT RELATIVE" MEANS A PERSON WHO, AT THE TIME OF THE ACCIDENT, IS RELATED BY BLOOD, MARRIAGE, OR ADOPTION TO THE NAMED INSURED OR RESIDENT SPOUSE AND WHO RESIDES IN THE NAMED INSURED'S HOUSEHOLD, EVEN IF TEMPORARILY LIVING ELSEWHERE, AND ANY WARD OR FOSTER CHILD WHO USUALLY RESIDES WITH THE NAMED INSURED, EVEN IF TEMPORARILY LIVING ELSEWHERE.

~~(4)~~ (12) "Stacking" has the same meaning set forth in section 10-4-402 (3.5).

SECTION 2. 10-4-604.5, Colorado Revised Statutes, is amended to read:

10-4-604.5. Issuance or renewal of insurance policies - proof of insurance provided by certificate, card, or other media - repeal. (1) In addition to any other requirement, if an insurer issues or renews a policy of insurance, the insurer shall provide the insured a proof of insurance certificate or insurance identification card to accompany the insured's registration application or renewal card or provide proof of insurance in such other media as is authorized by the department under section 42-3-105 (1) (c), ~~or section 42-3-112 (3) (b)~~, C.R.S. ~~If the insured has an operator's policy of insurance under section 10-4-706.5, the insurer shall provide the insured such proof of insurance for each motor vehicle owned by the insured.~~

~~(2) This section is repealed, effective July 1, 2003.~~

SECTION 3. Part 6 of article 4 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

10-4-601.5. Administrative authority. THE COMMISSIONER SHALL ADMINISTER AND ENFORCE THE PROVISIONS OF THIS PART 6 AND MAY MAKE RULES NECESSARY FOR THE ADMINISTRATION OF THIS PART 6 IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

10-4-616. Coverage compulsory. EVERY OWNER OF A MOTOR VEHICLE WHO OPERATES THE MOTOR VEHICLE ON THE PUBLIC HIGHWAYS OF THIS STATE OR WHO KNOWINGLY PERMITS THE OPERATION OF THE MOTOR VEHICLE ON THE PUBLIC HIGHWAYS OF THIS STATE SHALL HAVE IN FULL

FORCE AND EFFECT A COMPLYING POLICY UNDER THE TERMS OF THIS PART 6 COVERING THE SAID MOTOR VEHICLE, AND ANY OWNER WHO FAILS TO DO SO SHALL BE SUBJECT TO THE SANCTIONS PROVIDED UNDER SECTIONS 42-4-1409 AND 42-7-301, C.R.S., OF THE "MOTOR VEHICLE FINANCIAL RESPONSIBILITY ACT".

10-4-617. Required coverage. SUBJECT TO THE LIMITATIONS AND EXCLUSIONS AUTHORIZED BY THIS PART 6, THE BASIC COVERAGE REQUIRED FOR COMPLIANCE WITH THIS PART 6 IS LEGAL LIABILITY COVERAGE FOR BODILY INJURY OR DEATH ARISING OUT OF THE USE OF THE MOTOR VEHICLE TO A LIMIT, EXCLUSIVE OF INTEREST AND COSTS, OF TWENTY-FIVE THOUSAND DOLLARS TO ANY ONE PERSON IN ANY ONE ACCIDENT AND FIFTY THOUSAND DOLLARS TO ALL PERSONS IN ANY ONE ACCIDENT AND FOR PROPERTY DAMAGE ARISING OUT OF THE USE OF THE MOTOR VEHICLE TO A LIMIT, EXCLUSIVE OF INTEREST AND COSTS, OF FIFTEEN THOUSAND DOLLARS IN ANY ONE ACCIDENT.

10-4-618. Required coverages are minimum. (1) NOTHING IN THIS PART 6 SHALL BE CONSTRUED TO PROHIBIT THE ISSUANCE OF POLICIES PROVIDING COVERAGES MORE EXTENSIVE THAN THE MINIMUM COVERAGE REQUIRED BY SECTION 10-4-617, NOR TO REQUIRE THE SEGREGATION OF SUCH MINIMUM COVERAGE FROM OTHER COVERAGES IN THE SAME POLICY. HOWEVER, LOSS STATISTICS AS TO BODILY INJURY LIABILITY AND PROPERTY DAMAGE LIABILITY SHALL BE KEPT SEPARATELY FOR RATING PURPOSES, AND SUCH STATISTICS SHALL BE FILED WITH THE COMMISSIONER EACH YEAR.

(2) ALL INSURERS SHALL OFFER COLLISION COVERAGE FOR DAMAGE TO INSURED MOTOR VEHICLES SUBJECT TO DEDUCTIBLES OF ONE HUNDRED DOLLARS AND TWO HUNDRED FIFTY DOLLARS. INSURERS MAY OFFER SUCH OTHER REASONABLE DEDUCTIBLES AS THEY DEEM APPROPRIATE. COLLISION COVERAGE SHALL PROVIDE INSURANCE WITHOUT REGARD TO FAULT AGAINST ACCIDENTAL PROPERTY DAMAGE TO THE INSURED MOTOR VEHICLE WITH ANOTHER MOTOR VEHICLE OR MOTOR VEHICLE CAUSED BY PHYSICAL CONTACT OF THE INSURED WITH ANOTHER OBJECT OR BY UPSET OF THE INSURED MOTOR VEHICLE, IF THE ACCIDENT OCCURS WITHIN THE UNITED STATES, ITS TERRITORIES OR POSSESSIONS, CANADA, OR MEXICO.

(3) NO INSURER MAY SURCHARGE, REFUSE TO WRITE, CANCEL, OR NON-RENEW A COMPLYING POLICY OF AUTOMOBILE INSURANCE BASED SOLELY ON THE METHOD OF COMPLIANCE OR LEVEL OF COVERAGE CHOSEN, AS LONG AS THE REQUIREMENTS ARE MET UNDER SECTION 42-3-105 (1) (c)

(I) OR (1) (e), C.R.S.

10-4-619. Required provision for intrastate and interstate operation. (1) NOTWITHSTANDING ANY OF ITS TERMS AND CONDITIONS, EVERY COMPLYING POLICY SHALL AFFORD COVERAGE AT LEAST AS EXTENSIVE AS THE MINIMUM COVERAGE REQUIRED BY SECTION 10-4-617.

(2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THAT A COMPLYING POLICY PROVIDE COVERAGE WHILE THE INSURED MOTOR VEHICLE IS OPERATED IN SUCH OTHER JURISDICTIONS BY REASON OF ANY PROGRAM, STATUTE, LAW, OR ADMINISTRATIVE RULE IN EFFECT IN SUCH OTHER JURISDICTION BY WHICH COVERAGE IS AFFORDED IN SUCH OTHER JURISDICTION THROUGH A GOVERNMENT AGENCY OR PUBLICLY FINANCED AUTO ACCIDENT REPAIRS PLANS SUCH AS, BY WAY OF ILLUSTRATION AND NOT LIMITATION, PLANS PRESENTLY IN EFFECT IN THE PROVINCE OF SASKATCHEWAN, CANADA, AND THE COMMONWEALTH OF PUERTO RICO, U.S.A.

(3) NOTWITHSTANDING ANY OF ITS OTHER TERMS AND CONDITIONS, EVERY COMPLYING POLICY SHALL AFFORD COVERAGE AT LEAST AS EXTENSIVE AS THE MINIMUM COVERAGE REQUIRED BY OPERATION OF SECTION 10-4-617, DURING SUCH PERIODS OF TIME AS THE INSURED MOTOR VEHICLE IS OPERATED IN OTHER JURISDICTIONS OF THE UNITED STATES, ITS TERRITORIES OR POSSESSIONS, AND THE PROVINCES OF CANADA, AS THE STATUTES, LAWS, OR ADMINISTRATIVE RULES OF SUCH OTHER JURISDICTIONS REQUIRE WITH RESPECT TO LIABILITY, OR FINANCIAL RESPONSIBILITY, AND DIRECT BENEFIT, OR FIRST PARTY COVERAGES FOR OPERATORS, OCCUPANTS, AND PERSONS INVOLVED IN ACCIDENTS ARISING OUT OF USE OR OPERATION OF MOTOR VEHICLES WITHIN SUCH OTHER JURISDICTIONS.

(4) (a) NOTWITHSTANDING ANY OF ITS OTHER TERMS AND CONDITIONS, EVERY CONTRACT OF LIABILITY INSURANCE FOR INJURY, WHEREVER ISSUED, COVERING OWNERSHIP, MAINTENANCE, OR USE OF A MOTOR VEHICLE, SHALL PROVIDE COVERAGE AT LEAST AS EXTENSIVE AS THE MINIMUM COVERAGES REQUIRED BY OPERATION OF SECTION 10-4-617, AND QUALIFIES AS SECURITY COVERING THE VEHICLE WHILE IT IS IN THIS STATE.

(b) AN INSURER AUTHORIZED TO TRANSACT OR TRANSACTING BUSINESS IN THIS STATE MAY NOT EXCLUDE THE MINIMUM COVERAGE REQUIRED BY OPERATION OF SECTION 10-4-617 IN ANY CONTRACT OF LIABILITY INSURANCE FOR INJURY, WHEREVER ISSUED, COVERING

OWNERSHIP, MAINTENANCE, OR USE OF A MOTOR VEHICLE WHILE IT IS IN THIS STATE.

10-4-620. Conditions and exclusions. (1) THE COVERAGE DESCRIBED IN SECTION 10-4-617 MAY BE SUBJECT TO CONDITIONS AND EXCLUSIONS THAT ARE NOT INCONSISTENT WITH THE REQUIREMENTS OF THIS PART 6.

(2) THE COVERAGE DESCRIBED IN SECTION 10-4-617 MAY ALSO BE SUBJECT TO EXCLUSIONS WHERE THE INJURED PERSON:

(a) SUSTAINS INJURY CAUSED BY HIS OR HER OWN INTENTIONAL ACT;
OR

(b) IS OPERATING A MOTOR VEHICLE AS A CONVERTER WITHOUT A GOOD FAITH BELIEF THAT HE OR SHE IS LEGALLY ENTITLED TO OPERATE OR USE SUCH VEHICLE.

(3) (a) THE COVERAGE DESCRIBED IN SECTION 10-4-617 IS CONDITIONED UPON THE INSURER OFFERING COVERAGES PURSUANT TO SECTION 10-4-609 (1).

(b) THE INSURER SHALL BE DEEMED TO HAVE COMPLIED WITH THE REQUIREMENTS OF SECTION 10-4-609 (1) AND THE EXCLUSION OF THE INSURED FROM UNINSURED MOTORIST COVERAGE SHALL BE DEEMED VALID IF THE NAMED INSURED HAS REJECTED THE UNINSURED MOTORIST COVERAGE IN WRITING. SUCH EXCLUSION SHALL BE CONTINUING UNTIL SUCH TIME AS THE INSURED REQUESTS THAT THE INSURER PROVIDE UNINSURED MOTORIST COVERAGE. THE INSURER SHALL NOT HAVE A DUTY TO OFFER UNINSURED MOTORIST COVERAGE AFTER RECEIVING THE INSURED'S WRITTEN REQUEST FOR EXCLUSION EVEN THOUGH:

(I) THE VEHICLES INSURED UNDER THE POLICY HAVE CHANGED; OR

(II) THE POLICY IS REINSTATED, TRANSFERRED, SUBSTITUTED, AMENDED, ALTERED, MODIFIED, REPLACED, OR RENEWED.

(c) THE INSURER SHALL BE DEEMED TO HAVE COMPLIED WITH SECTION 10-4-609 (1) AND THE INSURED'S UNINSURED MOTORIST COVERAGE SHALL BE DEEMED VALID IF THE INSURER HAS OFFERED COVERAGE AT AVAILABLE LEVELS AND THE INSURED HAS SELECTED COVERAGE OF A

CERTAIN VALUE. THE INSURER SHALL NOT HAVE A DUTY TO OFFER CHANGES IN UNINSURED MOTORIST COVERAGE TO THE INSURED EVEN THOUGH:

(I) THE VEHICLES COVERED UNDER THE POLICY HAVE CHANGED; OR

(II) THE POLICY IS REINSTATED, TRANSFERRED, SUBSTITUTED, AMENDED, ALTERED, MODIFIED, REPLACED, OR RENEWED; EXCEPT THAT, IF THERE IS AN INCREASE IN BODILY INJURY LIABILITY LIMITS AND THE LIMITS OF THE UNINSURED MOTORIST COVERAGE WOULD BE LESS THAN SUCH LIMITS, THE INSURER SHALL OFFER NEW UNINSURED MOTORIST COVERAGE TO THE INSURED PURSUANT TO SECTION 10-4-609 (2).

10-4-621. Self-insurers. (1) ANY PERSON IN WHOSE NAME MORE THAN TWENTY-FIVE MOTOR VEHICLES ARE REGISTERED MAY QUALIFY AS A SELF-INSURER BY OBTAINING A CERTIFICATE OF SELF-INSURANCE ISSUED BY THE COMMISSIONER.

(2) THE COMMISSIONER MAY, IN HIS OR HER DISCRETION, UPON THE APPLICATION OF SUCH PERSON, ISSUE A CERTIFICATE OF SELF-INSURANCE WHEN THE COMMISSIONER IS SATISFIED THAT SUCH PERSON IS ABLE AND WILL CONTINUE TO BE ABLE TO PAY DIRECT BENEFITS AS REQUIRED UNDER SECTION 10-4-617 AND TO PAY ANY AND ALL JUDGMENTS THAT MAY BE OBTAINED AGAINST SUCH PERSON. UPON NOT LESS THAN FIVE DAYS' NOTICE AND A HEARING PURSUANT TO SUCH NOTICE, THE COMMISSIONER MAY, UPON REASONABLE GROUNDS, CANCEL A CERTIFICATE OF SELF-INSURANCE. FAILURE TO PAY ANY BENEFITS UNDER SECTION 10-4-617 OR FAILURE TO PAY ANY JUDGMENT WITHIN THIRTY DAYS AFTER SUCH JUDGMENT HAS BECOME FINAL SHALL CONSTITUTE A REASONABLE GROUND FOR THE CANCELLATION OF A CERTIFICATE OF SELF-INSURANCE.

(3) FOR PURPOSES OF SUBSECTION (2) OF THIS SECTION, THE COMMISSIONER SHALL ACCEPT, AS PROOF THAT A MOTOR VEHICLE CARRIER OR CONTRACT CARRIER BY MOTOR VEHICLE, AS DEFINED IN ARTICLES 10 AND 11 OF TITLE 40, C.R.S., IS ABLE AND WILL CONTINUE TO BE ABLE TO PAY ALL JUDGMENTS THAT MIGHT BE OBTAINED AGAINST THE CARRIER, A SURETY BOND IN A FORM ACCEPTABLE TO THE COMMISSIONER IN AN AMOUNT DETERMINED BY THE COMMISSIONER SUFFICIENT TO ENSURE THAT THE CARRIER HAS THE ABILITY TO PAY ALL JUDGMENTS THAT MAY BE OBTAINED AGAINST ANY SUCH CARRIER.

10-4-622. Quarterly premium payments. THE COMMISSIONER

SHALL ISSUE RULES ESTABLISHING QUARTERLY, SEMIANNUAL, AND ANNUAL PREMIUM PAYMENTS FOR PERSONS WHO ARE REQUIRED TO PURCHASE INSURANCE UNDER THIS PART 6. AN INSURER PROVIDING A PLAN FOR PAYMENTS ON A BASIS THAT IS MORE FREQUENT THAN QUARTERLY NEED NOT ALSO PROVIDE A QUARTERLY PAYMENT PLAN. AN INSURER'S PLAN FOR PAYMENTS MAY PROVIDE FOR PAYMENTS OF AN ADVANCE DEPOSIT PREMIUM.

10-4-623. Prohibited reasons for nonrenewal or refusal to write a policy of automobile insurance applicable to this part 6. (1) NO INSURER AUTHORIZED TO TRANSACT OR TRANSACTING BUSINESS IN THIS STATE SHALL REFUSE TO WRITE OR REFUSE TO RENEW A POLICY OF INSURANCE AFFORDING THE COVERAGE REQUIRED BY OPERATION OF SECTION 10-4-617 SOLELY BECAUSE OF THE AGE, RACE, GENDER, NATIONAL ORIGIN, RESIDENCE, MARITAL STATUS, OR LAWFUL OCCUPATION, INCLUDING THE MILITARY SERVICE, OF ANYONE WHO IS OR SEEKS TO BECOME INSURED, OR SOLELY BECAUSE ANOTHER INSURER HAS CANCELED A POLICY OR REFUSED TO WRITE OR RENEW SUCH POLICY. THE COMMISSIONER SHALL ADMINISTER AND ENFORCE THE PROVISIONS OF THIS SUBSECTION (1).

(2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT AN INSURANCE COMPANY AUTHORIZED TO TRANSACT OR TRANSACTING BUSINESS IN THIS STATE FROM ISSUING POLICIES OF INSURANCE AFFORDING THE COVERAGE REQUIRED BY OPERATION OF SECTION 10-4-617 SOLELY TO A SPECIALTY MARKET AUTHORIZED BY THE COMMISSIONER.

10-4-624. Discriminatory standards - premiums - surcharges - proof of financial responsibility requirements. (1) AN INSURER SHALL NOT:

(a) CANCEL OR NONRENEW, OR INCREASE THE PREMIUM OF, A POLICY OF INSURANCE ON A MOTOR VEHICLE USED BY ANY RESIDENT OF THE HOUSEHOLD OF THE NAMED INSURED SOLELY BECAUSE OF CONVICTIONS FOR TRAFFIC VIOLATIONS THAT RESULTED IN LESS THAN SEVEN POINTS BEING ASSESSED UNDER THE POINT SYSTEM SCHEDULE SET FORTH IN SECTION 42-2-127 (5), C.R.S., RESULTING FROM VIOLATIONS WHILE IN THE COURSE OF EMPLOYMENT WHILE THE INSURED IS DRIVING A MOTOR VEHICLE USED PRIMARILY AS A PUBLIC OR LIVERY CONVEYANCE OR LICENSED AS A COMMERCIAL VEHICLE; OR

(b) ADD A SURCHARGE TO THE POLICY PREMIUM OF AN INSURED OR

A FAMILY MEMBER OF AN INSURED OR OTHER PERSON LIVING IN THE SAME HOUSEHOLD AS AN INSURED IN A MANNER THAT RESULTS IN AN EXCESSIVE OR UNFAIRLY DISCRIMINATORY PREMIUM PURSUANT TO SECTION 10-4-403.

(2) THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT OR IN ANY MANNER RESTRICT AN INSURER FROM CANCELLING OR REFUSING TO ISSUE OR RENEW A POLICY OF INSURANCE OR FROM INCREASING THE PREMIUM OF AN INSURED ON A MOTOR VEHICLE USED BY HIM OR HER FOR COMMERCIAL PURPOSES OR FROM RECLASSIFYING AN INSURED FOR TRAFFIC VIOLATIONS RECEIVED BY THE INSURED WHILE USING A MOTOR VEHICLE FOR COMMERCIAL PURPOSES.

10-4-625. Refusal to write, changes in, cancellation, or nonrenewal of policies prohibited. (1) NO INSURER SHALL CANCEL; FAIL TO RENEW; REFUSE TO WRITE; RECLASSIFY AN INSURED UNDER; REDUCE COVERAGE UNDER, UNLESS THE REDUCTION IS PART OF A GENERAL REDUCTION IN COVERAGE FILED WITH THE COMMISSIONER; OR INCREASE THE PREMIUM FOR, UNLESS THE INCREASE IS PART OF A GENERAL INCREASE IN PREMIUMS FILED WITH THE COMMISSIONER, ANY COMPLYING POLICY BECAUSE THE APPLICANT, INSURED, PERMISSIVE USER, OR ANY RESIDENT OF THE HOUSEHOLD OF THE APPLICANT OR INSURED HAS:

(a) HAD AN ACCIDENT OR ACCIDENTS THAT ARE NOT THE FAULT OF SUCH NAMED APPLICANT, INSURED, HOUSEHOLD MEMBER, OR PERMISSIVE USER;

(b) HAD A LICENSE REVOKED PURSUANT TO SECTION 42-2-125 (1) (n), C.R.S., HAD A LICENSE SUSPENDED PURSUANT TO SECTION 42-2-127.5, C.R.S., OR BEEN DENIED A LICENSE PURSUANT TO SECTION 42-2-104 (3) (f), C.R.S., BASED UPON A CONVICTION OR ADJUDICATION UNDER SECTION 18-4-501 (2) OR 18-4-509 (2), C.R.S.

(2) (a) (I) NO INSURER SHALL CANCEL; FAIL TO RENEW; RECLASSIFY AN INSURED UNDER; REDUCE COVERAGE UNDER, UNLESS THE REDUCTION IS PART OF A GENERAL REDUCTION IN COVERAGE FILED WITH THE COMMISSIONER; OR INCREASE THE PREMIUM FOR, UNLESS THE INCREASE IS PART OF A GENERAL INCREASE IN PREMIUMS FILED WITH THE COMMISSIONER, ANY COMPLYING POLICY SOLELY BECAUSE THE INSURED PERSON HAS BEEN CONVICTED OF AN OFFENSE RELATED TO THE FAILURE TO HAVE IN EFFECT COMPULSORY MOTOR VEHICLE INSURANCE OR BECAUSE SUCH PERSON HAS BEEN DENIED ISSUANCE OF A MOTOR VEHICLE REGISTRATION FOR FAILURE TO

HAVE SUCH INSURANCE.

(II) UNLESS ACTUARIAL JUSTIFICATION IN SUPPORT OF THE INSURER'S ACTION THAT HAS BEEN FILED WITH THE COMMISSIONER DEMONSTRATES THAT THERE IS AN INCREASE IN RISK, NO INSURER SHALL REFUSE TO WRITE A POLICY FOR A NEW APPLICANT, SURCHARGE THE PREMIUM OF A NEW APPLICANT, OR PLACE A NEW APPLICANT IN A HIGHER-PRICED PROGRAM OR PLAN BASED SOLELY UPON:

(A) THE FACT THAT THE APPLICANT HAD NO PRIOR INSURANCE;

(B) THE IDENTITY OF THE APPLICANT'S PRIOR INSURER; OR

(C) THE APPLICANT'S PRIOR TYPE OF COVERAGE, INCLUDING ASSIGNED RISK OR RESIDUAL MARKET COVERAGE OR ANY PLAN OTHER THAN A PREFERRED PLAN.

(III) AN INSURER MAY USE INDUSTRY-WIDE DATA IN ITS ACTUARIAL JUSTIFICATION UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH (a).

(IV) AN INSURER SHALL NOT REFUSE TO WRITE A POLICY FOR A NEW APPLICANT, SURCHARGE THE PREMIUM OF A NEW APPLICANT, OR PLACE A NEW APPLICANT IN A HIGHER-PRICED PROGRAM OR PLAN SOLELY BECAUSE THE APPLICANT HAD NO PRIOR INSURANCE IF THE APPLICANT WAS NOT REQUIRED TO HAVE INSURANCE UNDER SECTION 10-4-617 OR UNDER A SIMILAR LAW IN ANOTHER STATE.

(b) (I) AN INSURER SHALL NOT REFUSE TO WRITE A COMPLYING POLICY SOLELY BECAUSE OF THE CLAIM OR DRIVING RECORD OF ONE OR MORE BUT FEWER THAN ALL OF THE PERSONS RESIDING IN THE HOUSEHOLD OF THE NAMED INSURED.

(II) AN INSURER SHALL OFFER TO EXCLUDE ANY PERSON IN A HOUSEHOLD BY NAME PURSUANT TO SECTION 10-4-626 IF SUCH PERSON'S DRIVING RECORD AND CLAIM EXPERIENCE WOULD JUSTIFY THE REFUSAL BY SUCH INSURER TO WRITE A POLICY FOR SUCH PERSON IF SUCH PERSON WERE APPLYING IN SUCH PERSON'S OWN NAME AND NOT AS PART OF A HOUSEHOLD.

(III) AN INSURER RENEWING A POLICY PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) SHALL INCLUDE, AS PART OF SUCH RENEWAL, A WRITTEN NOTICE NAMING THE PARTY SPECIFICALLY EXCLUDED FROM

COVERAGE.

(3) AN INSURED WHO BELIEVES THE PROVISIONS OF SUBSECTION (1) OR (2) OF THIS SECTION HAVE BEEN VIOLATED SHALL HAVE THE RIGHT TO FILE A PROTEST WITH THE COMMISSIONER PURSUANT TO SECTION 10-4-625.

(4) THE COMMISSIONER SHALL PROMULGATE RULES TO IMPLEMENT THIS SECTION.

10-4-626. Cancellation - renewal - reclassification. (1) EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF THIS PART 6, AN INSURER SHALL NOT CANCEL OR FAIL TO RENEW A POLICY OF INSURANCE THAT COMPLIES WITH THIS PART 6, ISSUED IN THIS STATE, AS TO ANY RESIDENT OF THE HOUSEHOLD OF THE NAMED INSURED, FOR ANY REASON OTHER THAN NONPAYMENT OF PREMIUM, OR INCREASE A PREMIUM FOR ANY COVERAGE ON ANY SUCH POLICY UNLESS THE INCREASE IS PART OF A GENERAL INCREASE IN PREMIUMS FILED WITH THE COMMISSIONER AND DOES NOT RESULT FROM A RECLASSIFICATION OF THE INSURED, OR REDUCE THE COVERAGE UNDER ANY SUCH POLICY UNLESS THE REDUCTION IS PART OF A GENERAL REDUCTION IN COVERAGE FILED WITH THE COMMISSIONER OR TO SATISFY THE REQUIREMENTS OF OTHER SECTIONS OF THIS PART 6.

(2) AN INSURER INTENDING TO TAKE AN ACTION SUBJECT TO THE PROVISIONS OF THIS SECTION SHALL, ON OR BEFORE THE THIRTIETH DAY BEFORE THE PROPOSED EFFECTIVE DATE OF THE ACTION, SEND WRITTEN NOTICE BY FIRST-CLASS MAIL OF ITS INTENDED ACTION TO THE INSURED AT THE INSURED'S LAST KNOWN ADDRESS. THE NOTICE SHALL BE IN TRIPPLICATE AND SHALL STATE IN CLEAR AND SPECIFIC TERMS, ON A FORM THAT HAS BEEN CERTIFIED BY THE INSURER AND THE INSURER HAS FILED A CERTIFICATION WITH THE COMMISSIONER THAT SUCH NOTICE FORM CONFORMS TO COLORADO LAW AND ANY RULES PROMULGATED BY THE COMMISSIONER:

(a) THE PROPOSED ACTION TO BE TAKEN, INCLUDING, IF THE ACTION IS AN INCREASE IN PREMIUM OR REDUCTION IN COVERAGE, THE AMOUNT OF INCREASE AND THE TYPE OF COVERAGE TO WHICH IT IS APPLICABLE OR THE TYPE OF COVERAGE REDUCED AND THE EXTENT OF THE REDUCTION;

(b) THE PROPOSED EFFECTIVE DATE OF THE ACTION;

(c) THE INSURER'S ACTUAL REASONS FOR PROPOSING TO TAKE SUCH ACTION. THE STATEMENT OF REASONS SHALL BE SUFFICIENTLY CLEAR AND

SPECIFIC SO THAT A PERSON OF AVERAGE INTELLIGENCE CAN IDENTIFY THE BASIS FOR THE INSURER'S DECISION WITHOUT MAKING FURTHER INQUIRY. GENERALIZED TERMS SUCH AS "PERSONAL HABITS", "LIVING CONDITIONS", "POOR MORALE", OR "VIOLATION OR ACCIDENT RECORD" SHALL NOT SUFFICE TO MEET THE REQUIREMENTS OF THIS SUBSECTION (2).

(d) IF THERE IS COUPLED WITH THE NOTICE AN OFFER TO CONTINUE OR RENEW THE POLICY IN ACCORDANCE WITH SECTION 10-4-625, THE NAME OF THE PERSON OR PERSONS TO BE EXCLUDED FROM COVERAGE AND WHAT THE PREMIUM WOULD BE IF THE POLICY IS CONTINUED OR RENEWED WITH SUCH PERSON OR PERSONS EXCLUDED FROM COVERAGE;

(e) THE RIGHT OF THE INSURED TO REPLACE THE INSURANCE THROUGH AN ASSIGNED RISK PLAN;

(f) THE RIGHT OF THE INSURED TO PROTEST THE PROPOSED ACTION AND REQUEST A HEARING THEREON BEFORE THE COMMISSIONER BY SIGNING TWO COPIES OF THE NOTICE AND SENDING THEM TO THE COMMISSIONER WITHIN TEN DAYS AFTER RECEIPT OF THE NOTICE;

(g) THAT, IF A PROTEST IS FILED BY THE INSURED, THE CURRENT INSURANCE WILL REMAIN IN EFFECT UNTIL A DETERMINATION IS MADE BY THE COMMISSIONER UPON PAYMENT OF ANY LAWFUL PREMIUM DUE OR BECOMING DUE PRIOR TO THE DETERMINATION;

(h) THE AUTHORITY OF THE COMMISSIONER TO AWARD REASONABLE COUNSEL FEES TO THE INSURED FOR SERVICES RENDERED TO THE INSURED IN CONNECTION WITH ANY SUCH HEARING IF THE COMMISSIONER FINDS THE PROPOSED ACTION OF THE INSURER TO BE UNJUSTIFIED.

(3) ANY STATEMENT OF REASONS CONTAINED IN THE NOTICE GIVEN PURSUANT TO PARAGRAPH (c) OF SUBSECTION (2) OF THIS SECTION SHALL BE PRIVILEGED AND SHALL NOT CONSTITUTE GROUNDS FOR ANY ACTION AGAINST THE INSURER OR ITS REPRESENTATIVES OR ANY PERSON WHO IN GOOD FAITH FURNISHED TO THE INSURER THE INFORMATION UPON WHICH THE STATEMENT IS BASED.

(4) AN INSURED SHALL HAVE THE RIGHT TO PROTEST THE PROPOSED ACTION OF THE INSURER BY SIGNING TWO COPIES OF THE NOTICE AND SENDING THEM TO THE COMMISSIONER WITHIN TEN DAYS AFTER RECEIPT OF THE NOTICE. THE COMMISSIONER SHALL, UPON RECEIPT OF A PROTEST,

NOTIFY THE INSURER OF THE FILING OF THE PROTEST.

(5) A PROTEST DULY FILED SHALL STAY THE PROPOSED ACTION OF THE INSURER PENDING A FINAL DETERMINATION THEREOF BY THE COMMISSIONER, AND THE INSURER SHALL KEEP IN FULL FORCE AND EFFECT THE SAME COVERAGE AND PREMIUM IN EFFECT ON THE DAY THE NOTICE OF PROPOSED CHANGE WAS SENT UNTIL SUCH FINAL DETERMINATION IS MADE, IF ANY LAWFUL PREMIUM DUE OR BECOMING DUE PRIOR TO SUCH DETERMINATION IS PAID.

(6) IF THE COMMISSIONER FINDS FROM THE NOTICE AND OTHER EVIDENCE THAT THE PROTEST IS WITH OR WITHOUT MERIT, THE COMMISSIONER MAY GRANT OR DISMISS THE PROTEST WITHOUT A HEARING AND SHALL, IN THAT EVENT, PROMPTLY NOTIFY THE INSURER AND THE INSURED IN WRITING OF SUCH ACTION. IF THE PROTEST IS DISMISSED WITHOUT A HEARING, THE PROPOSED ACTION OF THE INSURER SHALL BECOME EFFECTIVE ON ITS PROPOSED EFFECTIVE DATE OR FIFTEEN DAYS AFTER WRITTEN NOTICE OF THE ACTION IS GIVEN BY THE COMMISSIONER TO THE INSURED, WHICHEVER IS LATER. IF THE NOTICE OF THE PROPOSED ACTION DOES NOT COMPLY WITH COLORADO LAW, THE COMMISSIONER SHALL DISALLOW THE ACTION. IN ALL OTHER CASES, THE COMMISSIONER SHALL HOLD A HEARING ON THE PROTEST WITHIN THIRTY DAYS AFTER RECEIPT OF THE PROTEST AND SHALL GIVE WRITTEN NOTICE OF THE TIME AND PLACE THEREOF TO THE INSURER AND THE INSURED AT LEAST TEN DAYS PRIOR TO THE SCHEDULED DATE OF THE HEARING. THE INSURER SHALL HAVE THE BURDEN OF PROVING ITS PROPOSED ACTION TO BE JUSTIFIED AND, IN DOING SO, MAY RELY ONLY UPON THE REASONS SET FORTH IN ITS NOTICE TO THE INSURED.

(7) IF THE COMMISSIONER FINDS THE PROPOSED ACTION TO BE JUSTIFIED, THE COMMISSIONER SHALL DISMISS THE PROTEST AND ALLOW THE PROPOSED ACTION TO BE TAKEN ON ITS PROPOSED EFFECTIVE DATE OR TWENTY DAYS AFTER THE DATE OF THE DETERMINATION, WHICHEVER IS LATER. IF THE COMMISSIONER FINDS THE PROPOSED ACTION TO BE UNJUSTIFIED, THE COMMISSIONER SHALL DISALLOW THE ACTION AND MAY, IN ADDITION, ORDER THE INSURER TO PAY SUCH REASONABLE COUNSEL FEES INCURRED BY THE INSURED FOR REPRESENTATION AT THE HEARING AS THE COMMISSIONER MAY DEEM APPROPRIATE. THE COMMISSIONER MAY DELEGATE THE DUTIES AND POWERS CONFERRED IN THIS SECTION TO ONE OR MORE EMPLOYEES OR TO ONE OR MORE ADMINISTRATIVE LAW JUDGES APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S.,

SUBJECT TO APPROPRIATIONS FOR SUCH ADMINISTRATIVE LAW JUDGES MADE TO THE DEPARTMENT OF PERSONNEL. ANY HEARING SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-4-105, C.R.S.

(8) ANY FINAL DECISION OF THE COMMISSIONER SHALL BE SUBJECT TO JUDICIAL REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11), C.R.S.

(9) THIS SECTION SHALL NOT APPLY TO ANY INSURANCE POLICY OR COVERAGE THAT HAS BEEN IN EFFECT LESS THAN SIXTY DAYS AT THE TIME NOTICE OF CANCELLATION, NONRENEWAL, OR RECLASSIFICATION IS MAILED OR DELIVERED BY THE INSURER, UNLESS IT IS A RENEWAL POLICY.

10-4-627. Exclusion of named driver. (1) IN ANY CASE WHERE AN INSURER IS AUTHORIZED UNDER THIS PART 6 TO CANCEL OR REFUSE TO RENEW OR INCREASE THE PREMIUMS ON AN AUTOMOBILE LIABILITY INSURANCE POLICY UNDER WHICH MORE THAN ONE PERSON IS INSURED BECAUSE OF THE CLAIM EXPERIENCE OR DRIVING RECORD OF ONE OR MORE BUT LESS THAN ALL OF THE PERSONS INSURED UNDER THE POLICY, THE INSURER SHALL IN LIEU OF CANCELLATION, NONRENEWAL, OR PREMIUM INCREASE OFFER TO CONTINUE OR RENEW THE INSURANCE BUT TO EXCLUDE FROM COVERAGE, BY NAME, THE PERSON WHOSE CLAIM EXPERIENCE OR DRIVING RECORD WOULD HAVE JUSTIFIED THE CANCELLATION OR NONRENEWAL. THE PREMIUMS CHARGED ON ANY SUCH POLICY EXCLUDING A NAMED DRIVER SHALL NOT REFLECT THE CLAIMS, EXPERIENCE, OR DRIVING RECORD OF THE EXCLUDED NAMED DRIVER.

(2) WITH RESPECT TO ANY PERSON EXCLUDED FROM COVERAGE UNDER THIS SECTION, THE POLICY MAY PROVIDE THAT THE INSURER SHALL NOT BE LIABLE FOR DAMAGES, LOSSES, OR CLAIMS ARISING OUT OF THIS OPERATION OR USE OF THE INSURED MOTOR VEHICLE, WHETHER OR NOT SUCH OPERATION OR USE WAS WITH THE EXPRESS OR IMPLIED PERMISSION OF A PERSON INSURED UNDER THE POLICY.

10-4-628. Insurers to file rate schedule. ANY INSURER AUTHORIZED TO TRANSACT OR TRANSACTING BUSINESS IN THIS STATE SHALL FILE A SCHEDULE OF INSURANCE RATES FOR THE MINIMUM COVERAGES REQUIRED UNDER THIS PART 6 NO LATER THAN JULY 1, 2003. THE COMMISSIONER SHALL MAKE THE INFORMATION REQUIRED BY THIS SECTION OPEN TO PUBLIC INSPECTION NO LATER THAN JULY 1, 2003.

10-4-629. Reduction in rates for drivers aged fifty-five years or older who complete a driver's education course - legislative declaration.

(1) (a) (I) THE GENERAL ASSEMBLY FINDS AND DETERMINES THAT MOTOR VEHICLE ACCIDENTS CAUSE A SUBSTANTIAL ECONOMIC IMPACT IN LOST WAGES, MEDICAL BILLS, LEGAL FEES, REHABILITATION COSTS, AND HIGHER INSURANCE RATES.

(II) THE GENERAL ASSEMBLY ALSO FINDS THAT THE MOTOR VEHICLE ACCIDENT RATE CREATES AN ADDITIONAL SOCIETAL BURDEN IN THE FORM OF TAXES FOR MEDICAID, FOR THE MEDICALLY INDIGENT, AND FOR OTHER HOSPITAL-RELATED COSTS.

(III) THE GENERAL ASSEMBLY FURTHER FINDS THAT THE NUMBER OF SUCH ACCIDENTS AND INJURIES IS POSITIVELY AFFECTED WHEN DRIVERS FIFTY-FIVE YEARS OF AGE OR OLDER TAKE DRIVER'S EDUCATION COURSES.

(b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS APPROPRIATE AND BENEFICIAL TO ALL THE PEOPLE OF COLORADO THAT DRIVERS FIFTY-FIVE YEARS OF AGE OR OLDER WITH RECENT TRAINING AND GOOD DRIVING RECORDS PAY EXPERIENCE-BASED INSURANCE PREMIUMS.

(c) A FINANCIAL INCENTIVE IN THE FORM OF LOWER PREMIUMS WILL PROMPT DRIVERS FIFTY-FIVE YEARS OF AGE OR OLDER TO TAKE DRIVER'S EDUCATION COURSES AND WILL FURTHER THE GOAL OF THE GENERAL ASSEMBLY TO REDUCE ACCIDENT-RELATED INJURIES AND FATALITIES IN COLORADO.

(2) ALL RATES, RATING SCHEDULES, AND RATING MANUALS FOR LIABILITY AND COLLISION COVERAGES OF A MOTOR VEHICLE INSURANCE POLICY SUBMITTED TO OR FILED WITH THE COMMISSIONER UNDER THIS PART 6 SHALL PROVIDE FOR AN APPROPRIATE REDUCTION IN PREMIUM CHARGES BASED ON JUSTIFIABLE DATA WHEN THE VEHICLE IS A COVERED VEHICLE AND WHEN THE PRINCIPAL OPERATOR IS FIFTY-FIVE YEARS OF AGE OR OLDER AND HAS SUCCESSFULLY COMPLETED A DRIVER'S EDUCATION COURSE TAUGHT BY A DRIVING SCHOOL REGULATED PURSUANT TO ARTICLE 15 OF TITLE 12, C.R.S., OR BY A NONPROFIT CORPORATION SUBJECT TO ARTICLES 121 TO 137 OF TITLE 7, C.R.S., IF SUCH COURSE HAS BEEN PREAPPROVED BY THE DEPARTMENT OF REVENUE. ANY DISCOUNT USED BY AN INSURER SHALL BE PRESUMED APPROPRIATE UNLESS CREDIBLE DATA DEMONSTRATES OTHERWISE. INSURERS SHALL PROVIDE THE COMMISSIONER WITH DATA REFLECTING THE CLAIMS EXPERIENCE OF DRIVERS WHO HAVE RECEIVED

REDUCTIONS IN PREMIUM CHARGES COMPARED WITH THE CLAIMS EXPERIENCE OF DRIVERS WHO HAVE NOT RECEIVED SUCH REDUCTIONS.

(3) EACH PERSON WHO SUCCESSFULLY COMPLETES A DRIVER'S EDUCATION COURSE TAUGHT BY A COMMERCIAL DRIVING SCHOOL REGULATED PURSUANT TO ARTICLE 15 OF TITLE 12, C.R.S., SHALL BE ISSUED A CERTIFICATE BY THE COMMERCIAL DRIVING SCHOOL OFFERING THE COURSE, WHICH CERTIFICATE SHALL BE EVIDENCE OF QUALIFICATION FOR THE PREMIUM DISCOUNT REQUIRED BY THIS SECTION.

(4) EACH PERSON WHO SUCCESSFULLY COMPLETES A DRIVER'S EDUCATION COURSE TAUGHT BY A NONPROFIT CORPORATION SUBJECT TO ARTICLES 121 TO 137 OF TITLE 7, C.R.S., IF SUCH COURSE HAS BEEN PREAPPROVED BY THE DEPARTMENT OF REVENUE, SHALL BE ISSUED A CERTIFICATE BY THE NONPROFIT CORPORATION OFFERING THE COURSE, WHICH CERTIFICATE SHALL BE EVIDENCE OF QUALIFICATION FOR THE PREMIUM DISCOUNT REQUIRED BY THIS SECTION.

(5) THE PREMIUM REDUCTION REQUIRED BY THIS SECTION SHALL BE EFFECTIVE FOR AN INSURED FOR A THREE-YEAR PERIOD AFTER SUCCESSFUL COMPLETION OF THE APPROVED COURSE. HOWEVER, THE INSURER MAY REQUIRE, AS A CONDITION OF PROVIDING AND MAINTAINING SUCH DISCOUNT, THAT THE INSURED, DURING THE THREE-YEAR PERIOD AFTER COURSE COMPLETION, NOT BE INVOLVED IN AN ACCIDENT FOR WHICH THE INSURED IS HELD AT FAULT.

(6) AN INSURED MAY RENEW QUALIFICATION FOR THE DISCOUNT PROVIDED BY THIS SECTION BY:

(a) (I) RETAKING A DRIVER'S EDUCATION COURSE TAUGHT BY A COMMERCIAL DRIVING SCHOOL REGULATED PURSUANT TO ARTICLE 15 OF TITLE 12, C.R.S.; OR

(II) RETAKING A DRIVER'S EDUCATION COURSE TAUGHT BY A NONPROFIT CORPORATION SUBJECT TO ARTICLES 121 TO 137 OF TITLE 7, C.R.S., IF SUCH COURSE HAS BEEN PREAPPROVED BY THE DEPARTMENT OF REVENUE; AND

(b) NOT BEING INVOLVED IN AN ACCIDENT FOR WHICH THE INSURED IS HELD AT FAULT.

(7) THIS SECTION SHALL NOT APPLY WHERE AN INSURED DRIVER IS TAKING A DRIVER'S EDUCATION COURSE AS A RESULT OF AN ORDER OF A COURT OR OTHER GOVERNMENTAL ENTITY RESULTING FROM A MOVING TRAFFIC VIOLATION.

10-4-630. Certification of policy and notice forms. (1) ALL INSURERS PROVIDING AUTOMOBILE INSURANCE AND WHO ARE AUTHORIZED BY THE COMMISSIONER TO CONDUCT BUSINESS IN COLORADO SHALL SUBMIT AN ANNUAL REPORT TO THE COMMISSIONER LISTING ANY POLICY FORMS, ENDORSEMENTS, CANCELLATION NOTICES, RENEWAL NOTICES, DISCLOSURE FORMS, NOTICES OF PROPOSED PREMIUM INCREASES, NOTICES OF PROPOSED REDUCTIONS IN COVERAGE, AND SUCH OTHER FORMS AS MAY BE REQUESTED BY THE COMMISSIONER ISSUED OR DELIVERED TO ANY POLICYHOLDER IN COLORADO. SUCH LISTING SHALL BE SUBMITTED NO LATER THAN JULY 1 OF EACH YEAR AND SHALL CONTAIN A CERTIFICATION BY AN OFFICER OF THE ORGANIZATION THAT TO THE BEST OF THE OFFICER'S KNOWLEDGE EACH POLICY FORM, ENDORSEMENT, OR NOTICE FORM IN USE COMPLIES WITH COLORADO LAW. THE NECESSARY ELEMENTS OF THE CERTIFICATION SHALL BE DETERMINED BY THE COMMISSIONER.

(2) ALL INSURERS PROVIDING AUTOMOBILE INSURANCE AND WHO ARE AUTHORIZED BY THE COMMISSIONER TO CONDUCT BUSINESS IN COLORADO SHALL ALSO SUBMIT TO THE COMMISSIONER A LIST OF ANY NEW POLICY FORM, ENDORSEMENT, CANCELLATION NOTICE, RENEWAL NOTICE, DISCLOSURE FORM, NOTICE OF PROPOSED PREMIUM INCREASE, NOTICE OF PROPOSED REDUCTIONS IN COVERAGE, AND ANY OTHER FORM AS MAY BE REQUESTED BY THE COMMISSIONER AT LEAST THIRTY-ONE DAYS BEFORE USING SUCH POLICY FORM, ENDORSEMENT, CANCELLATION NOTICE, RENEWAL NOTICE, DISCLOSURE FORM, NOTICE OF PROPOSED PREMIUM INCREASE, NOTICE OF PROPOSED REDUCTIONS IN COVERAGE, AND ANY OTHER FORM AS MAY BE REQUESTED BY THE COMMISSIONER. SUCH LISTING SHALL ALSO CONTAIN A CERTIFICATION BY AN OFFICER OF THE ORGANIZATION THAT TO THE BEST OF THE OFFICER'S KNOWLEDGE EACH NEW POLICY FORM, ENDORSEMENT, OR NOTICE FORM PROPOSED TO BE USED COMPLIES WITH COLORADO LAW. THE NECESSARY ELEMENTS OF THE CERTIFICATION SHALL BE DETERMINED BY THE COMMISSIONER.

(3) THE COMMISSIONER SHALL HAVE THE POWER TO EXAMINE AND INVESTIGATE INSURERS AUTHORIZED TO CONDUCT BUSINESS IN COLORADO TO DETERMINE WHETHER AUTOMOBILE POLICY FORMS, ENDORSEMENTS, CANCELLATION NOTICES, RENEWAL NOTICES, DISCLOSURE FORMS, NOTICES

OF PROPOSED PREMIUM INCREASES, NOTICES OF PROPOSED REDUCTIONS IN COVERAGE, AND SUCH OTHER FORMS AS MAY BE REQUESTED BY THE COMMISSIONER COMPLY WITH THE CERTIFICATION OF THE ORGANIZATION AND STATUTORY MANDATES.

SECTION 4. 10-3-1104 (1) (u), Colorado Revised Statutes, is amended to read:

10-3-1104. Unfair methods of competition and unfair or deceptive acts or practices. (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(u) Certifying pursuant to section ~~10-4-725~~ 10-4-630 or issuing, soliciting, or using an automobile policy form, endorsement, or notice form that does not comply with statutory mandates. Such solicitation or certification shall be subject to the sanctions described in sections 10-3-1107, 10-3-1108, and 10-3-1109.

SECTION 5. 10-3-1110 (2), Colorado Revised Statutes, is amended to read:

10-3-1110. Regulations. (2) The commissioner may, after notice and hearing, as provided in article 4 of title 24, C.R.S., promulgate rules and regulations with respect to the payment of benefits under group and individual contracts of property or casualty coverage, except for property and casualty coverage provided pursuant to the "~~Colorado Auto Accident Reparations Act~~", part 7 6 of article 4 of this title, issued by organizations authorized to do business in this state under the provisions of article 4 of this title. Such rules and regulations may establish a penalty payable to the claimant on benefit payments ~~which~~ THAT are delayed more than sixty days after a valid and complete filing of the claim unless there is a reasonable dispute between the parties concerning such claim. Such penalty shall not exceed twenty dollars on claims of less than one hundred dollars or interest at a rate of eight percent annually on claims above one hundred dollars. In addition to such penalties payable to the claimant, the commissioner, after notice and hearing, may assess a civil penalty against any insurer of one hundred dollars per day for each day benefit payments are delayed more than sixty days after a valid and complete filing of the claim unless there is a reasonable dispute between the parties concerning such claim.

SECTION 6. 10-4-115 (2), Colorado Revised Statutes, is amended to read:

10-4-115. Private utilization review. (2) An insurance carrier regulated pursuant to the provisions of this article may contract with any private utilization review organization and receive from that private utilization review organization a utilization review opinion. If the insurance carrier relies on the opinion of the private utilization review organization resulting in a decision to not pay benefits ~~which~~ THAT an appropriate fact finder later determines were due and owing, then the insurance carrier shall be responsible to pay the past due benefits in addition to interest and costs. ~~and attorney fees, as may be required by section 10-4-708 (1.7).~~ Nothing in this subsection (2) shall be construed to affect or limit the commissioner's power to regulate under the provisions of section 10-3-1104 (1) (h), nor shall anything in this subsection (2) limit or affect the insured's remedies under the "~~Colorado Auto Accident Reparations Act~~", part 7 6 of this article, or any common law remedy.

SECTION 7. 10-16-106.5 (2.5), Colorado Revised Statutes, is amended to read:

10-16-106.5. Prompt payment of claims - legislative declaration. (2.5) This section shall not apply to claims arising ~~under the "Colorado Auto Accident Reparations Act"~~, part 7 6 of article 4 of this title.

SECTION 8. 13-80-101 (1) (j), Colorado Revised Statutes, is amended to read:

13-80-101. General limitation of actions - three years. (1) The following civil actions, regardless of the theory upon which suit is brought, or against whom suit is brought, shall be commenced within three years after the cause of action accrues, and not thereafter:

(j) All actions ~~under the "Colorado Auto Accident Reparations Act"~~, part 7 6 of article 4 of title 10, C.R.S.;

SECTION 9. 24-30-1512, Colorado Revised Statutes, is amended to read:

24-30-1512. Risk management fund and self-insured property

fund not subject to insurance laws. The setting aside of reserves for self-insurance purposes in the risk management fund created in section 24-30-1510, in the self-insured property fund created in section 24-30-1510.5, and in the state employee workers' compensation account in the risk management fund created in section 24-30-1510.7, shall not be construed to be creating an insurance company, nor shall the risk management fund or the self-insured property fund otherwise be subject to the provisions of the laws of this state regulating insurance or insurance companies. The requirements of section ~~10-4-716~~ 10-4-621, C.R.S., concerning MOTOR VEHICLE self-insurance ~~under the "Colorado Auto Accident Reparations Act"~~ are not applicable to this part 15.

SECTION 10. 26-4-403 (8), Colorado Revised Statutes, is amended to read:

26-4-403. Recoveries - overpayments - penalties - interest - adjustments - liens. (8) Nothing in the ~~"Colorado Auto Accident Reparations Act"~~, part 7 6 of article 4 of title 10, C.R.S., shall be construed to limit the right of the state department to recover the medical assistance furnished to or on behalf of a recipient as the result of the negligence of a third party.

SECTION 11. 42-2-127.7 (2) (a), (3), (5) (a), and (8) (c) (I), Colorado Revised Statutes, are amended to read:

42-2-127.7. Authority to suspend license - uninsured motorists - legislative declaration. (2) (a) The department may suspend the license of any person upon its determination that the person drove a vehicle in this state without having in full force and effect a complying policy or certificate of self-insurance as required by sections ~~10-4-705~~ 10-4-616 and ~~10-4-716~~ 10-4-621, C.R.S.

(3) Whenever a law enforcement officer determines, by checking the motorist insurance identification database created in section 42-7-604, and by any other means authorized by law, that a driver violates section 42-4-1409 by not having a complying policy or certificate of self-insurance in full force and effect as required by sections ~~10-4-705~~ 10-4-616 and ~~10-4-716~~ 10-4-621, C.R.S., the law enforcement officer making such determination shall forward to the department an affidavit that includes a statement of the officer's probable cause that the person committed such

violation, and a copy of the citation and complaint, if any, filed with the court. The affidavit shall be dated, signed, and sworn to by the law enforcement officer under penalty of perjury, but need not be notarized or sworn to before any other person.

(5)(a) Whenever a law enforcement officer determines, by checking the motorist insurance identification database created in section 42-7-604, and by any other means authorized by law, that a driver violates section 42-4-1409 by not having a complying policy or certificate of self-insurance as required by sections ~~10-4-705~~ 10-4-616 and ~~10-4-716~~ 10-4-621, C.R.S., the officer, acting on behalf of the department may serve the notice of suspension personally on such driver. If the law enforcement officer serves the notice of suspension, the officer shall take possession of any driver's license issued by this state or any other state ~~which~~ THAT is held by the person. When the officer takes possession of a valid license, the officer, acting on behalf of the department, shall issue a temporary permit ~~which~~ THAT is valid for seven days after its date of issuance.

(8) (c) (I) When a license is suspended under paragraph (a) of subsection (2) of this section, the sole issue at the hearing shall be whether by a preponderance of the evidence the person drove a vehicle in this state without having in force a complying policy or certificate of self-insurance as required by sections ~~10-4-705~~ 10-4-616 and ~~10-4-716~~ 10-4-621, C.R.S. If the presiding hearing officer finds the affirmative of the issue, the suspension order shall be sustained. If the presiding hearing officer finds the negative of the issue, the suspension order shall be rescinded.

SECTION 12. 42-3-105 (1) (c) (I) and (2), Colorado Revised Statutes, are amended to read:

42-3-105. Application for registration - tax - repeal.

(1) (c) (I) The department may not register a motor vehicle unless the applicant has a complying motor vehicle insurance policy, including an operator's policy of insurance under section 10-4-706.5, C.R.S., or a certificate of self-insurance in full force and effect as required by sections ~~10-4-705~~ 10-4-616 and ~~10-4-716~~ 10-4-621, C.R.S. The requirements of this paragraph (c) apply only to motor vehicles classified as Class C personal property under section 42-3-106 (1) (c), to light trucks that do not exceed sixteen thousand pounds empty weight and that are not insured through a commercial line of insurance, and to sports utility vehicles that are classified as Class B personal property under section 42-3-106 (1) (b).

The applicant shall provide the department with the proof of insurance certificate or insurance identification card provided to the applicant by the applicant's insurer pursuant to section 10-4-604.5, C.R.S., or provide proof of insurance in such other media as is authorized by the department. Nothing in this paragraph (c) shall be interpreted to preclude the department from electronically transmitting insurance information to designated agents pursuant to section 42-7-604 for the purpose of ensuring compliance with mandatory insurance requirements.

(2) Upon applying for a registration card, the owner of a motor vehicle shall receive a written notice that shall be printed on the application for registration, in type that is larger than the other information contained on the application for registration. Such notice shall state that motor vehicle insurance or operator's coverage is compulsory in Colorado, that noncompliance is a misdemeanor traffic offense, that the minimum penalty for such offense is a one-hundred-dollar fine, and that the maximum penalty for such offense is one year's imprisonment and a one-thousand-dollar fine, and that such owner shall be required as a condition of obtaining a registration card to sign the affirmation clause that appears on such card. The clause shall state, "I swear or affirm in accordance with section 24-12-102, C.R.S., under penalty of perjury that I now have in effect a complying policy of motor vehicle insurance including an operator's policy pursuant to the ~~"Colorado Auto Accident Reparations Act"~~, part 7 6 of article 4 of title 10, C.R.S., or a certificate of self-insurance to cover the vehicle or operator of the vehicle for which this registration is issued, and I understand that such insurance must be renewed so that coverage is continuous.

Signature _____, Date _____."

SECTION 13. 42-3-112 (2) and (3) (a), Colorado Revised Statutes, are amended to read:

42-3-112. Records of application and registration. (2) The department, upon registering a vehicle, shall issue to the owner a registration card ~~which~~ THAT shall contain upon the face thereof the date issued, the registration number assigned to the owner and to the vehicle, the name and address of the owner, a notice, in type ~~which~~ THAT is larger than the other information contained on the registration card, that motor vehicle insurance coverage is compulsory in Colorado, that noncompliance is a misdemeanor traffic offense, that the minimum penalty for such offense is a one-hundred-dollar fine and that the maximum penalty for such offense

is one year's imprisonment and a one-thousand-dollar fine, and that such owner shall be required upon receipt of the registration card to sign the affirmation clause on such card ~~which~~ THAT states "I swear or affirm under penalty of perjury that I now have in effect a complying policy of motor vehicle insurance pursuant to ~~the "Colorado Auto Accident Reparations Act"~~, part 7 6 of article 4 of title 10, C.R.S., or a certificate of self-insurance to cover the vehicle for which this registration is issued, and I understand that such insurance must be renewed so that coverage is continuous. Signature _____, Date _____.", a description of the registered vehicle, including the identification number thereof, and, with reference to every new vehicle sold in this state after January 1, 1932, the date of sale by the manufacturer or dealer to the person first operating such vehicle, and such other statement of facts as may be determined by the department.

(3) (a) Any notice for renewal of registration shall include a notice, in type ~~which~~ THAT is larger than the other information contained in the notice, which specifies that motor vehicle insurance coverage is compulsory in Colorado, that noncompliance is a misdemeanor traffic offense, that the minimum penalty for such offense is a one-hundred-dollar fine and that the maximum penalty for such offense is one year's imprisonment and a one-thousand-dollar fine, and that such owner shall be required as a condition of obtaining a renewed registration card and upon receipt of the registration card to sign the affirmation clause on such card ~~which~~ THAT states "I swear or affirm under penalty of perjury that I now have in effect a complying policy of motor vehicle insurance pursuant to ~~the "Colorado Auto Accident Reparations Act"~~, part 7 6 of article 4 of title 10, C.R.S., or a certificate of self-insurance to cover the vehicle for which this registration is issued, and I understand that such insurance must be renewed so that coverage is continuous. Signature _____, Date _____."

SECTION 14. 42-7-202 (5), Colorado Revised Statutes, is amended to read:

42-7-202. Report of accident required. (5) Nothing in this section shall be deemed to affect the underwriting of insurance policies issued under ~~the "Colorado Auto Accident Reparations Act"~~, part 7 6 of article 4 of title 10, C.R.S.

SECTION 15. 42-7-605 (1) (a), Colorado Revised Statutes, is

amended to read:

42-7-605. Notice of lack of financial responsibility. (1) If the comparison made pursuant to section 42-7-604 (6) (b) shows that a motor vehicle that has not been exempted under section 42-3-134 (1) (b) has not been insured for three consecutive months, the department of revenue shall direct the designated agent to notify the owner of the motor vehicle that said owner has forty-five days to provide the designated agent with one of the following, or said owner's registration will be subject to immediate administrative suspension after the expiration of said forty-five day period:

(a) Proof of complying coverage in accordance with section ~~10-4-705~~ 10-4-616, C.R.S., or of self-insurance in accordance with section ~~10-4-716~~ 10-4-621, C.R.S.; or

SECTION 16. 42-4-1409 (1), (2), (3), (4) (a), (4) (b), (5), and (6), Colorado Revised Statutes, are amended to read:

42-4-1409. Compulsory insurance - penalty - repeal. (1) No owner of a motor vehicle required to be registered in this state shall operate the vehicle or permit it to be operated on the public highways of this state when the owner has failed to have a complying policy or certificate of self-insurance in full force and effect as required by ~~sections 10-4-705 and 10-4-716~~ SECTION 10-4-616, C.R.S.

(2) No person shall operate a motor vehicle on the public highways of this state without a complying policy or certificate of self-insurance in full force and effect as required by ~~sections 10-4-705 and 10-4-716~~ SECTION 10-4-616, C.R.S.

(3) When an accident occurs, or when requested to do so following any lawful traffic contact or during any traffic investigation by a peace officer, no owner or operator of a motor vehicle shall fail to present to the requesting officer immediate evidence of a complying policy or certificate of self-insurance in full force and effect as required by ~~sections 10-4-705 and 10-4-716~~ SECTION 10-4-616, C.R.S.

(4) (a) Any person who violates the provisions of subsection (1), (2), or (3) of this section commits a class 1 misdemeanor traffic offense. The minimum fine imposed by section 42-4-1701 (3) (a) (II) (A) shall be

mandatory, and the court shall not suspend such minimum fine, in whole or in part, unless it is established that appropriate insurance as required under ~~sections 10-4-705 and 10-4-716~~ SECTION 10-4-616, C.R.S., has been obtained. Nothing in this paragraph (a) shall be construed to prevent the court from imposing a fine greater than the minimum mandatory fine.

(b) Upon a second or subsequent conviction under this section within a period of two years following a prior conviction under this section, in addition to any imprisonment imposed pursuant to section 42-4-1701 (3) (a) (II) (A), the defendant shall be punished by a minimum mandatory fine of not less than two hundred dollars, and the court shall not suspend such minimum fine, in whole or in part, unless it is established that appropriate insurance as required under ~~sections 10-4-705 and 10-4-716~~ SECTION 10-4-616, C.R.S., has been obtained. Nothing in this paragraph (b) shall be construed to prevent the court from imposing a fine greater than the minimum mandatory fine.

(5) Testimony of the failure of any owner or operator of a motor vehicle to present immediate evidence of a complying policy or certificate of self-insurance in full force and effect as required by ~~sections 10-4-705 and 10-4-716~~ SECTION 10-4-616, C.R.S., when requested to do so by a peace officer, shall constitute prima facie evidence, at a trial concerning a violation charged under subsection (1) or (2) of this section, that such owner or operator of a motor vehicle violated subsection (1) or (2) of this section.

(6) No person charged with violating subsection (1), (2), or (3) of this section shall be convicted if the person produces in court a bona fide complying policy or certificate of self-insurance ~~which~~ THAT was in full force and effect, as required by ~~sections 10-4-705 and 10-4-716~~ SECTION 10-4-616, C.R.S., at the time of the alleged violation.

SECTION 17. Effective date - applicability. This act shall take effect July 1, 2003, and shall apply to automobile insurance policies written on or after said date.

SECTION 18. 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.

Lola Spradley
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

John Andrews
PRESIDENT OF
THE SENATE

Judith Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Mona Heustis
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO