

**First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

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

LLS NO. 15-0377.01 Richard Sweetman x4333

**HOUSE BILL 15-1073**

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**HOUSE SPONSORSHIP**

**Salazar,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING ALLOWING A DRIVER TO CHALLENGE THE VALIDITY OF**  
102                    **A LAW ENFORCEMENT OFFICER'S INITIAL CONTACT WITH THE**  
103                    **DRIVER.**

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**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/bills summaries>.)*

A provision of current law allows a driver to challenge the validity of a law enforcement officer's initial contact with the driver and the driver's subsequent arrest for a DUI offense. The bill states that this provision applies retroactively to administrative hearings performed before the provision's enactment.

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.*

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

2           **SECTION 1.** In Colorado Revised Statutes, 42-2-126, **amend** (8)  
3 (h) as follows:

4           **42-2-126. Revocation of license based on administrative**  
5 **determination. (8) Hearing. (h)** Pursuant to section 42-1-228, a  
6 driver may challenge the validity of the law enforcement officer's initial  
7 contact with the driver and the driver's subsequent arrest for DUI, DUI  
8 per se, or DWAI. ~~The hearing officer shall consider such issues when a~~  
9 ~~driver raises them as defenses~~ IF A DRIVER SO CHALLENGES THE VALIDITY  
10 OF THE LAW ENFORCEMENT OFFICER'S INITIAL CONTACT, AND THE  
11 EVIDENCE DOES NOT ESTABLISH THAT THE INITIAL CONTACT OR ARREST  
12 WAS CONSTITUTIONALLY AND STATUTORILY VALID, THE DRIVER IS NOT  
13 SUBJECT TO LICENSE REVOCATION.

14           **SECTION 2.** In Colorado Revised Statutes, **amend** 42-1-228 as  
15 follows:  
16

17           **42-1-228. Revocation hearings - right of driver to challenge**  
18 **validity of initial traffic stop.** In any administrative proceeding for a  
19 revocation of a driver's license pursuant to article 2 of this title, where the  
20 hearing officer is engaged in finding facts and applying law for an  
21 incident or offense reported directly to the department by a law  
22 enforcement officer, and where the revocation was not triggered in whole  
23 or in part by a record of a conviction, the driver may challenge the  
24 validity of the law enforcement officer's initial contact with the driver and  
25 subsequent arrest of the driver. ~~The hearing officer shall consider such~~  
26 ~~issues when a driver raises them as defenses.~~ IF A DRIVER SO CHALLENGES

1 THE VALIDITY OF THE LAW ENFORCEMENT OFFICER'S INITIAL CONTACT,  
2 AND THE EVIDENCE DOES NOT ESTABLISH THAT THE INITIAL CONTACT OR  
3 ARREST WAS CONSTITUTIONALLY AND STATUTORILY VALID, THE DRIVER  
4 IS NOT SUBJECT TO LICENSE REVOCATION.

5 **SECTION 3. 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  
8 (August 5, 2015, if adjournment sine die is on May 6, 2015); except that,  
9 if a referendum petition is filed pursuant to section 1 (3) of article V of  
10 the 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.