

MOTOR VEHICLES AND TRAFFIC REGULATION

Titling, Registration, and Emissions

SB 13-061 (*Postponed Indefinitely*)
Motor Vehicle Emissions Inspections

SB 13-068 (*Postponed Indefinitely*)
Modify Late Vehicle Registration Fee

SB 13-257 (*Postponed Indefinitely*)
Auto Inspection Program Exemption

SB 13-280 (*Enacted*) Title
Off-Highway Vehicles

HB 13-1071 (*Enacted*)
Register Collector's Motor Vehicles

HB 13-1128 (*Postponed Indefinitely*)
Exclude Clean Counties From
Enhanced Emission

HB 13-1153 (*Enacted*)
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Machinery Electronic

HB 13-1289 (*Enacted*)
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Traffic Regulation

SB 13-035 (*Postponed Indefinitely*)
Prohibit Red Light Camera Vehicle
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SB 13-049 (*Postponed Indefinitely*)
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SB 13-058 (*Enacted*)
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HB 13-1214 (*Postponed Indefinitely*)
Felony for Repeat DUI Offenders

HB 13-1240 (*Enacted*)
Penalties for Persistent Drunk
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SB 13-004 (*Enacted*)
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SB 13-251 (*Enacted*)
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HB 13-1011 (*Enacted*) Repeal
Fee Veteran's Identifier
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HB 13-1119 (*Enacted*) Veterans
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Special License Plates

SB 13-060 (*Enacted*)
Civil Air Patrol Motor Vehicle License
Plate

SB 13-120 (*Enacted*)
Navy SEAL Motor Vehicle License
Plate

SB 13-224 (*Enacted*)
Protect Our Rivers Motor Vehicle
License Plate

HB 13-1028 (*Postponed Indefinitely*)
Vehicle Special License Plate Limit

The General Assembly considered a variety of motor vehicle- and traffic regulation-related legislation during the 2013 session. Major topics addressed include titling and registration, traffic regulation, regulation of drug- and alcohol-related driving offenses, driver education and licensing, and special license plates.

Titling, Registration, and Emissions

In 2013, the General Assembly enacted four bills regarding the titling, registration, and emissions of motor vehicles. Four additional bills were postponed indefinitely.

Titling. Currently, the Colorado Division of Parks and Wildlife, a division of the Department of Natural Resources (DNR), issues registrations for off-highway vehicles (OHVs) in Colorado. **Senate Bill 13-280** creates a new titling process for owners of OHVs. The process applies to all OHVs sold or transferred after July 1, 2014. Broadly, an OHV includes all-terrain vehicles, such as four-wheelers and snowmobiles. This bill requires OHVs to be titled in a similar manner as most motor vehicles.

Registration. Under current law, vehicles with model year 1975 or older are eligible to become collector's vehicles. **House Bill 13-1071** expands the eligible model years to 1976 through 1981 (vehicles 37 to 32 years old), and increases one additional year forward with each year's passing. The bill allows a vehicle with a model year that is at least 32 years old to become a collector's vehicle. If a vehicle, is within an enhanced emissions program area, it must pass an emissions test within 12 months if registration in order to become a collector's vehicle.

House Bill 13-1153 allows certain owners of special mobile machinery (SMM) fleets to file specific ownership tax (SOT) on rental equipment directly with the Department of Revenue (DOR) using an electronic system. The SOT is then paid by the fleet owner to the counties at the same rate as under current law. Fleet owners currently pay SOT in each county where its rental vehicles are used. This bill applies to fleet owners who belong to the 2 percent program, which allows fleet owners to pay SOT monthly, based on 2 percent of their rental income on SMM, rather than paying SOT annually based on the equipment's value.

House Bill 13-1289 allows the DOR to establish a system to allow the electronic registration and titling of motor vehicles, as well as the electronic transmission of lien information. When a motor vehicle is subject to an electronic mortgage or lien, the title is considered to be physically held by the mortgagee or lien holder. If the DOR establishes this electronic system, then a financial institution with less than 50 transactions per year need not file electronically. The bill also allows an electronic record of the mortgage or lien to be admissible in court as evidence of the existence of a mortgage or lien. While the DOR already has the authority to establish a system to allow electronic registration and titling, and for the electronic transmission of motor vehicle liens, this bill allows DOR to study and determine the cost of installing such a system.

Senate Bill 13-068 would have reduced the fee for late vehicle registration from \$25 per month (up to a cap of \$100) to a flat fee of \$20. This bill also would have removed exemptions on late fees for vehicles that have expired temporary registration number plates, tags, or certificates. The bill was postponed indefinitely.

Emissions. Currently, a motor vehicle that is being registered in the emissions program area for the first time is exempt from the requirement to get an emissions control inspection if the motor vehicle is in its fourth model year or newer. **Senate Bill 13-061** would have made certain vehicles exempt from emissions testing requirements. First, it would have extended the time period in which newer vehicles are exempt, from four model years to ten model years. This applies only if the vehicles were registering for the first time or had never failed an inspection. Second, it would have extended the same time-period exemption to vehicles owned by a government agency or a dealer. Finally, it would have allowed persons 65 years or older to register one vehicle without an emissions inspection. The bill was postponed indefinitely.

Senate Bill 13-257 would have codified in state law a rule of the Air Quality Control Commission (AQCC) to extend the time period in which newer vehicles are exempt from emissions testing. Under current law, vehicles with a model year under four years old are exempt. This bill would have allowed the AQCC to create rules to exempt vehicles with a model year under seven years old, and to use on-board diagnostic testing for all emissions tests by January 2016. This bill would have applied to vehicles registering for the first time; it would not have applied to vehicles currently registered in the enhanced emissions program. The bill was postponed indefinitely.

House Bill 13-1128 would have allowed counties, or parts of counties, to be exempt from vehicle emissions testing, provided the exempt area was not in violation of national carbon monoxide limits or ozone limits established by the Environmental Protection Agency. The board of county commissioners would have been able to designate the exemption from the Automobile Inspection and Readjustment (AIR) program after it had been determined that the exempt area was in compliance with ambient air quality standards. The bill was postponed indefinitely.

Traffic Regulation

In 2013, the General Assembly enacted two bills concerning traffic regulation. Three additional bills addressing this issue were postponed indefinitely.

Highway vehicle weight limits. **House Bill 13-1132** conforms Colorado law with federal standards for vehicle weight limits for vehicles traveling on state highways and bridges.

Permanent disability parking privileges. Current law requires a person with a disability who obtains a license plate authorizing parking privileges from the department of revenue to verify the disability every 3 years when renewing the license plate. **Senate Bill 13-058** waives the requirement for persons with a permanent disability to verify their disability every three years in order to renew their identifying license plates and placards. These plates and placards allow holders to use reserved parking spaces. This bill also requires that a professional certify the permanent disability in writing.

Automated vehicle identification systems. Under current law, if an automated vehicle identification system detects an individual driving less than 10 miles per hour over the speed limit, then the state, county, city and county, or municipality must mail the driver a warning notifying him or her of the violation. If an automated vehicle identification system detects disobedience to a traffic control signal by a driver, such as running a red light, the maximum penalty that can be imposed is \$75. **Senate Bill 13-035** would have prohibited the use of automated vehicle identification systems, including photo radar and "red light cameras" for traffic law enforcement. Under the bill, an automated vehicle identification system would have been permitted on a toll road or highway to assess toll charges and issue citations for related violations. The bill was postponed indefinitely.

Roundabout turn signal. Currently, a person must signal an intention to turn when intending to change lanes or turn while driving a vehicle. **Senate Bill 13-049** would have removed the requirement for drivers to use a turn signal within a roundabout. It also defined the term roundabout. The bill was postponed indefinitely.

Traffic camera records. **House Bill 13-1112** would have prohibited the state from releasing video and still images from state-owned monitoring cameras under the Colorado Open Records Act. This prohibition would have excluded material showing a person attempting or committing crimes. Identifying information, such as license plates, or witnesses, bystanders, and other persons in the video, would have been released only if persons identified provide consent, or if the information was requested under certain criminal justice circumstances. The bill also would have defined the term "monitoring camera." The bill was postponed indefinitely.

Regulation of Drug- and Alcohol-related Driving Offenses

The General Assembly considered four bills specific to drug- and alcohol-related driving offenses. One bill was postponed indefinitely.

House Bill 13-1240 modifies the definition and penalties for persistent drunk drivers. In particular, the bill:

- lowers the Blood Alcohol Content (BAC) threshold for a person to be considered a persistent drunk driver from 0.17 BAC to 0.15 BAC;
- adds a person whose license is revoked for refusing a BAC test to the list of persons who may be defined as a persistent drunk driver;
- requires that a persistent drunk driver use an interlock device on his or her vehicle for one year after their driver's license has been reinstated;
- allows those who have had their license revoked for one year for driving under the influence (DUI), DUI per se or driving while ability impaired (DWAI), to apply for reinstatement after one month, provided he or she has an interlock device, and is over 21. The same option applies for those who refuse a breathalyzer test after a two-month revocation period;
- requires the DOR to assist in the cost of the interlock device for indigent persons under the above circumstances; and
- allows most revocation penalties for offenses that occur on or after January 1, 2014, to run concurrently instead of consecutively.

Current law specifies that in any prosecution for DUI, DWAI, vehicular homicide, or vehicular assault, if a driver's BAC was 0.08 or greater at the time of the offense or within a reasonable time thereafter, this fact gives rise to a permissible inference that the defendant was under the influence of alcohol. **House Bill 13-1325** states that if a driver's blood contains five nanograms or more of delta 9-tetrahydrocannabinol (THC) per milliliter in whole blood (5 ng/mL) at the time of the offense or within a reasonable time thereafter, this fact gives rise to a permissible inference that the defendant was under the influence of one or more drugs. THC is the primary psychoactive component of marijuana. DUI and DWAI are misdemeanors. Vehicular homicide is a class 3 felony if the driver was under the influence of alcohol, drugs, or both. Vehicular assault is a class 4 felony if the driver was under the influence of alcohol, drugs, or both.

In a trial for DUI or DWAI, a defendant's valid medical marijuana registry identification card may not be used as part of the prosecution's case in chief. In addition, in a traffic stop, the driver's possession of a valid medical marijuana registry identification card must not, in the absence of other contributing factors, constitute probable cause for a peace officer to require analysis of the driver's blood. The bill also clarifies state law to match current practice by stating that in cases of vehicular homicide or vehicular assault, if a driver's BAC was 0.08 or greater at the time of the offense or within a reasonable time thereafter, this fact gives rise to a permissible inference that the defendant was under the influence of alcohol, rather than stating that it is presumed that the defendant was under the influence of alcohol. Finally, the bill repeals the law specifying that it is a misdemeanor for a habitual user of any controlled substance to drive a motor vehicle or low-power scooter. Other references to charges of "habitual user" are also repealed.

House Bill 13-1214 would have increased the penalty for repeated DUI offenses, which include DUI, DWAI, DUI per se, vehicular homicide, or vehicular assault. This bill would have increased the penalty from an unclassified misdemeanor to a class 5 felony if the violation occurred not more than seven years after the first of two prior convictions, or the violation occurred after three prior convictions.

Whether a person is sentenced to prison or a term of probation, he or she would have been required to participate in a level II substance abuse driving safety program, submit to continuous alcohol monitoring, use an approved interlock device for at least two years, and perform between 48 hours and 120 hours of community service. If a person is sentenced to the Department of Corrections (DOC), he or she would have been sentenced to at least the minimum of the

presumptive range and complete the new requirements prior to completing parole. If a person was sentenced to probation, he or she would have received a one year suspended sentence to the DOC, a term in jail of between 90 days and one year, and supervision for a minimum of two years. The court would not have been able to waive the minimum 90 day sentence to a county jail for probationers or the minimum of 48 hours of community service for any offender. Finally, the bill would have repealed provisions related to the crime of aggravated driving with a revoked license. Currently, this crime requires a separate charge and sentence from the original crime, although penalties are generally served concurrently. The bill was postponed indefinitely.

Driver Education and Licensing

The General Assembly considered four bills addressing driver education and licensing.

Senior identification cards. Current law allows online renewal for senior identification cards, but only on every other renewal period. **Senate Bill 13-004** allows applicants for state-issued identification cards, who are over the age of 65, to renew online or by mail every *other* renewal period. Identification cards expire on the card holder's birthday in the fifth year of the card's issuance. Under this bill, in order to renew, the applicant must attest to being lawfully present in the United States and to being a Colorado resident. Current fees for identification cards, whether new or renewed, are waived for those age 60 or over.

Veteran identification card and driver's licenses. **House Bill 13-1011** eliminates the \$15 fee to add a military identifier on an applicant's driver's license or state identification card.

House Bill 13-1119 allows a U.S. military veteran to obtain a driver's license or identification (ID) card that has a veteran's identifier. The identifier can be acquired after presenting documentation demonstrating the applicant is an U.S. military veteran. The applicant must not have been dishonorably discharged. This documentation is only required for the initial license issuance. There is no cost to the veteran to add this identifier.

Noncitizen resident identification card and driver's licenses. **Senate Bill 13-251** allows the state to issue a driver's license, minor's driver's license, instruction permit or state-issued identification card (state-issued documents) to a noncitizen resident of Colorado who cannot provide proof of lawful presence in the United States. In order to be eligible for a state-issued document, an applicant must present proof of Colorado residency, Colorado income tax returns, a federal individual taxpayer identification number (ITIN), and proof of identity issued by the applicant's country of origin. The document will have the words "Not Valid For Federal Identification, Voting, or Public Benefit Purposes" printed on the face.

The bill allows the DOR to share the applicant's ITIN in cases concerning state child support enforcement, the courts, and within the DOR. A peace officer is not authorized to arrest an individual merely for possessing these documents. The bill prohibits the presentation of these documents for the use of public services.

Special License Plates

The General Assembly enacted three bills establishing new special license plates. One bill to limit special license plates was postponed indefinitely.

Senate Bill 13-060 creates the Civil Air Patrol special license plate. The plate will be available to all applicants who pay the license plate fees, including a one-time additional fee of \$50.

Of this fee, \$25 is credited to the Licensing Services Cash Fund (LSCF) and \$25 is credited to the Highway Users Tax Fund (HUTF). This plate will be available January 1, 2014.

Senate Bill 13-120 creates the Navy SEALs special license plate. The plate will be available to honorably discharged, retired, reserve or active members of the Navy SEALs, who pay regular license plate fees, including a one-time additional fee of \$50. Of this fee, \$25 is credited to the LSCF and \$25 is credited to the HUTF. The plate will indicate whether the owner is a veteran, reserve member, or active member of the Navy SEALs, and will be available January 1, 2014.

Senate Bill 13-224 creates the Protect Our Rivers special license plate. The plate will be available to all applicants who pay a one-time additional fee of \$50 and demonstrate they have donated \$25 to Colorado Trout Unlimited, a non-profit organization. Of this fee, \$25 is credited to the LSCF and \$25 is credited to the HUTF. The \$25 donation to Colorado Trout Unlimited is not to be used for litigation or lobbying.

House Bill 13-1028 would have limited the number of designer, alumni, group special and military license plate types (collectively known as special license plates) to 96. The DOR currently issues 86 special license plates. The bill was postponed indefinitely.