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Source:

Colorado Statutes/TITLE 42 VEHICLES AND TRAFFIC/GENERAL AND ADMINISTRATIVE/ARTICLE 1 GENERAL AND ADMINISTRATIVE/PART 1 DEFINITIONS AND CITATION/42-1-102. Definitions - repeal.

42-1-102. Definitions - repeal.

As used in articles 1 to 4 of this title, unless the context otherwise requires:

(1) "Acceleration lane" means a speed-change lane, including tapered areas, for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate at which it can more safely merge with through traffic.

(2) "Administrator" means the property tax administrator.

(3) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban areas and not intended for the purpose of through vehicular traffic.

(4) "Apportioned registration" means registration of a vehicle pursuant to a reciprocal agreement under which the fees paid for registration of such vehicle are ultimately divided among the several jurisdictions in which the vehicle travels, based upon the number of miles traveled by the vehicle in each jurisdiction or upon some other agreed criterion.

(4.5) "Appurtenance" means a piece of equipment that is affixed or attached to a motor vehicle or trailer and is used for a specific purpose or task, including awnings, support hardware, and extractable equipment. "Appurtenance" does not include any item or equipment that is temporarily affixed or attached to the exterior of a motor vehicle for the purpose of transporting such vehicle.

(5) "Authorized agent" means the officer of a county or city and county designated by law to issue annual registrations of vehicles and to collect any registration or license fee imposed thereon by law.

(6) "Authorized emergency vehicle" means such vehicles of the fire department, police vehicles, ambulances, and other special-purpose vehicles as are publicly owned and operated by or for a governmental agency to protect and preserve life and property in accordance with state laws regulating emergency vehicles; said term also means such privately owned vehicles as are designated by the state motor vehicle licensing agency, necessary to the preservation of life and property, to be equipped and to operate as emergency vehicles in the manner prescribed by state

law.

(7) "Authorized service vehicle" means such highway or traffic maintenance vehicles as are publicly owned and operated on a highway by or for a governmental agency the function of which requires the use of service vehicle warning lights as prescribed by state law and such other vehicles having a public service function, including, but not limited to, public utility vehicles and tow trucks, as determined by the department of transportation under section 42-4-214 (5). Some vehicles may be designated as both an authorized emergency vehicle and an authorized service vehicle.

(8) "Automobile" means any motor vehicle.

(9) "Base jurisdiction" means the state, province, or other jurisdiction which receives, apportions, and remits to other jurisdictions moneys paid for registration of a vehicle pursuant to a reciprocal agreement governing registration of vehicles.

(10) "Bicycle" means every vehicle propelled solely by human power applied to pedals upon which any person may ride having two tandem wheels or two parallel wheels and one forward wheel, all of which are more than fourteen inches in diameter.

(10.5) "Bulk electronic transfer" means the mass electronic transfer of files, updated files, or portions thereof, in the same form as those files exist within the department.

(11) "Business district" means the territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to motels, banks, office buildings, railroad stations, and public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

(12) "Calendar year" means the twelve calendar months beginning January 1 and ending December 31 of any year.

(13) "Camper coach" means an item of mounted equipment, weighing more than five hundred pounds, which when temporarily or permanently mounted on a motor vehicle adapts such vehicle for use as temporary living or sleeping accommodations.

(14) "Camper trailer" means a wheeled vehicle having an overall length of less than twenty-six feet, without motive power, which is designed to be drawn by a motor vehicle over the public highways and which is generally and commonly used for temporary living or sleeping accommodations.

(15) "Chauffeur" means every person who is employed for the principal purpose of operating a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

(16) "Classified personal property" means any personal property which has been classified for the purpose of imposing thereon a graduated annual specific ownership tax.

(17) "Commercial carrier" means any owner of a motor vehicle, truck, laden or unladen truck tractor, trailer, or semitrailer used in the business of transporting persons or property over the public highways for profit, hire, or otherwise in any business or commercial enterprise.

(17.5) "Commercial vehicle" means a vehicle used to transport cargo or passengers for profit, hire, or otherwise to further the purposes of a business or commercial enterprise. This subsection (17.5) shall not apply for purposes of section 42-4-235.

(18) "Controlled-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

(19) "Convicted" or "conviction" means:

(a) A plea of guilty or nolo contendere;

(b) A verdict of guilty;

(c) An adjudication of delinquency under title 19, C.R.S.; and

(d) The payment of a penalty assessment under section 42-4-1701 if the summons states clearly the points to be assessed for the offense.

(20) "Court" means any municipal court, county court, district court, or any court having jurisdiction over offenses against traffic regulations and laws.

(21) "Crosswalk" means that portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections or any portion of a roadway distinctly indicated for pedestrian crossing by lines or other marking on the surface.

(22) "Dealer" means every person engaged in the business of buying, selling, or exchanging

vehicles of a type required to be registered under articles 1 to 4 of this title and who has an established place of business for such purpose in this state.

(23) "Deceleration lane" means a speed-change lane, including tapered areas, for the purpose of enabling a vehicle that is to make an exit to turn from a roadway to slow to the safe speed on the ramp ahead after it has left the mainstream of faster-moving traffic.

(23.5) "Declared gross vehicle weight" means the combined weight of the vehicle or combination vehicle and its cargo when operated on the public highways of this state. Such weight shall be declared by the vehicle owner at the time the vehicle is registered. Accurate records shall be kept of all miles operated by each vehicle over the public highways of this state by the owner of each vehicle.

(24) "Department" means the department of revenue of this state acting directly or through its duly authorized officers and agents.

(24.5) "Distinctive special license plate" means a special license plate that is issued to a person because such person has an immutable characteristic or special achievement honor. Such special achievement honor shall not include a common achievement such as graduating from an institution of higher education. Such special achievement shall include honorable service in the armed forces of the United States.

(25) "Divided highway" means a highway with separated roadways usually for traffic moving in opposite directions, such separation being indicated by depressed dividing strips, raised curbing, traffic islands, or other physical barriers so constructed as to impede vehicular traffic or otherwise indicated by standard pavement markings or other official traffic control devices as prescribed in the state traffic control manual.

(26) "Drive-away transporter" or "tow-away transporter" means every person engaged in the transporting of vehicles which are sold or to be sold and not owned by such transporter, by the drive-away or tow-away methods, where such vehicles are driven, towed, or transported singly, or by saddlemount, towbar, or fullmount methods, or by any lawful combination thereof.

(27) "Driver" means every person, including a minor driver under the age of twenty-one years, who drives or is in actual physical control of a vehicle.

(28) "Effective date of registration period certificate" means the month in which a fleet owner must register all fleet vehicles.

(29) "Empty weight" means the weight of any motor vehicle or trailer or any combination

thereof, including the operating body and accessories, as determined by weighing on a scale approved by the department.

(30) "Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

(31) "Established place of business" means the place actually occupied either continuously or at regular periods by a dealer or manufacturer where such dealer's or manufacturer's books and records are kept and a large share of his or her business transacted.

(32) "Explosives and hazardous materials" means any substance so defined by the code of federal regulations, title 49, chapter 1, parts 173.50 through 173.389.

(33) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows and mowing machines and other implements of husbandry.

(34) "Flammable liquid" means any liquid which has a flash point of seventy degrees Fahrenheit or less, as determined by a Tagliabue or equivalent closed-cup test device.

(35) "Fleet operator" means any resident who owns or leases ten or more motor vehicles, trailers, or pole trailers and who receives from the department a registration period certificate in accordance with article 3 of this title.

(36) "Fleet vehicle" means any motor vehicle, trailer, or pole trailer owned or leased by a fleet operator and registered pursuant to section 42-3-125.

(37) "Foreign vehicle" means every motor vehicle, trailer, or semitrailer which is brought into this state otherwise than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.

(38) "Fullmount" means a vehicle which is mounted completely on the frame of the first vehicle or last vehicle in a saddlemount combination.

(39) "Garage" means any public building or place of business for the storage or repair of automobiles.

(40) "Graduated annual specific ownership tax" means an annual tax imposed in lieu of an ad valorem tax upon the personal property required to be classified by the general assembly pursuant to the provisions of section 6 of article X of the state constitution.

(41) "Gross dollar volume" means the total contracted cost of work performed or put in place in a given county by the owner or operator of mobile machinery.

(41.5) "Group special license plate" means a special license plate that is not a distinctive plate and is issued to a group of people because such people have a common interest or affinity.

(42) "High occupancy vehicle lane" means a lane designated pursuant to the provisions of section 42-4-1012 (1).

(43) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel or the entire width of every way declared to be a public highway by any law of this state.

(43.5) "Immediate family" means a person who is related by blood, marriage, or adoption.

(44) On and after July 1, 2000, "implement of husbandry" means every vehicle that is designed, adapted, or used for agricultural purposes. It also includes equipment used solely for the application of liquid, gaseous, and dry fertilizers. Transportation of fertilizer, in or on the equipment used for its application, shall be deemed a part of application if it is incidental to such application. It also includes hay balers, hay stacking equipment, combines, tillage and harvesting equipment, agricultural commodity handling equipment, and other heavy movable farm equipment primarily used on farms or in a livestock production facility and not on the highways. Trailers specially designed to move such equipment on highways shall, for the purposes of part 5 of article 4 of this title, be considered as component parts of such implements of husbandry.

(45) "Intersection" means the area embraced within the prolongation of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two roadways thirty feet or more apart, every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, every crossing of two roadways of such highways shall be regarded as a separate intersection. The junction of an alley with a street or highway does not constitute an intersection.

(46) "Lane" means the portion of a roadway for the movement of a single line of vehicles.

(47) "Laned highway" means a highway the roadway of which is divided into two or more clearly marked lanes for vehicular traffic.

(48) "Local authorities" means every county, municipal, and other local board or body having authority to adopt local police regulations under the constitution and laws of this state.

(49) "Manufacturer" means any person, firm, association, corporation, or trust, whether resident or nonresident, who manufactures or assembles new and unused motor vehicles of a type required to be registered under articles 1 to 4 of this title.

(50) "Manufacturer's suggested retail price" means the retail price of such motor vehicle suggested by the manufacturer plus the retail price suggested by the manufacturer for each accessory or item of optional equipment physically attached to such vehicle prior to the sale to the retail purchaser.

(51) "Markings" means all lines, patterns, words, colors, or other devices, except signs, set into the surface of, applied upon, or attached to the pavement or curbing or to objects within or adjacent to the roadway, conforming to the state traffic control manual and officially placed for the purpose of regulating, warning, or guiding traffic.

(52) "Metal tires" means all tires the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(53) "Minor driver's license" means the license issued to a person who is at least sixteen years of age but who has not yet attained the age of twenty-one years.

(54) "Mobile machinery" or "self-propelled construction equipment" means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally operated or moved over the public highways. This definition includes but is not limited to wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells, and the digging of ditches.

(55) "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "farm tractor" and except a motorized bicycle as defined in paragraph (b) of subsection (59) of this section.

(56) "Motor-driven cycle" means every motorcycle, including every motorscooter, with a motor which produces not to exceed six brake-horsepower and every bicycle with motor attached, but not trail bikes, minibikes, go-carts, golf carts, and similar vehicles which are not designed for or approved by the department for use on the public roads or highways and not motorized bicycles as defined in paragraph (b) of subsection (59) of this section.

(57) "Motor home" means a vehicle designed to provide temporary living quarters and which is built into, as an integral part of or a permanent attachment to, a motor vehicle chassis or van.

(58) "Motor vehicle" means any self-propelled vehicle which is designed primarily for travel on the public highways and which is generally and commonly used to transport persons and property over the public highways, but the term does not include motorized bicycles as defined in paragraph (b) of subsection (59) of this section, wheelchairs as defined by subsection (113) of this section, or vehicles moved solely by human power. "Motor vehicle" includes a neighborhood electric vehicle operated pursuant to section 42-4-111 (1) (aa). For the purposes of the offenses described in sections 42-2-128, 42-4-1301, and 42-4-1401 for farm tractors and off-highway vehicles, as defined in section 33-14.5-101 (3), C.R.S., operated on streets and highways, "motor vehicle" includes a farm tractor or an off-highway vehicle which is not otherwise classified as a motor vehicle.

(59) (a) "Moterscooter" and "motorbicycle" mean every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "farm tractor" as defined in this section and any motorized bicycle as defined in paragraph (b) of this subsection (59), which motor vehicle is powered by an engine of not to exceed six brake-horsepower.

(b) "Motorized bicycle" means a vehicle having two or three wheels, a cylinder capacity not exceeding 50 C.C., and an automatic transmission which produces a maximum design speed of not more than thirty miles per hour on a flat surface.

(60) "Mounted equipment" means any item of tangible personal property weighing more than five hundred pounds which is rigidly mounted on or attached to a vehicle subsequent to its manufacture and which, when so mounted on or attached to a vehicle, becomes an integral part thereof essential to the operation of such vehicle in carrying out and accomplishing the purpose for which such vehicle is being used.

(60.5) "Neighborhood electric vehicle" means a self-propelled, electrically powered motor vehicle that:

(a) Meets the equipment standards set forth in part 2 of article 4 of this title; and

(b) Has a speed attainable in one mile that does not exceed twenty-five miles per hour.

(61) "Noncommercial or recreational vehicle" means a truck, or unladen truck tractor, operated singly or in combination with a trailer or utility trailer or a motor home, which truck, or unladen truck tractor, or motor home is used exclusively for personal pleasure, enjoyment, other recreational purposes, or personal or family transportation of the owner, lessee, or occupant and is not used to transport cargo or passengers for profit, hire, or otherwise to further the purposes of a business or commercial enterprise.

(62) "Nonresident" means every person who is not a resident of this state.

(63) "Off-highway vehicle" shall have the same meaning as set forth in section 33-14.5-101 (3), C.R.S.

(64) "Official traffic control devices" means all signs, signals, markings, and devices, not inconsistent with this title, placed or displayed by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

(65) "Official traffic control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

(66) "Owner" means a person who holds the legal title of a vehicle; or, if a 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 a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of articles 1 to 4 of this title. The term also includes parties otherwise having lawful use or control or the right to use or control a vehicle for a period of thirty days or more.

(67) "Park" or "parking" means the standing of a vehicle, whether occupied or not, other than very briefly for the purpose of and while actually engaged in loading or unloading property or passengers.

(68) "Pedestrian" means any person afoot or any person using a wheelchair.

(68.5) "Persistent drunk driver" means any person who has been convicted of or had his or her driver's license revoked for two or more alcohol-related driving violations; who continues to drive after driver's license or driving privilege restraint has been imposed for one or more alcohol-related driving offenses; or who drives a motor vehicle while the amount of alcohol in such

person's blood, as shown by analysis of the person's blood or breath, was 0.20 or more grams of alcohol per one hundred milliliters of blood or 0.20 or more grams of alcohol per two hundred ten liters of breath at the time of driving or within two hours after driving. Nothing in this subsection (68.5) shall be interpreted to affect the penalties imposed under this title for multiple alcohol- or drug-related driving offenses, including, but not limited to, penalties imposed for violations under sections 42-2-125 (1) (g) and (1) (i) and 42-2-202 (2).

(69) "Person" means a natural person, firm, copartnership, association, corporation, or business entity.

(70) "Pneumatic tires" means all tires inflated with compressed air.

(71) "Pole", "pipe trailer", or "dolly" means every vehicle of the trailer type having one or more axles not more than forty-eight inches apart and two or more wheels used in connection with a motor vehicle solely for the purpose of transporting poles or pipes and connected with the towing vehicle both by chain, rope, or cable and by the load without any part of the weight of said dolly resting upon the towing vehicle. All the registration provisions of articles 1 to 4 of this title shall apply to every pole, pipe trailer, or dolly.

(72) "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(72.5) "Primary user" means an organization that collects bulk data for the purpose of in-house business use.

(72.7) "Principal office" means the office in this state designated by a fleet owner as its principal place of business.

(73) "Private road" or "driveway" means every road or driveway not open to the use of the public for purposes of vehicular travel.

(74) (a) "Provisional driver's license" means the license issued to a person who is at least eighteen years of age but who has not yet attained the age of twenty-one years. Any provisional license issued on or before June 30, 2001, shall be deemed to be a minor driver's license.

(b) This subsection (74) is repealed, effective July 1, 2006.

(75) "Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(76) "Reciprocal agreement" or "reciprocity" means an agreement among two or more states, provinces, or other jurisdictions for coordinated, shared, or mutual enforcement or administration of laws relating to the registration, operation, or taxation of vehicles and other personal property in interstate commerce. The term includes without limitation the "international registration plan" and any successor agreement providing for the apportionment, among participating jurisdictions, of vehicle registration fees or taxes.

(77) "Reconstructed vehicle" means any vehicle which has been assembled or constructed largely by means of essential parts, new or used, derived from other vehicles or makes of vehicles of various names, models, and types or which, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

(78) "Registration period" or "registration year" means any consecutive twelve-month period.

(79) "Registration period certificate" means the document issued by the department to a fleet owner, upon application of a fleet owner, which states the month in which registration is required for all motor vehicles owned by the fleet owner.

(80) "Residence district" means the territory contiguous to and including a highway not comprising a business district when the frontage on such highway for a distance of three hundred feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

(81) "Resident" means any person who owns or operates any business in this state or any person who has resided within this state continuously for a period of ninety days or has obtained gainful employment within this state, whichever shall occur first.

(82) "Right-of-way" means the right of one vehicle operator or pedestrian to proceed in a lawful manner in preference to another vehicle operator or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.

(83) "Road" means any highway.

(84) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon independently or any part of the weight of a vehicle or load so drawn.

(85) "Roadway" means that portion of a highway improved, designed, or ordinarily used for

vehicular travel, exclusive of the sidewalk, berm, or shoulder even though such sidewalk, berm, or shoulder is used by persons riding bicycles or other human-powered vehicles and exclusive of that portion of a highway designated for exclusive use as a bicycle path or reserved for the exclusive use of bicycles, human-powered vehicles, or pedestrians. In the event that a highway includes two or more separate roadways, "roadway" refers to any such roadway separately but not to all such roadways collectively.

(86) "Saddlemount combination" means a combination of vehicles in which a truck or laden or unladen truck tractor tows one or more additional trucks or laden or unladen truck tractors and in which each such towed truck or laden or unladen truck tractor is connected by a saddle to the frame or fifth wheel of the vehicle immediately in front of such truck or laden or unladen truck tractor. For the purposes of this subsection (86), "saddle" means a mechanism which connects the front axle of a towed vehicle to the frame or fifth wheel of a vehicle immediately in front of such towed vehicle and which functions like a fifth wheel kingpin connection. A saddlemount combination may include one fullmount.

(87) "Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

(88) "School bus" means every motor vehicle which is owned by or under contract to a public or governmental agency and operated for the transportation of children to or from school or any school-sponsored activities, or which is privately owned and operated for compensation but it does not include informal or intermittent arrangements, such as sharing of actual gasoline expense or participation in a car pool, for the transportation of children to or from school or any school-sponsored activities.

(89) "Semitrailer" means any wheeled vehicle, without motor power, designed to be used in conjunction with a laden or unladen truck tractor so that some part of its own weight and that of its cargo load rests upon or is carried by such laden or unladen truck tractor and that is generally and commonly used to carry and transport property over the public highways.

(90) "Sidewalk" means that portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

(91) "Snowplow" means any vehicle originally designed for highway snow and ice removal or control or subsequently adapted for such purposes which is operated by or for the state of Colorado or any political subdivision thereof.

(92) "Solid rubber tires" means every tire made of rubber other than a pneumatic tire.

(93) "Specially constructed vehicle" means any vehicle which has not been originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles.

(94) "Stand" or "standing" means the halting of a vehicle, whether occupied or not, other than momentarily for the purpose of and while actually engaged in receiving or discharging passengers.

(95) "State" means a state, territory, organized or unorganized, or district of the United States.

(96) "State motor vehicle licensing agency" means the department of revenue.

(97) "State traffic control manual" means the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways", including any supplement thereto, as adopted by the transportation commission.

(98) "Steam and electric trains" includes:

(a) "Railroad", which means a carrier of persons or property upon cars, other than street cars, operated upon stationary rails;

(b) "Railroad train", which means a steam engine, electric, or other motor, with or without cars coupled thereto, operated upon rails, except streetcars;

(c) "Streetcar", which means a car other than a railroad train for transporting persons or property upon rails principally within a municipality.

(99) "Stinger-steered" means a semitrailer combination configuration wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit.

(100) "Stop" or "stopping" means, when prohibited, any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

(101) "Stop line" or "limit line" means a line which indicates where drivers shall stop when directed by an official traffic control device or a police officer.

(101.5) "Street rod vehicle" means a vehicle manufactured in 1948 or earlier with a body design that has been modified for safe road use.

(102) "Supervisor" means the executive director of the department of revenue or head of a group, division, or subordinate department appointed by the executive director in accordance with article 35 of title 24, C.R.S.

(102.5) "Surge brakes" means a system whereby the brakes of a trailer are actuated as a result of the forward pressure of the trailer against the tow vehicle during deceleration.

(102.7) "Temporary special event license plate" means a special license plate valid for a limited time period that is issued to a person or group of people in connection with a special event. "Temporary special event license plate" does not mean a special plate for the purposes of section 42-3-122.

(103) "Through highway" means every highway or portion thereof on which vehicular traffic is given preferential right-of-way and at the entrances to which other vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such through highway in obedience to a stop sign, yield sign, or other official traffic control device when such signs or devices are erected as provided by law.

(103.5) "Toy vehicle" means any vehicle, whether or not home-built by the user, that has wheels with an outside diameter of not more than fourteen inches and is not designed, approved, or intended for use on public roadways or highways. "Toy vehicle" includes, but is not limited to, gas-powered or electric-powered vehicles commonly known as mini bikes, "pocket" bikes, kamikaze boards, go-peds, and stand-up scooters.

(104) "Traffic" means pedestrians, ridden or herded animals, and vehicles, streetcars, and other conveyances either singly or together while using any highway for the purposes of travel.

(105) "Trailer" means any wheeled vehicle, without motive power and having an empty weight of more than two thousand pounds, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public highways.

(106) (a) "Trailer coach" means any wheeled vehicle having an overall width not exceeding eight feet and an overall length, excluding towing gear and bumpers, of not less than twenty-six feet and not more than forty feet, without motive power, which is designed and generally and commonly used for occupancy by persons for residential purposes, in temporary locations, and which may occasionally be drawn over the public highways by a motor vehicle and is licensed as a vehicle.

(b) "Manufactured home" means any preconstructed building unit or combination of preconstructed building units, without motive power, where such unit or units are manufactured in a factory or at a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which unit or units are not licensed as a vehicle.

(107) "Transporter" means every person engaged in the business of delivering vehicles of a type required to be registered under articles 1 to 4 of this title from a manufacturing, assembling, or distributing plant to dealers or sales agents of a manufacturer.

(108) "Truck" means any motor vehicle equipped with a body designed to carry property and which is generally and commonly used to carry and transport property over the public highways.

(109) "Truck tractor - laden" or "laden truck tractor" means any motor vehicle carrying cargo or designed to carry cargo that is generally and commonly designed and used to draw a semitrailer or trailer and its cargo load over the public highways.

(109.5) "Truck tractor - unladen" or "unladen truck tractor" means any motor vehicle not carrying cargo that is generally and commonly designed and used to draw a semitrailer or trailer and its cargo load over the public highways.

(110) "Used vehicle" means every motor vehicle which has been sold, bargained for, exchanged, or given away, or has had the title transferred from the person who first acquired it from the manufacturer or importer, and has been so used as to have become what is commonly known as "secondhand" within the ordinary meaning thereof.

(111) "Utility trailer" means any wheeled vehicle weighing two thousand pounds or less, without motive power, which is designed to be drawn by a motor vehicle and which is generally and commonly used to carry and transport personal effects, articles of household furniture, loads of trash and rubbish, or not to exceed two horses over the public highways.

(112) "Vehicle" means any device which is capable of moving itself, or of being moved, from place to place upon wheels or endless tracks. "Vehicle" includes any bicycle, but such term does not include any wheelchair as defined by subsection (113) of this section, or any off-highway vehicle, snowmobile, any farm tractor, or any implement of husbandry designed primarily or exclusively for use and used in agricultural operations or any device moved by muscular power or moved exclusively over stationary rails or tracks or designed to move primarily through the air.

(112.5) "Vendor" means an organization that collects bulk data for the purpose of reselling the data.

(113) "Wheelchair" means a motorized or nonmotorized wheeled device designed for use by a person with a physical disability.

Source: **L. 94:** Entire title amended with relocations, p. 2094, § 1, effective January 1, 1995. **L. 95:** (17), (86), (89), and (109) amended and (109.5) added, p. 470, § 1, effective July 1. **L. 96:** (102.5) added, p. 629, § 1, effective January 1, 1997. **L. 97:** (58) amended and (60.5) added, p. 392, § 1, effective August 6. **L. 98:** (68.5) added, p. 1239, § 2, effective July 1. **L. 99:** (10.5), (72.5), and (112.5) added, p. 1239, § 1, effective August 4. **L. 2000:** (88) amended, p. 20, § 1, effective March 9; (96) and (102) amended, p. 1639, § 21, effective June 1; (44) amended, p. 548, § 1, effective July 1; (58) amended, p. 698, § 16, effective July 1; (53) and (74) amended, p. 1348, § 13, effective July 1, 2001. **L. 2001:** (17.5) added and (61) amended, p. 504, § 1, effective May 18; (24.5) and (41.5) added, p. 729, § 2, effective August 8. **L. 2002:** (35) and (36) amended, p. 1, § 1, effective March 1; (27) amended, p. 1033, § 72, effective June 1; (4.5) added, p. 404, § 2, effective August 7. **L. 2003:** (102.7) added, p. 1847, § 1, effective May 21; (72.7) added, p. 809, § 1, effective August 6. **L. 2005:** (19) and (69) amended, p. 640, § 1, effective May 27; (103.5) added, p. 1241, § 1, effective June 3; (43.5) added, p. 335, § 4, effective July 1; (23.5) and (101.5) added and (36) amended, p. 1070, § 1, effective August 8; (24.5) amended, p. 665, § 3, effective August 8.

Editor's note: (1) Section 5 of chapter 94, Session Laws of Colorado 2005, provides that the act set out in that chapter enacting subsection (43.5) applies to acts occurring on or after July 1, 2005.

(2) Section 2 of chapter 281, Session Laws of Colorado 2005, provides that the act set out in that chapter enacting subsection (103.5) applies to offenses committed on or after June 3, 2005.

(3) Subsections (23.5), (24.5), (36), and (101.5) were contained in 2005 acts that were passed without a safety clause. For further explanation concerning the effective date, see page vii of this volume.

Cross references: For the legislative declaration contained in the 1998 act amending this section, see section 1 of chapter 295, Session Laws of Colorado 1998.

ANNOTATION

Law reviews. For article, "Scope of the Right-of-Way Privilege", see 19 Dicta 122 (1942).

This article is general, uniform in its operation, and not special within the meaning of § 25 of art. V, Colo. Const. *Driverless Car Co. v. Armstrong*, 91 Colo. 334, 14 P. 2d 1098 (1932).

Definition of "chauffeur" constitutional. The statutory definition of "chauffeur" is not irrational. Moreover, it relates to a legitimate government purpose and, thus, must be upheld as constitutional. *Bedell v. Colorado Dept. of Rev.*, 655 P.2d 849 (Colo. App. 1982).

"Automobile" is not limited to passenger cars. Word "automobile" should be given its ordinary and generally accepted meaning, and not limited to passenger cars only. *Lombardi v. Bd. of Adjustment*, 675 P.2d 21 (Colo. App. 1983).

Driver. Person who was in the driver's seat of an automobile which had its motor running and its parking lights on and which was located in a private parking lot was in actual physical control of the automobile and thus was driving a motor vehicle. *Motor Vehicle Div. v. Warman*, 763 P.2d 558 (Colo. 1988).

Driver includes a person seated behind a steering wheel with the seat belt fastened with the key in the ignition turned to "on", even though the car is not running. *Caple v. Dept. of Rev.*, 804 P.2d 873 (Colo. App. 1990).

Based on the definition of "driver" in subsection (27), the terms "drive" and "drove", for purposes of the DUI statute, include "actual physical control" of a vehicle. Thus, a person may be deemed to be driving a vehicle even if the vehicle is not actually moving. *People v. Swain*, 959 P.2d 426 (Colo. 1998).

Car qualifies as emergency vehicle. See *Clark v. Fellin*, 126 Colo. 519, 251 P.2d 940 (1952).

A police car is an emergency vehicle for purposes of the Colorado Governmental Immunity Act. *Fogg v. Macaluso*, 870 P.2d 525 (Colo. App. 1993), *aff'd in part and rev'd in part*, 892 P.2d 271 (Colo. 1995).

The point at which a crossroad enters the main highway is an "intersection" within the statutory definition of that term. *General Foods Sales Co. v. Smith*, 105 Colo. 305, 97 P.2d 429 (1939).

The board of county commissioners falls within the statutory definition of "local authority". *Asphalt Paving Co. v. Bd. of County Comm'rs*, 162 Colo. 254, 425 P.2d 289 (1967).

Definition of "motor vehicle" in this section did not apply to road grader operating on highway and fell within the motor vehicle exception to the Colorado Governmental Immunity Act. For purposes of the Act, "motor vehicle" includes any "vehicle on wheels having its own motor and not running on rails or tracks, for use on streets or highways". *Bertrand v. Bd. of County Comm'rs*, 873 P.2d 223 (Colo. 1994).

Use of "county" with "municipal" indicates intent for county to have police powers. The fact that the term "county" was included in this section along with "municipal" units indicates that the general assembly intended such county governmental units, functioning through their boards of county commissioners, to have at least certain police powers. *Asphalt Paving Co. v. Bd. of County Comm'rs*, 162 Colo. 254, 425 P.2d 289 (1967).

The provision relating to "other local board or body" can apply only to the numerous units of local government other than counties and municipalities, which overlap our state in profusion. *Asphalt Paving Co. v. Bd. of County Comm'rs*, 162 Colo. 254, 425 P.2d 289 (1967).

Definition of "police officer" is not limited to state, county, or municipal personnel and the air force security police are law enforcement officers who can request testing pursuant to the express consent law

under § 42-4-1301 (6). Eggleston v. Dept. of Rev. Motor Veh. Div., 895 P.2d 1169 (Colo. App. 1995).

A public highway is defined as (a) the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel; or (b) the entire width of every way declared to be a public highway by any law of this state. Curtis v. Lawley, 140 Colo. 476, 346 P.2d 579 (1959).

A private roadway is defined as every road or driveway not open to the use of the public for purposes of vehicular travel. Curtis v. Lawley, 140 Colo. 476, 346 P.2d 579 (1959).

When a highway is closed to the use of the public, its status is within the definition of a private road or driveway. Curtis v. Lawley, 140 Colo. 476, 346 P.2d 579 (1959).

For example under this section a highway under construction and not open to the public use is a private roadway. Curtis v. Lawley, 140 Colo. 476, 346 P.2d 579 (1959).

Applied in Lorenzini v. Rucker, 95 Colo. 246, 35 P.2d 865 (1936); Ferguson v. Hurford, 132 Colo. 507, 290 P.2d 229 (1955); Britto v. People, 178 Colo. 216, 497 P.2d 325 (1972); State, Motor Vehicle Div. v. Dayhoff, 199 Colo. 363, 609 P.2d 119 (1980); Fuqua Homes, Inc. v. Western Sur. Co., 44 Colo. App. 257, 616 P.2d 163 (1980); Smith v. Charnes, 649 P.2d 1089 (Colo. 1982); Lombardi v. Bd. of Adjustment, 675 P.2d 21 (Colo. App. 1983).

42-4-108. Public officers to obey provisions - exceptions for emergency vehicles.

(1) The provisions of this article applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state, or any county, city, town, district, or other political subdivision of the state, subject to such specific exceptions as are set forth in this article with reference to authorized emergency vehicles.

(2) The driver of an authorized **emergency vehicle**, when responding to an emergency call, or when in pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated in this article. The driver of an authorized **emergency vehicle** may:

(a) Park or stand, irrespective of the provisions of this title;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the lawful speeds set forth in section 42-4-1101 (2) or exceed the maximum lawful speed limits set forth in section 42-4-1101 (8) so long as said driver does not endanger life or property;

(d) Disregard regulations governing directions of movement or turning in specified directions.

(3) The exemptions and conditions provided in paragraphs (b) to (d), in their entirety, of subsection (2) of this section for an authorized **emergency vehicle** shall continue to apply to section 24-10-106 (1) (a), C.R.S., only when such vehicle is making use of audible or visual signals meeting the requirements of section 42-4-213, and the exemption granted in paragraph (a) of subsection (2) of this section shall apply only when such vehicle is making use of visual signals meeting the requirements of section 42-4-213 unless using such visual signals would cause an obstruction to the normal flow of traffic; except that an authorized **emergency vehicle** being operated as a police vehicle while in actual pursuit of a suspected violator of any provision of this title need not display or make use of audible or visual signals so long as such pursuit is being made to obtain verification of or evidence of the guilt of the suspected violator. Nothing in this section shall be construed to require an **emergency vehicle** to make use of audible signals when such vehicle is not moving, whether or not the vehicle is occupied.

(4) The provisions of this section shall not relieve the driver of an authorized **emergency vehicle** from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of such driver's reckless disregard for the safety of

others.

(5) The state motor vehicle licensing agency shall designate any particular vehicle as an authorized **emergency vehicle** upon a finding that the designation of that vehicle is necessary to the preservation of life or property or to the execution of emergency governmental functions. Such designation shall be in writing, and the written designation shall be carried in the vehicle at all times, but failure to carry the written designation shall not affect the status of the vehicle as an authorized **emergency vehicle**.

Source: L. 94: Entire title amended with relocations, p. 2231, § 1, effective January 1, 1995. **L. 96:** (3) amended, p. 958, § 4, effective July 1.

ANNOTATION

Am. Jur.2d. See 7A Am. Jur.2d, Automobiles and Highway Traffic, §§ 207, 208.

C.J.S. See 60A C.J.S., Motor Vehicles, §§ 756-766.

Annotator's note. Since § 42-4-108 is similar to § 42-4-106 as it existed prior to the 1994 amending of title 42 as enacted by SB 94-1, relevant cases construing that provision have been included in the annotations to this section.

Proper standard under subsection (2) for determining whether an **emergency vehicle** operator was responding to an emergency call is an objective standard from the perspective of the reasonable **emergency vehicle** operator. Courts must decide whether the **emergency vehicle** operator reasonably believed that he or she was responding to an emergency based on information he or she knew or should have known. *Corsentino v. Cordova*, 4 P.3d 1082 (Colo. 2000).

Proper standard under subsection (2)(c) for determining whether an **emergency vehicle** driver endangered life or property while speeding is to ask whether the **emergency vehicle** operator's speed created an unreasonable risk of injury or damage to life or property. Courts should limit their inquiry to the relationship between the conduct of the emergency operator prior to the accident and the circumstances surrounding the conduct and important factors include, but are not limited to, the legal speed limit in the area, the speed at which the operator was driving, the conditions of the road, and the type of area in which the operator was driving. *Corsentino v. Cordova*, 4 P.3d 1082 (Colo. 2000).

Firefighters and city immune from liability when an eight-foot section of hard suction hose came loose from the truck and plaintiff drove over the hose, causing personal injury and damage to the car, because the fire truck was responding to a fire alarm and was using its emergency lights and sirens. *City of Grand Junction v. Sisneros*, 957 P.2d 1026 (Colo. 1998).

Police officer not immune from liability if operating an **emergency vehicle** with "reckless disregard for the safety of others". *Zapp v. Kukuris*, 847 P.2d 150 (Colo. App. 1992).

Running a red light without slowing down is not within the provisions of subsection (2)(b).

Therefore, the government may be held liable for an accident resulting from such conduct. *Tunget v. Bd. of County Comm'rs*, 992 P.2d 650 (Colo. App. 1999).

Under the emergency vehicle exception provided for by subsection (2)(c) of this section and § 24-10-106 (1)(a), a trial court must find that a police officer who exceeded the speed limit in pursuit of a fleeing crime suspect did not endanger life or property before granting immunity from a lawsuit resulting from a pursuit-related traffic accident. Case remanded where the trial court dismissed the lawsuit for lack of subject matter jurisdiction based on sovereign immunity without making such a finding. *Quintana v. City of Westminster*, 8 P.3d 527 (Colo. App. 2000).

Public entity and its employees immune from tort liability if employee operating police vehicle while in actual pursuit of a suspected violator of title 42, even if the employee is not using the vehicle's emergency lights or sirens, if the pursuit is made to obtain verification of or evidence of the guilt of the suspected violator. *Tidwell v. City & County of Denver*, 62 P.3d 1020 (Colo. App. 2002), rev'd on other grounds, 83 P.3d 75 (Colo. 2003).

Police officer was engaged in a pursuit within the provisions of subsection (3) when the driver of a car fled the scene in a clear attempt to avoid arrest or further investigation and the officer followed the car. *Tidwell v. City & County of Denver*, 83 P.3d 75 (Colo. 2003).

Police officer's pursuit was not investigatory in nature when the officer already had authority to stop and arrest the driver of a car and the officer was pursuing the driver of the car for that reason. Therefore the officer was required to activate his emergency signals in order for the city to claim the protection of governmental immunity under the Governmental Immunity Act. *Tidwell v. City & County of Denver*, 83 P.3d 75 (Colo. 2003).

Police officer's alleged conduct could be viewed as reckless and conscience-shocking for purposes of 42 U.S.C. § 1983. Police officer's alleged conduct, particularly his decision to speed against a red light through an intersection on a major boulevard without slowing down or activating his siren in non-emergency circumstances, all in violation of state law and police regulations, could be viewed as reckless and conscience-shocking. *Williams v. City and County of Denver*, 99 F.3d 1009 (10th Cir. 1996).

Dismissal of claim based on simple negligence in operation of an emergency vehicle was proper, since standard of care created in subsection (4) is "reckless disregard". *Zapp v. Kukuris*, 847 P.2d 150 (Colo. App. 1992).

Applied in *Brown v. Kreuser*, 38 Colo. App. 554, 560 P.2d 105 (1977); *Mobell v. City & County of Denver*, 671 P.2d 433 (Colo. App. 1983); *Sierra v. City and County of Denver*, 730 P.2d 902 (Colo. App. 1986).

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42-4-213. Audible and visual signals on emergency vehicles.

- (1) Except as otherwise provided in this section or in section 42-4-222 in the case of volunteer fire vehicles and volunteer ambulances, every authorized **emergency vehicle** shall, in addition to any other equipment and distinctive markings required by this article, be equipped as a minimum with a siren and a horn. Such devices shall be capable of emitting a sound audible under normal conditions from a distance of not less than five hundred feet.
- (2) Every authorized **emergency vehicle**, except those used as undercover vehicles by governmental agencies, shall, in addition to any other equipment and distinctive markings required by this article, be equipped with at least one signal lamp mounted as high as practicable, which shall be capable of displaying a flashing, oscillating, or rotating red light to the front and to the rear having sufficient intensity to be visible at five hundred feet in normal sunlight. In addition to the required red light, flashing, oscillating, or rotating signal lights may be used which emit blue, white, or blue in combination with white.
- (3) A police vehicle, when used as an authorized **emergency vehicle**, may but need not be equipped with the red lights specified in this section.
- (4) Any authorized **emergency vehicle**, including those authorized by section 42-4-222, may be equipped with green flashing lights, mounted at sufficient height and having sufficient intensity to be visible at five hundred feet in all directions in normal daylight. Such lights may only be used at the single designated command post at any emergency location or incident and only when such command post is stationary. The single command post shall be designated by the on-scene incident commander in accordance with local or state government emergency plans. Any other use of a green light by a vehicle shall constitute a violation of this section.
- (5) The use of either the audible or the visual signal equipment described in this section shall impose upon drivers of other vehicles the obligation to yield right-of-way and stop as prescribed in section 42-4-705.
- (6) Any person who violates any provision of this section commits a class A traffic infraction.

Source: L. 94: Entire title amended with relocations, p. 2249, § 1, effective January 1, 1995.

Editor's note: This section was formerly numbered as 42-4-212 and the former section 42-4-213 was relocated to section 42-4-215.

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[42-4-224. Horns or warning devices.](#)

(1) Every motor vehicle, when operated upon a highway, shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound, except as provided in section 42-4-213 (1) in the case of authorized emergency vehicles or as provided in section 42-4-222. The driver of a motor vehicle, when reasonably necessary to ensure safe operation, shall give audible warning with the horn but shall not otherwise use such horn when upon a highway.

(2) No vehicle shall be equipped with nor shall any person use upon a vehicle any audible device except as otherwise permitted in this section. It is permissible but not required that any vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as a warning signal unless the alarm device is a required part of the vehicle. Nothing in this section is meant to preclude the use of audible warning devices that are activated when the vehicle is backing. Any authorized **emergency vehicle** may be equipped with an audible signal device under section 42-4-213 (1), but such device shall not be used except when such vehicle is operated in response to an emergency call or in the actual pursuit of a suspected violator of the law or for other special purposes, including, but not limited to, funerals, parades, and the escorting of dignitaries. Such device shall not be used for such special purposes unless the circumstances would not lead a reasonable person to believe that such vehicle is responding to an actual emergency.

(3) No bicycle or motorized bicycle shall be equipped with nor shall any person use upon a bicycle or motorized bicycle any siren or whistle.

(4) Snowplows and other snow-removal equipment shall display flashing yellow lights meeting the requirements of section 42-4-214 as a warning to drivers when such equipment is in service on the highway.

(5) (a) When any snowplow or other snow-removal equipment displaying flashing yellow lights is engaged in snow and ice removal or control, drivers of all other vehicles shall exercise more than ordinary care and caution in approaching, overtaking, or passing such snowplow.

(b) The driver of a snowplow, while engaged in the removal or control of snow and ice on any highway open to traffic and while displaying the required flashing yellow warning lights as provided by section 42-4-214, shall not be charged with any violation of the provisions of this article relating to parking or standing, turning, backing, or yielding the right-of-way. These exemptions shall not relieve the driver of a snowplow from the duty to drive with due regard for the safety of all persons, nor shall these exemptions protect the driver of a snowplow from the

consequences of a reckless or careless disregard for the safety of others.

(6) Any person who violates any provision of this section commits a class B traffic infraction.

Source: L. 94: Entire title amended with relocations, p. 2259, § 1, effective January 1, 1995. **L. 2005:** (1) and (2) amended, p. 196, § 3, effective July 1.

Editor's note: (1) This section was formerly numbered as 42-4-221 and the former section 42-4-224 was relocated to section 42-4-227.

(2) Section 4 of chapter 48, Session Laws of Colorado 2005, provides that the act amending subsections (1) and (2) applies to actions occurring on or after July 1, 2005.

ANNOTATION

Am. Jur.2d. See 7A Am. Jur.2d, Automobiles and Highway Traffic, § 229.

C.J.S. See 60A C.J.S., Motor Vehicles, §§ 530, 531.

42-4-238. Blue and red lights - illegal use or possession.

(1) A person shall not be in actual physical control of a vehicle, except an authorized **emergency vehicle** as defined in section 42-1-102 (6), that the person knows contains a lamp or device that is designed to display, or that is capable of displaying if affixed or attached to the vehicle, a red or blue light visible directly in front of the center of the vehicle.

(2) It shall be an affirmative defense that the defendant was:

(a) A peace officer as described in section 16-2.5-101, C.R.S.; or

(b) In actual physical control of a vehicle expressly authorized by a chief of police or sheriff to contain a lamp or device that is designed to display, or that is capable of displaying if affixed or attached to the vehicle, a red or blue light visible from directly in front of the center of the vehicle; or

(c) A member of a volunteer fire department or a volunteer ambulance service who possesses a permit from the fire chief of the fire department or chief executive officer of the ambulance service through which the volunteer serves to operate a vehicle pursuant to section 42-4-222 (1) (b); or

(d) A vendor who exhibits, sells, or offers for sale a lamp or device designed to display, or that is capable of displaying, if affixed or attached to the vehicle, a red or blue light; or

(e) A collector of fire engines, fire suppression vehicles, or ambulances and the vehicle to which the red or blue lamps were affixed is valued for the vehicle's historical interest or as a collector's item.

(3) A violation of this section is a class 1 misdemeanor.

Source: L. 2004: Entire section added, p. 1080, § 2, effective July 1. L. 2005: (2)(e) added, p. 195, § 1, effective July 1.

Editor's note: Section 4 of chapter 48, Session Laws of Colorado 2005, provides that the act enacting subsection (1)(e) applies to actions occurring on or after July 1, 2005.

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42-4-705. Operation of vehicle approached by emergency vehicle - operation of vehicle approaching stationary emergency vehicle.

(1) Upon the immediate approach of an authorized **emergency vehicle** making use of audible or visual signals meeting the requirements of section 42-4-213 or 42-4-222, the driver of every other vehicle shall yield the right-of-way and where possible shall immediately clear the farthest left-hand lane lawfully available to through traffic and shall drive to a position parallel to, and as close as possible to, the right-hand edge or curb of a roadway clear of any intersection and shall stop and remain in that position until the authorized **emergency vehicle** has passed, except when otherwise directed by a police officer.

(2) (a) A driver in a vehicle that is approaching or passing a stationary authorized **emergency vehicle** that is giving a visual signal by means of flashing, rotating, or oscillating red, blue, or white lights as permitted by section 42-4-213 or 42-4-222, shall exhibit due care and caution and proceed as described in paragraphs (b) and (c) of this subsection (2).

(b) On a highway with at least two adjacent lanes proceeding in the same direction on the same side of the highway where a stationary authorized **emergency vehicle** is located, the driver of an approaching or passing vehicle shall proceed with due care and caution and yield the right-of-way by moving into a lane at least one moving lane apart from the stationary authorized **emergency vehicle**, unless directed otherwise by a peace officer or other authorized emergency personnel. If movement to an adjacent moving lane is not possible due to weather, road conditions, or the immediate presence of vehicular or pedestrian traffic, the driver of the approaching vehicle shall proceed in the manner described in paragraph (c) of this subsection (2).

(c) On a highway that does not have at least two adjacent lanes proceeding in the same direction on the same side of the highway where a stationary authorized **emergency vehicle** is located, or if movement by the driver of the approaching vehicle into an adjacent moving lane, as described in paragraph (b) of this subsection (2), is not possible, the driver of an approaching vehicle shall reduce and maintain a safe speed with regard to the location of the stationary authorized vehicle, weather conditions, road conditions, and vehicular or pedestrian traffic and proceed with due care and caution, or as directed by a peace officer or other authorized emergency personnel.

(3) (a) Any person who violates subsection (1) of this section commits a class A traffic infraction.

(b) Any person who violates subsection (2) of this section commits careless driving as described in section 42-4-1402.

Source: L. 94: Entire title amended with relocations, p. 2347, § 1, effective January 1, 1995. **L.**

2005: Entire section amended, p. 711, § 1, effective July 1.

Editor's note: (1) This section was formerly numbered as 42-4-605 and the former section 42-4-705 was relocated to section 42-4-805.

(2) Section 2 of chapter 205, Session Laws of Colorado 2005, provides that the act amending this section applies to traffic infractions committed on or after July 1, 2005.

ANNOTATION

Am. Jur.2d. See 7A Am. Jur.2d, Automobiles and Highway Traffic, §§ 248, 317, 449; 8 Am. Jur.2d, Automobiles and Highway Traffic, §§ 899, 1034.

C.J.S. See 60A C.J.S., Motor Vehicles, §§ 756-766.

42-4-805. Pedestrians walking or traveling in a wheelchair on highways.

- (1) Pedestrians walking or traveling in a wheelchair along and upon highways where sidewalks are not provided shall walk or travel only on a road shoulder as far as practicable from the edge of the roadway. Where neither a sidewalk nor road shoulder is available, any pedestrian walking or traveling in a wheelchair along and upon a highway shall walk as near as practicable to an outside edge of the roadway and, in the case of a two-way roadway, shall walk or travel only on the left side of the roadway facing traffic that may approach from the opposite direction; except that any person lawfully soliciting a ride may stand on either side of such two-way roadway where there is a view of traffic approaching from both directions.
- (2) No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any private vehicle. For the purposes of this subsection (2), "roadway" means that portion of the road normally used by moving motor vehicle traffic.
- (3) It is unlawful for any person who is under the influence of alcohol or of any controlled substance, as defined in section 12-22-303 (7), C.R.S., or of any stupefying drug to walk or be upon that portion of any highway normally used by moving motor vehicle traffic.
- (4) This section applying to pedestrians shall also be applicable to riders of animals.
- (5) Any city or town may, by ordinance, regulate the use by pedestrians of streets and highways under its jurisdiction to the extent authorized under subsection (6) of this section and sections 42-4-110 and 42-4-111, but no ordinance regulating such use of streets and highways in a manner differing from this section shall be effective until official signs or devices giving notice thereof have been placed as required by section 42-4-111 (2).
- (6) No person shall solicit a ride on any highway included in the interstate system, as defined in section 43-2-101 (2), C.R.S., except at an entrance to or exit from such highway or at places specifically designated by the department of transportation; or, in an emergency affecting a vehicle or its operation, a driver or passenger of a disabled vehicle may solicit a ride on any highway.
- (7) Pedestrians shall only be picked up where there is adequate road space for vehicles to pull off and not endanger and impede the flow of traffic.
- (8) Upon the immediate approach of an authorized **emergency vehicle** making use of audible or visual signals meeting the requirements of section 42-4-213 or of a police vehicle properly and lawfully making use of an audible signal only, every pedestrian shall yield the right-of-way to the

authorized **emergency vehicle** and shall leave the roadway and remain off the same until the authorized **emergency vehicle** has passed, except when otherwise directed by a police officer. This subsection (8) shall not relieve the driver of an authorized **emergency vehicle** from the duty to use due care as provided in sections 42-4-108 (4) and 42-4-807.

(9) Any person who violates any provision of this section commits a class B traffic infraction.

Source: L. 94: Entire title amended with relocations, p. 2354, § 1, effective January 1, 1995. **L. 96:** (8) amended, p. 959, § 5, effective July 1.

Editor's note: This section was formerly numbered as 42-4-706.

Cross references: For obstruction of highway or other passageway, see § 18-9-107.

ANNOTATION

Am. Jur.2d. See 7A Am. Jur.2d, Automobiles and Highway Traffic, § 13; 8 Am. Jur.2d, Automobiles and Highway Traffic, § 465.

C.J.S. See 61 C.J.S., Motor Vehicles, § 892.

43-1-403. Definitions.

As used in this part 4, unless the context otherwise requires:

- (1) "Advertising device" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or any other contrivance designed, intended, or used to advertise or to give information in the nature of advertising and having the capacity of being visible from the travel way of any state highway, except any advertising device on a vehicle using the highway. The term "vehicle using the highway" does not include any vehicle parked near said highway for advertising purposes.
- (2) "Defined area" means a geographically described economic area in which tourist-related businesses are located, which area would suffer substantial economic hardship by the removal of any tourist-related advertising device in that area providing directional information about goods and services in the interest of the traveling public.
- (3) "Department" means the department of transportation.
- (4) "Directional advertising device" includes, but is not limited to: Advertising devices containing directional information to facilitate **emergency vehicle** access to remote locations or about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public. Such devices shall conform to standards promulgated by the department pursuant to section 43-1-415, which standards shall conform to the national policy.
- (5) "Erect" means to construct or allow to be constructed.
- (6) "Highway" means any road on the state highway system, as defined in section 43-2-101 (1).
- (7) "Informational site" means an area established and maintained within a highway rest area wherein panels for the display of advertising and informational plaques may be erected and maintained so as not to be visible from the travel way of any state highway.
- (8) "Interstate system" means the system of highways as defined in section 43-2-101 (2).
- (9) "Maintain" means to preserve, keep in repair, continue, or replace an advertising device.
- (10) "Municipality" has the same meaning as defined in section 31-1-101 (6), C.R.S.

(11) "National policy" means the provisions relating to control of advertising, signs, displays, and devices adjacent to the interstate system contained in 23 U.S.C. sec. 131 and the national standards or regulations promulgated pursuant to such provisions.

(12) "Nonconforming advertising device" means any advertising device which was lawfully erected under state law prior to January 1, 1971, and has been lawfully maintained in accordance with the provisions of this part 4 or prior state law, except those advertising devices allowed by section 43-1-404 (1).

(13) "Official advertising device" means any advertising device erected for a public purpose authorized by law, but the term shall not include devices advertising any private business.

(14) "On-premise advertising device" means an advertising device advertising the sale or lease of the property on which it is located or advertising activities conducted on the property on which it is located.

(15) "Person" means any individual, corporation, partnership, association, or organized group of persons, whether incorporated or not, and any government, governmental subdivision, or agency thereof.

(16) "Tourist-related advertising device" means any legally erected and maintained advertising device which was in existence on May 5, 1976, and which provides directional information about goods and services in the interest of the traveling public limited to the following: Lodging, campsite, food service, recreational facility, tourist attraction, educational or historical site or feature, scenic attraction, gasoline station, or garage.

(17) "Visible" means capable of being seen, whether or not legible, without visual aid by a person of normal acuity.

(18) "Would work or suffer a substantial economic hardship" means tending to cause or causing a significant negative economic effect, such as a loss of business income, an increase in unemployment, a reduction in sales taxes or other revenue to the state or other governmental entity, a reduction in real estate taxes to the county, and other significant negative economic factors.

Source: L. 81: Entire part R&RE, p. 2007, § 1, effective July 1. L. 91: (3) amended, p. 1096, § 117, effective July 1. L. 96: (4) amended, p. 776, § 1, effective May 23.

Editor's note: This section was contained in a part that was repealed and reenacted in 1981. Provisions of this section, as it existed in 1981, are similar to those contained in 43-1-402 as said section existed in

1980, the year prior to the repeal and reenactment of this part

ANNOTATION

Scope of act not limited to commercial advertising. Both legislative declaration and included definitions demonstrate that outdoor advertising act was intended to provide for the regulation of more than just commercial advertising. *Pigg v. State Dept. of Highways*, 746 P.2d 961 (Colo. 1987).

Applied in *State Dept. of Hwys. v. Pigg*, 656 P.2d 46 (Colo. App. 1982).

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