

Report on the Impact of HB 22-1229 on Form A of the Rules for Civil Infractions and the Rules on Traffic Infractions

Background:

On July 8, 2022, Ms. Yacuzzo entered a request on behalf of the State Court Administrator's Office for the Committee on the Rules of Criminal Procedure to review the impacts of HB 22-1229 on the Rules for Civil Infractions. Specifically, the request was to consider an amendment to Form A of the Rules for Civil Infractions to include an advisement regarding the possibility of administrative revocation/suspension of one's driving privileges based on an admission of guilt/liability for Driving Under Restraint under §42-4-138(1)(a), C.R.S.

At the July 15, 2022 meeting of the Committee on the Rules of Criminal Procedure, Chair Judge John Dailey assigned Sheryl Uhlmann, Sheryl Berry, and Christian Champagne to examine whether Form A of Rules for Traffic Infraction needed to be updated in light of HB 22-1229. It was noted in the minutes that Ms. Yacuzzo had explored the issue since the original request and preliminarily determined that no update was necessary.

Findings:

Since that time, Ms. Berry, Ms. Uhlmann, and Mr. Champagne have each examined the issues presented in the request and arrived at the following findings:

- 1) SB 21-271 changed the class of crime associated with a violation of §42-2-138(1)(a), C.R.S. from an undefined misdemeanor to a Class A traffic infraction, effective March 1, 2022.
- 2) HB 22-1229 made major modifications to how civil infractions are handled within the court system, focusing mainly on the process for penalty assessments, summons, and court processes regarding civil infractions. It does not directly address violations of §42-2-138(1)(a) as they are traffic infractions, not civil infractions.
- 3) Form A of the Rules for Traffic Infractions is implicated when a defendant chooses to admit guilt or liability for a traffic infraction. *Exhibit 1*. This form contains an advisement to a defendant regarding the consequences of pleading guilty, as follows:

“Your failure EITHER to sign the above and pay the clerk the fine and costs OR to appear as directed in your notice will result in a judgment against you. The judgment will be reported to the state Motor Vehicle Division, which may assess points against your driving record *and* delay your application for a driver's license until you have *paid the court* the full amount of the judgment against you.”
- 4) Form A of the Colorado Rules for Civil Infractions does not contain an advisement similar to the above-quoted advisement from Form A of the Rules on Traffic Infractions. *Exhibit 2*.

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- 5) Neither Form A of the Rule for Civil Infractions nor Form A for the Rules for Traffic Infractions address specific infractions or their penalties. Instead, the forms are meant to give a general overview of the defendant's rights in the proceeding, to ensure that the defendant's decision regarding guilt/liability is voluntary, and, in the case of Form A of the Rules for Traffic Infractions, to advise the defendant of the potential effects of non-compliance, including possible penalties associated to one's driving privileges.
- 6) Local custom among the courts varies widely. Many courts do not even use the written Form A when handling violations of traffic infractions or civil infractions, preferring instead to orally advise the defendants.

Conclusion and Recommendations:

HB 22-1229 addresses civil infractions, not traffic infractions, and therefore does not impact violations of §42-2-138(1)(a). As such, no modification to Form A of the Rules for Civil Infractions is required pursuant to HB 22-1229.

Form A of the Rules for Traffic Infractions is general in nature, and is not designed to address the specific impacts of individual violations such as §42-2-138(1)(a). Form A does contain an advisement to offenders that notifies them generally that the judgment against them will be reported to the Motor Vehicles Division and may have an impact on their driving privileges. However, this general advisement does not specifically address possible suspension or revocation of one's driving privileges.

If the full committee is inclined to modify the advisement given on Form A of the Rules for Traffic infractions, the issue of possible suspension or revocation of one's driving privileges is the most appropriate area for change.

However, this group's understanding from colloquial reports is that Form A is not used consistently across the state, with some courts offering oral advisements. This undercuts the necessity and impact of changing Form A of the Rules for Traffic Infractions. This, in concert with the general nature of the advisement form and broad scope of the current advisement, leads this group to recommend that no changes be made to Form A of the Rules for Traffic Infractions.

West's Colorado Revised Statutes Annotated
 Colorado Court Rules
 Chapter 29.7. Rules for Traffic Infractions
 Colorado Rules for Traffic Infractions--Forms (Refs & Annos)

C.R.T.I. Form A

Form A. Waiver of Rights and Admission of Guilt or Liability Under the Colorado Rules for Traffic Infractions

Currentness

(Rule 6, C.R.T.I.)

You have been accused of violating the traffic infraction laws of the State of Colorado. A simplified procedure is available for the payment of any fines if you voluntarily admit your guilt or liability after being advised of the following rights.

You have the right to:

1. Be represented by an attorney at your own expense;
2. Remain silent because any statement you make may be used against you;
3. Deny the allegations against you and have a hearing, at which the allegations must be proven beyond a reasonable doubt;
4. Testify at your own choosing, subpoena witnesses, present evidence, and cross-examine witnesses for the state;
5. Appeal a judgment against you.

Any answer you make must be voluntary and not the result of undue influence, and you must understand that points may be assessed against your driving records if you admit guilt or liability.

Admission of Guilt or Liability

I have read or been advised of the rights described above. I hereby waive these rights and voluntarily admit my guilt or liability.

Date

Signature

Please Note Carefully

Your failure EITHER to sign the above and pay the clerk the fine and costs OR to appear as directed in your notice will result in a judgment against you. The judgment will be reported to the state Motor Vehicle Division, which may assess points against your driving record *and* delay your application for a driver's license until you have *paid the court* the full amount of the judgment against you.

Traffic Infractions Form A, CO ST TRAF INFR Form A
 Current with amendments received through July 1, 2022.

West's Colorado Revised Statutes Annotated
 Colorado Court Rules
 Chapter 29.9. Rules for Civil Infractions
 Appendix

CO Rules of Civil Infractions Form A

Form A. Waiver of Rights and Admission of Guilt or Liability Under Colorado Rules for Civil Infractions

Effective: April 7, 2022

Currentness

You have been accused of violating the civil infraction laws of the State of Colorado. A simplified procedure is available for the payment of the penalty assessment if you voluntarily admit your guilt or liability after being advised of the following rights.

You have the right to:

1. Be represented by an attorney at your own expense;
2. Remain silent because any statement you make may be used against you;
3. Deny the allegations against you and have a hearing, at which the allegations must be proven beyond a reasonable doubt;
4. Testify at your own choosing, subpoena witnesses, present evidence, and cross-examine witnesses for the state;
5. Appeal a judgment against you.

Admission of Guilt or Liability

I have read or been advised of the rights described above. I hereby waive those rights and voluntarily admit my guilt or liability.

Date

Signature

Date

Signature of Parent/Legal Guardian (if necessary)

Credits

Adopted effective April 7, 2022.

Colorado Rules of Civil Infractions Form A, CO ST CIV INFR Form A
 Current with amendments received through September 15, 2022.