

## Law Enforcement Authority

### 100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Colorado Department of Revenue to perform their functions based on established legal authority.

### 100.2 POLICY

It is the policy of the Colorado Department of Revenue to limit its members to only exercise the authority granted to them by law.

While this agency recognizes the power of peace officers to make arrests and take other enforcement action, investigators are encouraged to use sound discretion in the enforcement of the law. This agency does not tolerate abuse of law enforcement authority.

### 100.3 PEACE OFFICER AUTHORITY

Certified members shall be considered peace officers pursuant to CRS § 16-2.5-121 through CRS § 16-2.5-126 and CRS § 24-7.5-103.

#### 100.3.1 ARREST AUTHORITY WITHIN THE JURISDICTION OF THE COLORADO DEPARTMENT OF REVENUE

The arrest authority within the jurisdiction of the Colorado Department of Revenue includes POST-certified peace officers. (CRS § 16-3-102):

- (a) In compliance with an arrest warrant.
- (b) When any crime is being, or has been, committed in a peace officer's presence.
- (c) When there is probable cause to believe that an offense was committed by the person to be arrested.

The arrest authority for POST-certified peace officers in all Colorado Department of Revenue POST-certified peace officers is only while engaged in the performance of his or her duties. Specific duties are outlined below:

- **Auto Industry Division (AID) investigator CRS §16-2.5-121 -**
  - The director of the auto industry division or an auto industry investigator is a peace officer while engaged in the performance of his or her duties whose authority is limited to the enforcement of section 44-20-105 (3).
- **Department of Motor Vehicle (DMV) criminal investigator CRS § 16-2.5-122.5 -**
  - A motor vehicle criminal investigator employed by the Department of Revenue is a peace officer while engaged in the performance of the investigator's duties and whose primary authority is as stated in section 42-1-222, and whose authority also includes the enforcement of all of the laws of the state of Colorado, and who shall be certified by the P.O.S.T. board.
- **Division of Gaming (DOG) director and gaming investigator CRS § 16-2.5-123 -**

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- The director of the Division of Gaming in the Department of Revenue or a gaming investigator in the Department of Revenue is a peace officer while engaged in the performance of his or her duties whose primary authority shall be as stated in section 44-30-204 and shall also include the enforcement of all laws of the state of Colorado and who may be certified by the P.O.S.T. board.
- **Lottery (LOT) investigator CRS § 16-2.5-125 -**
  - A state lottery investigator is a peace officer while engaged in the performance of his or her duties whose primary authority shall be as stated in sections 44-40-106 (3) and 44-40-107 (8) and shall also include the enforcement of all laws of the state of Colorado and who may be certified by the P.O.S.T. board.
- **Liquor and Tobacco Enforcement (LED) investigator CS § 16-2.5-124 -**
  - A liquor enforcement investigator is a peace officer while engaged in the performance of his or her duties and while acting under proper orders or regulations whose primary authority shall be as stated in sections 44-3-905 (1) and 44-7-104 and shall also include the enforcement of all laws of the state of Colorado and who may be certified by the P.O.S.T. board.
- **Marijuana Enforcement Division (MED) director and enforcement investigator CRS § 16-2.5-124.5 -**
  - The director of the Marijuana Enforcement Division or a marijuana enforcement investigator is a peace officer while engaged in the performance of his or her duties and while acting under proper orders or rules pursuant to article 10 of title 44, and shall also include the enforcement of all laws of the state of Colorado and who may be certified by the P.O.S.T. board.
- **Division of Racing Events (Racing) racing events supervisor and investigator CRS § 16-2.5-126 -**
  - The director of racing events, a racing events supervisor, and a racing events investigator are peace officers while engaged in the performance of their duties whose primary authority shall be as stated in section 44-32-203 (1) and shall also include the enforcement of all laws of the state of Colorado and who may be certified by the P.O.S.T. board.
- **Taxation Division (Tax) criminal tax enforcement special agent CRS § 16-2.5-123.5 -**
  - A criminal tax enforcement special agent employed by the Department of Revenue is a peace officer while engaged in the performance of the investigator's duties and while acting under proper orders or rules, whose primary authority is the enforcement of section 39-21-118, and also includes the enforcement of all of the laws of the state of Colorado, and who shall be certified by the P.O.S.T. board.

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### 100.3.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE COLORADO DEPARTMENT OF REVENUE

The arrest authority of investigators outside the primary jurisdictional authority of the Colorado Department of Revenue includes (excluding AID POST-certified peace officers unless it falls within §44-20-105(3)):

- (a) When a felony or misdemeanor is committed in the investigator's presence in another jurisdiction in the state of Colorado, the local law enforcement agency is notified of the arrest and the arrestee is transferred to that agency (CRS § 16-3-110).
- (b) When the investigator is in fresh pursuit from within the jurisdiction of the Colorado Department of Revenue and any of the following conditions exist (CRS § 16-3-106):
  - 1. An arrest warrant has been issued for the person or the investigator knows that such warrant has been issued for the person.
  - 2. An offense was committed in the investigator's presence.
  - 3. The investigator has probable cause to believe that the person committed an offense.
- (c) When investigators are accompanied by law enforcement officers who have the authority to make an arrest in that jurisdiction, are present at the scene of the arrest and participate in the arrest process (CRS § 16-3-202).
- (d) When another agency has requested temporary assistance during a state of emergency (CRS § 29-5-104).

An investigator making an arrest under this subsection shall, as soon as practicable after making the arrest, notify the agency having jurisdiction where the arrest was made (CRS § 16-3-110).

### **100.4 INTERSTATE PEACE OFFICER POWERS**

Peace officer powers may be extended within other states(excluding AID POST-certified peace officers unless it falls within §44-20-105(3)):

- (a) As applicable under interstate compacts and memorandums of understanding in compliance with the laws of each state (CRS § 24-60-101; CRS § 29-1-206).
- (b) When an investigator enters Arizona, Nebraska, New Mexico, Oklahoma or Utah in fresh pursuit of a felony subject (ARS § 13-3832; Neb. Rev. Stat. § 29-416; NMSA § 31-2-1 (New Mexico); 22 O.S. § 221; Utah Code 77-9-1).
- (c) When an investigator enters Kansas in fresh pursuit of a subject who committed any offense (K.S.A. § 22-2404).
- (d) When an interstate compact exists with the state of Wyoming that permits an investigator to pursue and arrest an offender who has fled Colorado (Wyo. Stat. § 7-3-103).

Whenever an investigator makes an arrest in another state, the investigator shall take the offender to a magistrate in the county where the arrest occurred as soon as practicable (ARS § 13-3833; K.S.A. § 22-2404; Neb. Rev. Stat. § 29-417; NMSA § 31-2-2 (New Mexico); 22 O.S. § 222; Utah Code 77-9-2).

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### **100.5 FEDERAL RESERVATIONS**

Peace officer powers extend to Indian reservations pursuant to 18 USC § 1152, except in the following circumstances(excluding AID POST-certified peace officers unless it falls within §44-20-105(3):

- (a) A crime was committed by an Indian against the person or property of another Indian.
- (b) An Indian who committed an offense has been punished by the local law of the tribe.
- (c) An Indian tribe has been granted exclusive jurisdiction by stipulation of a treaty.

An investigator of the Colorado Department of Revenue may have jurisdiction over a crime committed on Indian reservations by a non-Indian against another non-Indian absent treaty provisions to the contrary.

### **100.6 CONSTITUTIONAL REQUIREMENTS**

All members shall observe and comply with every person's clearly established rights under the United States and Colorado Constitutions.