

CHAPTER 431

MOTOR VEHICLES AND TRAFFIC REGULATION

SENATE BILL 24-065

BY SENATOR(S) Hansen and Fields, Bridges, Cutter, Exum, Hinrichsen, Kolker, Marchman, Michaelson Jenet, Mullica, Roberts, Sullivan, Fenberg;

also REPRESENTATIVE(S) Froelich and Ortiz, Amabile, Bird, Boesenecker, Brown, Duran, Hamrick, Kipp, Lieder, Lindsay, Lindstedt, Lukens, Mauro, McCormick, Vigil, Young, McCluskie, Bacon, Clifford, deGruy Kennedy, Epps, Garcia, Hernandez, Herod, Jodeh, Mabrey, Marvin, McLachlan, Parenti, Rutinel, Sirota, Snyder, Soper, Story, Titone, Valdez, Velasco, Weissman, Willford.

AN ACT

CONCERNING THE USE OF MOBILE ELECTRONIC DEVICES WHEN DRIVING A MOTOR VEHICLE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **repeal and reenact, with amendments, 42-4-239** as follows:

42-4-239. Use of a mobile electronic device - definitions - penalty - preemption - legislative declaration. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "EMERGENCY" MEANS A CIRCUMSTANCE IN WHICH AN INDIVIDUAL:

(I) HAS REASON TO FEAR FOR THE INDIVIDUAL'S LIFE OR SAFETY OR BELIEVES THAT A CRIMINAL ACT MAY BE PERPETRATED AGAINST THE INDIVIDUAL OR ANOTHER INDIVIDUAL, REQUIRING THE USE OF A MOBILE ELECTRONIC DEVICE WHEN THE INDIVIDUAL IS DRIVING A MOTOR VEHICLE; OR

(II) REPORTS A FIRE, A TRAFFIC ACCIDENT IN WHICH ONE OR MORE INJURIES ARE APPARENT, A SERIOUS ROAD HAZARD, A MEDICAL OR HAZARDOUS MATERIALS EMERGENCY, OR AN INDIVIDUAL WHO IS DRIVING IN A RECKLESS, CARELESS, OR UNSAFE MANNER.

(b) "FIRST RESPONDER" MEANS:

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(I) A PEACE OFFICER, AS DESCRIBED IN SECTION 16-2.5-101;

(II) A FIREFIGHTER, AS DEFINED IN SECTION 29-5-203 (10);

(III) A VOLUNTEER FIREFIGHTER, AS DEFINED IN SECTION 31-30-1102 (9)(a);

(IV) AN EMERGENCY MEDICAL SERVICE PROVIDER, AS DEFINED IN SECTION 25-3.5-103 (8); OR

(V) ANY OTHER INDIVIDUAL WHO RESPONDS IN A PROFESSIONAL CAPACITY TO A PUBLIC SAFETY EMERGENCY.

(c) "HANDS-FREE ACCESSORY" MEANS AN ACCESSORY WITH A FEATURE OR FUNCTION THAT ENABLES AN INDIVIDUAL TO USE A MOBILE ELECTRONIC DEVICE WITHOUT USING EITHER HAND, EXCEPT TO ACTIVATE, DEACTIVATE, OR INITIATE THE FEATURE OR FUNCTION WITH A SINGLE TOUCH OR SINGLE SWIPE.

(d) (I) "MOBILE ELECTRONIC DEVICE" MEANS A HANDHELD OR PORTABLE ELECTRONIC DEVICE CAPABLE OF PROVIDING VOICE COMMUNICATION BETWEEN TWO OR MORE PERSONS, AMUSEMENT, OR THE WIRELESS TRANSFER OF DATA.

(II) "MOBILE ELECTRONIC DEVICE" DOES NOT INCLUDE:

(A) A RADIO, CITIZENS BAND RADIO, OR CITIZENS BAND RADIO HYBRID;

(B) A COMMERCIAL TWO-WAY RADIO COMMUNICATION DEVICE OR ITS FUNCTIONAL EQUIVALENT;

(C) A SUBSCRIPTION-BASED EMERGENCY COMMUNICATION DEVICE;

(D) A PRESCRIBED MEDICAL DEVICE;

(E) AN AMATEUR OR HAM RADIO DEVICE; OR

(F) SYSTEMS THAT ARE DESIGNED FOR AND INSTALLED WITHIN THE VEHICLE'S ELECTRONICS, SUCH AS AN IN-VEHICLE SECURITY, NAVIGATION, COMMUNICATIONS, OR REMOTE DIAGNOSTICS SYSTEM.

(e) "OPERATING A MOTOR VEHICLE" MEANS DRIVING A MOTOR VEHICLE ON A PUBLIC HIGHWAY. "OPERATING A MOTOR VEHICLE" DOES NOT INCLUDE MAINTAINING THE INSTRUMENTS OF CONTROL OF A MOTOR VEHICLE WHILE THE MOTOR VEHICLE IS AT REST IN A SHOULDER LANE OR LAWFULLY PARKED.

(f) "USE" OR "USING" MEANS:

(I) PHYSICALLY HOLDING A MOBILE ELECTRONIC DEVICE IN THE DRIVER'S HAND

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OR PINNING A MOBILE ELECTRONIC DEVICE TO A DRIVER'S EAR TO CONDUCT VOICE-BASED COMMUNICATION; EXCEPT THAT AN INDIVIDUAL MAY USE A SPEAKER OR OTHER LISTENING DEVICE THAT IS BUILT INTO PROTECTIVE HEADGEAR OR A DEVICE OR PORTION OF A DEVICE THAT ONLY COVERS ALL OR A PORTION OF ONE EAR AND THAT IS CONNECTED TO A WIRELESS, HANDHELD TELEPHONE AS PROVIDED IN SECTION 42-4-1411;

(II) WATCHING A VIDEO OR MOVIE ON A MOBILE ELECTRONIC DEVICE, OTHER THAN WATCHING DATA RELATED TO THE NAVIGATION OF THE MOTOR VEHICLE; OR

(III) WRITING, SENDING, OR READING TEXT-BASED COMMUNICATION, INCLUDING A TEXT MESSAGE, INSTANT MESSAGE, E-MAIL, OR INTERNET DATA, ON A MOBILE ELECTRONIC DEVICE; EXCEPT THAT TEXT-BASED COMMUNICATION DOES NOT INCLUDE:

(A) A VOICE-BASED COMMUNICATION THAT IS AUTOMATICALLY CONVERTED BY THE MOBILE ELECTRONIC DEVICE TO BE SENT AS A MESSAGE IN WRITTEN FORM; OR

(B) COMMUNICATION CONCERNING THE NAVIGATION OF A MOTOR VEHICLE.

(2) EXCEPT AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, AN INDIVIDUAL SHALL NOT USE A MOBILE ELECTRONIC DEVICE WHILE OPERATING A MOTOR VEHICLE.

(3) IT IS NOT A VIOLATION OF SUBSECTION (2) OF THIS SECTION TO USE A MOBILE ELECTRONIC DEVICE:

(a) TO CONTACT A PUBLIC SAFETY ENTITY;

(b) DURING AN EMERGENCY;

(c) WHEN AN EMPLOYEE OR CONTRACTOR OF A UTILITY IS ACTING WITHIN THE SCOPE OF THE EMPLOYEE'S OR CONTRACTOR'S DUTIES WHEN RESPONDING TO A UTILITY EMERGENCY;

(d) WHEN AN EMPLOYEE OR CONTRACTOR OF A CITY OR COUNTY IS ACTING WITHIN THE SCOPE OF THE EMPLOYEE'S OR CONTRACTOR'S DUTIES AS A CODE ENFORCEMENT OFFICER OR ANIMAL PROTECTION OFFICER; OR

(e) DURING THE PERFORMANCE OF A FIRST RESPONDER'S OFFICIAL DUTIES.

(4) (a) EXCEPT AS PROVIDED IN SUBSECTION (4)(b) OF THIS SECTION, AN INDIVIDUAL WHO VIOLATES THIS SECTION COMMITS A CLASS A TRAFFIC INFRACTION, AND THE COURT SHALL ASSESS A PENALTY AS FOLLOWS:

(I) A FINE OF SEVENTY-FIVE DOLLARS AND A SURCHARGE OF TEN DOLLARS FOR THE FIRST OFFENSE WITHIN THE IMMEDIATELY PRECEDING TWENTY-FOUR MONTHS;

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(II) A FINE OF ONE HUNDRED FIFTY DOLLARS AND A SURCHARGE OF TEN DOLLARS FOR THE SECOND OFFENSE WITHIN THE IMMEDIATELY PRECEDING TWENTY-FOUR MONTHS; OR

(III) A FINE OF TWO HUNDRED FIFTY DOLLARS AND A SURCHARGE OF TEN DOLLARS FOR THE THIRD OR SUBSEQUENT OFFENSE WITHIN THE IMMEDIATELY PRECEDING TWENTY-FOUR MONTHS.

(b) (I) AN INDIVIDUAL CHARGED WITH VIOLATING SUBSECTION (2) OF THIS SECTION SHALL NOT BE CONVICTED IF THE INDIVIDUAL:

(A) PRODUCES A HANDS-FREE ACCESSORY OR PROOF OF PURCHASE OF A HANDS-FREE ACCESSORY; AND

(B) AFFIRMS UNDER PENALTY OF PERJURY THAT THE INDIVIDUAL HAS NOT PREVIOUSLY HAD A CHARGE DISMISSED UNDER THIS SUBSECTION (4)(b).

(II) THE COURT CLERK MAY DISMISS THE CHARGE IF THE CLERK VERIFIES THAT THE INDIVIDUAL HAS COMPLIED WITH BOTH SUBSECTIONS (4)(b)(I)(A) AND (4)(b)(I)(B) OF THIS SECTION.

(c) IF THE INDIVIDUAL'S ACTIONS ARE THE PROXIMATE CAUSE OF BODILY INJURY TO ANOTHER, THE INDIVIDUAL COMMITS A CLASS 1 MISDEMEANOR TRAFFIC OFFENSE AND SHALL BE PUNISHED AS PROVIDED IN SECTION 42-4-1701 (3)(a)(II).

(d) IF THE INDIVIDUAL'S ACTIONS ARE THE PROXIMATE CAUSE OF DEATH TO ANOTHER, THE INDIVIDUAL COMMITS A CLASS 1 MISDEMEANOR TRAFFIC OFFENSE AND SHALL BE PUNISHED AS PROVIDED IN SECTION 42-4-1701 (3)(a)(II).

(5) THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL WITH A COMMERCIAL DRIVER'S LICENSE WHO IS OPERATING A COMMERCIAL VEHICLE.

(6) AN INDIVIDUAL OPERATING A MOTOR VEHICLE SHALL NOT BE CITED FOR A VIOLATION OF SUBSECTION (2) OF THIS SECTION UNLESS A LAW ENFORCEMENT OFFICER SAW THE INDIVIDUAL USE A MOBILE ELECTRONIC DEVICE IN A MANNER THAT CAUSED THE INDIVIDUAL TO DRIVE IN A CARELESS AND IMPRUDENT MANNER, WITHOUT DUE REGARD FOR THE WIDTH, GRADE, CURVES, CORNERS, TRAFFIC, AND USE OF THE STREETS AND HIGHWAYS AND ALL OTHER ATTENDANT CIRCUMSTANCES, AS PROHIBITED BY SECTION 42-4-1402.

(7) THIS SECTION DOES NOT AUTHORIZE THE SEIZURE AND FORFEITURE OF A MOBILE ELECTRONIC DEVICE, UNLESS OTHERWISE PROVIDED BY LAW.

SECTION 2. In Colorado Revised Statutes, **add** 43-1-132 as follows:

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43-1-132. Mobile electronic device education - repeal. (1) BY OCTOBER 1, 2024, THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL, IN CONSULTATION WITH THE CHIEF OF THE COLORADO STATE PATROL, CREATE A CULTURALLY AND LINGUISTICALLY COMPETENT CAMPAIGN RAISING PUBLIC AWARENESS OF THE REQUIREMENTS OF SECTION 42-4-239 AND OF THE DANGERS OF USING MOBILE ELECTRONIC DEVICES WHEN DRIVING.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 3. In Colorado Revised Statutes, 42-2-127, **amend** (5)(jj) and (5)(jj.5); and **add** (5)(jj.7) as follows:

42-2-127. Authority to suspend license - to deny license - type of conviction - points. (5) Point system schedule:
Type of conviction Points

(jj) A violation of section 42-4-239 (~~2~~) IF THE PERSON HAS NOT BEEN CONVICTED OF THE SAME VIOLATION WITHIN THE IMMEDIATELY PRECEDING TWENTY-FOUR MONTHS ~~1~~ **2**

(jj.5) A SECOND violation of section 42-4-239 (~~3~~) WITHIN THE IMMEDIATELY PRECEDING TWENTY-FOUR MONTHS. ~~4~~ **3**

(jj.7) A THIRD OR SUBSEQUENT VIOLATION OF SECTION 42-4-239 WITHIN THE IMMEDIATELY PRECEDING TWENTY-FOUR MONTHS ~~4~~ **4**

SECTION 4. In Colorado Revised Statutes, 42-4-1701, **amend** (4)(a)(I)(D) and (4)(a)(I)(P) as follows:

42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule - repeal. (4) (a) (I) Except as provided in subsection (5)(c) of this section, every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of this title 42 to which subsection (5)(a) or (5)(b) of this section applies shall be fined or penalized and have a surcharge levied in accordance with sections 24-4.1-119 (1)(f) and 24-4.2-104 (1)(b)(I), in accordance with the penalty and surcharge schedule set forth in subsections (4)(a)(I)(A) to (4)(a)(I)(S) of this section; or, if no penalty or surcharge is specified in the schedule, the penalty for class A and class B traffic infractions is fifteen dollars, and the surcharge is four dollars. These penalties and surcharges apply whether the defendant acknowledges the defendant's guilt or liability in accordance with the procedure set forth by subsection (5)(a) of this section, is found guilty by a court of competent jurisdiction, or has judgment entered against the defendant by a county court magistrate. Penalties and surcharges for violating specific sections are as follows:

Section Violated	Penalty	Surcharge
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(D) Equipment violations:

42-4-201	\$ 35.00	\$ 10.00
42-4-202	35.00	10.00
42-4-204	15.00	6.00
42-4-205	15.00	6.00
42-4-206	15.00	6.00
42-4-207	15.00	6.00
42-4-208	15.00	6.00
42-4-209	15.00	6.00
42-4-210	15.00	6.00
42-4-211	15.00	6.00
42-4-212	15.00	6.00
42-4-213	15.00	6.00
42-4-214	15.00	6.00
42-4-215	15.00	6.00
42-4-216	15.00	6.00
42-4-217	15.00	6.00
42-4-218	15.00	6.00
42-4-219	15.00	6.00
42-4-220	15.00	6.00
42-4-221	15.00	6.00
42-4-222 (1)	15.00	6.00
42-4-223	15.00	6.00
42-4-224	15.00	6.00
42-4-225 (1)	15.00	6.00
42-4-226	15.00	6.00
42-4-227	50.00	16.00
42-4-228 (1), (2), (3), (5), or (6)	15.00	6.00
42-4-229	15.00	6.00
42-4-230	15.00	6.00
42-4-231	15.00	6.00
42-4-232	15.00	6.00
42-4-233	75.00	24.00
42-4-234	15.00	6.00
42-4-235	50.00	16.00
42-4-236	65.00	16.00
42-4-237	65.00	6.00
<i>42-4-239 (4)(a)(I)</i>	<i>75.00</i>	<i>10.00</i>
<i>42-4-239 (4)(a)(II)</i>	<i>150.00</i>	<i>10.00</i>
<i>42-4-239 (4)(a)(III)</i>	<i>250.00</i>	<i>10.00</i>
42-4-241	65.00	16.00
42-4-1411	15.00	6.00
42-4-1412	15.00	6.00
42-4-1901	35.00	10.00

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(P) Offenses by persons controlling vehicles:

42-4-239 (5)(a)	\$ 50.00	\$ 6.00
42-4-239 (5)(b)	100.00	6.00
42-4-239 (5.5)	300.00	6.00
42-4-1704	\$ 15.00	\$ 6.00

SECTION 5. Appropriation. For the 2024-25 state fiscal year, \$6,900 is appropriated to the department of revenue for use by the division of motor vehicles. This appropriation is from the Colorado DRIVES vehicle services account in the highway users tax fund created in section 42-1-211(2), C.R.S. To implement this act, the department may use this appropriation for DRIVES maintenance and support.

SECTION 6. Act subject to petition - effective date - applicability.

(1) Except as specified in subsection (2) of this section, this act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) Section 42-4-239, Colorado Revised Statutes, as amended in section 1 of this act, takes effect January 1, 2025.

(3) This act applies to conduct occurring on or after the applicable effective date of this act.

Approved: June 5, 2024

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