

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 17-0441.01 Yelana Love x2295

SENATE BILL 17-027

SENATE SPONSORSHIP

Court,

HOUSE SPONSORSHIP

Melton,

Senate Committees

State, Veterans, & Military Affairs
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING AN INCREASE IN THE PENALTY FOR TEXT MESSAGING**
102 **WHILE OPERATING A MOTOR VEHICLE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Currently, the penalty for text messaging while driving is a \$50 fine and one point assessed against the violator's driver's license for a first offense and a \$100 fine and one point assessed against the violator's driver's license for a second or subsequent offense. The bill increases the penalty to a \$500 fine and 5 points for a first offense and a \$750 fine and 6 points for a second or subsequent offense.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
Amended 2nd Reading
March 2, 2017

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

2 **SECTION 1.** In Colorado Revised Statutes, 42-4-239, **amend** (2),
3 (3), (5), and (6)(b); and **add** (5.5) as follows:

4 **42-4-239. Misuse of a wireless telephone - definitions - penalty**
5 **- preemption.** (2) A person under eighteen years of age shall not use a
6 wireless telephone while operating a motor vehicle. THIS SUBSECTION (2)
7 DOES NOT APPLY TO ACTS SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

8 (3) A person ~~eighteen years of age or older~~ shall not use a wireless
9 telephone for the purpose of engaging in text messaging or other similar
10 forms of manual data entry or transmission while operating a motor
11 vehicle.

12 (5) (a) A person who operates a motor vehicle in violation of
13 subsection (2) ~~or (3)~~ of this section commits a class A traffic infraction
14 as defined in section 42-4-1701 (3), and the court or the department of
15 revenue shall assess a fine of fifty dollars.

16 (b) A second or subsequent violation of subsection (2) ~~or (3)~~ of
17 this section ~~shall be~~ IS a class A traffic infraction as defined in section
18 42-4-1701 (3), and the court or the department of revenue shall assess a
19 fine of one hundred dollars.

20 (5.5) (a) EXCEPT AS PROVIDED IN SUBSECTIONS (5.5)(b) AND
21 (5.5)(c) OF THIS SECTION, A PERSON WHO OPERATES A MOTOR VEHICLE IN
22 VIOLATION OF SUBSECTION (3) OF THIS SECTION COMMITS A CLASS 2
23 MISDEMEANOR TRAFFIC OFFENSE, AND THE COURT OR THE DEPARTMENT
24 SHALL ASSESS A FINE OF THREE HUNDRED DOLLARS.

25 (b) IF THE PERSON'S ACTIONS ARE THE PROXIMATE CAUSE OF
26 BODILY INJURY TO ANOTHER, THE PERSON COMMITS A CLASS 1

1 MISDEMEANOR TRAFFIC OFFENSE AND SHALL BE PUNISHED AS PROVIDED
2 IN SECTION 42-4-1701 (3)(a)(II).

3 (c) IF THE PERSON'S ACTIONS ARE THE PROXIMATE CAUSE OF
4 DEATH TO ANOTHER, THE PERSON COMMITS A CLASS 1 MISDEMEANOR
5 TRAFFIC OFFENSE AND SHALL BE PUNISHED AS PROVIDED IN SECTION
6 42-4-1701 (3)(a)(II). ___

7 (6) (b) An operator of a motor vehicle shall not be cited for a
8 violation of subsection (3) of this section unless ~~the operator was eighteen~~
9 ~~years of age or older and~~ a law enforcement officer saw the operator use
10 a wireless telephone for the purpose of engaging in text messaging or
11 other similar forms of manual data entry or transmission, IN A MANNER
12 THAT CAUSED THE OPERATOR TO DRIVE IN A CARELESS AND IMPRUDENT
13 MANNER, WITHOUT DUE REGARD FOR THE WIDTH, GRADE, CURVES,
14 CORNERS, TRAFFIC, AND USE OF THE STREETS AND HIGHWAYS AND ALL
15 OTHER ATTENDANT CIRCUMSTANCES, AS PROHIBITED BY SECTION
16 42-4-1402.

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

19 **42-2-127. Authority to suspend license - to deny license - type**
20 **of conviction - points.** (5) Point system schedule:

Type of conviction	Points
(jj) A violation of section 42-4-239 42-4-239 (2)	1
(jj.5) A ___ VIOLATION OF SECTION 42-4-239 (3)	<u>4</u>

25 **SECTION 3.** In Colorado Revised Statutes, 42-4-1701, **amend**
26 (4)(a)(I) introductory portion and (4)(a)(I)(P) as follows:

27 **42-4-1701. Traffic offenses and infractions classified -**

1 **penalties - penalty and surcharge schedule - repeal.** (4) (a) (I) Except
 2 as provided in ~~paragraph (c) of subsection (5)~~ SUBSECTION (5)(c) of this
 3 section, every person who is convicted of, who admits liability for, or
 4 against whom a judgment is entered for a violation of any provision of
 5 this title to which ~~paragraph (a) or (b) of subsection (5)~~ SUBSECTION
 6 (5)(a) OR (5)(b) of this section apply shall be fined or penalized, and have
 7 a surcharge levied in accordance with sections 24-4.1-119 (1)(f) and
 8 24-4.2-104 (1)(b) (I), ~~C.R.S.~~, in accordance with the penalty and
 9 surcharge schedule set forth in ~~sub-subparagraphs (A) to (P) of this~~
 10 ~~subparagraph (I)~~ SUBSECTIONS (4)(a)(I)(A) TO (4)(a)(I)(P) OF THIS
 11 SECTION; or, if no penalty or surcharge is specified in the schedule, the
 12 penalty for class A and class B traffic infractions is fifteen dollars, and
 13 the surcharge is four dollars. These penalties and surcharges apply
 14 whether the defendant acknowledges the defendant's guilt or liability in
 15 accordance with the procedure set forth by ~~paragraph (a) of subsection (5)~~
 16 SUBSECTION (5)(a) of this section, is found guilty by a court of competent
 17 jurisdiction, or has judgment entered against the defendant by a county
 18 court magistrate. Penalties and surcharges for violating specific sections
 19 are as follows:

20 Section Violated	Penalty	Surcharge
21 (P) Offenses by persons controlling vehicles:		
22 42-4-239 (5)(a)	\$ 50.00	\$ 6.00
23 42-4-239 (5)(b)	100.00	6.00
24 42-4-1704	15.00	6.00
25 42-4-239 (5)(b)	100.00	6.00
26 <u>42-4-239 (5.5)</u>	<u>300.00</u>	<u>6.00</u>
27 42-4-1704	15.00	6.00

1 **SECTION 4. Applicability.** This act applies to offenses
2 occurring on and after the effective date of this act.

3 **SECTION 5. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.