

**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

SENATE BILL 17-027

BY SENATOR(S) Court, Aguilar, Cooke, Coram, Crowder, Donovan, Fenberg, Fields, Garcia, Guzman, Hill, Holbert, Jahn, Kagan, Kefalas, Kerr, Lambert, Lundberg, Marble, Martinez Humenik, Merrifield, Neville T., Priola, Scott, Smallwood, Tate, Todd, Williams A., Grantham; also REPRESENTATIVE(S) Melton, Danielson, Exum, Gray, Hamner, Hansen, Lee, Mitsch Bush, Young, Duran.

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

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

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

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

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

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

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

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

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

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

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

(6) (b) An operator of a motor vehicle shall not be cited for a violation of subsection (3) of this section unless ~~the operator was eighteen years of age or older and~~ a law enforcement officer saw the operator use a wireless telephone for the purpose of engaging in text messaging or other similar forms of manual data entry or transmission, IN A MANNER THAT CAUSED THE OPERATOR 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.

**SECTION 2.** In Colorado Revised Statutes, 42-2-127, **amend** (5)(jj); and **add** (5)(jj.5) 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 <del>42-4-239</del> 42-4-239 (2) . . . . .	1
(jj.5) A VIOLATION OF SECTION 42-4-239 (3) . . . . .	4

**SECTION 3.** In Colorado Revised Statutes, 42-4-1701, **amend** (4)(a)(I) introductory portion 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 ~~paragraph (c) of subsection (5)~~ 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 any provision of this title to which ~~paragraph (a) or (b) of subsection (5)~~ SUBSECTION (5)(a) OR (5)(b) of this section apply 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), ~~C.R.S.~~, in accordance with the penalty and surcharge schedule set forth in ~~sub-subparagraphs (A) to (P) of this subparagraph (I)~~ SUBSECTIONS (4)(a)(I)(A) TO (4)(a)(I)(P) 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 ~~paragraph (a) of subsection (5)~~ 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:

<b>Section Violated</b>	<b>Penalty</b>	<b>Surcharge</b>
<b>(P) Offenses by persons controlling vehicles:</b>		
42-4-239 (5)(a)	\$ 50.00	\$ 6.00
<del>42-4-239 (5)(b)</del>	<del>100.00</del>	<del>6.00</del>
<del>42-4-1704</del>	<del>15.00</del>	<del>6.00</del>
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 4. Applicability.** This act applies to offenses occurring on and after the effective date of this act.

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

---

Kevin J. Grantham  
PRESIDENT OF  
THE SENATE

---

Crisanta Duran  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

---

Effie Ameen  
SECRETARY OF  
THE SENATE

---

Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

---

John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO