

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0016.01 Yelana Love x2295

SENATE BILL 20-065

SENATE SPONSORSHIP

Hansen,

HOUSE SPONSORSHIP

Roberts, Melton

Senate Committees

Transportation & Energy
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING A LIMITATION ON THE USE OF MOBILE ELECTRONIC**
102 **DEVICES WHILE DRIVING, AND, IN CONNECTION THEREWITH,**
103 **MAKING AN APPROPRIATION.**

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>.)

The bill limits the use of a mobile electronic device while driving to adult drivers who use the mobile electronic device through a hands-free accessory.

The bill establishes penalties of \$50 and 2 points for a first violation, \$100 and 2 points for a second violation, \$200 and 4 points for

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

a third or subsequent violation, and \$300 and 4 points if the violation involves text messaging.

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

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

4 **42-4-239. Use of a mobile electronic device - definitions -**
5 **penalty - preemption - legislative declaration.** (1) THE GENERAL
6 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

7 (a) OPERATING A MOTOR VEHICLE IS STATISTICALLY THE MOST
8 DANGEROUS AND POTENTIALLY FATAL THING THAT PEOPLE DO ON A DAILY
9 BASIS. APPROXIMATELY TWO COLORADANS DIE EACH DAY THROUGH
10 INCIDENTS INVOLVING MOTOR VEHICLES, ACCORDING TO THE COLORADO
11 DEPARTMENT OF TRANSPORTATION, REFERRED TO IN THIS SECTION AS
12 "CDOT". A MAJOR FACTOR THAT INCREASES THE DANGER IS WIDESPREAD
13 AND IRRESPONSIBLE CELLULAR PHONE USAGE WHILE DRIVING.

14 (b) SINCE THE INVENTION OF THE SMARTPHONE, THE DEVICE HAS
15 BECOME CHEAPER, MORE ACCESSIBLE, AND MORE WIDELY USED. THIS
16 INCREASE IN PHONE USAGE WHILE DRIVING HAS BROUGHT AN INCREASE IN
17 MOTOR-VEHICLE-RELATED DEATHS, AS DRIVERS WHO USE PHONES HAVE
18 THEIR MANUAL, VISUAL, AND COGNITIVE ATTENTION DIVERTED AWAY
19 FROM THEIR PRIMARY TASK OF DRIVING. TRAFFIC FATALITIES IN
20 COLORADO INCREASED TWENTY-FOUR PERCENT BETWEEN 2017 AND 2018.

21 (c) IT IS CLEAR THAT PHONE USAGE WHILE DRIVING IS A
22 SIGNIFICANT PROBLEM. IN A SURVEY CONDUCTED BY CDOT, FIFTY-THREE
23 PERCENT OF RESPONDENTS ADMITTED TO HOLDING THEIR PHONE WHILE
24 DRIVING THEIR CARS IN THE WEEK PRIOR TO THE SURVEY. AN INCREASE IN
25 THE NUMBER OF DRIVERS USING CELL PHONES POSES A SUBSTANTIAL

1 HEALTH AND SAFETY RISK TO COLORADANS. REMOVING PHONES FROM
2 THE HANDS OF DRIVERS WILL REDUCE DISTRACTED DRIVING AND SAVE
3 LIVES.

4 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
5 REQUIRES:

6 (a) "EMERGENCY" MEANS A SITUATION IN WHICH A PERSON:

7 (I) HAS REASON TO FEAR FOR THE PERSON'S LIFE OR SAFETY OR
8 BELIEVES THAT A CRIMINAL ACT MAY BE PERPETRATED AGAINST THE
9 PERSON OR ANOTHER PERSON, REQUIRING THE USE OF A MOBILE
10 ELECTRONIC DEVICE WHILE THE CAR IS MOVING; OR

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

15 (b) "FIRST RESPONDER" MEANS:

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

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

18 (III) A VOLUNTEER FIREFIGHTER, AS DEFINED IN SECTION
19 31-30-1102; OR

20 (IV) ANY OTHER PERSON WHO RESPONDS IN A PROFESSIONAL
21 CAPACITY TO A PUBLIC SAFETY EMERGENCY.

22 (c) "HANDS-FREE ACCESSORY" MEANS AN ACCESSORY THAT
23 ENABLES A PERSON TO USE A MOBILE ELECTRONIC DEVICE WITHOUT USING
24 EITHER HAND, ALTHOUGH THE USE OF EITHER HAND MAY BE NECESSARY
25 TO ACTIVATE, DEACTIVATE, OR INITIATE A FUNCTION OF THE MOBILE
26 ELECTRONIC DEVICE.

27 (d) (I) "MOBILE ELECTRONIC DEVICE" MEANS A HANDHELD OR

1 PORTABLE ELECTRONIC DEVICE CAPABLE OF PROVIDING VOICE
2 COMMUNICATION BETWEEN TWO OR MORE PERSONS, AMUSEMENT, OR
3 WIRELESS DATA.

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

5 (A) AN APPROVED IGNITION INTERLOCK DEVICE, AS DEFINED IN
6 SECTION 42-2-132.5;

7 (B) A MEDICAL DEVICE; OR

8 (C) AN ORIGINAL EQUIPMENT SCREEN OR CONTROL USED TO
9 OPERATE A MOBILE ELECTRONIC DEVICE REMOTELY.

10 (e) "USE" MEANS:

11 (I) PHYSICALLY HOLDING OR SUPPORTING A MOBILE ELECTRONIC
12 DEVICE WITH ANY PART OF THE BODY; EXCEPT THAT A PERSON MAY USE
13 AN EARPIECE OR HEADPHONE DEVICE TO CONDUCT A VOICE-BASED
14 COMMUNICATION;

15 (II) WRITING, SENDING, OR READING ANY TEXT-BASED
16 COMMUNICATION, INCLUDING A TEXT MESSAGE, INSTANT MESSAGE,
17 E-MAIL, OR INTERNET DATA ON A MOBILE ELECTRONIC DEVICE, PROVIDED
18 THAT THIS PROHIBITION DOES NOT APPLY TO:

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

22 (B) THE USE OF A MOBILE ELECTRONIC DEVICE FOR NAVIGATION
23 OF A MOTOR VEHICLE OR FOR GLOBAL POSITIONING SYSTEM PURPOSES; OR

24 (III) WATCHING A VIDEO OR MOVIE ON A MOBILE ELECTRONIC
25 DEVICE OTHER THAN WATCHING DATA RELATED TO THE NAVIGATION OF
26 THE MOTOR VEHICLE.

27 (3) EXCEPT AS SPECIFIED IN SUBSECTION (4) OF THIS SECTION:

1 (a) A PERSON UNDER EIGHTEEN YEARS OF AGE SHALL NOT DRIVE
2 A MOTOR VEHICLE WHEN USING A MOBILE ELECTRONIC DEVICE;

3 (b) A PERSON EIGHTEEN YEARS OF AGE OR OLDER SHALL NOT
4 DRIVE A MOTOR VEHICLE WHEN USING A MOBILE ELECTRONIC DEVICE
5 UNLESS THE USE IS THROUGH A HANDS-FREE ACCESSORY.

6 (4) IT IS NOT A VIOLATION OF THIS SECTION:

7 (a) TO USE A MOBILE ELECTRONIC DEVICE:

8 (I) TO CONTACT A PUBLIC SAFETY ENTITY;

9 (II) DURING AN EMERGENCY;

10 (III) AS A FIRST RESPONDER WHEN ACTING WITHIN THE SCOPE OF
11 THE FIRST RESPONDER'S DUTIES;

12 (IV) WHEN THE MOBILE ELECTRONIC DEVICE IS A TWO-WAY RADIO
13 USED BY A PROFESSIONAL ACTING WITHIN THE SCOPE OF THE
14 PROFESSIONAL'S EMPLOYMENT IF THE USE OF THE TWO-WAY RADIO IS
15 REQUIRED BY THE PROFESSIONAL'S EMPLOYER AND NECESSARY FOR THE
16 PERFORMANCE OF THE PROFESSIONAL'S DUTIES;

17 (V) TO INTERACT WITH A MEDICAL DEVICE; OR

18 (VI) IN A MOTOR VEHICLE THAT IS AT REST IN A SHOULDER LANE
19 OR LAWFULLY PARKED;

20 (b) TO OPERATE AN AMATEUR RADIO STATION AS A PERSON WHO
21 HOLDS A VALID AMATEUR RADIO OPERATOR LICENSE ISSUED BY THE
22 FEDERAL COMMUNICATIONS COMMISSION.

23 (5) (a) EXCEPT AS PROVIDED IN SUBSECTION (5)(b) OF THIS
24 SECTION, A PERSON WHO VIOLATES SUBSECTION (3) OF THIS SECTION
25 COMMITS A CLASS A TRAFFIC INFRACTION. UPON CONVICTION:

26 (I) NOTWITHSTANDING SECTION 42-4-1701 (4)(a)(I)(P), THE
27 COURT MAY ASSESS A FINE OF UP TO FIFTY DOLLARS FOR A FIRST OFFENSE;

1 (II) THE COURT SHALL ASSESS A FINE OF ONE HUNDRED DOLLARS
2 FOR A SECOND OFFENSE; AND

3 (III) THE COURT SHALL ASSESS A FINE OF TWO HUNDRED DOLLARS
4 FOR A THIRD OR SUBSEQUENT OFFENSE.

5 (b) A PERSON WHO VIOLATES SUBSECTION (3) OF THIS SECTION TO
6 ENGAGE IN TEXT MESSAGING COMMITS A CLASS 2 MISDEMEANOR TRAFFIC
7 OFFENSE AND, UPON CONVICTION, THE COURT SHALL ASSESS A FINE OF
8 THREE HUNDRED DOLLARS.

9 (6) A LAW ENFORCEMENT OFFICER SHALL NOT CITE A PERSON
10 OPERATING A MOTOR VEHICLE FOR A VIOLATION OF THIS SECTION UNLESS
11 THE LAW ENFORCEMENT OFFICER SAW THE PERSON HOLD A MOBILE
12 ELECTRONIC DEVICE. A LAW ENFORCEMENT OFFICER SHALL NOT CITE A
13 PERSON FOR THE ENHANCED PENALTY FOR USING A MOBILE ELECTRONIC
14 DEVICE TO ENGAGE IN TEXT MESSAGING UNLESS THE LAW ENFORCEMENT
15 OFFICER SAW THE PERSON ENGAGING IN TEXT MESSAGING ON A MOBILE
16 ELECTRONIC DEVICE.

17 (7) THIS SECTION DOES NOT AUTHORIZE THE SEIZURE AND
18 FORFEITURE OF A MOBILE ELECTRONIC DEVICE.

19 (8) THIS SECTION DOES NOT APPLY TO A PERSON OPERATING A
20 COMMERCIAL VEHICLE WITH A COMMERCIAL DRIVER'S LICENSE. ==

21 **SECTION 2.** In Colorado Revised Statutes, 42-2-127, **amend**
22 (5)(jj) and (5)(jj.5); and **add** (5)(jj.7) and (5)(jj.9) as follows:

23 **42-2-127. Authority to suspend license - to deny license - type**
24 **of conviction - points.** (5) Point system schedule:

Type of conviction	Points
(jj) A FIRST violation of section 42-4-239 (2) (3)	+ 2
(jj.5) A SECOND violation of section 42-4-239 (3)	4 2

1 (jj.7) A THIRD OR SUBSEQUENT VIOLATION OF SECTION
 2 42-4-239 (3) 4

3 (jj.9) A VIOLATION OF SECTION 42-4-239 (3) INVOLVING TEXT
 4 MESSAGING 4

5 **SECTION 3.** In Colorado Revised Statutes, 42-4-1701, **amend**
 6 (4)(a)(I)(P) as follows:

7 **42-4-1701. Traffic offenses and infractions classified -**
 8 **penalties - penalty and surcharge schedule - repeal.** (4) (a) (I) Except
 9 as provided in subsection (5)(c) of this section, every person who is
 10 convicted of, who admits liability for, or against whom a judgment is
 11 entered for a violation of this title 42 to which subsection (5)(a) or (5)(b)
 12 of this section applies shall be fined or penalized and have a surcharge
 13 levied in accordance with sections 24-4.1-119 (1)(f) and 24-4.2-104
 14 (1)(b)(I), in accordance with the penalty and surcharge schedule set forth
 15 in subsections (4)(a)(I)(A) to (4)(a)(I)(P) of this section; or, if no penalty
 16 or surcharge is specified in the schedule, the penalty for class A and class
 17 B traffic infractions is fifteen dollars and the surcharge is four dollars.
 18 These penalties and surcharges apply whether the defendant
 19 acknowledges the defendant's guilt or liability in accordance with the
 20 procedure set forth by subsection (5)(a) of this section, is found guilty by
 21 a court of competent jurisdiction, or has judgment entered against the
 22 defendant by a county court magistrate. Penalties and surcharges for
 23 violating specific sections are as follows:

Section Violated	Penalty	Surcharge
(P) Offenses by persons controlling vehicles:		
26 42-4-239 (5)(a) (5)(a)(I)	\$ 50.00	\$ 6.00
27 42-4-239 (5)(b) (5)(a)(II)	100.00	6.00

1	42-4-239 (5.5) (5)(a)(III)	300.00 200.00	6.00
2	42-4-239 (5)(b)	300.00	6.00
3	42-4-1704	15.00	6.00

4 **SECTION 4. Appropriation.** For the 2020-21 state fiscal year,
5 \$9,000 is appropriated to the department of revenue for use by the
6 division of motor vehicles. This appropriation is from the Colorado
7 DRIVES vehicles services account in the highway users tax fund created
8 in section 42-1-211 (2)(b)(I), C.R.S. To implement this act, the division
9 may use this appropriation for DRIVES maintenance and support.

10 **SECTION 5. Effective date - applicability.** This act takes effect
11 July 1, 2020, and applies to offenses committed on or after said date.

12 **SECTION 6. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety.