

Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0253.02 Jacob Baus x2173

SENATE BILL 26-132

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SENATE SPONSORSHIP

Roberts and Carson,

HOUSE SPONSORSHIP

Joseph,

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

101 CONCERNING A REQUIREMENT THAT A LAW ENFORCEMENT OFFICER  
102 OFFER A VOLUNTARY PRELIMINARY SCREENING TEST FOR  
103 ALCOHOL TO A DRIVER.

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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>.)*

If a driver is involved in a collision resulting in death or suspected serious bodily injury, the bill requires a law enforcement officer (officer) to offer the driver the opportunity to voluntarily submit to a preliminary screening test of the driver's breath after the officer advises the driver that they may refuse or agree to provide a sample for the test.

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

The bill clarifies what a law enforcement officer must include in their advisement to a driver, including that the driver may refuse or agree to provide a sample for the test.

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

2           **SECTION 1. Short title.** The short title of this act is "Magnus  
3 Law".

4           **SECTION 2. Legislative declaration.** (1) The general assembly  
5 finds and declares that:

6           (a) On July 29, 2023, at 12:28 p.m., Magnus White, a 17-year-old  
7 member of the USA Cycling National Team, was struck by a car and  
8 killed while training on a Boulder roadway. The investigation uncovered  
9 evidence that the car's driver consumed alcohol and drugs prior to the  
10 crash. However, because no preliminary screening test was administered  
11 on the scene, the driver was not charged with driving under the influence.

12           (b) Allowing a law enforcement officer discretion to decide  
13 whether to offer a voluntary preliminary screening test can result in  
14 inconsistent investigation practices, particularly at scenes of serious  
15 collisions involving multiple responding agencies where responsibility for  
16 specific investigative steps may be unclear;

17           (c) A preliminary screening test takes moments to administer.  
18 Without it, evidence suggesting a driver's sobriety or impairment may be  
19 permanently lost and the state must investigate a driver's sobriety or  
20 impairment through other means, at significant cost and with prolonged  
21 proceedings. As a result, the causes of some collisions may never be  
22 known.

23           (d) Requiring a law enforcement officer to offer a voluntary  
24 preliminary screening test to a driver involved in a collision involving a

1 serious injury or fatality creates a clear protocol that removes ambiguity,  
2 ensures that all drivers are treated equally, and gives victims' families  
3 confidence that impairment will be investigated in every case;

4 (e) "Magnus Law" preserves the right of drivers to refuse a  
5 voluntary preliminary screening test, imposes no penalty for refusal, and  
6 does not alter existing evidentiary standards; and

7 (f) The purpose of "Magnus Law" is to honor the memory of  
8 Magnus White by ensuring that a law enforcement officer always offers  
9 a voluntary preliminary screening test to a driver involved in a collision  
10 involving a serious injury or fatality and that the opportunity to  
11 investigate is never lost at the scene of the most serious collisions on  
12 Colorado's roadways.

13 **SECTION 3.** In Colorado Revised Statutes, 42-4-1301, **add**  
14 (6)(i)(I.3), (6)(i)(I.4), and (9) as follows:

15 **42-4-1301. Driving under the influence - driving while**  
16 **impaired - driving with excessive alcoholic content - penalties -**  
17 **definitions.**

18 (6) (i) (I.3) FOLLOWING LAWFUL CONTACT WITH AN INDIVIDUAL  
19 WHO HAS BEEN DRIVING A MOTOR VEHICLE OR VEHICLE INVOLVED IN A  
20 COLLISION RESULTING IN DEATH OR SUSPECTED SERIOUS BODILY INJURY,  
21 A LAW ENFORCEMENT OFFICER SHALL OFFER THE DRIVER THE  
22 OPPORTUNITY TO VOLUNTARILY SUBMIT A SAMPLE OF THE DRIVER'S  
23 BREATH FOR A PRELIMINARY SCREENING TEST FOR ALCOHOL USING A  
24 DEVICE APPROVED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF  
25 PUBLIC HEALTH AND ENVIRONMENT, AFTER FIRST ADVISING THE DRIVER  
26 THAT THE DRIVER MAY REFUSE OR AGREE TO THE PRELIMINARY TEST,  
27 WHEN:

1 (A) THE LAW ENFORCEMENT OFFICER HAS REASONABLE SUSPICION  
2 THAT THE INDIVIDUAL IS THE DRIVER AND IS AT FAULT IN THE COLLISION;

3 (B) THE INDIVIDUAL WHO THE LAW ENFORCEMENT OFFICER  
4 REASONABLY SUSPECTS TO BE THE DRIVER AT FAULT IN THE COLLISION IS  
5 NOT SIGNIFICANTLY INJURED OR IN NEED OF IMMEDIATE MEDICAL  
6 ATTENTION; AND

7 (C) THE LAW ENFORCEMENT OFFICER DOES NOT HAVE PROBABLE  
8 CAUSE NECESSARY FOR THE EXPRESSED CONSENT REQUIREMENTS  
9 DESCRIBED PURSUANT TO SECTION 42-4-1301.1.

10 (I.4) WHEN, PURSUANT TO SUBSECTION (6)(i)(I.3) OF THIS  
11 SECTION, A LAW ENFORCEMENT OFFICER ADVISES A DRIVER THAT THE  
12 DRIVER MAY EITHER REFUSE OR AGREE TO VOLUNTARILY PROVIDE A  
13 SAMPLE OF THE DRIVER'S BREATH FOR A PRELIMINARY SCREENING TEST,  
14 THE LAW ENFORCEMENT OFFICER SHALL ADVISE THE DRIVER IN PLAIN  
15 LANGUAGE THAT:

16 (A) THE INDIVIDUAL IS BEING ASKED TO PROVIDE A SAMPLE OF  
17 THEIR BREATH FOR A PRELIMINARY SCREENING TEST REGARDING WHETHER  
18 THEY ARE INTOXICATED BECAUSE THEY WERE DRIVING A MOTOR VEHICLE  
19 OR VEHICLE INVOLVED IN A SERIOUS COLLISION;

20 (B) IF THE INDIVIDUAL TAKES THE PRELIMINARY SCREENING TEST,  
21 THE RESULTS OR THE INDIVIDUAL'S REFUSAL TO TAKE THE TEST ARE NOT  
22 ADMISSIBLE IN COURT;

23 (C) IF THE INDIVIDUAL TAKES THE PRELIMINARY SCREENING TEST,  
24 EVIDENCE OF INTOXICATION MAY BE USED AS EVIDENCE TO REQUEST  
25 FURTHER TESTING THAT IS ADMISSIBLE IN COURT OR TO MAKE AN ARREST;

26 (D) THE PRELIMINARY SCREENING TEST IS VOLUNTARY; AND

27 (E) IF THE INDIVIDUAL REFUSES TO TAKE THE PRELIMINARY

1 SCREENING TEST, THE REFUSAL DOES NOT AFFECT THE STATUS OF THEIR  
2 DRIVER'S LICENSE.

3 (9) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
4 REQUIRES, "SERIOUS BODILY INJURY" HAS THE MEANING SET FORTH IN  
5 SECTION 18-1-901.

6 **SECTION 4. Act subject to petition - effective date -**  
7 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
8 the expiration of the ninety-day period after final adjournment of the  
9 general assembly (August 12, 2026, if adjournment sine die is on May 13,  
10 2026); except that, if a referendum petition is filed pursuant to section 1  
11 (3) of article V of the state constitution against this act or an item, section,  
12 or part of this act within such period, then the act, item, section, or part  
13 will not take effect unless approved by the people at the general election  
14 to be held in November 2026 and, in such case, will take effect on the  
15 date of the official declaration of the vote thereon by the governor.

16 (2) This act applies to incidents occurring on or after the  
17 applicable effective date of this act.