

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

PREAMENDED

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

LLS NO. 26-0253.02 Jacob Baus x2173

SENATE BILL 26-132

SENATE SPONSORSHIP

Roberts and Carson,

HOUSE SPONSORSHIP

Joseph,

Senate Committees
Judiciary

House Committees

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.**

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.

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), (6)(i)(I.5), (6)(i)(I.6), 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) NOTWITHSTANDING SUBSECTION (6)(i)(L.3) OF THIS SECTION,
11 A LAW ENFORCEMENT OFFICER IS NOT REQUIRED TO OFFER THE DRIVER THE
12 OPPORTUNITY TO VOLUNTARILY SUBMIT A SAMPLE OF THE DRIVER'S
13 BREATH FOR A PRELIMINARY SCREENING TEST FOR ALCOHOL PURSUANT TO
14 SUBSECTION (6)(i)(L.3) OF THIS SECTION IF THE LAW ENFORCEMENT
15 OFFICER'S INITIAL CONTACT WITH THE DRIVER:

16 (A) OCCURS MORE THAN TWO HOURS FOLLOWING THE COLLISION;
17 OR

18 (B) ENDED, AND THE DRIVER HAS LEFT THE SCENE OF THE
19 COLLISION OR THE AREA WHERE LAW ENFORCEMENT MADE INITIAL
20 CONTACT WITH THE DRIVER AND THE DRIVER IS NOT IN LAW
21 ENFORCEMENT'S PRESENCE BUT LAW ENFORCEMENT SUBSEQUENTLY
22 LEARNS THAT THE COLLISION INVOLVED DEATH OR SERIOUS BODILY
23 INJURY WHEN THAT WAS NOT INITIALLY SUSPECTED OR KNOWN.

24 (I.5) WHEN, PURSUANT TO SUBSECTION (6)(i)(L.3) OF THIS
25 SECTION, A LAW ENFORCEMENT OFFICER ADVISES A DRIVER THAT THE
26 DRIVER MAY EITHER REFUSE OR AGREE TO VOLUNTARILY PROVIDE A
27 SAMPLE OF THE DRIVER'S BREATH FOR A PRELIMINARY SCREENING TEST,

1 THE LAW ENFORCEMENT OFFICER SHALL ADVISE THE DRIVER IN PLAIN
2 LANGUAGE THAT:

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

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

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

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

14 (E) IF THE INDIVIDUAL REFUSES TO TAKE THE PRELIMINARY
15 SCREENING TEST, THE REFUSAL DOES NOT AFFECT THE STATUS OF THEIR
16 DRIVER'S LICENSE.

17 (I.6) IF A LAW ENFORCEMENT OFFICER IS UNABLE TO ADMINISTER
18 A PRELIMINARY SCREENING TEST FOR ALCOHOL BECAUSE THE DEVICE
19 MALFUNCTIONS OR IS UNABLE TO PRODUCE A VALID RESULT, OR IF THE
20 LAW ENFORCEMENT OFFICER IS UNABLE TO OFFER A PRELIMINARY
21 SCREENING TEST FOR ALCOHOL BECAUSE A DEVICE IS UNAVAILABLE DUE
22 TO EXTENUATING CIRCUMSTANCES, THE LAW ENFORCEMENT OFFICER
23 SHALL:

24 (A) VERBALLY DOCUMENT ON THE LAW ENFORCEMENT OFFICER'S
25 BODY-WORN CAMERA THAT THE PRELIMINARY SCREENING TEST COULD
26 NOT BE ADMINISTERED AND THE REASON WHY IT COULD NOT BE
27 ADMINISTERED; AND

1 (B) DOCUMENT ON ANY REQUIRED INCIDENT REPORT RELATED TO
2 THE COLLISION THAT THE PRELIMINARY SCREENING TEST COULD NOT BE
3 ADMINISTERED AND THE REASON WHY IT COULD NOT BE ADMINISTERED.

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

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

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