

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

INTRODUCED

LLS NO. 17-0441.01 Yelana Love x2295

SENATE BILL 17-027

SENATE SPONSORSHIP

Court,

HOUSE SPONSORSHIP

Melton,

Senate Committees

State, Veterans, & Military Affairs

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.

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) A PERSON WHO OPERATES A MOTOR VEHICLE IN
21 VIOLATION OF SUBSECTION (3) OF THIS SECTION COMMITS A CLASS A
22 TRAFFIC INFRACTION AS DEFINED IN SECTION 42-4-1701 (3), AND THE
23 COURT OR THE DEPARTMENT OF REVENUE SHALL ASSESS A FINE OF FIVE
24 HUNDRED DOLLARS.

25 (b) A SECOND OR SUBSEQUENT VIOLATION OF SUBSECTION (3) OF
26 THIS SECTION IS A CLASS A TRAFFIC INFRACTION AS DEFINED IN SECTION

1 42-4-1701 (3), AND THE COURT OR THE DEPARTMENT OF REVENUE SHALL
2 ASSESS A FINE OF SEVEN HUNDRED FIFTY DOLLARS.

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

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

10 **42-2-127. Authority to suspend license - to deny license - type**
11 **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 FIRST VIOLATION OF SECTION 42-4-239 (3)	5
(jj.7) A SECOND OR SUBSEQUENT VIOLATION OF SECTION 42-4-239	
(3)	6

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

19 **42-4-1701. Traffic offenses and infractions classified -**
20 **penalties - penalty and surcharge schedule - repeal.** (4) (a) (I) Except
21 as provided in ~~paragraph (c) of subsection (5)~~ SUBSECTION (5)(c) of this
22 section, every person who is convicted of, who admits liability for, or
23 against whom a judgment is entered for a violation of any provision of
24 this title to which ~~paragraph (a) or (b) of subsection (5)~~ SUBSECTION
25 (5)(a) OR (5)(b) of this section apply shall be fined or penalized, and have
26 a surcharge levied in accordance with sections 24-4.1-119 (1)(f) and
27 24-4.2-104 (1)(b) (I), ~~C.R.S.~~, in accordance with the penalty and

1 surcharge schedule set forth in ~~sub-subparagraphs (A) to (P)~~ of this
 2 ~~subparagraph (F)~~ SUBSECTIONS (4)(a)(I)(A) TO (4)(a)(I)(P) OF THIS
 3 SECTION; or, if no penalty or surcharge is specified in the schedule, the
 4 penalty for class A and class B traffic infractions is fifteen dollars, and
 5 the surcharge is four dollars. These penalties and surcharges apply
 6 whether the defendant acknowledges the defendant's guilt or liability in
 7 accordance with the procedure set forth by ~~paragraph (a) of subsection (5)~~
 8 SUBSECTION (5)(a) of this section, is found guilty by a court of competent
 9 jurisdiction, or has judgment entered against the defendant by a county
 10 court magistrate. Penalties and surcharges for violating specific sections
 11 are as follows:

12	Section Violated	Penalty	Surcharge
13	(P) Offenses by persons controlling vehicles:		
14	42-4-239 (5)(a)	\$ 50.00	\$ 6.00
15	42-4-239 (5)(b)	100.00	6.00
16	42-4-1704	15.00	6.00
17	42-4-239 (5)(b)	100.00	6.00
18	42-4-239 (5.5)(a)	500.00	6.00
19	42-4-239 (5.5)(b)	750.00	6.00
20	42-4-1704	15.00	6.00

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

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