A BILL FOR AN ACT

CONCERNING THE USE OF MOBILE ELECTRONIC DEVICES WHILE DRIVING.

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.)

Current law prohibits the use of wireless telephones while driving for individuals who are younger than 18 years of age. The bill:

! Extends the prohibition to drivers of all ages;
! Extends the existing prohibition of the use of wireless telephones to include all mobile electronic devices;
! Establishes the penalties as $300 and 4 points for a first
violation, $500 and 6 points for a second violation, and $750 and 8 points for a third or subsequent violation;

! Creates an exception to the prohibition of the use of mobile electronic devices for drivers who use a mobile electronic device while a hands-free accessory is engaged; and

! Repeals a sentence enhancement for a violation that causes bodily injury or death.

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

SECTION 1. In Colorado Revised Statutes, amend 42-4-239 as follows:

42-4-239. Use of a mobile electronic device - definitions - penalty - preemption - legislative declaration. (1) As used in this section, unless the context otherwise requires:

(a) "Emergency" means a situation in which a person:

(I) Has reason to fear for such the person's life or safety or believes that a criminal act may be perpetrated against such the person or another person, requiring the use of a wireless telephone MOBILE ELECTRONIC DEVICE while the car is moving; or

(II) Reports a fire, a traffic accident in which one or more injuries are apparent, a serious road hazard, a medical or hazardous-materials emergency, or a person who is driving in a reckless, careless, or otherwise unsafe manner.

(b) "FIRST RESPONDER" MEANS:

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

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

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

(IV) ANY OTHER PERSON WHO RESPONDS IN A PROFESSIONAL CAPACITY TO A PUBLIC SAFETY EMERGENCY.
(c) "HANDS-FREE ACCESSORY" MEANS AN ACCESSORY THAT ENABLES A PERSON TO USE A MOBILE ELECTRONIC DEVICE WITHOUT USING EITHER HAND, ALTHOUGH THE USE OF EITHER HAND MAY BE NECESSARY TO ACTIVATE, DEACTIVATE, OR INITIATE A FUNCTION OF THE MOBILE ELECTRONIC DEVICE.

(d) "MOBILE ELECTRONIC DEVICE" MEANS A HANDHELD OR PORTABLE ELECTRONIC DEVICE CAPABLE OF PROVIDING AMUSEMENT, WIRELESS DATA, OR VOICE COMMUNICATION BETWEEN TWO OR MORE PERSONS, INCLUDING:

(I) A CELLULAR TELEPHONE;

(II) A BROADBAND PERSONAL COMMUNICATION DEVICE;

(III) A TWO-WAY MESSAGING DEVICE;

(IV) A TEXT-MESSAGING DEVICE;

(V) A PAGER;

(VI) AN ELECTRONIC DEVICE THAT CAN RECEIVE OR TRANSMIT TEXT OR CHARACTER-BASED IMAGES, ACCESS OR STORE DATA, OR CONNECT TO THE INTERNET;

(VII) A PERSONAL DIGITAL ASSISTANT;

(VIII) A LAPTOP COMPUTER;

(IX) A COMPUTER TABLET;

(X) A STAND-ALONE COMPUTER;

(XI) A PORTABLE COMPUTING DEVICE;

(XII) A MOBILE DEVICE WITH A TOUCHSCREEN DISPLAY THAT IS DESIGNED TO BE WORN ON THE BODY;

(XIII) AN ELECTRONIC GAME;

(XIV) EQUIPMENT THAT IS CAPABLE OF PLAYING A VIDEO, TAKING PHOTOGRAPHS, CAPTURING IMAGES, OR RECORDING OR TRANSMITTING
VIDEO; AND

(XV) ANY SIMILAR DEVICE THAT IS READILY REMOVABLE FROM A
MOTOR VEHICLE AND IS USED TO WRITE, SEND, OR READ TEXT OR DATA OR
CAPTURE IMAGES OR VIDEO THROUGH MANUAL INPUT.

(b) (e) "Operating a motor vehicle" means driving a motor vehicle
on a public highway, but "operating a motor vehicle" shall DOES not mean
maintaining the instruments of control while the motor vehicle is at rest
in a shoulder lane, or lawfully parked, OR OTHERWISE LAWFULLY AT REST.

(e) (f) "Use" means talking on or listening to a wireless telephone
MOBILE ELECTRONIC DEVICE or engaging the wireless telephone MOBILE
ELECTRONIC DEVICE for text messaging, GAME PLAY, TAKING PHOTOS OR
VIDEOS, or other similar forms of manual data entry or transmission.

(d) "Wireless telephone" means a telephone that operates without
a physical, wireline connection to the provider's equipment. The term
includes, without limitation, cellular and mobile telephones:

(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) (2) A person shall not use a wireless telephone for the purpose
of engaging in text messaging or other similar forms of manual data entry
or transmission MOBILE ELECTRONIC DEVICE while operating a motor
vehicle EXCEPT:

(a) TO CONTACT A PUBLIC SAFETY ENTITY;
(b) DURING AN EMERGENCY; OR
(c) WHEN A HANDS-FREE ACCESSORY IS ENGAGED.

(4) Subsection (2) or (3) of this section shall not apply to a person
who is using the wireless telephone:
(a) To contact a public safety entity; or
(b) During an emergency.

(5) (a) A person who operates a motor vehicle in violation of subsection (2) 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) of this section 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) (3) (a) Except as provided in subsections (5.5)(b) (3)(b) and (5.5)(c) (3)(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) A SECOND VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR TRAFFIC OFFENSE, AND THE COURT OR THE DEPARTMENT SHALL ASSESS A FINE OF FIVE HUNDRED DOLLARS.

(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) A THIRD OR SUBSEQUENT VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR TRAFFIC OFFENSE, AND THE COURT OR THE DEPARTMENT SHALL ASSESS A FINE OF SEVEN HUNDRED FIFTY DOLLARS.
(6)(a) An operator of a motor vehicle shall not be cited for a violation of subsection (2) of this section unless the operator was under eighteen years of age and a law enforcement officer saw the operator use as defined in paragraph (c) of subsection (1) of this section, a wireless telephone A MOBILE ELECTRONIC DEVICE.

(b) An operator of a motor vehicle shall not be cited for a violation of subsection (3) of this section unless 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.

(7) The provisions of this section shall not be construed to authorize the seizure and forfeiture of a wireless telephone MOBILE ELECTRONIC DEVICE, unless otherwise provided by law.

(8) This section does not restrict:

(a) Operation of an amateur radio station by a person who holds a valid amateur radio operator license issued by the federal communications commission; OR

(b) THE USE OF A MOBILE ELECTRONIC DEVICE BY A FIRST RESPONDER WHEN ACTING WITHIN THE SCOPE OF THE FIRST RESPONDER’S DUTIES.

(9) The general assembly finds and declares that use of wireless telephones MOBILE ELECTRONIC DEVICES in motor vehicles is a matter of statewide concern.

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

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

<table>
<thead>
<tr>
<th>Type of conviction</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>(jj) A FIRST violation of section 42-4-239 (2)</td>
<td>4</td>
</tr>
<tr>
<td>(jj.5) A SECOND violation of section 42-4-239 (2)</td>
<td>4 6</td>
</tr>
<tr>
<td>(jj.7) A THIRD OR SUBSEQUENT VIOLATION OF SECTION 42-4-239 (2)</td>
<td>8</td>
</tr>
</tbody>
</table>

SECTION 3. In Colorado Revised Statutes, 42-4-1701, amend (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 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 this title 42 to which subsection (5)(a) or (5)(b) of this section applies 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), in accordance with the penalty and surcharge schedule set forth in 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 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:

<table>
<thead>
<tr>
<th>Section Violated</th>
<th>Penalty</th>
<th>Surcharge</th>
</tr>
</thead>
<tbody>
<tr>
<td>(P) Offenses by persons controlling vehicles:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>42-4-239 (5)(a) (3)(a)</td>
<td>$ 50.00</td>
<td>300.00</td>
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<tr>
<td></td>
<td></td>
<td>$ 6.00</td>
</tr>
<tr>
<td>42-4-239 (5)(b) (3)(b)</td>
<td>100.00</td>
<td>500.00</td>
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<td></td>
<td></td>
<td>6.00</td>
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<tr>
<td>42-4-239 (5.5) (3)(c)</td>
<td>300.00</td>
<td>750.00</td>
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<td></td>
<td></td>
<td>6.00</td>
</tr>
<tr>
<td>42-4-1704</td>
<td>15.00</td>
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<td></td>
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<td>6.00</td>
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SECTION 4. Effective date - applicability. This act takes effect July 1, 2019, and applies to offenses committed on or after said date.

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.