

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0016.01 Yelana Love x2295

SENATE BILL 20-065

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SENATE SPONSORSHIP

Court,

HOUSE SPONSORSHIP

Roberts, Melton

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Senate Committees  
Transportation & Energy

House Committees

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A BILL FOR AN ACT

101 CONCERNING A LIMITATION ON THE USE OF MOBILE ELECTRONIC  
102 DEVICES WHILE DRIVING.

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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>.)*

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 a third or subsequent violation, and \$300 and 4 points if the violation

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.

involves text messaging.

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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 AN  
5 APPROVED IGNITION INTERLOCK DEVICE, AS DEFINED IN SECTION  
6 42-2-132.5, OR A MEDICAL DEVICE.

7 (e) "USE" MEANS:

8 (I) HOLDING, TALKING ON, OR LISTENING TO A MOBILE ELECTRONIC  
9 DEVICE; OR

10 (II) ENGAGING A MOBILE ELECTRONIC DEVICE FOR TEXT  
11 MESSAGING, GAME PLAY, TAKING PHOTOS OR VIDEOS, OR OTHER FORMS OF  
12 MANUAL DATA ENTRY OR TRANSMISSION.

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

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

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

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

20 (a) TO USE A MOBILE ELECTRONIC DEVICE:

21 (I) TO CONTACT A PUBLIC SAFETY ENTITY;

22 (II) DURING AN EMERGENCY;

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

25 (IV) TO INTERACT WITH A MEDICAL DEVICE; OR

26 (V) IN A MOTOR VEHICLE THAT IS AT REST IN A SHOULDER LANE OR  
27 LAWFULLY PARKED;

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

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

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

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

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

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

17 (6) A LAW ENFORCEMENT OFFICER SHALL NOT CITE A PERSON  
18 OPERATING A MOTOR VEHICLE FOR A VIOLATION OF THIS SECTION UNLESS  
19 THE LAW ENFORCEMENT OFFICER SAW THE PERSON HOLD A MOBILE  
20 ELECTRONIC DEVICE. A LAW ENFORCEMENT OFFICER SHALL NOT CITE A  
21 PERSON FOR THE ENHANCED PENALTY FOR USING A MOBILE ELECTRONIC  
22 DEVICE TO ENGAGE IN TEXT MESSAGING UNLESS THE LAW ENFORCEMENT  
23 OFFICER SAW THE PERSON ENGAGING IN TEXT MESSAGING ON A MOBILE  
24 ELECTRONIC DEVICE.

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

27 (8) A LAW ENFORCEMENT OFFICER SHALL NOT CITE A COMMERCIAL

1 DRIVER FOR A VIOLATION OF THIS SECTION IF THE COMMERCIAL DRIVER IS  
2 CITED FOR A VIOLATION OF 49 CFR 392.82.

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

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

Type of conviction	Points
(jj) A FIRST violation of section 42-4-239 <del>(2)</del> (3) . . . . .	+ 2
(jj.5) A SECOND violation of section 42-4-239 (3) . . . . .	4 2
(jj.7) A THIRD OR SUBSEQUENT VIOLATION OF SECTION 42-4-239 (3) . . . . .	4
(jj.9) A VIOLATION OF SECTION 42-4-239 (3) INVOLVING TEXT MESSAGING . . . . .	4

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

16 **42-4-1701. Traffic offenses and infractions classified -**  
17 **penalties - penalty and surcharge schedule - repeal.** (4) (a) (I) Except  
18 as provided in subsection (5)(c) of this section, every person who is  
19 convicted of, who admits liability for, or against whom a judgment is  
20 entered for a violation of this title 42 to which subsection (5)(a) or (5)(b)  
21 of this section applies shall be fined or penalized and have a surcharge  
22 levied in accordance with sections 24-4.1-119 (1)(f) and 24-4.2-104  
23 (1)(b)(I), in accordance with the penalty and surcharge schedule set forth  
24 in subsections (4)(a)(I)(A) to (4)(a)(I)(P) of this section; or, if no penalty  
25 or surcharge is specified in the schedule, the penalty for class A and class  
26 B traffic infractions is fifteen dollars and the surcharge is four dollars.  
27 These penalties and surcharges apply whether the defendant

1 acknowledges the defendant's guilt or liability in accordance with the  
 2 procedure set forth by subsection (5)(a) of this section, is found guilty by  
 3 a court of competent jurisdiction, or has judgment entered against the  
 4 defendant by a county court magistrate. Penalties and surcharges for  
 5 violating specific sections are as follows:

6 <b>Section Violated</b>	7 <b>Penalty</b>	8 <b>Surcharge</b>
9 (P) <b>Offenses by persons controlling vehicles:</b>		
10 42-4-239 <del>(5)(a)</del> (5)(a)(I)	\$ 50.00	\$ 6.00
11 42-4-239 <del>(5)(b)</del> (5)(a)(II)	100.00	6.00
12 42-4-239 <del>(5.5)</del> (5)(a)(III)	<del>300.00</del> <b>200.00</b>	6.00
13 <b>42-4-239 (5)(b)</b>	<b>300.00</b>	<b>6.00</b>
14 42-4-1704	15.00	6.00

15 **SECTION 4. Effective date - applicability.** This act takes effect  
 16 July 1, 2020, and applies to offenses committed on or after said date.

17 **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, or safety.