

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

PREAMENDED

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

LLS NO. 23-0264.01 Jacob Baus x2173

SENATE BILL 23-097

SENATE SPONSORSHIP

Zenzinger and Gardner, Kirkmeyer, Lundeen, Pelton B., Pelton R., Rich, Bridges, Ginal, Hinrichsen, Marchman, Mullica, Priola, Roberts, Smallwood

HOUSE SPONSORSHIP

Bird and Soper,

Senate Committees

Judiciary
Appropriations

House Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE ADOPTION OF THE 2023 RECOMMENDATIONS OF THE**
102 **COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE**
103 **REGARDING MOTOR VEHICLE OFFENSES COMMITTED BY A**
104 **PERSON WHO IS NOT THE OWNER OF THE MOTOR VEHICLE, AND,**
105 **IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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 criminalizes auto theft as "aggravated motor vehicle theft in the first degree" and "aggravated motor vehicle theft in the second

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.

SENATE
3rd Reading Unamended
March 13, 2023

SENATE
Amended 2nd Reading
March 10, 2023

degree". The penalties for both aggravated motor vehicle thefts are based on the value of the vehicle or vehicles stolen.

The bill changes the term of the offense "aggravated motor vehicle theft" to "motor vehicle theft". The elements for motor vehicle theft in the first degree and second degree are changed and motor vehicle theft in the third degree is created. The penalties for motor vehicle theft are no longer based on the value of the vehicle or vehicles stolen. Motor vehicle theft in the first degree is a class 3 felony, motor vehicle theft in the second degree is a class 4 felony, and motor vehicle theft in the third degree is a class 5 felony.

The bill creates the offense "unauthorized use of a motor vehicle" and makes it a class 1 misdemeanor, or a class 5 felony for a second or subsequent offense.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-4-409, **amend**
3 (1)(a), (2), (3), and (4); and **add** (6) and (7) as follows:

4 **18-4-409. Motor vehicle theft - definitions.** (1) As used in this
5 section, unless the context otherwise requires:

6 (a) "Motor vehicle" means ~~all vehicles of whatever description~~
7 ~~propelled by any power other than muscular, except vehicles running on~~
8 ~~rails~~ ANY SELF-PROPELLED VEHICLE THAT IS DESIGNED PRIMARILY FOR
9 TRAVEL ON PUBLIC HIGHWAYS AND THAT IS GENERALLY AND COMMONLY
10 USED TO TRANSPORT PERSONS AND PROPERTY OVER THE PUBLIC
11 HIGHWAYS.

12 (2) A person commits ~~aggravated~~ motor vehicle theft in the first
13 degree if ~~he or she~~ THE PERSON knowingly obtains, ~~or~~ exercises control
14 over, RECEIVES, OR RETAINS the motor vehicle of another PERSON; AND
15 THE PERSON KNOWS OR REASONABLY SHOULD HAVE KNOWN THAT THE
16 ACT WAS without authorization or WAS by threat or deception; and THE
17 PERSON HAS TWO PRIOR CONVICTIONS OR ADJUDICATIONS OF CHARGES
18 SEPARATELY BROUGHT AND TRIED FOR AN OFFENSE INVOLVING MOTOR

1 VEHICLE THEFT OR UNAUTHORIZED USE OF A MOTOR VEHICLE IN THIS
2 STATE, A MUNICIPALITY, ANOTHER STATE, THE UNITED STATES, OR ANY
3 TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

4 ~~(a) Retains possession or control of the motor vehicle for more~~
5 ~~than twenty-four hours; or~~

6 ~~(b) Attempts to alter or disguise or alters or disguises the~~
7 ~~appearance of the motor vehicle; or~~

8 ~~(c) Attempts to alter or remove or alters or removes the vehicle~~
9 ~~identification number; or~~

10 ~~(d) Uses the motor vehicle in the commission of a crime other~~
11 ~~than a traffic offense; or~~

12 ~~(e) Causes five hundred dollars or more property damage,~~
13 ~~including but not limited to property damage to the motor vehicle~~
14 ~~involved, in the course of obtaining control over or in the exercise of~~
15 ~~control of the motor vehicle; or~~

16 ~~(f) Causes bodily injury to another person while he or she is in the~~
17 ~~exercise of control of the motor vehicle; or~~

18 ~~(g) Removes the motor vehicle from this state for a period of time~~
19 ~~in excess of twelve hours; or~~

20 ~~(h) Unlawfully attaches or otherwise displays in or upon the motor~~
21 ~~vehicle license plates other than those officially issued for the motor~~
22 ~~vehicle.~~

23 (3) ~~Aggravated motor vehicle theft in the first degree is a~~ A
24 PERSON COMMITS MOTOR VEHICLE THEFT IN THE SECOND DEGREE IF THE
25 PERSON KNOWINGLY OBTAINS, EXERCISES CONTROL OVER, RECEIVES, OR
26 RETAINS THE MOTOR VEHICLE OF ANOTHER PERSON; AND THE PERSON
27 KNOWS OR SHOULD REASONABLY HAVE KNOWN THAT THE ACT WAS

1 WITHOUT AUTHORIZATION OR WAS BY THREAT OR DECEPTION; AND:

2 (a) ~~Class 5 felony if the value of the motor vehicle or motor~~
3 ~~vehicles involved is less than twenty thousand dollars~~ THE PERSON
4 RETAINS POSSESSION OR CONTROL OF THE MOTOR VEHICLE FOR MORE
5 THAN TWENTY-FOUR HOURS;

6 (a.5) ~~Class 4 felony if the value of the motor vehicle or motor~~
7 ~~vehicles involved is twenty thousand dollars or more but less than one~~
8 ~~hundred thousand dollars;~~

9 (b) ~~Class 3 felony if the value of the motor vehicle or motor~~
10 ~~vehicles involved is more than one hundred thousand dollars or if the~~
11 ~~defendant has twice previously been convicted or adjudicated of charges~~
12 ~~separately brought and tried either in this state or elsewhere of an offense~~
13 ~~involving theft of a motor vehicle under the laws of this state, any other~~
14 ~~state, the United States, or any territory subject to the jurisdiction of the~~
15 ~~United States~~ THE PERSON ATTEMPTS TO ALTER OR DISGUISE OR ALTERS
16 OR DISGUISES THE APPEARANCE OF THE MOTOR VEHICLE;

17 (c) THE PERSON ATTEMPTS TO ALTER OR REMOVE OR ALTERS OR
18 REMOVES THE VEHICLE IDENTIFICATION NUMBER;

19 (d) THE PERSON REMOVES THE MOTOR VEHICLE FROM THIS STATE;

20 (e) THE PERSON UNLAWFULLY ATTACHES OR DISPLAYS A LICENSE
21 PLATE IN OR UPON THE MOTOR VEHICLE OTHER THAN THOSE PLATES
22 OFFICIALLY ISSUED FOR THE MOTOR VEHICLE;

23 (f) THE PERSON OR A PARTICIPANT CAUSES ONE THOUSAND
24 DOLLARS OR MORE PROPERTY DAMAGE, INCLUDING PROPERTY DAMAGE TO
25 THE MOTOR VEHICLE INVOLVED, IN THE COURSE OF OBTAINING CONTROL
26 OVER, IN THE EXERCISE OF CONTROL OF, IN THE COURSE OF RECEIVING, OR
27 IN THE COURSE OF RETAINING THE MOTOR VEHICLE;

1 (g) THE PERSON CAUSES BODILY INJURY TO ANOTHER PERSON
2 OTHER THAN TO A PARTICIPANT WHILE IN THE EXERCISE OF CONTROL OF
3 THE MOTOR VEHICLE;

4 (h) THE PERSON USES OR ATTEMPTS TO USE THE MOTOR VEHICLE
5 IN THE COMMISSION OF A CRIME OTHER THAN:

6 (I) A TRAFFIC OFFENSE EXCEPT ELUDING A POLICE OFFICER AS
7 DESCRIBED IN SECTION 42-4-1413; OR

8 (II) A FIRST OR SECOND DEGREE CRIMINAL TRESPASS OF THE
9 MOTOR VEHICLE; OR

10 (i) AT THE TIME OF THE ACT, THE MOTOR VEHICLE DISPLAYED A
11 LICENSE PLATE OR PLACARD INDICATING THE MOTOR VEHICLE BELONGS TO
12 A PERSON WITH A DISABILITY.

13 (4) ~~A person commits aggravated motor vehicle theft in the~~
14 ~~second degree if he or she knowingly obtains or exercises control over the~~
15 ~~motor vehicle of another without authorization or by threat or deception~~
16 ~~and if none of the aggravating factors in subsection (2) of this section are~~
17 ~~present. Aggravated motor vehicle theft in the second degree is a~~ A
18 PERSON COMMITS MOTOR VEHICLE THEFT IN THE THIRD DEGREE IF THE
19 PERSON KNOWINGLY:

20 (a) ~~Class 5 felony if the value of the motor vehicle or motor~~
21 ~~vehicles involved is twenty thousand dollars or more~~ OBTAINS OR
22 EXERCISES CONTROL OVER the motor vehicle of another PERSON; AND THE
23 PERSON KNOWS OR SHOULD REASONABLY HAVE KNOWN THAT THE ACT
24 WAS WITHOUT AUTHORIZATION OR WAS BY THREAT OR DECEPTION; OR

25 (b) ~~Class 6 felony if the value of the motor vehicle or motor~~
26 ~~vehicles involved is two thousand dollars or more but less than twenty~~
27 ~~thousand dollars~~ RECEIVES OR RETAINS THE MOTOR VEHICLE FROM

1 ANOTHER PERSON WHO IS NOT THE OWNER OF THE MOTOR VEHICLE; THE
2 PERSON EXERCISES CONTROL OVER THE MOTOR VEHICLE; AND THE PERSON
3 KNOWS OR SHOULD REASONABLY HAVE KNOWN THAT THE ACT WAS
4 WITHOUT AUTHORIZATION OF THE OWNER.

5 (c) ~~Class 1 misdemeanor if the value of the motor vehicle or~~
6 ~~motor vehicles involved is less than two thousand dollars.~~

7 (6) (a) MOTOR VEHICLE THEFT IN THE FIRST DEGREE IS A CLASS 3
8 FELONY.

9 (b) MOTOR VEHICLE THEFT IN THE SECOND DEGREE IS A CLASS 4
10 FELONY.

11 (c) MOTOR VEHICLE THEFT IN THE THIRD DEGREE IS A CLASS 5
12 FELONY.

13 (7) A PERSON WHOSE CONDUCT IS LIMITED TO THE ELEMENTS OF
14 THIS SECTION IS NOT SUBJECT TO PROSECUTION PURSUANT TO SECTION
15 18-4-401.

16 **SECTION 2.** In Colorado Revised Statutes, **add** 18-4-409.5 as
17 follows:

18 **18-4-409.5. Unauthorized use of a motor vehicle - definition.**

19 (1) A PERSON COMMITS UNAUTHORIZED USE OF A MOTOR VEHICLE IF THE
20 PERSON OBTAINS OR EXERCISES CONTROL OVER THE MOTOR VEHICLE OF
21 ANOTHER PERSON WITHOUT AUTHORIZATION OF THE OWNER AND:

22 (a) THE PERSON DOES NOT COMMIT A CRIMINAL OFFENSE OTHER
23 THAN A MISDEMEANOR TRAFFIC OFFENSE EXCEPT ELUDING A POLICE
24 OFFICER AS DESCRIBED IN SECTION 42-4-1413 IN THE COURSE OF
25 OBTAINING CONTROL OVER OR IN THE EXERCISE OF CONTROL OF A MOTOR
26 VEHICLE; AND

27 (b) THE MOTOR VEHICLE IS RETURNED TO THE OWNER OR

1 RECOVERED BY LAW ENFORCEMENT WITHIN TWENTY-FOUR HOURS AFTER
2 BEING REPORTED AS MISSING OR STOLEN BY THE OWNER, WITH NO
3 DAMAGE TO THE MOTOR VEHICLE.

4 (2) UNAUTHORIZED USE OF A MOTOR VEHICLE IS A CLASS 1
5 MISDEMEANOR; EXCEPT THAT A SECOND OR SUBSEQUENT OFFENSE FOR A
6 VIOLATION OF THIS SECTION IS A CLASS 5 FELONY.

7 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES, "MOTOR VEHICLE" HAS THE SAME MEANING AS DEFINED IN
9 SECTION 18-4-409.

10 **SECTION 3.** In Colorado Revised Statutes, 18-17-103, **amend**
11 (5)(b)(II) as follows:

12 **18-17-103. Definitions.** As used in this article 17, unless the
13 context otherwise requires:

14 (5) "Racketeering activity" means to commit, to attempt to
15 commit, to conspire to commit, or to solicit, coerce, or intimidate another
16 person to commit:

17 (b) Any violation of the following provisions of the Colorado
18 statutes or any criminal act committed in any jurisdiction of the United
19 States which, if committed in this state, would be a crime under the
20 following provisions of the Colorado statutes:

21 (II) Offenses against property, as defined in sections 18-4-102
22 (first degree arson), 18-4-103 (second degree arson), 18-4-104 (third
23 degree arson), 18-4-105 (fourth degree arson), 18-4-202 (first degree
24 burglary), 18-4-203 (second degree burglary), 18-4-301 (robbery),
25 18-4-302 (aggravated robbery), 18-4-303 (aggravated robbery of
26 controlled substances), 18-4-401 (theft), 18-4-409 (~~aggravated~~ (motor
27 vehicle theft), 18-4-409.5 (UNAUTHORIZED USE OF A MOTOR VEHICLE),

1 and 18-4-501 (criminal mischief);

2 **SECTION 4.** In Colorado Revised Statutes, 19-1-304, **amend**
3 (5.5) as follows:

4 **19-1-304. Juvenile delinquency records - division of youth**
5 **services critical incident information - definitions.** (5.5) Whenever a
6 petition is filed in juvenile court alleging a class 1, class 2, class 3, or
7 class 4 felony; a level 1, level 2, or level 3 drug felony; an offense
8 involving unlawful sexual behavior as defined in section 16-22-102 ~~(9)~~;
9 a crime of violence as described in section 18-1.3-406; a burglary offense
10 as described in part 2 of article 4 of title 18; felony menacing, in violation
11 of section 18-3-206; harassment, in violation of section 18-9-111; fourth
12 degree arson, in violation of section 18-4-105; ~~aggravated~~ motor vehicle
13 theft, in violation of section 18-4-409; hazing, in violation of section
14 18-9-124; or possession of a handgun by a juvenile, in violation of section
15 18-12-108.5, or when a petition is filed in juvenile court in which the
16 alleged victim of the crime is a student or staff person in the same school
17 as the juvenile or in which it is alleged that the juvenile possessed a
18 deadly weapon during the commission of the alleged crime, the
19 prosecuting attorney, within three working days after the petition is filed,
20 shall make good faith reasonable efforts to notify the principal of the
21 school in which the juvenile is enrolled and shall provide such principal
22 with the arrest and criminal records information, as defined in section
23 24-72-302. ~~(†)~~. In the event the prosecuting attorney, in good faith, is not
24 able to either identify the school that the juvenile attends or contact the
25 principal of the juvenile's school, then the prosecuting attorney shall
26 contact the superintendent of the juvenile's school district.

27 **SECTION 5.** In Colorado Revised Statutes, 42-2-202, **amend**

1 (2)(a)(V) as follows:

2 **42-2-202. Habitual offenders - frequency and type of**
3 **violations.** (2) (a) An habitual offender is a person having three or more
4 convictions of any of the following separate and distinct offenses arising
5 out of separate acts committed within a period of seven years:

6 (V) Vehicular assault or vehicular homicide, or manslaughter or
7 criminally negligent homicide which results from the operation of a motor
8 vehicle, or ~~aggravated~~ motor vehicle theft, as such offenses are described
9 in title 18; ~~C.R.S.~~;

10 **SECTION 6. Appropriation.** For the 2023-24 state fiscal year,
11 \$23,265 is appropriated to the department of revenue for use by the
12 division of motor vehicles. This appropriation is from the Colorado
13 DRIVES vehicle services account in the highway users tax fund created
14 in section 42-1-211 (2), C.R.S. To implement this act, the division may
15 use this appropriation for DRIVES maintenance and support.

16 **SECTION 7. Effective date - applicability.** This act takes effect
17 July 1, 2023, and applies to offenses committed on or after July 1, 2023.

18 **SECTION 8. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety.