

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

PREAMENDED

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

LLS NO. 24-0837.01 Yelana Love x2295

SENATE BILL 24-065

SENATE SPONSORSHIP

Hansen and Fields,

HOUSE SPONSORSHIP

Froelich and Ortiz,

Senate Committees

Transportation & Energy
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE USE OF MOBILE ELECTRONIC DEVICES WHEN**
102 **DRIVING 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>.)

Current law prohibits an individual who is under 18 years of age from using a mobile electronic device when driving. The bill applies the prohibition to an individual who is 18 years of age or older unless the individual is using a hands-free accessory. The following uses are exempted:

- By an individual reporting an emergency to state or local

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.

- authorities;
- By an employee or contractor of a utility when responding to a utility emergency;
- By a first responder; or
- By an individual in a motor vehicle that is parked.

The penalties for a violation are:

- For a first offense, \$75 and 2 license suspension points;
- For a second offense within 24 months, \$150 and 3 license suspension points; and
- For a third or subsequent offense within 24 months, \$250 and 4 license suspension points.

A violation will be dismissed if the individual has not previously committed a violation, produces proof of purchase of a hands-free accessory, and affirms, under penalty of perjury, that the defendant has not previously claimed this option to dismiss.

Current law requires a peace officer who makes a traffic stop to record the demographic information of the violator, whether a citation has been issued, and the violation cited. The bill clarifies that the peace officer must record whether the bill has been violated.

The executive director of the department of transportation, in consultation with the chief of the Colorado state patrol, is required to create a campaign raising public awareness of the requirements of the bill and of the dangers of using mobile electronic devices when driving.

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) AS USED IN THIS
 6 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 (a) "EMERGENCY" MEANS A CIRCUMSTANCE IN WHICH AN
 8 INDIVIDUAL:

9 (I) HAS REASON TO FEAR FOR THE INDIVIDUAL'S LIFE OR SAFETY OR
 10 BELIEVES THAT A CRIMINAL ACT MAY BE PERPETRATED AGAINST THE
 11 INDIVIDUAL OR ANOTHER INDIVIDUAL, REQUIRING THE USE OF A MOBILE
 12 ELECTRONIC DEVICE WHEN THE INDIVIDUAL IS DRIVING A MOTOR VEHICLE;

1 OR

2 (II) REPORTS A FIRE, A TRAFFIC ACCIDENT IN WHICH ONE OR MORE
3 INJURIES ARE APPARENT, A SERIOUS ROAD HAZARD, A MEDICAL OR
4 HAZARDOUS MATERIALS EMERGENCY, OR AN INDIVIDUAL WHO IS DRIVING
5 IN A RECKLESS, CARELESS, OR UNSAFE MANNER.

6 (b) "FIRST RESPONDER" MEANS:

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

8 (II) A FIREFIGHTER, AS DEFINED IN SECTION 29-5-203 (10);

9 (III) A VOLUNTEER FIREFIGHTER, AS DEFINED IN SECTION
10 31-30-1102 (9)(a);

11 (IV) AN EMERGENCY MEDICAL SERVICE PROVIDER, AS DEFINED IN
12 SECTION 25-3.5-103 (8); OR

13 (V) ANY OTHER INDIVIDUAL WHO RESPONDS IN A PROFESSIONAL
14 CAPACITY TO A PUBLIC SAFETY EMERGENCY.

15 (c) "HANDS-FREE ACCESSORY" MEANS AN ACCESSORY WITH A
16 FEATURE OR FUNCTION THAT ENABLES AN INDIVIDUAL TO USE A MOBILE
17 ELECTRONIC DEVICE WITHOUT USING EITHER HAND, EXCEPT TO ACTIVATE,
18 DEACTIVATE, OR INITIATE THE FEATURE OR FUNCTION WITH A SINGLE
19 TOUCH OR SINGLE SWIPE.

20 (d) (I) "MOBILE ELECTRONIC DEVICE" MEANS A HANDHELD OR
21 PORTABLE ELECTRONIC DEVICE CAPABLE OF PROVIDING VOICE
22 COMMUNICATION BETWEEN TWO OR MORE PERSONS, AMUSEMENT, OR THE
23 WIRELESS TRANSFER OF DATA.

24 (II) "MOBILE ELECTRONIC DEVICE" DOES NOT INCLUDE:

25 (A) A RADIO, CITIZENS BAND RADIO, OR CITIZENS BAND RADIO
26 HYBRID;

27 (B) A COMMERCIAL TWO-WAY RADIO COMMUNICATION DEVICE OR

1 ITS FUNCTIONAL EQUIVALENT;

2 (C) A SUBSCRIPTION-BASED EMERGENCY COMMUNICATION
3 DEVICE;

4 (D) A PRESCRIBED MEDICAL DEVICE;

5 (E) AN AMATEUR OR HAM RADIO DEVICE; OR

6 (F) SYSTEMS THAT ARE DESIGNED FOR AND INSTALLED WITHIN THE
7 VEHICLE'S ELECTRONICS, SUCH AS AN IN-VEHICLE SECURITY, NAVIGATION,
8 COMMUNICATIONS, OR REMOTE DIAGNOSTICS SYSTEM.

9 (e) "USE" OR "USING" MEANS:

10 (I) PHYSICALLY HOLDING OR SUPPORTING A MOBILE ELECTRONIC
11 DEVICE WITH ANY PART OF THE BODY; EXCEPT THAT AN INDIVIDUAL MAY
12 USE AN EARPIECE OR HEADPHONE DEVICE TO CONDUCT A VOICE-BASED
13 COMMUNICATION;

14 (II) WATCHING A VIDEO OR MOVIE ON A MOBILE ELECTRONIC
15 DEVICE, OTHER THAN WATCHING DATA RELATED TO THE NAVIGATION OF
16 THE MOTOR VEHICLE; OR

17 (III) WRITING, SENDING, OR READING TEXT-BASED
18 COMMUNICATION, INCLUDING A TEXT MESSAGE, INSTANT MESSAGE,
19 E-MAIL, OR INTERNET DATA, ON A MOBILE ELECTRONIC DEVICE; EXCEPT
20 THAT TEXT-BASED COMMUNICATION DOES NOT INCLUDE:

21 (A) A VOICE-BASED COMMUNICATION THAT IS AUTOMATICALLY
22 CONVERTED BY THE MOBILE ELECTRONIC DEVICE TO BE SENT AS A
23 MESSAGE IN WRITTEN FORM; OR

24 (B) COMMUNICATION CONCERNING THE NAVIGATION OF A MOTOR
25 VEHICLE.

26 (2) (a) EXCEPT AS SPECIFIED IN SUBSECTION (2)(b) OF THIS
27 SECTION, AN INDIVIDUAL UNDER EIGHTEEN YEARS OF AGE SHALL NOT

1 DRIVE A MOTOR VEHICLE WHEN USING A MOBILE ELECTRONIC DEVICE.

2 (b) IT IS NOT A VIOLATION OF THIS SUBSECTION (2) TO USE A
3 MOBILE ELECTRONIC DEVICE:

4 (I) TO CONTACT A PUBLIC SAFETY ENTITY; OR
5 (II) DURING AN EMERGENCY.

6 (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF THIS
7 SECTION, AN INDIVIDUAL EIGHTEEN YEARS OF AGE OR OLDER SHALL NOT
8 DRIVE A MOTOR VEHICLE WHEN USING A MOBILE ELECTRONIC DEVICE
9 UNLESS THE USE IS THROUGH A HANDS-FREE ACCESSORY.

10 (b) IT IS NOT A VIOLATION OF THIS SUBSECTION (3) TO USE A
11 MOBILE ELECTRONIC DEVICE:

12 (I) WHEN REPORTING AN EMERGENCY TO STATE OR LOCAL
13 AUTHORITIES;

14 (II) WHEN AN EMPLOYEE OR CONTRACTOR OF A UTILITY IS ACTING
15 WITHIN THE SCOPE OF THE EMPLOYEE'S OR CONTRACTOR'S DUTIES WHEN
16 RESPONDING TO A UTILITY EMERGENCY;

17 (III) WHEN AN EMPLOYEE OR CONTRACTOR OF A CITY OR COUNTY
18 IS ACTING WITHIN THE SCOPE OF THE EMPLOYEE'S OR CONTRACTOR'S
19 DUTIES AS A CODE ENFORCEMENT OFFICER OR ANIMAL PROTECTION
20 OFFICER;

21 (IV) DURING THE PERFORMANCE OF A FIRST RESPONDER'S OFFICIAL
22 DUTIES; OR

23 (V) WHEN IN A MOTOR VEHICLE THAT IS PARKED.

24 (4) (a) EXCEPT AS PROVIDED IN SUBSECTION (4)(b) OF THIS
25 SECTION, AN INDIVIDUAL WHO VIOLATES THIS SECTION COMMITS A CLASS
26 A TRAFFIC INFRACTION, AND THE COURT SHALL ASSESS A PENALTY AS
27 PROVIDED IN SECTION 42-4-1701 (4)(a)(I)(P).

1 (b) (I) AN INDIVIDUAL CHARGED WITH VIOLATING SUBSECTION
2 (3)(a) OF THIS SECTION SHALL NOT BE CONVICTED IF THE INDIVIDUAL:

3 (A) PRODUCES A HANDS-FREE ACCESSORY OR PROOF OF PURCHASE
4 OF A HANDS-FREE ACCESSORY; AND

5 (B) AFFIRMS UNDER PENALTY OF PERJURY THAT THE INDIVIDUAL
6 HAS NOT PREVIOUSLY HAD A CHARGE DISMISSED UNDER THIS SUBSECTION
7 (4)(b).

8 (II) THE COURT CLERK MAY DISMISS THE CHARGE IF THE CLERK
9 VERIFIES THAT THE INDIVIDUAL HAS COMPLIED WITH BOTH SUBSECTIONS
10 (4)(b)(I)(A) AND (4)(b)(I)(B) OF THIS SECTION.

11 (c) THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL WITH A
12 COMMERCIAL DRIVER'S LICENSE WHO IS OPERATING A COMMERCIAL
13 VEHICLE.

14 (5) WHEN A PEACE OFFICER ISSUES A CITATION FOR A VIOLATION
15 OF THIS SECTION, THE PEACE OFFICER SHALL, WHEN COMPLYING WITH
16 SECTION 24-31-309 (3.5), RECORD THAT THE INDIVIDUAL WAS ISSUED A
17 CITATION FOR A VIOLATION OF THIS SECTION.

18 (6) THIS SECTION DOES NOT AUTHORIZE THE SEIZURE AND
19 FORFEITURE OF A MOBILE ELECTRONIC DEVICE, UNLESS OTHERWISE
20 PROVIDED BY LAW. PRIOR TO REQUESTING CONSENT TO SEARCH A MOBILE
21 ELECTRONIC DEVICE AS PART OF AN INVESTIGATION OF A VIOLATION OF
22 THIS SECTION, A PEACE OFFICER SHALL COMPLY WITH THE REQUIREMENTS
23 OF SECTION 16-3-310.

24 **SECTION 2.** In Colorado Revised Statutes, **add** 43-1-132 as
25 follows:

26 **43-1-132. Mobile electronic device education - repeal.** (1) BY
27 OCTOBER 1, 2024, THE EXECUTIVE DIRECTOR OR THE EXECUTIVE

1 DIRECTOR'S DESIGNEE SHALL, IN CONSULTATION WITH THE CHIEF OF THE
2 COLORADO STATE PATROL, CREATE A CAMPAIGN RAISING PUBLIC
3 AWARENESS OF THE REQUIREMENTS OF SECTION 42-4-239 AND OF THE
4 DANGERS OF USING MOBILE ELECTRONIC DEVICES WHEN DRIVING.

5 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

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

8 **42-2-127. Authority to suspend license - to deny license - type**
9 **of conviction - points.** (5) Point system schedule:

| 10 Type of conviction | Points |
|---|--------|
| 11 (jj) A violation of section 42-4-239 (2) IF THE PERSON HAS NOT 12 BEEN CONVICTED OF THE SAME VIOLATION WITHIN THE IMMEDIATELY 13 PRECEDING TWENTY-FOUR MONTHS | + 2 |
| 14 (jj.5) A SECOND violation of section 42-4-239 (3) WITHIN THE 15 IMMEDIATELY PRECEDING TWENTY-FOUR MONTHS | 4 3 |
| 16 (jj.7) A THIRD OR SUBSEQUENT VIOLATION OF SECTION 42-4-239 17 WITHIN THE IMMEDIATELY PRECEDING TWENTY-FOUR MONTHS | 4 |

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

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

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

| 10 Section Violated | 11 Penalty | 12 Surcharge |
|---|-------------------------------------|------------------------------------|
| 13 (P) Offenses by persons controlling vehicles: | | |
| 14 42-4-239 (5)(a) FIRST OFFENSE | | |
| 15 WITHIN THE IMMEDIATELY PRECEDING | | |
| 16 TWENTY-FOUR MONTHS | 17 \$ 50.00 75.00 | 18 \$ 6.00 10.00 |
| 19 42-4-239 (5)(b) SECOND OFFENSE | | |
| 20 WITHIN THE IMMEDIATELY PRECEDING | | |
| 21 TWENTY-FOUR MONTHS | 22 100.00 150.00 | 23 6.00 10.00 |
| 24 42-4-239 (5.5) THIRD OFFENSE | | |
| 25 WITHIN THE IMMEDIATELY PRECEDING | | |
| 26 TWENTY-FOUR MONTHS | 27 300.00 250.00 | 6.00 10.00 |
| 42-4-1704 | 15.00 | 6.00 |

22 **SECTION 5. Act subject to petition - effective date -**
 23 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
 24 the expiration of the ninety-day period after final adjournment of the
 25 general assembly; except that, if a referendum petition is filed pursuant
 26 to section 1 (3) of article V of the state constitution against this act or an
 27 item, section, or part of this act within such period, then the act, item,

1 section, or part will not take effect unless approved by the people at the
2 general election to be held in November 2024 and, in such case, will take
3 effect on the date of the official declaration of the vote thereon by the
4 governor.

5 (2) This act applies to conduct occurring on or after the applicable
6 effective date of this act.