

CHAPTER 288

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**MOTOR VEHICLES AND TRAFFIC REGULATION**

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SENATE BILL 98-030

BY SENATORS Thiebaut and Powers;  
also REPRESENTATIVES Swenson, Gotlieb, Udall, S. Williams, and Young.

**AN ACT**

CONCERNING HIGH-OCCUPANCY VEHICLE LANES.

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

**SECTION 1.** 42-4-1012, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**42-4-1012. High occupancy vehicle lanes.** (2.5) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (2.5), AN INHERENTLY LOW-EMISSION VEHICLE WITH A GROSS VEHICLE WEIGHT OF TWENTY-SIX THOUSAND POUNDS OR LESS MAY BE OPERATED UPON HIGH OCCUPANCY VEHICLE LANES WITHOUT REGARD TO THE NUMBER OF PERSONS IN THE VEHICLE AND WITHOUT PAYMENT OF A SPECIAL TOLL OR FEE.

(II) AS USED IN THIS SUBSECTION (2.5), "INHERENTLY LOW-EMISSION VEHICLE" OR "ILEV" MEANS:

(A) A LIGHT-DUTY VEHICLE OR LIGHT-DUTY TRUCK THAT HAS BEEN CERTIFIED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY AS CONFORMING TO THE ILEV GUIDELINES, PROCEDURES, AND STANDARDS AS PUBLISHED IN THE FEDERAL REGISTER AT 58 FR 11888 (MARCH 1, 1993) AND 59 FR 50042 (SEPTEMBER 30, 1994), AS AMENDED FROM TIME TO TIME; AND

(B) A HEAVY-DUTY VEHICLE POWERED BY AN ENGINE THAT HAS BEEN CERTIFIED AS SET FORTH IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II).

(b) NO PERSON SHALL OPERATE A VEHICLE UPON A HIGH OCCUPANCY VEHICLE LANE PURSUANT TO THIS SUBSECTION (2.5) UNLESS THE VEHICLE:

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(I) MEETS ALL APPLICABLE FEDERAL EMISSION STANDARDS AND LABELING REQUIREMENTS SET FORTH IN 40 CFR SECS. 88.311-93 AND 88.312-93, AS AMENDED FROM TIME TO TIME; AND

(II) IS IDENTIFIED BY MEANS OF A CIRCULAR STICKER OR DECAL AT LEAST FOUR INCHES IN DIAMETER, MADE OF BRIGHT ORANGE REFLECTIVE MATERIAL, AND AFFIXED EITHER TO THE WINDSHIELD, TO THE FRONT OF THE SIDE-VIEW MIRROR ON THE DRIVER'S SIDE, OR TO THE FRONT BUMPER OF THE VEHICLE. SAID STICKER OR DECAL SHALL BE APPROVED BY THE COLORADO DEPARTMENT OF TRANSPORTATION.

(c) THE DEPARTMENT OF TRANSPORTATION AND LOCAL AUTHORITIES, WITH RESPECT TO STREETS AND HIGHWAYS UNDER THEIR RESPECTIVE JURISDICTIONS, SHALL PROVIDE INFORMATION VIA OFFICIAL TRAFFIC CONTROL DEVICES TO INDICATE THAT ILEVs MAY BE OPERATED UPON HIGH OCCUPANCY VEHICLE LANES PURSUANT TO THIS SECTION. SUCH INFORMATION MAY, BUT NEED NOT, BE ADDED TO EXISTING PRINTED SIGNS, BUT AS EXISTING PRINTED SIGNS RELATED TO HIGH OCCUPANCY VEHICLE LANE USE ARE REPLACED OR NEW ONES ARE ERECTED, SUCH INFORMATION SHALL BE ADDED. IN ADDITION, WHENEVER EXISTING ELECTRONIC SIGNS ARE CAPABLE OF BEING REPROGRAMMED TO CARRY SUCH INFORMATION, THEY SHALL BE SO REPROGRAMMED.

(d) (I) IN CONSULTATION WITH THE REGIONAL TRANSPORTATION DISTRICT, THE DEPARTMENT OF TRANSPORTATION AND LOCAL AUTHORITIES, WITH RESPECT TO STREETS AND HIGHWAYS UNDER THEIR RESPECTIVE JURISDICTIONS, SHALL, IN CONNECTION WITH THEIR PERIODIC LEVEL-OF-SERVICE EVALUATION OF HIGH OCCUPANCY VEHICLE LANES, PERFORM A LEVEL-OF-SERVICE EVALUATION OF THE USE OF HIGH OCCUPANCY VEHICLE LANES BY ILEVs. IF THE USE OF HIGH OCCUPANCY VEHICLE LANES BY ILEVs IS DETERMINED TO CAUSE A SIGNIFICANT DECREASE IN THE LEVEL OF SERVICE FOR OTHER BONA FIDE USERS OF SUCH LANES, THEN THE DEPARTMENT OF TRANSPORTATION OR A LOCAL AUTHORITY MAY RESTRICT OR ELIMINATE USE OF SUCH LANES BY ILEVs.

(II) IF THE UNITED STATES SECRETARY OF TRANSPORTATION MAKES A FORMAL DETERMINATION THAT, BY GIVING EFFECT TO PARAGRAPH (a) OF THIS SUBSECTION (2.5) ON A PARTICULAR HIGHWAY OR LANE, THE STATE OF COLORADO WOULD DISQUALIFY ITSELF FROM RECEIVING FEDERAL HIGHWAY FUNDS THE STATE WOULD OTHERWISE QUALIFY TO RECEIVE OR WOULD BE REQUIRED TO REFUND FEDERAL TRANSPORTATION GRANT FUNDS IT HAS ALREADY RECEIVED, THEN SAID PARAGRAPH (a) SHALL NOT BE EFFECTIVE AS TO SUCH HIGHWAY OR LANE.

**SECTION 2.** 42-4-1701 (4) (a) (I) (K), Colorado Revised Statutes, is amended to read:

**42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule.** (4) (a) (I) Except as provided in paragraph (c) of subsection (5) of this section, every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of any provision of this title to which the provisions of paragraph (a) or (b) of subsection (5) of this section apply shall be fined or penalized, and have a surcharge levied thereon pursuant to section 24-4.2-104 (1) (b) (I), C.R.S., in accordance with the penalty and surcharge schedule set forth in sub-subparagraphs (A) to (P) of this subparagraph (I); or, if no penalty

or surcharge is specified in the schedule, the penalty for class A and class B traffic infractions shall be fifteen dollars, and the surcharge shall be two dollars. These penalties and surcharges shall apply whether the defendant acknowledges the defendant's guilt or liability in accordance with the procedure set forth by paragraph (a) of subsection (5) of this section or 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 shall be as follows:

| <b>Section Violated</b>                                 | <b>Penalty</b>           | <b>Surcharge</b>        |
|---|--------------------------|-------------------------|
| <b>(K) Driving, overtaking, and passing violations:</b> |                          |                         |
| 42-4-1001   | \$ 35.00                 | \$ 4.00                 |
| 42-4-1002   | 35.00                    | 4.00                    |
| 42-4-1003   | 35.00                    | 4.00                    |
| 42-4-1004   | 35.00                    | 4.00                    |
| 42-4-1005   | 35.00                    | 4.00                    |
| 42-4-1006   | 35.00                    | 4.00                    |
| 42-4-1007   | 35.00                    | 4.00                    |
| 42-4-1008   | 35.00                    | 4.00                    |
| 42-4-1009   | 35.00                    | 4.00                    |
| 42-4-1010   | 35.00                    | 4.00                    |
| 42-4-1011   | 100.00                   | 12.00                   |
| 42-4-1012 (3)(a)  | <del>50.00</del> 65.00   | <del>6.00</del> (NONE)  |
| 42-4-1012 (3)(b)  | <del>100.00</del> 125.00 | <del>12.00</del> (NONE) |

**SECTION 3. Effective date - applicability.** (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to acts committed on or after the applicable effective date of this act.

Approved: June 1, 1998