

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

PREAMENDED

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

LLS NO. 19-0041.01 Yelana Love x2295

SENATE BILL 19-012

SENATE SPONSORSHIP

Court,

HOUSE SPONSORSHIP

Melton,

Senate Committees

Transportation & Energy
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE USE OF MOBILE ELECTRONIC DEVICES WHILE**
102 **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

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.

- 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.

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 SITUATION IN WHICH A PERSON:**

8 **(I) HAS REASON TO FEAR FOR THE PERSON'S LIFE OR SAFETY OR**
9 **BELIEVES THAT A CRIMINAL ACT MAY BE PERPETRATED AGAINST THE**
10 **PERSON OR ANOTHER PERSON, REQUIRING THE USE OF A MOBILE**
11 **ELECTRONIC DEVICE WHILE THE CAR IS MOVING; OR**

12 **(II) REPORTS A FIRE, A TRAFFIC ACCIDENT IN WHICH ONE OR MORE**
13 **INJURIES ARE APPARENT, A SERIOUS ROAD HAZARD, A MEDICAL OR**
14 **HAZARDOUS MATERIALS EMERGENCY, OR A PERSON WHO IS DRIVING IN A**
15 **RECKLESS, CARELESS, OR OTHERWISE UNSAFE MANNER.**

16 **(b) "FIRST RESPONDER" MEANS:**

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

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

19 **(III) A VOLUNTEER FIREFIGHTER, AS DEFINED IN SECTION**
20 **31-30-1102; OR**

21 **(IV) ANY OTHER PERSON WHO RESPONDS IN A PROFESSIONAL**
22 **CAPACITY TO A PUBLIC SAFETY EMERGENCY.**

1 (c) "HANDS-FREE ACCESSORY" MEANS AN ACCESSORY THAT
2 ENABLES A PERSON TO USE A MOBILE ELECTRONIC DEVICE WITHOUT USING
3 EITHER HAND, ALTHOUGH THE USE OF EITHER HAND MAY BE NECESSARY
4 TO ACTIVATE, DEACTIVATE, OR INITIATE A FUNCTION OF THE MOBILE
5 ELECTRONIC DEVICE.

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

10 (A) A CELLULAR TELEPHONE;

11 (B) A BROADBAND PERSONAL COMMUNICATION DEVICE;

12 (C) A TWO-WAY MESSAGING DEVICE;

13 (D) A TEXT-MESSAGING DEVICE;

14 (E) A PAGER;

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

18 (G) A PERSONAL DIGITAL ASSISTANT;

19 (H) A LAPTOP COMPUTER;

20 (I) A COMPUTER TABLET;

21 (J) A STAND-ALONE COMPUTER;

22 (K) A PORTABLE COMPUTING DEVICE;

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

25 (M) AN ELECTRONIC GAME;

26 (N) EQUIPMENT THAT IS CAPABLE OF PLAYING A VIDEO, TAKING
27 PHOTOGRAPHS, CAPTURING IMAGES, OR RECORDING OR TRANSMITTING

1 VIDEO; AND

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

5 (II) "MOBILE ELECTRONIC DEVICE" DOES NOT INCLUDE AN
6 APPROVED IGNITION INTERLOCK DEVICE, AS DEFINED IN SECTION
7 42-2-132.5.

8 (e) "OPERATING A MOTOR VEHICLE" MEANS DRIVING A MOTOR
9 VEHICLE ON A PUBLIC HIGHWAY, BUT "OPERATING A MOTOR VEHICLE"
10 DOES NOT MEAN MAINTAINING THE INSTRUMENTS OF CONTROL WHILE THE
11 MOTOR VEHICLE IS AT REST IN A SHOULDER LANE OR LAWFULLY PARKED.

12 (f) "USE" MEANS TALKING ON OR LISTENING TO A MOBILE
13 ELECTRONIC DEVICE OR ENGAGING THE MOBILE ELECTRONIC DEVICE FOR
14 TEXT MESSAGING, GAME PLAY, TAKING PHOTOS OR VIDEOS, OR OTHER
15 FORMS OF MANUAL DATA ENTRY OR TRANSMISSION.

16 (2) EXCEPT AS SPECIFIED IN SUBSECTIONS (3) AND (7) OF THIS
17 SECTION:

18 (a) A PERSON UNDER THE AGE OF EIGHTEEN SHALL NOT OPERATE A
19 MOTOR VEHICLE WHILE USING A MOBILE ELECTRONIC DEVICE;

20 (b) A PERSON EIGHTEEN YEARS OF AGE OR OLDER SHALL NOT
21 OPERATE A MOTOR VEHICLE WHILE USING A MOBILE ELECTRONIC DEVICE
22 UNLESS THE USE IS THROUGH A HANDS-FREE ACCESSORY.

23 (3) IT IS NOT A VIOLATION OF THIS SECTION TO USE A MOBILE
24 ELECTRONIC DEVICE WHILE DRIVING IF THE USE IS:

25 (a) TO CONTACT A PUBLIC SAFETY ENTITY; OR

26 (b) DURING AN EMERGENCY.

27 (4) (a) EXCEPT AS PROVIDED IN SUBSECTION (4)(b) OF THIS

1 SECTION, A PERSON WHO VIOLATES SUBSECTION (2) OF THIS SECTION
2 COMMITS A CLASS A TRAFFIC INFRACTION. UPON CONVICTION:

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

5 (II) THE COURT SHALL ASSESS A FINE OF ONE HUNDRED FIFTY
6 DOLLARS FOR A SECOND OFFENSE; AND

7 (III) THE COURT SHALL ASSESS A FINE OF THREE HUNDRED
8 DOLLARS FOR A THIRD OR SUBSEQUENT OFFENSE.

9 (b) A PERSON WHO VIOLATES SUBSECTION (2) OF THIS SECTION TO
10 ENGAGE IN TEXT MESSAGING COMMITS A CLASS 2 MISDEMEANOR TRAFFIC
11 OFFENSE AND, UPON CONVICTION, THE COURT SHALL ASSESS A FINE OF
12 THREE HUNDRED DOLLARS.

13 (5) A LAW ENFORCEMENT OFFICER SHALL NOT CITE AN OPERATOR
14 OF A MOTOR VEHICLE FOR A VIOLATION OF THIS SECTION UNLESS THE LAW
15 ENFORCEMENT OFFICER SAW THE OPERATOR HOLD A MOBILE ELECTRONIC
16 DEVICE. A LAW ENFORCEMENT OFFICER SHALL NOT CITE AN OPERATOR FOR
17 THE ENHANCED PENALTY FOR USING A MOBILE ELECTRONIC DEVICE TO
18 ENGAGE IN TEXT MESSAGING UNLESS THE LAW ENFORCEMENT OFFICER
19 SAW THE OPERATOR ENGAGING IN TEXT MESSAGING ON A MOBILE
20 ELECTRONIC DEVICE.

21 (6) THIS SECTION DOES NOT AUTHORIZE THE SEIZURE AND
22 FORFEITURE OF A MOBILE ELECTRONIC DEVICE, UNLESS OTHERWISE
23 PROVIDED BY LAW.

24 (7) THIS SECTION DOES NOT PROHIBIT:

25 (a) OPERATION OF AN AMATEUR RADIO STATION BY A PERSON WHO
26 HOLDS A VALID AMATEUR RADIO OPERATOR LICENSE ISSUED BY THE
27 FEDERAL COMMUNICATIONS COMMISSION;

1 (b) THE USE OF A MOBILE ELECTRONIC DEVICE BY A FIRST
2 RESPONDER WHEN ACTING WITHIN THE SCOPE OF THE FIRST RESPONDER'S
3 DUTIES; OR

4 (c) THE USE OF A MOBILE ELECTRONIC DEVICE IN A MOTOR
5 VEHICLE THAT IS AT REST IN A SHOULDER LANE OR LAWFULLY PARKED.

6 (8) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT USE OF
7 MOBILE ELECTRONIC DEVICES IN MOTOR VEHICLES IS A MATTER OF
8 STATEWIDE CONCERN.

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

11 **42-2-127. Authority to suspend license - to deny license - type**
12 **of conviction - points.** (5) Point system schedule:

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

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

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

1 levied in accordance with sections 24-4.1-119 (1)(f) and 24-4.2-104
 2 (1)(b)(I), in accordance with the penalty and surcharge schedule set forth
 3 in subsections (4)(a)(I)(A) to (4)(a)(I)(P) of this section; or, if no penalty
 4 or surcharge is specified in the schedule, the penalty for class A and class
 5 B traffic infractions is fifteen dollars and the surcharge is four dollars.
 6 These penalties and surcharges apply whether the defendant
 7 acknowledges the defendant's guilt or liability in accordance with the
 8 procedure set forth by subsection (5)(a) of this section, is found guilty by
 9 a court of competent jurisdiction, or has judgment entered against the
 10 defendant by a county court magistrate. Penalties and surcharges for
 11 violating specific sections are as follows:

<u>Section Violated</u>	<u>Penalty</u>	<u>Surcharge</u>
<u>(P) Offenses by persons controlling vehicles:</u>		
<u>42-4-239 (5)(a) (4)(a)(I)</u>	<u>\$ 50.00</u>	<u>\$ 6.00</u>
<u>42-4-239 (5)(b) (4)(a)(II)</u>	<u>100.00 150.00</u>	<u>6.00</u>
<u>42-4-239 (5.5) (4)(a)(III)</u>	<u>300.00</u>	<u>6.00</u>
<u>42-4-239 (4)(b)</u>	<u>300.00</u>	<u>6.00</u>
<u>42-4-1704</u>	<u>15.00</u>	<u>6.00</u>

19 **SECTION 4. Effective date - applicability.** This act takes effect
 20 July 1, 2019, and applies to offenses committed on or after said date.

21 **SECTION 5. Safety clause.** The general assembly hereby finds,
 22 determines, and declares that this act is necessary for the immediate
 23 preservation of the public peace, health, and safety.