

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

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 20-0016.01 Yelana Love x2295

**SENATE BILL 20-065**

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**SENATE SPONSORSHIP**

**Hansen,**

**HOUSE SPONSORSHIP**

**Roberts, Melton**

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**Senate Committees**

Transportation & Energy  
Appropriations

**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, AND, IN CONNECTION THEREWITH,**  
103                    **MAKING AN APPROPRIATION.**

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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

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.

SENATE  
Amended 2nd Reading  
February 27, 2020

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

5 (A) AN APPROVED IGNITION INTERLOCK DEVICE, AS DEFINED IN  
6 SECTION 42-2-132.5;

7 (B) A MEDICAL DEVICE; OR

8 (C) AN ORIGINAL EQUIPMENT SCREEN OR CONTROL USED TO  
9 OPERATE A MOBILE ELECTRONIC DEVICE REMOTELY.

10 (e) "USE" MEANS:

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

15 (II) WRITING, SENDING, OR READING ANY TEXT-BASED  
16 COMMUNICATION, INCLUDING A TEXT MESSAGE, INSTANT MESSAGE,  
17 E-MAIL, OR INTERNET DATA ON A MOBILE ELECTRONIC DEVICE, PROVIDED  
18 THAT THIS PROHIBITION DOES NOT APPLY TO:

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

22 (B) THE USE OF A MOBILE ELECTRONIC DEVICE FOR NAVIGATION  
23 OF A MOTOR VEHICLE OR FOR GLOBAL POSITIONING SYSTEM PURPOSES; OR

24 (III) WATCHING A VIDEO OR MOVIE ON A MOBILE ELECTRONIC  
25 DEVICE OTHER THAN WATCHING DATA RELATED TO THE NAVIGATION OF  
26 THE MOTOR VEHICLE.

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

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

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

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

7 (a) TO USE A MOBILE ELECTRONIC DEVICE:

8 (I) TO CONTACT A PUBLIC SAFETY ENTITY;

9 (II) DURING AN EMERGENCY;

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

12 (IV) WHEN THE MOBILE ELECTRONIC DEVICE IS A TWO-WAY RADIO  
13 USED BY A PROFESSIONAL ACTING WITHIN THE SCOPE OF THE  
14 PROFESSIONAL'S EMPLOYMENT IF THE USE OF THE TWO-WAY RADIO IS  
15 REQUIRED BY THE PROFESSIONAL'S EMPLOYER AND NECESSARY FOR THE  
16 PERFORMANCE OF THE PROFESSIONAL'S DUTIES;

17 (V) AS A MEMBER OF THE CIVIL AIR PATROL, CREATED IN SECTION  
18 28-1-101;

19 (VI) TO INTERACT WITH A MEDICAL DEVICE; OR

20 (VII) IN A MOTOR VEHICLE THAT IS AT REST IN A SHOULDER LANE  
21 OR LAWFULLY PARKED;

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

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

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

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

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

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

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

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

21 (8) THIS SECTION DOES NOT APPLY TO A PERSON OPERATING A  
22 COMMERCIAL VEHICLE WITH A COMMERCIAL DRIVER'S LICENSE. \_\_\_

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

25 **42-2-127. Authority to suspend license - to deny license - type**  
26 **of conviction - points.** (5) Point system schedule:

27 Type of conviction Points

1 (jj) A FIRST violation of section 42-4-239 (2) (3) . . . . . † 2  
2 (jj.5) A SECOND violation of section 42-4-239 (3) . . . . . † 2  
3 (jj.7) A THIRD OR SUBSEQUENT VIOLATION OF SECTION  
4 42-4-239 (3) . . . . . 4  
5 (jj.9) A VIOLATION OF SECTION 42-4-239 (3) INVOLVING TEXT  
6 MESSAGING . . . . . 4

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

9 **42-4-1701. Traffic offenses and infractions classified -**  
10 **penalties - penalty and surcharge schedule - repeal.** (4) (a) (I) Except  
11 as provided in subsection (5)(c) of this section, every person who is  
12 convicted of, who admits liability for, or against whom a judgment is  
13 entered for a violation of this title 42 to which subsection (5)(a) or (5)(b)  
14 of this section applies shall be fined or penalized and have a surcharge  
15 levied in accordance with sections 24-4.1-119 (1)(f) and 24-4.2-104  
16 (1)(b)(I), in accordance with the penalty and surcharge schedule set forth  
17 in subsections (4)(a)(I)(A) to (4)(a)(I)(P) of this section; or, if no penalty  
18 or surcharge is specified in the schedule, the penalty for class A and class  
19 B traffic infractions is fifteen dollars and the surcharge is four dollars.  
20 These penalties and surcharges apply whether the defendant  
21 acknowledges the defendant's guilt or liability in accordance with the  
22 procedure set forth by subsection (5)(a) of this section, is found guilty by  
23 a court of competent jurisdiction, or has judgment entered against the  
24 defendant by a county court magistrate. Penalties and surcharges for  
25 violating specific sections are as follows:

<b>Section Violated</b>	<b>Penalty</b>	<b>Surcharge</b>
<b>(P) Offenses by persons controlling vehicles:</b>		

1	42-4-239 <del>(5)(a)</del> (5)(a)(I)	\$ 50.00	\$ 6.00
2	42-4-239 <del>(5)(b)</del> (5)(a)(II)	100.00	6.00
3	42-4-239 <del>(5.5)</del> (5)(a)(III)	<del>300.00</del> <b>200.00</b>	6.00
4	<b>42-4-239 (5)(b)</b>	<b>300.00</b>	<b>6.00</b>
5	42-4-1704	15.00	6.00

6           **SECTION 4. Appropriation.** For the 2020-21 state fiscal year,  
7           \$9,000 is appropriated to the department of revenue for use by the  
8           division of motor vehicles. This appropriation is from the Colorado  
9           DRIVES vehicles services account in the highway users tax fund created  
10           in section 42-1-211 (2)(b)(I), C.R.S. To implement this act, the division  
11           may use this appropriation for DRIVES maintenance and support.

12           **SECTION 5. Effective date - applicability.** This act takes effect  
13           July 1, 2020, and applies to offenses committed on or after said date.

14           **SECTION 6. Safety clause.** The general assembly hereby finds,  
15           determines, and declares that this act is necessary for the immediate  
16           preservation of the public peace, health, or safety.