

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

**INTRODUCED**

LLS NO. 17-0441.01 Yelana Love x2295

**SENATE BILL 17-027**

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**SENATE SPONSORSHIP**

**Court,**

**HOUSE SPONSORSHIP**

**Melton,**

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**Senate Committees**

State, Veterans, & Military Affairs

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING AN INCREASE IN THE PENALTY FOR TEXT MESSAGING**

102 **WHILE OPERATING A MOTOR VEHICLE.**

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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>.)*

Currently, the penalty for text messaging while driving is a \$50 fine and one point assessed against the violator's driver's license for a first offense and a \$100 fine and one point assessed against the violator's driver's license for a second or subsequent offense. The bill increases the penalty to a \$500 fine and 5 points for a first offense and a \$750 fine and 6 points for a second or subsequent offense.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

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

2           **SECTION 1.** In Colorado Revised Statutes, 42-4-239, **amend** (2),  
3 (3), (5), and (6)(b); and **add** (5.5) as follows:

4           **42-4-239. Misuse of a wireless telephone - definitions - penalty**  
5 **- preemption.** (2) A person under eighteen years of age shall not use a  
6 wireless telephone while operating a motor vehicle. THIS SUBSECTION (2)  
7 DOES NOT APPLY TO ACTS SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

8           (3) A person ~~eighteen years of age or older~~ shall not use a wireless  
9 telephone for the purpose of engaging in text messaging or other similar  
10 forms of manual data entry or transmission while operating a motor  
11 vehicle.

12           (5) (a) A person who operates a motor vehicle in violation of  
13 subsection (2) ~~or (3)~~ of this section commits a class A traffic infraction  
14 as defined in section 42-4-1701 (3), and the court or the department of  
15 revenue shall assess a fine of fifty dollars.

16           (b) A second or subsequent violation of subsection (2) ~~or (3)~~ of  
17 this section ~~shall be~~ IS a class A traffic infraction as defined in section  
18 42-4-1701 (3), and the court or the department of revenue shall assess a  
19 fine of one hundred dollars.

20           (5.5) (a) A PERSON WHO OPERATES A MOTOR VEHICLE IN  
21 VIOLATION OF SUBSECTION (3) OF THIS SECTION COMMITS A CLASS A  
22 TRAFFIC INFRACTION AS DEFINED IN SECTION 42-4-1701 (3), AND THE  
23 COURT OR THE DEPARTMENT OF REVENUE SHALL ASSESS A FINE OF FIVE  
24 HUNDRED DOLLARS.

25           (b) A SECOND OR SUBSEQUENT VIOLATION OF SUBSECTION (3) OF  
26 THIS SECTION IS A CLASS A TRAFFIC INFRACTION AS DEFINED IN SECTION

1 42-4-1701 (3), AND THE COURT OR THE DEPARTMENT OF REVENUE SHALL  
2 ASSESS A FINE OF SEVEN HUNDRED FIFTY DOLLARS.

3 (6) (b) An operator of a motor vehicle shall not be cited for a  
4 violation of subsection (3) of this section unless ~~the operator was eighteen~~  
5 ~~years of age or older and~~ a law enforcement officer saw the operator use  
6 a wireless telephone for the purpose of engaging in text messaging or  
7 other similar forms of manual data entry or transmission.

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

10 **42-2-127. Authority to suspend license - to deny license - type**  
11 **of conviction - points.** (5) Point system schedule:

Type of conviction	Points
(jj) A violation of section <del>42-4-239</del> 42-4-239 (2) . . . . .	1
(jj.5) A FIRST VIOLATION OF SECTION 42-4-239 (3) . . . . .	5
(jj.7) A SECOND OR SUBSEQUENT VIOLATION OF SECTION 42-4-239	
(3) . . . . .	6

17 **SECTION 3.** In Colorado Revised Statutes, 42-4-1701, **amend**  
18 (4)(a)(I) introductory portion and (4)(a)(I)(P) as follows:

19 **42-4-1701. Traffic offenses and infractions classified -**  
20 **penalties - penalty and surcharge schedule - repeal.** (4) (a) (I) Except  
21 as provided in ~~paragraph (c) of subsection (5)~~ SUBSECTION (5)(c) of this  
22 section, every person who is convicted of, who admits liability for, or  
23 against whom a judgment is entered for a violation of any provision of  
24 this title to which ~~paragraph (a) or (b) of subsection (5)~~ SUBSECTION  
25 (5)(a) OR (5)(b) of this section apply shall be fined or penalized, and have  
26 a surcharge levied in accordance with sections 24-4.1-119 (1)(f) and  
27 24-4.2-104 (1)(b) (I), ~~C.R.S.~~, in accordance with the penalty and

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

12	<b>Section Violated</b>	<b>Penalty</b>	<b>Surcharge</b>
13	<b>(P) Offenses by persons controlling vehicles:</b>		
14	42-4-239 (5)(a)	\$ 50.00	\$ 6.00
15	<del>42-4-239 (5)(b)</del>	<del>100.00</del>	<del>6.00</del>
16	<del>42-4-1704</del>	<del>15.00</del>	<del>6.00</del>
17	42-4-239 (5)(b)	100.00	6.00
18	42-4-239 (5.5)(a)	500.00	6.00
19	42-4-239 (5.5)(b)	750.00	6.00
20	42-4-1704	15.00	6.00

21 **SECTION 4. Applicability.** This act applies to offenses  
 22 occurring on and after the effective date of this act.

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