

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 17-1148.01 Jennifer Berman x3286

SENATE BILL 17-278

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SENATE SPONSORSHIP

Coram,

HOUSE SPONSORSHIP

Ginal,

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Senate Committees  
Transportation

House Committees

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A BILL FOR AN ACT

101 CONCERNING A PROHIBITION AGAINST ENGAGING IN A NUISANCE  
102 EXHIBITION OF MOTOR VEHICLE EXHAUST.

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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 prohibits engaging in a nuisance exhibition of motor vehicle exhaust, which is the act of knowingly blowing black smoke through one or more exhaust pipes attached to a motor vehicle with a gross vehicle weight rating of 14,000 pounds or less in a manner that obstructs or obscures the view of another driver, a bicyclist, or a pedestrian. A person who violates the prohibition commits a class A

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.*

traffic infraction, punishable by a fine of \$100.

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

2 **SECTION 1.** In Colorado Revised Statutes, 42-4-314, **amend** (3);  
3 and **add** (6) as follows:

4 **42-4-314. Automobile emissions control systems - tampering**  
5 **- operation of vehicle.** (3) (a) ~~Any~~ A person who violates ~~any provision~~  
6 SUBSECTION (1) OR (2) of this section commits a class A traffic infraction  
7 AND SHALL BE FINED THIRTY-FIVE DOLLARS PURSUANT TO SECTION  
8 42-4-1701 (4)(a)(I)(N). The department shall not assess any points under  
9 section 42-2-127 for a conviction pursuant to SUBSECTION (1) OR (2) OF  
10 this section.

11 (b) A PERSON WHO VIOLATES SUBSECTION (6) OF THIS SECTION  
12 COMMITS A CLASS A TRAFFIC INFRACTION AND SHALL BE FINED ONE  
13 HUNDRED DOLLARS PURSUANT TO SECTION 42-4-1701 (4)(a)(I)(N). THE  
14 DEPARTMENT SHALL NOT ASSESS ANY POINTS UNDER SECTION 42-2-127  
15 FOR A CONVICTION PURSUANT TO SUBSECTION (6) OF THIS SECTION.

16 (6) (a) **Nuisance exhibition of motor vehicle exhaust -**  
17 **prohibition.** A PERSON SHALL NOT ENGAGE IN A NUISANCE EXHIBITION OF  
18 MOTOR VEHICLE EXHAUST, WHICH IS THE KNOWING RELEASE OF SOOT,  
19 SMOKE, OR OTHER PARTICULATE EMISSIONS FROM A MOTOR VEHICLE WITH  
20 A GROSS VEHICLE WEIGHT RATING OF FOURTEEN THOUSAND POUNDS OR  
21 LESS INTO THE AIR AND ONTO ROADWAYS, OTHER MOTOR VEHICLES,  
22 BICYCLISTS, OR PEDESTRIANS, IN A MANNER THAT OBSTRUCTS OR  
23 OBSCURES ANOTHER PERSON'S VIEW OF THE ROADWAY, OTHER USERS OF  
24 THE ROADWAY, OR A TRAFFIC CONTROL DEVICE OR OTHERWISE CREATES  
25 A HAZARD TO A DRIVER, BICYCLIST, OR PEDESTRIAN.

1 (b) THE PROHIBITION SET FORTH IN SUBSECTION (6)(a) OF THIS  
2 SECTION DOES NOT APPLY TO:

3 (I) A COMMERCIAL VEHICLE, AS DEFINED IN SECTION 42-1-102  
4 (17.5);

5 (II) A COMMON CARRIER, AS DEFINED IN SECTION 40-1-102  
6 (3)(a)(I);

7 (III) A MOTOR CARRIER, AS DEFINED IN SECTION 40-10.1-101 (10);

8 (IV) A MOTOR CARRIER OF PASSENGERS, PERMITTED PURSUANT TO  
9 SECTION 40-10.1-302;

10 (V) A MOTOR CARRIER OF TOWED MOTOR VEHICLES, PERMITTED  
11 PURSUANT TO SECTION 40-10.1-401;

12 (VI) A MOTOR CARRIER OF HOUSEHOLD GOODS, PERMITTED  
13 PURSUANT TO SECTION 40-10.1-502;

14 (VII) A MOTOR VEHICLE USED FOR AGRICULTURAL PURPOSES; OR

15 (VIII) ANY OTHER VEHICLE USED FOR COMMERCIAL ACTIVITIES.

16 **SECTION 2.** In Colorado Revised Statutes, 42-4-1701, **amend**  
17 (4)(a)(I) introductory portion and (4)(a)(I)(N) as follows:

18 **42-4-1701. Traffic offenses and infractions classified -**  
19 **penalties - penalty and surcharge schedule - repeal.** (4) (a) (I) Except  
20 as provided in ~~paragraph (c) of subsection (5)~~ SUBSECTION (5)(c) of this  
21 section, every person who is convicted of, who admits liability for, or  
22 against whom a judgment is entered for a violation of ~~any provision of~~  
23 this ~~title~~ TITLE 42 to which ~~paragraph (a) or (b) of subsection (5)~~  
24 SUBSECTION (5)(a) OR (5)(b) of this section ~~apply~~ APPLIES shall be fined  
25 or penalized and have a surcharge levied in accordance with sections  
26 24-4.1-119 (1)(f) and 24-4.2-104 (1)(b)(I) ~~C.R.S.~~, in accordance with the  
27 penalty and surcharge schedule set forth in ~~sub-subparagraphs (A) to (P)~~

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

11	<b>Section Violated</b>	<b>Penalty</b>	<b>Surcharge</b>
12	(N) <b>Other offenses:</b>		
13	42-4-1301 (2)(d)	\$ 100.00	\$ 16.00
14	42-4-1305	50.00	16.00
15	42-4-1402	150.00	16.00
16	42-4-1403	30.00	6.00
17	42-4-1404	15.00	6.00
18	42-4-1406	35.00	10.00
19	42-4-1407 (3)(a)	35.00	10.00
20	42-4-1407 (3)(b)	100.00	30.00
21	42-4-1407 (3)(c)	500.00	200.00
22	<del>42-4-314</del>	<del>35.00</del>	<del>10.00</del>
23	<del>42-4-1408</del>	<del>15.00</del>	<del>6.00</del>
24	42-4-314 (1) AND (2)	35.00	10.00
25	42-4-314 (6)(a)	100.00	10.00
26	42-4-1408	15.00	6.00
27	42-4-1414 (2)(a)	500.00	156.00

1	42-4-1414 (2)(b)	1,000.00	312.00
2	42-4-1414 (2)(c)	5,000.00	1,560.00
3	42-4-1416 (3)	75.00	4.00
4	42-20-109 (2)	250.00	66.00

5           **SECTION 3. Applicability.** This act applies to offenses  
6 committed on or after the effective date of this act.

7           **SECTION 4. Safety clause.** The general assembly hereby finds,  
8 determines, and declares that this act is necessary for the immediate  
9 preservation of the public peace, health, and safety.