

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

ENGROSSED

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

LLS NO. 17-1148.01 Jennifer Berman x3286

SENATE BILL 17-278

SENATE SPONSORSHIP

Coram,

HOUSE SPONSORSHIP

Ginal,

Senate Committees
Transportation

House Committees

A BILL FOR AN ACT

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

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.

SENATE
2nd Reading Unamended
April 18, 2017

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

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	Section Violated	Penalty	Surcharge
12	(N) Other offenses:		
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	42-4-314	35.00	10.00
23	42-4-1408	15.00	6.00
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.