

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

INTRODUCED

LLS NO. 19-0041.01 Yelana Love x2295

SENATE BILL 19-012

SENATE SPONSORSHIP

Court,

HOUSE SPONSORSHIP

Melton,

Senate Committees
Transportation & Energy

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, **amend** 42-4-239 as
 3 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 ~~such~~ THE person's life or safety or
 9 believes that a criminal act may be perpetrated against ~~such~~ THE person
 10 or another person, requiring the use of a ~~wireless telephone~~ MOBILE
 11 ELECTRONIC DEVICE while the car is moving; or

12 (II) Reports a fire, a traffic accident in which one or more injuries
 13 are apparent, a serious road hazard, a medical or hazardous-materials
 14 emergency, or a person who is driving in a reckless, careless, or otherwise
 15 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) "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 (I) A CELLULAR TELEPHONE;
- 11 (II) A BROADBAND PERSONAL COMMUNICATION DEVICE;
- 12 (III) A TWO-WAY MESSAGING DEVICE;
- 13 (IV) A TEXT-MESSAGING DEVICE;
- 14 (V) A PAGER;
- 15 (VI) AN ELECTRONIC DEVICE THAT CAN RECEIVE OR TRANSMIT
16 TEXT OR CHARACTER-BASED IMAGES, ACCESS OR STORE DATA, OR
17 CONNECT TO THE INTERNET;
- 18 (VII) A PERSONAL DIGITAL ASSISTANT;
- 19 (VIII) A LAPTOP COMPUTER;
- 20 (IX) A COMPUTER TABLET;
- 21 (X) A STAND-ALONE COMPUTER;
- 22 (XI) A PORTABLE COMPUTING DEVICE;
- 23 (XII) A MOBILE DEVICE WITH A TOUCHSCREEN DISPLAY THAT IS
24 DESIGNED TO BE WORN ON THE BODY;
- 25 (XIII) AN ELECTRONIC GAME;
- 26 (XIV) EQUIPMENT THAT IS CAPABLE OF PLAYING A VIDEO, TAKING
27 PHOTOGRAPHS, CAPTURING IMAGES, OR RECORDING OR TRANSMITTING

1 VIDEO; AND

2 (XV) 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 ~~(b)~~ (e) "Operating a motor vehicle" means driving a motor vehicle
6 on a public highway, but "operating a motor vehicle" ~~shall~~ DOES not mean
7 maintaining the instruments of control while the motor vehicle is at rest
8 in a shoulder lane, ~~or~~ lawfully parked, OR OTHERWISE LAWFULLY AT REST.

9 ~~(e)~~ (f) "Use" means talking on or listening to a ~~wireless telephone~~
10 MOBILE ELECTRONIC DEVICE or engaging the ~~wireless telephone~~ MOBILE
11 ELECTRONIC DEVICE for text messaging, GAME PLAY, TAKING PHOTOS OR
12 VIDEOS, or other ~~similar~~ forms of manual data entry or transmission.

13 ~~(d)~~ "Wireless telephone" means a telephone that operates without
14 a ~~physical, wireline connection to the provider's equipment. The term~~
15 ~~includes, without limitation, cellular and mobile telephones.~~

16 ~~(2)~~ A person under eighteen years of age shall not use a wireless
17 telephone while operating a motor vehicle. This subsection (2) does not
18 apply to acts specified in subsection (3) of this section.

19 ~~(3)~~ (2) A person shall not use a ~~wireless telephone for the purpose~~
20 ~~of engaging in text messaging or other similar forms of manual data entry~~
21 ~~or transmission~~ MOBILE ELECTRONIC DEVICE while operating a motor
22 vehicle EXCEPT:

23 (a) TO CONTACT A PUBLIC SAFETY ENTITY;

24 (b) DURING AN EMERGENCY; OR

25 (c) WHEN A HANDS-FREE ACCESSORY IS ENGAGED.

26 ~~(4)~~ Subsection (2) or (3) of this section shall not apply to a person
27 who is using the wireless telephone:

1 ~~(a) To contact a public safety entity; or~~

2 ~~(b) During an emergency.~~

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

7 ~~(b) A second or subsequent violation of subsection (2) of this~~
8 ~~section is a class A traffic infraction as defined in section 42-4-1701 (3),~~
9 ~~and the court or the department of revenue shall assess a fine of one~~
10 ~~hundred dollars.~~

11 ~~(5.5)(a) (3) (a) Except as provided in subsections (5.5)(b) (3)(b)~~
12 ~~and (5.5)(c) (3)(c) of this section, a person who operates a motor vehicle~~
13 ~~in violation of subsection (3) of this section commits a class 2~~
14 ~~misdemeanor traffic offense, and the court or the department shall assess~~
15 ~~a fine of three hundred dollars.~~

16 ~~(b) If the person's actions are the proximate cause of bodily injury~~
17 ~~to another, the person commits a class 1 misdemeanor traffic offense and~~
18 ~~shall be punished as provided in section 42-4-1701 (3)(a)(H) A SECOND~~
19 ~~VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR TRAFFIC OFFENSE,~~
20 ~~AND THE COURT OR THE DEPARTMENT SHALL ASSESS A FINE OF FIVE~~
21 ~~HUNDRED DOLLARS.~~

22 ~~(c) If the person's actions are the proximate cause of death to~~
23 ~~another, the person commits a class 1 misdemeanor traffic offense and~~
24 ~~shall be punished as provided in section 42-4-1701 (3)(a)(H) A THIRD OR~~
25 ~~SUBSEQUENT VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR~~
26 ~~TRAFFIC OFFENSE, AND THE COURT OR THE DEPARTMENT SHALL ASSESS A~~
27 ~~FINE OF SEVEN HUNDRED FIFTY DOLLARS.~~

1 ~~(6)(a)~~ (4) An operator of a motor vehicle shall not be cited for a
2 violation of ~~subsection (2) of this section unless the operator was under~~
3 ~~eighteen years of age and a law enforcement officer saw the operator use~~
4 ~~as defined in paragraph (c) of subsection (1) of this section, a wireless~~
5 ~~telephone~~ A MOBILE ELECTRONIC DEVICE.

6 ~~(b) An operator of a motor vehicle shall not be cited for a~~
7 ~~violation of subsection (3) of this section unless a law enforcement~~
8 ~~officer saw the operator use a wireless telephone for the purpose of~~
9 ~~engaging in text messaging or other similar forms of manual data entry~~
10 ~~or transmission, in a manner that caused the operator to drive in a careless~~
11 ~~and imprudent manner, without due regard for the width, grade, curves,~~
12 ~~corners, traffic, and use of the streets and highways and all other attendant~~
13 ~~circumstances, as prohibited by section 42-4-1402.~~

14 ~~(7)~~ (5) ~~The provisions of This section shall~~ DOES not be construed
15 ~~to authorize the seizure and forfeiture of a wireless telephone~~ MOBILE
16 ELECTRONIC DEVICE, unless otherwise provided by law.

17 ~~(8)~~ (6) This section does not restrict:

18 (a) Operation of an amateur radio station by a person who holds
19 a valid amateur radio operator license issued by the federal
20 communications commission; OR

21 (b) THE USE OF A MOBILE ELECTRONIC DEVICE BY A FIRST
22 RESPONDER WHEN ACTING WITHIN THE SCOPE OF THE FIRST RESPONDER'S
23 DUTIES.

24 ~~(9)~~ (7) The general assembly finds and declares that use of
25 ~~wireless telephones~~ MOBILE ELECTRONIC DEVICES in motor vehicles is a
26 matter of statewide concern.

27 **SECTION 2.** In Colorado Revised Statutes, 42-2-127, **amend**

1 (5)(jj) and (5)(jj.5); and **add** (5)(jj.7) as follows:

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

4 Type of conviction	Points
5 (jj) A FIRST violation of section 42-4-239 (2).....	+ 4
6 (jj.5) A SECOND violation of section 42-4-239 (3) 42-4-239	
7 (2)	4 6
8 (jj.7) A THIRD OR SUBSEQUENT VIOLATION OF SECTION	
9 42-4-239 (2)	8

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

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

1 violating specific sections are as follows:

2	Section Violated	Penalty	Surcharge
3	(P) Offenses by persons controlling vehicles:		
4	42-4-239 (5)(a) (3)(a)	\$ 50.00 300.00	\$ 6.00
5	42-4-239 (5)(b) (3)(b)	100.00 500.00	6.00
6	42-4-239 (5.5) (3)(c)	300.00 750.00	6.00
7	42-4-1704	15.00	6.00

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

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