

**Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 08-0257.01 Jery Payne

**HOUSE BILL 08-1036**

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**HOUSE SPONSORSHIP**

**McFadyen,** Green, Levy, Marostica, McNulty, Merrifield, Rice, Sonnenberg, and Swalm

**SENATE SPONSORSHIP**

**Williams,** Takis, and Gibbs

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**House Committees**

Transportation & Energy  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING PREVENTION OF DANGEROUS CONDITIONS ON**  
102 **ROADWAYS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

**Transportation Legislation Review Committee.** Requires the department of transportation and a public entity to designate a roadway as a maintenance, repair, or construction zone when such activities are occurring on the roadway. Applies the same standards to public entities for such designation as apply when the department of transportation makes a similar designation. Doubles the fines for certain moving violations within such zones.

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.*

Requires the department of public safety to use an automated vehicle identification system upon the request of the department of transportation. Requires the department of transportation to reimburse the department of public safety for complying with the request.

Requires a driver approaching a stationary or slow-moving maintenance, repair, or construction vehicle to yield the right-of-way and exercise due care. Requires a driver to move over when approached by an emergency tow vehicle with emergency lights flashing.

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

2           **SECTION 1. Short title.** This act shall be known and may be  
3 cited as the "Charles Mather Highway Safety Act".

4           **SECTION 2.** 42-4-614, Colorado Revised Statutes, is amended  
5 to read:

6           **42-4-614. Designation of highway maintenance, repair, or**  
7 **construction zones - signs - increase in penalties for speeding**  
8 **violations.** (1) (a) If maintenance, repair, or construction activities are  
9 occurring or will ~~be occurring~~ OCCUR within four hours on a portion of a  
10 state highway, the department of transportation ~~may~~ SHALL designate such  
11 portion of the highway as a highway maintenance, repair, or construction  
12 zone. Any person who commits certain violations listed in section  
13 42-4-1701 (4) in a maintenance, repair, or construction zone that is  
14 designated pursuant to this section is subject to the increased penalties  
15 and surcharges imposed by section 42-4-1701 (4) (c).

16           (b) IF MAINTENANCE, REPAIR, OR CONSTRUCTION ACTIVITIES ARE  
17 OCCURRING OR WILL OCCUR WITHIN FOUR HOURS ON A PORTION OF A  
18 ROADWAY THAT IS NOT A STATE HIGHWAY, THE PUBLIC ENTITY  
19 CONDUCTING THE ACTIVITIES SHALL DESIGNATE SUCH PORTION OF THE  
20 ROADWAY AS A MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE. A  
21 PERSON WHO COMMITS CERTAIN VIOLATIONS LISTED IN SECTION 42-4-1701

1 (4) IN A MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE THAT IS  
2 DESIGNATED PURSUANT TO THIS SECTION IS SUBJECT TO THE INCREASED  
3 PENALTIES AND SURCHARGES IMPOSED BY SECTION 42-4-1701 (4) (c).

4 (2) The department of transportation OR OTHER PUBLIC ENTITY  
5 shall designate a maintenance, repair, or construction zone by erecting or  
6 placing an appropriate sign in a conspicuous place before the area where  
7 the maintenance, repair, or construction activity is taking place or will be  
8 taking place within four hours. Such sign shall notify the public that  
9 increased penalties for certain traffic violations are in effect in such zone.  
10 The department of transportation OR OTHER PUBLIC ENTITY shall erect or  
11 place a second sign after such zone indicating that the increased penalties  
12 for certain traffic violations are no longer in effect. A maintenance,  
13 repair, or construction zone begins at the location of the sign indicating  
14 that increased penalties are in effect and ends at the location of the sign  
15 indicating that the increased penalties are no longer in effect.

16 (3) Signs used for designating the beginning and end of a  
17 maintenance, construction, or repair zone shall conform to department of  
18 transportation requirements. The department of transportation OR OTHER  
19 PUBLIC ENTITY may display such signs on any fixed, variable, or movable  
20 stand. The department of transportation OR OTHER PUBLIC ENTITY may  
21 place such a sign on a moving vehicle if required for certain department  
22 activities, including, but not limited to, highway painting work.

23 **SECTION 3.** 42-4-1701 (4) (c), Colorado Revised Statutes, is  
24 amended to read:

25 **42-4-1701. Traffic offenses and infractions classified -**  
26 **penalties - penalty and surcharge schedule.** (4) (c) (I) The penalties  
27 and surcharges imposed for speeding violations under subsection (4) (a)

1 (I) (L) of this section shall be doubled if a speeding violation occurs  
2 within a maintenance, repair, or construction zone that is designated by  
3 the department of transportation pursuant to section ~~42-4-614~~ 42-4-614  
4 (1) (a); EXCEPT THAT THE PENALTY FOR VIOLATING SECTION 42-4-1101 (1)  
5 OR (8) (b) BY TWENTY TO TWENTY-FOUR MILES PER HOUR OVER THE  
6 REASONABLE AND PRUDENT SPEED OR OVER THE MAXIMUM LAWFUL SPEED  
7 LIMIT OF SEVENTY-FIVE MILES PER HOUR SHALL BE FIVE HUNDRED FORTY  
8 DOLLARS.

9 (II) (A) The penalties and surcharges imposed for violations under  
10 subsections ~~(4) (a) (I) (C), (4) (a) (I) (G), (4) (a) (I) (H), (4) (a) (I) (I), (4)~~  
11 ~~(a) (I) (J), (4) (a) (I) (K), (4) (a) (I) (N), and (4) (a) (I) (O)~~ of this section  
12 SUB-SUBPARAGRAPHS (C), (G), (H), (I), (J), (K), (N), AND (O) OF  
13 SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (4) shall be  
14 doubled if a violation occurs within a maintenance, repair, or construction  
15 zone that is designated by the department of transportation pursuant to  
16 section ~~42-4-614~~ 42-4-614 (1) (a); except that the fines for violating  
17 sections 42-4-314, 42-4-610, 42-4-613, 42-4-706, 42-4-707, 42-4-708,  
18 42-4-709, 42-4-710, 42-4-1011, 42-4-1012, 42-4-1404, 42-4-1408, and  
19 42-4-1414 shall not be doubled under this subparagraph (II).

20 (B) There is hereby created, within the highway users tax fund,  
21 the highway construction workers' safety account.

22 (C) If a fine is doubled under SUBPARAGRAPH (I) OR (II) OF this  
23 paragraph (c), one-half of the fine allocated to the state by sections  
24 42-1-217 and 43-4-205, C.R.S., shall be transferred to the state treasurer,  
25 who shall deposit it in the highway construction workers' safety account  
26 within the highway users tax fund to be continuously appropriated to the  
27 department of transportation for work zone safety equipment, signs, and

1 law enforcement.

2 (D) This subparagraph (II) is effective July 1, 2006.

3 (III) THE PENALTIES AND SURCHARGES IMPOSED FOR SPEEDING  
4 VIOLATIONS UNDER SUB-SUBPARAGRAPH (L) OF SUBPARAGRAPH (I) OF  
5 PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL BE DOUBLED IF A SPEEDING  
6 VIOLATION OCCURS WITHIN A MAINTENANCE, REPAIR, OR CONSTRUCTION  
7 ZONE THAT IS DESIGNATED BY A PUBLIC ENTITY PURSUANT TO SECTION  
8 42-4-614 (1) (b).

9 (IV) THE PENALTIES AND SURCHARGES IMPOSED FOR VIOLATIONS  
10 UNDER SUB-SUBPARAGRAPHS (C), (G), (H), (I), (J), (K), (N), AND (O) OF  
11 SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL BE  
12 DOUBLED IF A VIOLATION OCCURS WITHIN A MAINTENANCE, REPAIR, OR  
13 CONSTRUCTION ZONE THAT IS DESIGNATED BY A PUBLIC ENTITY PURSUANT  
14 TO SECTION 42-4-614 (1) (b); EXCEPT THAT THE FINES FOR VIOLATING  
15 SECTIONS 42-4-314, 42-4-610, 42-4-613, 42-4-706, 42-4-707, 42-4-708,  
16 42-4-709, 42-4-710, 42-4-1011, 42-4-1012, 42-4-1404, 42-4-1408, AND  
17 42-4-1414 SHALL NOT BE DOUBLED UNDER THIS SUBPARAGRAPH (IV).

18 **SECTION 4.** 42-4-110.5 (1.5) and (2) (g) (I), Colorado Revised  
19 Statutes, are amended, and the said 42-4-110.5 is further amended BY  
20 THE ADDITION OF A NEW SUBSECTION, to read:

21 **42-4-110.5. Automated vehicle identification systems.**

22 (1.5) Except for the ~~provisions concerning service of process~~  
23 AUTHORIZATION contained in ~~subparagraph (I) of paragraph (a) of~~  
24 ~~subsection (2)~~ SUBSECTION (1.7) of this section, nothing in this section  
25 shall apply to a violation detected by an automated vehicle identification  
26 device for driving twenty-five miles per hour or more in excess of the  
27 reasonable and prudent speed or twenty-five miles per hour or more in

1 excess of the maximum speed limit of seventy-five miles per hour  
2 detected by the use of an automated vehicle identification device.

3 (1.7) (a) UPON REQUEST FROM THE DEPARTMENT OF  
4 TRANSPORTATION, THE DEPARTMENT OF PUBLIC SAFETY SHALL UTILIZE AN  
5 AUTOMATED VEHICLE IDENTIFICATION SYSTEM TO DETECT SPEEDING  
6 VIOLATIONS UNDER PART 11 OF THIS ARTICLE WITHIN A HIGHWAY  
7 MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE DESIGNATED PURSUANT  
8 TO SECTION 42-4-614 (1) (a), IF THE DEPARTMENT OF PUBLIC SAFETY  
9 COMPLIES WITH SUBSECTIONS (2) TO (6) OF THIS SECTION. AN AUTOMATED  
10 VEHICLE IDENTIFICATION SYSTEM SHALL NOT BE USED UNDER THIS  
11 SUBSECTION (1.7) UNLESS MAINTENANCE, REPAIR, OR CONSTRUCTION IS  
12 OCCURRING AT THE TIME THE SYSTEM IS BEING USED. THE DEPARTMENT  
13 OF PUBLIC SAFETY MAY CONTRACT WITH A VENDOR TO IMPLEMENT THIS  
14 SUBSECTION (1.7). IF THE DEPARTMENT OF PUBLIC SAFETY CONTRACTS  
15 WITH A VENDOR, THE CONTRACT SHALL INCORPORATE THE PROCESSING  
16 ELEMENTS SPECIFIED BY THE DEPARTMENT OF PUBLIC SAFETY. THE  
17 DEPARTMENT OF PUBLIC SAFETY MAY CONTRACT WITH THE VENDOR TO  
18 NOTIFY VIOLATORS, COLLECT AND REMIT THE PENALTIES AND  
19 SURCHARGES TO THE STATE TREASURY LESS THE VENDOR'S EXPENSES,  
20 RECONCILE PAYMENTS AGAINST OUTSTANDING VIOLATIONS, IMPLEMENT  
21 COLLECTION EFFORTS, AND NOTIFY THE DEPARTMENT OF PUBLIC SAFETY  
22 OF UNPAID VIOLATIONS FOR POSSIBLE REFERRAL TO THE JUDICIAL SYSTEM.  
23 NO PENALTY ASSESSMENT OR SUMMONS AND COMPLAINT OR A PENALTY  
24 OR SURCHARGE FOR A VIOLATION DETECTED BY AN AUTOMATED VEHICLE  
25 IDENTIFICATION SYSTEM UNDER THIS SUBSECTION (1.7) SHALL BE  
26 FORWARDED TO THE DEPARTMENT FOR PROCESSING.

27 (b) THE DEPARTMENT OF TRANSPORTATION SHALL REIMBURSE THE

1 DEPARTMENT OF PUBLIC SAFETY FOR THE DIRECT AND INDIRECT COSTS OF  
2 COMPLYING WITH THIS SUBSECTION (1.7).

3 (2) A municipality may adopt an ordinance authorizing the use of  
4 an automated vehicle identification system to detect violations of traffic  
5 regulations adopted by the municipality, or the state, a county, a city and  
6 county, or a municipality may utilize an automated vehicle identification  
7 system to detect traffic violations under state law, subject to the following  
8 conditions and limitations:

9 (g) (I) The state, a county, a city and county, or a municipality  
10 shall not issue a penalty assessment notice or summons for a violation  
11 detected using an automated vehicle identification system unless the  
12 violation occurred within a school zone, as defined in section 42-4-615;  
13 within a residential neighborhood; WITHIN A MAINTENANCE,  
14 CONSTRUCTION, OR REPAIR ZONE DESIGNATED PURSUANT TO SECTION  
15 42-4-614; or along a street that borders a municipal park.

16 **SECTION 5.** 42-4-110.5 (4) (b), Colorado Revised Statutes, is  
17 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

18 **42-4-110.5. Automated vehicle identification systems.**

19 (4) (b) (III) SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL NOT APPLY  
20 WITHIN A MAINTENANCE, CONSTRUCTION, OR REPAIR ZONE DESIGNATED  
21 PURSUANT TO SECTION 42-4-614.

22 **SECTION 6.** 42-4-705 (3) (b), Colorado Revised Statutes, is  
23 amended, and the said 42-4-705 is further amended BY THE ADDITION  
24 OF A NEW SUBSECTION, to read:

25 **42-4-705. Operation of vehicle approached by emergency**  
26 **vehicle - operation of vehicle approaching stationary emergency**  
27 **vehicle.** (2.5) (a) A DRIVER IN A VEHICLE THAT IS APPROACHING OR

1 PASSING A MAINTENANCE, REPAIR, OR CONSTRUCTION VEHICLE THAT IS  
2 MOVING AT LESS THAN TWENTY MILES PER HOUR SHALL EXHIBIT DUE CARE  
3 AND CAUTION AND PROCEED AS DESCRIBED IN PARAGRAPHS (b) AND (c) OF  
4 THIS SUBSECTION (2.5).

5 (b) ON A HIGHWAY WITH AT LEAST TWO ADJACENT LANES  
6 PROCEEDING IN THE SAME DIRECTION ON THE SAME SIDE OF THE HIGHWAY  
7 WHERE A STATIONARY OR SLOW-MOVING MAINTENANCE, REPAIR, OR  
8 CONSTRUCTION VEHICLE IS LOCATED, THE DRIVER OF AN APPROACHING OR  
9 PASSING VEHICLE SHALL PROCEED WITH DUE CARE AND CAUTION AND  
10 YIELD THE RIGHT-OF-WAY BY MOVING INTO A LANE AT LEAST ONE MOVING  
11 LANE APART FROM THE VEHICLE, UNLESS DIRECTED OTHERWISE BY A  
12 PEACE OFFICER OR OTHER AUTHORIZED EMERGENCY PERSONNEL. IF  
13 MOVEMENT TO AN ADJACENT MOVING LANE IS NOT POSSIBLE DUE TO  
14 WEATHER, ROAD CONDITIONS, OR THE IMMEDIATE PRESENCE OF  
15 VEHICULAR OR PEDESTRIAN TRAFFIC, THE DRIVER OF THE APPROACHING  
16 VEHICLE SHALL PROCEED IN THE MANNER DESCRIBED IN PARAGRAPH (c)  
17 OF THIS SUBSECTION (2.5).

18 (c) ON A HIGHWAY THAT DOES NOT HAVE AT LEAST TWO ADJACENT  
19 LANES PROCEEDING IN THE SAME DIRECTION ON THE SAME SIDE OF THE  
20 HIGHWAY WHERE A STATIONARY OR SLOW-MOVING MAINTENANCE,  
21 REPAIR, OR CONSTRUCTION VEHICLE IS LOCATED, OR IF MOVEMENT BY THE  
22 DRIVER OF THE APPROACHING VEHICLE INTO AN ADJACENT MOVING LANE,  
23 AS DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (2.5), IS NOT  
24 POSSIBLE, THE DRIVER OF AN APPROACHING VEHICLE SHALL REDUCE AND  
25 MAINTAIN A SAFE SPEED WITH REGARD TO THE LOCATION OF THE  
26 STATIONARY OR SLOW-MOVING MAINTENANCE, REPAIR, OR CONSTRUCTION  
27 VEHICLE, WEATHER CONDITIONS, ROAD CONDITIONS, AND VEHICULAR OR



1 PEDESTRIAN TRAFFIC, AND SHALL PROCEED WITH DUE CARE AND CAUTION,  
2 OR AS DIRECTED BY A PEACE OFFICER OR OTHER AUTHORIZED EMERGENCY  
3 PERSONNEL.

4 (3) (b) Any person who violates subsection (2) OR (2.5) of this  
5 section commits careless driving as described in section 42-4-1402.

6 **SECTION 7.** 42-4-1101 (12), Colorado Revised Statutes, is  
7 amended to read:

8 **42-4-1101. Speed limits.** (12) (a) A violation of driving one to  
9 twenty-four miles per hour in excess of the reasonable and prudent speed  
10 or in excess of the maximum lawful speed limit of seventy-five miles per  
11 hour is a class A traffic infraction.

12 (b) A violation of driving twenty-five or more miles per hour in  
13 excess of the reasonable and prudent speed or in excess of the maximum  
14 lawful speed limit of seventy-five miles per hour is a class 2 misdemeanor  
15 traffic offense; ~~and~~ EXCEPT THAT SUCH VIOLATION WITHIN A  
16 MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE, DESIGNATED PURSUANT  
17 TO SECTION 42-4-614, IS A CLASS 1 MISDEMEANOR TRAFFIC OFFENSE.

18 (c) A violation under subsection (3) of this section is a class A  
19 traffic infraction.

20 **SECTION 8.** 42-1-102 (6), Colorado Revised Statutes, is  
21 amended to read:

22 **42-1-102. Definitions.** As used in articles 1 to 4 of this title,  
23 unless the context otherwise requires:

24 (6) "Authorized emergency vehicle" means such vehicles of the  
25 fire department, police vehicles, ambulances, and other special-purpose  
26 vehicles as are publicly owned and operated by or for a governmental  
27 agency to protect and preserve life and property in accordance with state

1 laws regulating emergency vehicles; said term also means ~~such privately~~  
2 ~~owned vehicles as are designated by the state motor vehicle licensing~~  
3 ~~agency, necessary to the preservation of life and property, to be~~ THE  
4 FOLLOWING IF equipped and ~~to operate~~ OPERATED as emergency vehicles  
5 in the manner prescribed by state law:

6 (a) PRIVATELY OWNED VEHICLES AS ARE DESIGNATED BY THE  
7 STATE MOTOR VEHICLE LICENSING AGENCY NECESSARY TO THE  
8 PRESERVATION OF LIFE AND PROPERTY; OR

9 (b) PRIVATELY OWNED TOW TRUCKS APPROVED BY THE PUBLIC  
10 UTILITIES COMMISSION TO RESPOND TO VEHICLE EMERGENCIES.

11 **SECTION 9. Applicability.** This act shall apply to acts  
12 committed on or after the effective date of this act.

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