

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 08-0257.01 Jery Payne

HOUSE BILL 08-1036

HOUSE SPONSORSHIP

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

SENATE SPONSORSHIP

Williams, Takis, and Gibbs

House Committees

Transportation & Energy
Appropriations

Senate Committees

Transportation
Appropriations

A BILL FOR AN ACT

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

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.*

SENATE
3rd Reading Unamended
April 30, 2008

SENATE
Amended 2nd Reading
April 29, 2008

HOUSE
3rd Reading Unamended
April 11, 2008

HOUSE
Amended 2nd Reading
April 10, 2008

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.

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 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 MAY 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 THE FOLLOWING NEW SUBSECTIONS, 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 (2.6) (a) A DRIVER IN A VEHICLE THAT IS APPROACHING OR
5 PASSING A MOTOR VEHICLE WHERE THE TIRES ARE BEING EQUIPPED WITH
6 CHAINS ON THE SIDE OF THE HIGHWAY SHALL EXHIBIT DUE CARE AND
7 CAUTION AND PROCEED AS DESCRIBED IN PARAGRAPHS (b) AND (c) OF THIS
8 SUBSECTION (2.6).

9 (b) ON A HIGHWAY WITH AT LEAST TWO ADJACENT LANES
10 PROCEEDING IN THE SAME DIRECTION ON THE SAME SIDE OF THE HIGHWAY
11 WHERE CHAINS ARE BEING APPLIED TO THE TIRES OF A MOTOR VEHICLE,
12 THE DRIVER OF AN APPROACHING OR PASSING VEHICLE SHALL PROCEED
13 WITH DUE CARE AND CAUTION AND YIELD THE RIGHT-OF-WAY BY MOVING
14 INTO A LANE AT LEAST ONE MOVING LANE APART FROM THE VEHICLE,
15 UNLESS DIRECTED OTHERWISE BY A PEACE OFFICER OR OTHER AUTHORIZED
16 EMERGENCY PERSONNEL. IF MOVEMENT TO AN ADJACENT MOVING LANE
17 IS NOT POSSIBLE DUE TO WEATHER, ROAD CONDITIONS, OR THE IMMEDIATE
18 PRESENCE OF VEHICULAR OR PEDESTRIAN TRAFFIC, THE DRIVER OF THE
19 APPROACHING VEHICLE SHALL PROCEED IN THE MANNER DESCRIBED IN
20 PARAGRAPH (c) OF THIS SUBSECTION (2.6).

21 (c) ON A HIGHWAY THAT DOES NOT HAVE AT LEAST TWO ADJACENT
22 LANES PROCEEDING IN THE SAME DIRECTION ON THE SAME SIDE OF THE
23 HIGHWAY WHERE CHAINS ARE BEING APPLIED TO THE TIRES OF A MOTOR
24 VEHICLE, OR IF MOVEMENT BY THE DRIVER OF THE APPROACHING VEHICLE
25 INTO AN ADJACENT MOVING LANE, AS DESCRIBED IN PARAGRAPH (b) OF
26 THIS SUBSECTION (2.6), IS NOT POSSIBLE, THE DRIVER OF AN APPROACHING
27 VEHICLE SHALL REDUCE AND MAINTAIN A SAFE SPEED WITH REGARD TO

1 THE LOCATION OF THE MOTOR VEHICLE WHERE CHAINS ARE BEING APPLIED
2 TO THE TIRES, WEATHER CONDITIONS, ROAD CONDITIONS, AND VEHICULAR
3 OR PEDESTRIAN TRAFFIC, AND SHALL PROCEED WITH DUE CARE AND
4 CAUTION, OR AS DIRECTED BY A PEACE OFFICER OR OTHER AUTHORIZED
5 EMERGENCY PERSONNEL.

6 (3) (b) Any person who violates subsection (2), (2.5), OR (2.6) of
7 this section commits careless driving as described in section 42-4-1402.

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

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

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

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

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

24 **42-1-102. Definitions.** As used in articles 1 to 4 of this title,
25 unless the context otherwise requires:

26 (6) "Authorized emergency vehicle" means such vehicles of the
27 fire department, police vehicles, ambulances, and other special-purpose

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

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

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

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

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