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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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A BILL FOR AN ACT

CONCERNING PREVENTION OF DANGEROUS CONDITIONS ON 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.

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.

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

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

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

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

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

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

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erect or place a second sign after such zone indicating that the increased penalties for certain traffic violations are no longer in effect.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

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

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

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

(I) (L) of this section shall be doubled if a speeding violation occurs within a maintenance, repair, or construction zone that is designated by the department of transportation pursuant to section ~~42-4-614~~ 42-4-614 (1) (a).

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

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

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

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

(III) THE PENALTIES AND SURCHARGES IMPOSED FOR SPEEDING VIOLATIONS UNDER SUB-SUBPARAGRAPH (L) OF SUBPARAGRAPH (I) OF

PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL BE DOUBLED IF A SPEEDING VIOLATION OCCURS WITHIN A MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE THAT IS DESIGNATED BY A PUBLIC ENTITY PURSUANT TO SECTION 42-4-614 (1) (b).

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

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

42-4-110.5. Automated vehicle identification systems. (1.5) Except for the ~~provisions concerning service of process~~ AUTHORIZATION contained in ~~subparagraph (I) of paragraph (a) of subsection (2)~~ SUBSECTION (1.7) of this section, nothing in this section shall apply to a violation detected by an automated vehicle identification device for driving twenty-five miles per hour or more in excess of the reasonable and prudent speed or twenty-five miles per hour or more in excess of the maximum speed limit of seventy-five miles per hour detected by the use of an automated vehicle identification device.

(1.7) (a) UPON REQUEST FROM THE DEPARTMENT OF TRANSPORTATION, THE DEPARTMENT OF PUBLIC SAFETY SHALL UTILIZE AN

AUTOMATED VEHICLE IDENTIFICATION SYSTEM TO DETECT SPEEDING VIOLATIONS UNDER PART 11 OF THIS ARTICLE WITHIN A HIGHWAY MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE DESIGNATED PURSUANT TO SECTION 42-4-614 (1) (a), IF THE DEPARTMENT OF PUBLIC SAFETY COMPLIES WITH SUBSECTIONS (2) TO (6) OF THIS SECTION. AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM SHALL NOT BE USED UNDER THIS SUBSECTION (1.7) UNLESS MAINTENANCE, REPAIR, OR CONSTRUCTION IS OCCURRING AT THE TIME THE SYSTEM IS BEING USED.

(b) THE DEPARTMENT OF TRANSPORTATION SHALL REIMBURSE THE DEPARTMENT OF PUBLIC SAFETY FOR THE DIRECT AND INDIRECT COSTS OF COMPLYING WITH THIS SUBSECTION (1.7).

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

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

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

42-4-110.5. Automated vehicle identification systems.

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

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

42-4-705. Operation of vehicle approached by emergency vehicle - operation of vehicle approaching stationary emergency vehicle. (2.5) (a) A DRIVER IN A VEHICLE THAT IS APPROACHING OR PASSING A MAINTENANCE, REPAIR, OR CONSTRUCTION VEHICLE THAT IS MOVING AT LESS THAN TWENTY MILES PER HOUR SHALL EXHIBIT DUE CARE AND CAUTION AND PROCEED AS DESCRIBED IN PARAGRAPHS (b) AND (c) OF THIS SUBSECTION (2.5).

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

(c) ON A HIGHWAY THAT DOES NOT HAVE AT LEAST TWO ADJACENT

LANES PROCEEDING IN THE SAME DIRECTION ON THE SAME SIDE OF THE HIGHWAY WHERE A STATIONARY OR SLOW-MOVING MAINTENANCE, REPAIR, OR CONSTRUCTION VEHICLE IS LOCATED, OR IF MOVEMENT BY THE DRIVER OF THE APPROACHING VEHICLE INTO AN ADJACENT MOVING LANE, AS DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (2.5), IS NOT POSSIBLE, THE DRIVER OF AN APPROACHING VEHICLE SHALL REDUCE AND MAINTAIN A SAFE SPEED WITH REGARD TO THE LOCATION OF THE STATIONARY OR SLOW-MOVING MAINTENANCE, REPAIR, OR CONSTRUCTION VEHICLE, WEATHER CONDITIONS, ROAD CONDITIONS, AND VEHICULAR OR PEDESTRIAN TRAFFIC, AND SHALL PROCEED WITH DUE CARE AND CAUTION, OR AS DIRECTED BY A PEACE OFFICER OR OTHER AUTHORIZED EMERGENCY PERSONNEL.

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

SECTION 7. 42-1-102 (6), Colorado Revised Statutes, is amended to read:

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

(6) "Authorized emergency vehicle" means such vehicles of the fire department, police vehicles, ambulances, and other special-purpose vehicles as are publicly owned and operated by or for a governmental agency to protect and preserve life and property in accordance with state laws regulating emergency vehicles; said term also means ~~such privately owned vehicles as are designated by the state motor vehicle licensing agency, necessary to the preservation of life and property, to be~~ THE FOLLOWING IF equipped and ~~to operate~~ OPERATED as emergency vehicles in the manner prescribed by state law:

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

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

SECTION 8. Applicability. This act shall apply to acts committed on or after the effective date of this act.

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