

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 05-1137

BY REPRESENTATIVE(S) Garcia, Borodkin, Coleman, Green, Lindstrom, Marshall, Merrifield, Pommer, and Romanoff;
also SENATOR(S) Johnson and Groff.

CONCERNING THE REGULATION OF THE USE OF MOBILE COMMUNICATION
DEVICES BY PERMITTED DRIVERS IN MOTOR VEHICLES.

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

SECTION 1. Part 2 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-239. Misuse of mobile communication devices - definitions.

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "EMERGENCY" MEANS A SITUATION IN WHICH A PERSON:

(I) HAS REASON TO FEAR FOR SUCH PERSON'S LIFE OR SAFETY, OR BELIEVES THAT A CRIMINAL ACT MAY BE PERPETRATED AGAINST SUCH PERSON OR ANOTHER PERSON REQUIRING THE USE OF A MOBILE COMMUNICATION DEVICE WHILE THE CAR IS MOVING; OR

(II) REPORTS A FIRE, A TRAFFIC ACCIDENT IN WHICH ONE OR MORE

INJURIES ARE APPARENT, A SERIOUS ROAD HAZARD, A MEDICAL OR HAZARDOUS MATERIALS EMERGENCY, OR A PERSON WHO IS DRIVING IN A RECKLESS, CARELESS, OR OTHERWISE UNSAFE MANNER.

(b) "MOBILE COMMUNICATION DEVICE" MEANS A CELLULAR TELEPHONE OR OTHER DEVICE THAT ENABLES A PERSON IN A MOTOR VEHICLE TO TRANSMIT AND RECEIVE AUDIO SIGNALS TO AND FROM A PERSON OR AUDIO RECORDING DEVICE LOCATED OUTSIDE THE MOTOR VEHICLE.

(2) NO PERSON WHO HOLDS A TEMPORARY INSTRUCTION PERMIT OR A MINOR'S INSTRUCTION PERMIT PURSUANT TO SECTION 42-2-106 SHALL USE A MOBILE COMMUNICATION DEVICE WHILE OPERATING A MOTOR VEHICLE. THIS SECTION SHALL NOT APPLY TO A PERSON WHO IS USING THE MOBILE COMMUNICATION DEVICE:

- (a) TO CONTACT A PUBLIC SAFETY ENTITY;
- (b) WHILE THE VEHICLE IS LAWFULLY PARKED; OR
- (c) DURING AN EMERGENCY.

(3) ANY PERSON WHO OPERATES A MOTOR VEHICLE IN VIOLATION OF SUBSECTION (2) OF THIS SECTION COMMITS A CLASS A TRAFFIC INFRACTION AS DEFINED IN SECTION 42-4-1701 (3).

(4) AN OPERATOR OF A MOTOR VEHICLE SHALL NOT BE CITED FOR A VIOLATION OF SUBSECTION (2) OF THIS SECTION UNLESS SUCH OPERATOR WAS STOPPED BY A LAW ENFORCEMENT OFFICER FOR AN ALLEGED VIOLATION OF ARTICLES 1 TO 4 OF THIS TITLE OTHER THAN A VIOLATION OF THIS SECTION.

SECTION 2. 42-2-127 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

Type of conviction	Points
(jj) A VIOLATION OF SECTION 42-4-239	1

SECTION 3. 42-4-1701 (4) (a) (I) (D), Colorado Revised Statutes,

is amended to read:

42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule - repeal. (4) (a) (I) Except as provided in paragraph (c) of subsection (5) of this section, every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of any provision of this title to which the provisions of paragraph (a) or (b) of subsection (5) of this section apply shall be fined or penalized, and have a surcharge levied thereon pursuant to section 24-4.2-104 (1) (b) (I), C.R.S., in accordance with the penalty and surcharge schedule set forth in sub-subparagraphs (A) to (P) of this subparagraph (I); or, if no penalty or surcharge is specified in the schedule, the penalty for class A and class B traffic infractions shall be fifteen dollars, and the surcharge shall be two dollars. These penalties and surcharges shall apply whether the defendant acknowledges the defendant's guilt or liability in accordance with the procedure set forth by paragraph (a) of subsection (5) of this section or is found guilty by a court of competent jurisdiction or has judgment entered against the defendant by a county court magistrate. Penalties and surcharges for violating specific sections shall be as follows:

Section Violated	Penalty	Surcharge
(D) Equipment violations:		
42-4-201	\$ 35.00	\$ 5.20
42-4-202	35.00	5.20
42-4-204	15.00	2.60
42-4-205	15.00	2.60
42-4-206	15.00	2.60
42-4-207	15.00	2.60
42-4-208	15.00	2.60
42-4-209	15.00	2.60
42-4-210	15.00	2.60
42-4-211	15.00	2.60
42-4-212	15.00	2.60
42-4-213	15.00	2.60
42-4-214	15.00	2.60
42-4-215	15.00	2.60
42-4-216	15.00	2.60
42-4-217	15.00	2.60
42-4-218	15.00	2.60
42-4-219	15.00	2.60

42-4-220	15.00	2.60
42-4-221	15.00	2.60
42-4-222 (1)	15.00	2.60
42-4-223	15.00	2.60
42-4-224	15.00	2.60
42-4-225 (1)	15.00	2.60
42-4-226	15.00	2.60
42-4-227 (1)	50.00	7.80
42-4-227 (2)	15.00	2.60
42-4-228 (1), (2), (3), (5), or (6)	15.00	2.60
42-4-229	15.00	2.60
42-4-230	15.00	2.60
42-4-231	15.00	2.60
42-4-232	15.00	2.60
42-4-233	75.00	11.70
42-4-234	15.00	2.60
42-4-235	50.00	7.80
42-4-236	50.00	7.80
42-4-237	15.00	2.60
42-4-239	15.00	2.60
42-4-1411	15.00	2.60
42-4-1412	15.00	2.60
42-4-1901	35.00	5.20

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 10, 2005, if adjournment sine die is on May 11, 2005); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or

part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Joan Fitz-Gerald
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO