

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 06-0297.01 Richard Sweetman

SENATE BILL 06-072

SENATE SPONSORSHIP

Tochtrop,

HOUSE SPONSORSHIP

(None),

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING INCREASING PENALTIES FOR CARELESS DRIVING, AND**
102 **MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

Bill Summary

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

Establishes minimum mandatory fines and provides for mandatory license revocation for drivers convicted of careless driving when it is the proximate cause of unintentional serious bodily injury or unintentional death to another person.

Takes away the discretion of the court to reduce, suspend, or waive the minimum fines for these offenses.

Creates the highway safety sign account to fund signs alerting

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 19, 2006

SENATE
Amended 2nd Reading
April 18, 2006

motorists to share the road with other road users and beware of potential road hazards.

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

2 **SECTION 1. Legislative declaration.** The general assembly is
3 aware of the human suffering and loss of life, limb, and property caused
4 by negligence in the operation of motor vehicles in our state. Although
5 the general assembly recognizes that this issue can be, and is being, dealt
6 with by direct measures designed to discourage such negligent behavior
7 through imposition of fines and penalties for violation of traffic laws, it
8 also recognizes that more severe penalties and higher fines are
9 appropriate when violations of section 42-4-1402, Colorado Revised
10 Statutes, result in serious bodily injury or death to another person.

11 **SECTION 2.** 42-4-1402, Colorado Revised Statutes, is amended
12 to read:

13 **42-4-1402. Careless driving - penalty.** (1) Any person who
14 drives any motor vehicle, bicycle, or motorized bicycle in a careless and
15 imprudent manner, without due regard for the width, grade, curves,
16 corners, traffic, and use of the streets and highways and all other attendant
17 circumstances, is guilty of careless driving. A person convicted of
18 careless driving of a bicycle or motorized bicycle shall not be subject to
19 the provisions of section SECTIONS 42-2-127 AND 42-2-127.8.

20 (2) Any person who violates any provision of this section commits
21 a class 2 misdemeanor traffic offense, but, if the person's actions are the
22 proximate cause of bodily injury or death to another, such person commits
23 a class 1 misdemeanor traffic offense.

24 (3) IF A VIOLATION OF THIS SECTION WAS THE PROXIMATE CAUSE
25 OF _____ SERIOUS BODILY INJURY TO ANOTHER PERSON, AS "SERIOUS

1 BODILY INJURY" IS DEFINED IN SECTION 42-4-1601 (4) (b), THE COURT
2 SHALL IMPOSE, IN ADDITION TO THE PROVISIONS OF SECTION 42-4-1701 (3)
3 (a) (II) (A), A FINE OF NOT LESS THAN FIVE HUNDRED DOLLARS.

4 (4) IF A VIOLATION OF THIS SECTION WAS THE PROXIMATE CAUSE
5 OF _____ DEATH TO ANOTHER PERSON, THE COURT SHALL IMPOSE, IN
6 ADDITION TO THE PROVISIONS OF SECTION 42-4-1701 (3) (a) (II) (A), A
7 FINE OF NOT LESS THAN ONE THOUSAND DOLLARS.

8 **SECTION 3. Part 1 of article 2 of title 42, Colorado Revised**
9 **Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION**
10 **to read:**

11 **42-2-127.8. Authority to suspend license - careless driving**
12 **resulting in serious bodily injury or death. (1) (a) WHENEVER THE**
13 **DEPARTMENT RECEIVES NOTICE THAT A PERSON HAS BEEN CONVICTED OF**
14 **AN OFFENSE PURSUANT TO SECTION 42-4-1402 INVOLVING SERIOUS**
15 **BODILY INJURY OR DEATH, THE DEPARTMENT SHALL IMMEDIATELY**
16 **SUSPEND THE LICENSE OF THE PERSON.**

17 **(b) THE PERIOD OF SUSPENSION FOR WHICH SHALL BE AS FOLLOWS:**

18 **(I) FOR A VIOLATION RESULTING IN SERIOUS BODILY INJURY TO**
19 **ANOTHER PERSON, NOT LESS THAN SIX MONTHS;**

20 **(II) FOR A VIOLATION RESULTING IN DEATH TO ANOTHER PERSON,**
21 **NOT LESS THAN ONE YEAR.**

22 **(c) FOR PURPOSES OF THIS SUBSECTION (1), A PERSON HAS BEEN**
23 **CONVICTED WHEN THE PERSON HAS BEEN FOUND GUILTY BY A COURT OR**
24 **A JURY, ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE, OR RECEIVED**
25 **A DEFERRED SENTENCE FOR AN OFFENSE.**

26 **(2) (a) UPON SUSPENSION OF A PERSON'S LICENSE AS REQUIRED BY**
27 **THIS SECTION, THE DEPARTMENT SHALL IMMEDIATELY NOTIFY THE PERSON**

1 AS PROVIDED IN SECTION 42-2-119 (2).

2 (b) UPON RECEIPT OF THE NOTICE OF SUSPENSION, THE PERSON OR
3 THE PERSON'S ATTORNEY MAY REQUEST A HEARING IN WRITING. THE
4 DEPARTMENT SHALL HOLD A HEARING NOT LESS THAN THIRTY DAYS AFTER
5 RECEIVING THE REQUEST, WHICH HEARING SHALL BE CONDUCTED BY A
6 HEARING COMMISSIONER APPOINTED BY THE EXECUTIVE DIRECTOR OF THE
7 DEPARTMENT AND IN ACCORDANCE WITH THE PROVISIONS OF SECTION
8 24-4-105, C.R.S. THE HEARING SHALL BE HELD AT THE DISTRICT OFFICE
9 OF THE DEPARTMENT CLOSEST TO THE RESIDENCE OF THE PERSON; EXCEPT
10 THAT ALL OR PART OF THE HEARING MAY, AT THE DISCRETION OF THE
11 DEPARTMENT, BE CONDUCTED IN REAL TIME BY TELEPHONE OR OTHER
12 ELECTRONIC MEANS IN ACCORDANCE WITH SECTION 42-1-218.5, UNLESS
13 THE PERSON REQUESTS TO APPEAR IN PERSON AT THE HEARING. AFTER
14 THE HEARING, THE PERSON MAY APPEAL THE DECISION OF THE
15 DEPARTMENT TO THE DISTRICT COURT AS PROVIDED IN SECTION 42-2-135.
16 IF A PERSON WHO HAD A LICENSE SUSPENDED UNDER THIS SECTION IS
17 SUBSEQUENTLY ACQUITTED BY A COURT OF RECORD OF THE CONVICTION
18 THAT REQUIRED THE SUSPENSION, THE DEPARTMENT SHALL IMMEDIATELY,
19 OR IN ANY EVENT NOT LATER THAN TEN DAYS AFTER THE RECEIPT OF THE
20 NOTICE OF ACQUITTAL, REINSTATE THE PERSON'S LICENSE TO THE PERSON
21 AFFECTED, UNLESS THE LICENSE IS UNDER OTHER RESTRAINT.

22 (3) (a) IF THERE IS NO OTHER STATUTORY REASON FOR DENIAL OF
23 A PROBATIONARY LICENSE, A PERSON WHO HAD A LICENSE SUSPENDED BY
24 THE DEPARTMENT BECAUSE OF, IN WHOLE OR IN PART, A CONVICTION OF
25 AN OFFENSE SPECIFIED IN SUBSECTION (1) OF THIS SECTION SHALL BE
26 ENTITLED TO A PROBATIONARY LICENSE FOR THE PURPOSE OF DRIVING FOR
27 REASONS OF EMPLOYMENT, EDUCATION, HEALTH, OR COMPLIANCE WITH

1 THE REQUIREMENTS OF PROBATION. SUCH A PROBATIONARY LICENSE
2 SHALL:

3 (I) CONTAIN ANY OTHER RESTRICTIONS THE DEPARTMENT DEEMS
4 REASONABLE AND NECESSARY;

5 (II) BE SUBJECT TO CANCELLATION FOR VIOLATION OF ANY OF THE
6 RESTRICTIONS; AND

7 (III) BE ISSUED FOR THE ENTIRE PERIOD OF SUSPENSION.

8 (b) THE DEPARTMENT MAY REFUSE TO ISSUE A PROBATIONARY
9 LICENSE IF THE DEPARTMENT FINDS THAT THE DRIVING RECORD OF THE
10 PERSON IS SUCH THAT THE PERSON HAS SUFFICIENT POINTS TO REQUIRE
11 THE SUSPENSION OR REVOCATION OF A LICENSE TO DRIVE ON THE
12 HIGHWAYS OF THIS STATE PURSUANT TO SECTION 42-2-127, OR IF THE
13 DEPARTMENT FINDS FROM THE RECORD AFTER A HEARING CONDUCTED IN
14 ACCORDANCE WITH THIS SECTION THAT AGGRAVATING CIRCUMSTANCES
15 EXIST TO INDICATE THE PERSON IS UNSAFE FOR DRIVING FOR ANY PURPOSE.
16 IN REFUSING TO ISSUE A PROBATIONARY LICENSE, THE DEPARTMENT SHALL
17 MAKE SPECIFIC FINDINGS OF FACT TO SUPPORT THE REFUSAL.

18 SECTION 4. 42-4-1701 (4) (a) (I) (N), Colorado Revised
19 Statutes, is amended to read:

20 **42-4-1701. Traffic offenses and infractions classified -**
21 **penalties - penalty and surcharge schedule - repeal.** (4) (a) (I) Except
22 as provided in paragraph (c) of subsection (5) of this section, every
23 person who is convicted of, who admits liability for, or against whom a
24 judgment is entered for a violation of any provision of this title to which
25 the provisions of paragraph (a) or (b) of subsection (5) of this section
26 apply shall be fined or penalized, and have a surcharge levied thereon
27 pursuant to section 24-4.2-104 (1) (b) (I), C.R.S., in accordance with the

1 penalty and surcharge schedule set forth in sub-subparagraphs (A) to (P)
 2 of this subparagraph (I); or, if no penalty or surcharge is specified in the
 3 schedule, the penalty for class A and class B traffic infractions shall be
 4 fifteen dollars, and the surcharge shall be two dollars. These penalties
 5 and surcharges shall apply whether the defendant acknowledges the
 6 defendant's guilt or liability in accordance with the procedure set forth by
 7 paragraph (a) of subsection (5) of this section or is found guilty by a
 8 court of competent jurisdiction or has judgment entered against the
 9 defendant by a county court magistrate. Penalties and surcharges for
 10 violating specific sections shall be as follows:

	<u>Section Violated</u>	<u>Penalty</u>	<u>Surcharge</u>
11	<u>(N) Other offenses:</u>		
12			
13	<u>42-4-1301 (2) (a.5)</u>	<u>\$ 50.00</u>	<u>\$ 7.80</u>
14	<u>42-4-1305</u>	<u>50.00</u>	<u>7.80</u>
15	<u>42-4-1402 (1)</u>	<u>50.00</u>	<u>7.80</u>
16	<u>42-4-1403</u>	<u>15.00</u>	<u>2.60</u>
17	<u>42-4-1404</u>	<u>15.00</u>	<u>2.60</u>
18	<u>42-4-1406</u>	<u>35.00</u>	<u>5.20</u>
19	<u>42-4-1407 (3) (a)</u>	<u>35.00</u>	<u>5.20</u>
20	<u>42-4-1407 (3) (b)</u>	<u>100.00</u>	<u>15.00</u>
21	<u>42-4-1407 (3) (c)</u>	<u>500.00</u>	<u>100.00</u>
22	<u>42-4-314</u>	<u>35.00</u>	<u>5.20</u>
23	<u>42-4-1408</u>	<u>15.00</u>	<u>2.60</u>
24	<u>42-4-1414 (2) (a)</u>	<u>500.00</u>	<u>78.00</u>
25	<u>42-4-1414 (2) (b)</u>	<u>1,000.00</u>	<u>156.00</u>
26	<u>42-4-1414 (2) (c)</u>	<u>5,000.00</u>	<u>780.00</u>

27 **SECTION 5.** 42-1-217 (1) (a), Colorado Revised Statutes, is

1 amended, and the said 42-1-217 (1) is further amended BY THE
2 ADDITION OF A NEW PARAGRAPH, to read:

3 **42-1-217. Disposition of fines and surcharges - highway safety**
4 **sign account - creation.** (1) All judges, clerks of a court of record, or
5 other officers imposing or receiving fines, penalties, or forfeitures, except
6 those moneys received pursuant to sections 42-4-313 (3), 42-4-413,
7 42-4-1409, 42-4-1701 (5) (a), 42-8-105, and 42-8-106, collected pursuant
8 to or as a result of a conviction of any persons for a violation of any of the
9 provisions of articles 1 to 4 (except part 3 of article 2) of this title, shall
10 transmit, within ten days after the date of receipt of any such fine, penalty,
11 or forfeiture, all such moneys so collected in the following manner:

12 (a) The aggregate amount of such fines, penalties, or forfeitures,
13 except for a violation of section 42-4-1301 or 42-4-237, OR A VIOLATION
14 OF SECTION 42-4-1402 WHEN THE VIOLATION RESULTS IN SERIOUS
15 BODILY INJURY OR DEATH TO ANOTHER PERSON AS PROVIDED IN
16 SECTION 42-4-1402 (3) AND (4), shall be transmitted to the state treasurer,
17 credited to the highway users tax fund, and allocated and expended as
18 specified in section 43-4-205 (5.5) (a), C.R.S.

19 (f) ALL MONEYS COLLECTED PURSUANT TO SECTION 42-4-1402 (3)
20 OR (4) SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL
21 CREDIT THE SAME AS FOLLOWS:

22 (I) TEN PERCENT OF EACH FINE COLLECTED PURSUANT TO SECTION
23 42-4-1402 (3) OR (4) SHALL BE CREDITED TO THE DRIVER'S LICENSE
24 ADMINISTRATIVE REVOCATION ACCOUNT IN THE HIGHWAY USERS TAX
25 FUND CREATED IN SECTION 42-2-132 (4) (b);

26 (II) FORTY PERCENT OF EACH FINE COLLECTED PURSUANT TO
27 SECTION 42-4-1402 (3) OR (4) SHALL BE CREDITED TO THE HIGHWAY USERS

1 TAX FUND AND ALLOCATED PURSUANT TO 43-4-205 (5.5) (a), C.R.S.; AND
2 (III) FIFTY PERCENT OF EACH FINE COLLECTED PURSUANT TO
3 SECTION 42-4-1402 (3) OR (4) SHALL BE CREDITED TO THE HIGHWAY
4 SAFETY SIGN ACCOUNT IN THE HIGHWAY USERS TAX FUND, WHICH
5 ACCOUNT IS HEREBY CREATED. THE MONEYS IN THE ACCOUNT SHALL BE
6 SUBJECT TO CONTINUOUS APPROPRIATION BY THE GENERAL ASSEMBLY FOR
7 THE DIRECT AND INDIRECT COSTS OF PRODUCTION AND PLACEMENT OF
8 SIGNS TO ALERT MOTORISTS OF THEIR RESPONSIBILITY TO SHARE THE ROAD
9 WITH OTHER ROAD USERS, INCLUDING BUT NOT LIMITED TO TRUCKS,
10 BUSES, CARS, MOTORCYCLES, SCOOTERS, BICYCLES, PEDESTRIANS, AND
11 FARM EQUIPMENT, AND TO ALERT MOTORISTS OF POTENTIAL ROAD
12 HAZARDS, INCLUDING BUT NOT LIMITED TO MILLING OPERATIONS, LOOSE
13 GRAVEL, UNEVEN LANES, AND GROOVED PAVEMENT. MONEYS CREDITED
14 TO THE ACCOUNT SHALL REMAIN THEREIN AT THE END OF EACH FISCAL
15 YEAR AND SHALL NOT BE TRANSFERRED TO ANY OTHER FUND.

16 **SECTION 6.** 43-4-205 (5.5) (a), Colorado Revised Statutes, is
17 amended to read:

18 **43-4-205. Allocation of fund.** (5.5) The following highway
19 users tax fund revenues shall be allocated and expended in accordance
20 with the formula specified in subsection (5) of this section:

21 (a) Revenues from fines, penalties, or forfeitures that are credited
22 to the fund pursuant to sections 18-4-509 (2) (a), 39-27-102 (9) (c),
23 39-27-104 (1) (g) (III), 42-1-217 (1) (a), (1) (b), (1) (d), (1) (e), and (2),
24 42-4-225 (3), and 42-4-235 (2) (a), C.R.S. AND 42-4-1402 (3) AND (4),
25 C.R.S.:

26 **SECTION 7. Appropriation.** In addition to any other
27 appropriation, there is hereby appropriated, out of any moneys in the

1 highway safety sign account created in section 42-1-217 (1) (f), Colorado
2 Revised Statutes, not otherwise appropriated, to the department of
3 transportation, for the direct and indirect costs of implementing this
4 legislation, for the fiscal year beginning July 1, 2006, the sum of
5 twenty-nine thousand one hundred eighty-five dollars (\$29,185), or so
6 much thereof as may be necessary, for the implementation of this act.

7 **SECTION 8. Effective date.** (1) This act shall take effect July
8 1, 2006.

9 (2) However, if a referendum petition is filed against this act or
10 an item, section, or part of this act during the 90-day period after final
11 adjournment of the general assembly that is allowed for submitting a
12 referendum petition pursuant to article V, section 1 (3) of the state
13 constitution, then the act, item, section, or part, shall not take effect unless
14 approved by the people at a biennial regular general election and shall
15 take effect on the date specified in subsection (1) or on the date of the
16 official declaration of the vote thereon by proclamation of the governor,
17 whichever is later.