

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

PREAMENDED

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

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.*

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 42-2-125 AND 42-2-127.

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 of 1of 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 REVOCATION 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.** 42-1-217 (1) (a), Colorado Revised Statutes, is
19 amended, and the said 42-1-217 (1) is further amended BY THE
20 ADDITION OF A NEW PARAGRAPH, to read:

21 **42-1-217. Disposition of fines and surcharges - highway safety**
22 **sign account - creation.** (1) All judges, clerks of a court of record, or
23 other officers imposing or receiving fines, penalties, or forfeitures, except
24 those moneys received pursuant to sections 42-4-313 (3), 42-4-413,
25 42-4-1409, 42-4-1701 (5) (a), 42-8-105, and 42-8-106, collected pursuant
26 to or as a result of a conviction of any persons for a violation of any of the
27 provisions of articles 1 to 4 (except part 3 of article 2) of this title, shall

1 transmit, within ten days after the date of receipt of any such fine, penalty,
2 or forfeiture, all such moneys so collected in the following manner:

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

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

13 (I) TEN PERCENT OF EACH FINE COLLECTED PURSUANT TO SECTION
14 42-4-1402 (3) OR (4) SHALL BE CREDITED TO THE DRIVER'S LICENSE
15 ADMINISTRATIVE REVOCATION ACCOUNT IN THE HIGHWAY USERS TAX
16 FUND CREATED IN SECTION 42-2-132 (4) (b);

17 (II) FORTY PERCENT OF EACH FINE COLLECTED PURSUANT TO
18 SECTION 42-4-1402 (3) OR (4) SHALL BE CREDITED TO THE HIGHWAY USERS
19 TAX FUND AND ALLOCATED PURSUANT TO 43-4-205 (5.5) (a), C.R.S.; AND

20 (III) FIFTY PERCENT OF EACH FINE COLLECTED PURSUANT TO
21 SECTION 42-4-1402 (3) OR (4) SHALL BE CREDITED TO THE HIGHWAY
22 SAFETY SIGN ACCOUNT IN THE HIGHWAY USERS TAX FUND, WHICH
23 ACCOUNT IS HEREBY CREATED. THE MONEYS IN THE ACCOUNT SHALL BE
24 SUBJECT TO CONTINUOUS APPROPRIATION BY THE GENERAL ASSEMBLY FOR
25 THE DIRECT AND INDIRECT COSTS OF PRODUCTION AND PLACEMENT OF
26 SIGNS TO ALERT MOTORISTS OF THEIR RESPONSIBILITY TO SHARE THE ROAD
27 WITH OTHER ROAD USERS, INCLUDING BUT NOT LIMITED TO TRUCKS,

1 BUSES, CARS, MOTORCYCLES, SCOOTERS, BICYCLES, PEDESTRIANS, AND
2 FARM EQUIPMENT, AND TO ALERT MOTORISTS OF POTENTIAL ROAD
3 HAZARDS, INCLUDING BUT NOT LIMITED TO MILLING OPERATIONS, LOOSE
4 GRAVEL, UNEVEN LANES, AND GROOVED PAVEMENT. MONEYS CREDITED
5 TO THE ACCOUNT SHALL REMAIN THEREIN AT THE END OF EACH FISCAL
6 YEAR AND SHALL NOT BE TRANSFERRED TO ANY OTHER FUND.

7 **SECTION 5.** 43-4-205 (5.5) (a), Colorado Revised Statutes, is
8 amended to read:

9 **43-4-205. Allocation of fund.** (5.5) Revenues raised by the
10 excise tax imposed on gasoline and special fuel pursuant to sections
11 39-27-102 and 39-27-102.5, C.R.S., equal to the first seven cents per
12 gallon of such tax shall be placed in the highway users tax fund to be
13 allocated as follows:

14 (a) Revenues from fines, penalties, or forfeitures that are credited
15 to the fund pursuant to sections 18-4-509 (2) (a), 39-27-102 (9) (c),
16 39-27-104 (1) (g) (III), 42-1-217 (1) (a), (1) (b), (1) (d), (1) (e), and (2),
17 42-4-225 (3), and 42-4-235 (2) (a), ~~C.R.S.~~ AND 42-4-1402 (3) AND (4),
18 C.R.S.:

19 **SECTION 6. Appropriation.** In addition to any other
20 appropriation, there is hereby appropriated, out of any moneys in the
21 highway safety sign account created in section 42-1-217 (1) (f), Colorado
22 Revised Statutes, not otherwise appropriated, to the department of
23 transportation, for the direct and indirect costs of implementing this
24 legislation, for the fiscal year beginning July 1, 2006, the sum of
25 twenty-nine thousand one hundred eighty-five dollars (\$29,185), or so
26 much thereof as may be necessary, for the implementation of this act.

27

1 **SECTION 7. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.