

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

INTRODUCED

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

Senate Committees

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.

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~~ SHALL 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 SHALL 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).

5 (II) (A) The penalties and surcharges imposed for violations under
6 ~~subsections (4) (a) (I) (C), (4) (a) (I) (G), (4) (a) (I) (H), (4) (a) (I) (I), (4)~~
7 ~~(a) (I) (J), (4) (a) (I) (K), (4) (a) (I) (N), and (4) (a) (I) (O) of this section~~
8 SUB-SUBPARAGRAPHS (C), (G), (H), (I), (J), (K), (N), AND (O) OF
9 SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (4) shall be
10 doubled if a violation occurs within a maintenance, repair, or construction
11 zone that is designated by the department of transportation pursuant to
12 section ~~42-4-614~~ 42-4-614 (1) (a); except that the fines for violating
13 sections 42-4-314, 42-4-610, 42-4-613, 42-4-706, 42-4-707, 42-4-708,
14 42-4-709, 42-4-710, 42-4-1011, 42-4-1012, 42-4-1404, 42-4-1408, and
15 42-4-1414 shall not be doubled under this subparagraph (II).

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

18 (C) If a fine is doubled under SUBPARAGRAPH (I) OR (II) OF this
19 paragraph (c), one-half of the fine allocated to the state by sections
20 42-1-217 and 43-4-205, C.R.S., shall be transferred to the state treasurer,
21 who shall deposit it in the highway construction workers' safety account
22 within the highway users tax fund to be continuously appropriated to the
23 department of transportation for work zone safety equipment, signs, and
24 law enforcement.

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

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

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

5 (IV) THE PENALTIES AND SURCHARGES IMPOSED FOR VIOLATIONS
6 UNDER SUB-SUBPARAGRAPHS (C), (G), (H), (I), (J), (K), (N), AND (O) OF
7 SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL BE
8 DOUBLED IF A VIOLATION OCCURS WITHIN A MAINTENANCE, REPAIR, OR
9 CONSTRUCTION ZONE THAT IS DESIGNATED BY A PUBLIC ENTITY PURSUANT
10 TO SECTION 42-4-614 (1) (b); EXCEPT THAT THE FINES FOR VIOLATING
11 SECTIONS 42-4-314, 42-4-610, 42-4-613, 42-4-706, 42-4-707, 42-4-708,
12 42-4-709, 42-4-710, 42-4-1011, 42-4-1012, 42-4-1404, 42-4-1408, AND
13 42-4-1414 SHALL NOT BE DOUBLED UNDER THIS SUBPARAGRAPH (IV).

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

17 **42-4-110.5. Automated vehicle identification systems.**

18 (1.5) Except for the ~~provisions concerning service of process~~
19 AUTHORIZATION contained in ~~subparagraph (I) of paragraph (a) of~~
20 ~~subsection (2)~~ SUBSECTION (1.7) of this section, nothing in this section
21 shall apply to a violation detected by an automated vehicle identification
22 device for driving twenty-five miles per hour or more in excess of the
23 reasonable and prudent speed or twenty-five miles per hour or more in
24 excess of the maximum speed limit of seventy-five miles per hour
25 detected by the use of an automated vehicle identification device.

26 (1.7) (a) UPON REQUEST FROM THE DEPARTMENT OF
27 TRANSPORTATION, THE DEPARTMENT OF PUBLIC SAFETY SHALL UTILIZE AN

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

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

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

18 (g) (I) The state, a county, a city and county, or a municipality
19 shall not issue a penalty assessment notice or summons for a violation
20 detected using an automated vehicle identification system unless the
21 violation occurred within a school zone, as defined in section 42-4-615;
22 within a residential neighborhood; WITHIN A MAINTENANCE,
23 CONSTRUCTION, OR REPAIR ZONE DESIGNATED PURSUANT TO SECTION
24 42-4-614; or along a street that borders a municipal park.

25 **SECTION 5.** 42-4-705 (3) (b), Colorado Revised Statutes, is
26 amended, and the said 42-4-705 is further amended BY THE ADDITION
27 OF A NEW SUBSECTION, to read:

1 **42-4-705. Operation of vehicle approached by emergency**
2 **vehicle - operation of vehicle approaching stationary emergency**
3 **vehicle. (2.5) (a) A DRIVER IN A VEHICLE THAT IS APPROACHING OR**

4 PASSING A MAINTENANCE, REPAIR, OR CONSTRUCTION VEHICLE THAT IS
5 MOVING AT LESS THAN TWENTY MILES PER HOUR SHALL EXHIBIT DUE CARE
6 AND CAUTION AND PROCEED AS DESCRIBED IN PARAGRAPHS (b) AND (c) OF
7 THIS SUBSECTION (2.5).

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

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 A STATIONARY OR SLOW-MOVING MAINTENANCE,
24 REPAIR, OR CONSTRUCTION VEHICLE IS LOCATED, OR IF MOVEMENT BY THE
25 DRIVER OF THE APPROACHING VEHICLE INTO AN ADJACENT MOVING LANE,
26 AS DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (2.5), IS NOT
27 POSSIBLE, THE DRIVER OF AN APPROACHING VEHICLE SHALL REDUCE AND

1 MAINTAIN A SAFE SPEED WITH REGARD TO THE LOCATION OF THE
2 STATIONARY OR SLOW-MOVING MAINTENANCE, REPAIR, OR CONSTRUCTION
3 VEHICLE, WEATHER CONDITIONS, ROAD CONDITIONS, AND VEHICULAR OR
4 PEDESTRIAN TRAFFIC, AND SHALL PROCEED WITH DUE CARE AND CAUTION,
5 OR AS DIRECTED BY A PEACE OFFICER OR OTHER AUTHORIZED EMERGENCY
6 PERSONNEL.

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

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

11 **42-1-102. Definitions.** As used in articles 1 to 4 of this title,
12 unless the context otherwise requires:

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

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

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

27 **SECTION 7. Applicability.** This act shall apply to acts

1 committed on or after the effective date of this act.

2 **SECTION 8. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, and safety.