

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 10-0518.01 Richard Sweetman

HOUSE BILL 10-1238

HOUSE SPONSORSHIP

Curry,

SENATE SPONSORSHIP

Schwartz,

House Committees

Transportation & Energy
Appropriations

Senate Committees

Transportation
Appropriations

A BILL FOR AN ACT

101 CONCERNING WILDLIFE CROSSING ZONES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill allows the department of transportation (department), in consultation with the division of wildlife in the department of natural resources, to establish areas within the public highways of the state as wildlife crossing zones. If the department receives authorization from the federal government to designate areas of the federal highways of the state as wildlife crossing zones, the department may do so. The department is prohibited from establishing a lower speed limit for more than 100 miles

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
Am ended 2nd Reading
May 7, 2010

HOUSE
3rd Reading Unam ended
April 14, 2010

HOUSE
Am ended 2nd Reading
April 13, 2010

of the public highways of the state that have been established as wildlife crossing zones.

If the department establishes an area as a wildlife crossing zone, the department may erect signs identifying the zone and establishing a lower speed limit for the portion of the highway that lies within the zone. In establishing a lower speed limit within a wildlife crossing zone, the department shall give due consideration to the percentage of traffic accidents that occur within the area that involve the presence of wildlife on the public highway, the relative levels of traffic congestion and mobility in the area, and the relative numbers of traffic accidents that occur within the area during the daytime and evening hours and involve the presence of wildlife on the public highway. If the department erects a new wildlife crossing zone sign, it shall ensure that the sign indicates, in conformity with the state traffic control manual, that increased traffic penalties are in effect within the zone.

The bill requires the department to prepare and submit a report to the transportation and energy committee of the house of representatives and the transportation committee of the senate concerning the establishment of wildlife crossing zones. The report, at a minimum, shall include the location and length of each wildlife crossing zone; the total number of miles within the public highways of the state that the department has established as wildlife crossing zones; the total number of wildlife crossing zones for which the department of transportation has established a lower speed limit; the effect, if any, that the establishment of each wildlife crossing zone has had in reducing the frequency of traffic accidents within the wildlife crossing zone; and a recommendation by the department as to whether the general assembly should discontinue the establishment of wildlife crossing zones, continue the limited establishment of wildlife crossing zones, or expand the establishment of wildlife crossing zones.

The bill subjects a person who commits a moving traffic violation in a wildlife crossing zone to increased penalties and surcharges. If the department erects a traffic sign designating an area of a public highway as a wildlife crossing zone, the department shall establish when the area will be deemed to be a wildlife crossing zone and ensure that the sign indicates when the area will be deemed to be a wildlife crossing zone.

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

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

1 **42-4-118. Establishment of wildlife crossing zones - report -**

2 **repeal.** (1) THE DEPARTMENT OF TRANSPORTATION CREATED IN SECTION
3 43-1-103, C.R.S., IN CONSULTATION WITH BOTH THE COLORADO STATE
4 PATROL CREATED PURSUANT TO SECTION 24-33.5-201, C.R.S., AND THE
5 DIVISION OF WILDLIFE CREATED PURSUANT TO SECTION 24-1-124 (3) (h),
6 C.R.S., IN THE DEPARTMENT OF NATURAL RESOURCES, MAY ESTABLISH
7 AREAS WITHIN THE PUBLIC HIGHWAYS OF THE STATE AS WILDLIFE
8 CROSSING ZONES.

9 (2) (a) IF THE DEPARTMENT OF TRANSPORTATION ESTABLISHES AN
10 AREA WITHIN A PUBLIC HIGHWAY OF THE STATE AS A WILDLIFE CROSSING
11 ZONE, THE DEPARTMENT OF TRANSPORTATION MAY ERECT SIGNS:

12 (I) IDENTIFYING THE ZONE IN ACCORDANCE WITH THE PROVISIONS
13 OF SECTION 42-4-616; AND

14 (II) ESTABLISHING A LOWER SPEED LIMIT FOR THE PORTION OF THE
15 HIGHWAY THAT LIES WITHIN THE ZONE.

16 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
17 THIS SUBSECTION (2) TO THE CONTRARY, THE DEPARTMENT OF
18 TRANSPORTATION SHALL NOT ESTABLISH A LOWER SPEED LIMIT FOR MORE
19 THAN ONE HUNDRED MILES OF THE PUBLIC HIGHWAYS OF THE STATE THAT
20 HAVE BEEN ESTABLISHED AS WILDLIFE CROSSING ZONES.

21 (3) (a) THE DEPARTMENT OF TRANSPORTATION MAY ESTABLISH AN
22 AREA WITHIN THE FEDERAL HIGHWAYS OF THE STATE AS A WILDLIFE
23 CROSSING ZONE IF THE DEPARTMENT OF TRANSPORTATION RECEIVES
24 AUTHORIZATION FROM THE FEDERAL GOVERNMENT.

25 (b) IF THE DEPARTMENT OF TRANSPORTATION ESTABLISHES AN
26 AREA WITHIN THE FEDERAL HIGHWAYS OF THE STATE AS A WILDLIFE
27 CROSSING ZONE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3),

1 THE DEPARTMENT OF TRANSPORTATION MAY ERECT SIGNS:

2 (I) IDENTIFYING THE ZONE IN ACCORDANCE WITH THE PROVISIONS
3 OF SECTION 42-4-616; AND

4 (II) ESTABLISHING A LOWER SPEED LIMIT FOR THE PORTION OF THE
5 HIGHWAY THAT LIES WITHIN THE ZONE.

6 (4) IF THE DEPARTMENT OF TRANSPORTATION ERECTS A NEW
7 WILDLIFE CROSSING ZONE SIGN PURSUANT TO SUBSECTION (2) OR (3) OF
8 THIS SECTION, IT SHALL ENSURE THAT THE SIGN INDICATES, IN
9 CONFORMITY WITH THE STATE TRAFFIC CONTROL MANUAL, THAT
10 INCREASED TRAFFIC PENALTIES ARE IN EFFECT WITHIN THE WILDLIFE
11 CROSSING ZONE. FOR THE PURPOSES OF THIS SECTION, IT SHALL BE
12 SUFFICIENT THAT THE SIGN STATES "INCREASED PENALTIES IN EFFECT".

13 (5) IN ESTABLISHING A LOWER SPEED LIMIT WITHIN A WILDLIFE
14 CROSSING ZONE, THE DEPARTMENT OF TRANSPORTATION SHALL GIVE DUE
15 CONSIDERATION TO FACTORS INCLUDING, BUT NOT LIMITED TO, THE
16 FOLLOWING:

17 (a) THE PERCENTAGE OF TRAFFIC ACCIDENTS THAT OCCUR WITHIN
18 THE AREA THAT INVOLVE THE PRESENCE OF WILDLIFE ON THE PUBLIC
19 HIGHWAY;

20 (b) THE RELATIVE LEVELS OF TRAFFIC CONGESTION AND MOBILITY
21 IN THE AREA; AND

22 (c) THE RELATIVE NUMBERS OF TRAFFIC ACCIDENTS THAT OCCUR
23 WITHIN THE AREA DURING THE DAYTIME AND EVENING HOURS AND
24 INVOLVE THE PRESENCE OF WILDLIFE ON THE PUBLIC HIGHWAY.

25 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
26 REQUIRES, "WILDLIFE" SHALL HAVE THE SAME MEANING AS "BIG GAME" AS
27 SET FORTH IN SECTION 33-1-102 (2), C.R.S.

1 (7) (a) ON OR BEFORE MARCH 1, 2012, THE DEPARTMENT OF
2 TRANSPORTATION SHALL PREPARE AND SUBMIT TO THE TRANSPORTATION
3 AND ENERGY COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE
4 TRANSPORTATION COMMITTEE OF THE SENATE, OR ANY SUCCESSOR
5 COMMITTEES, A REPORT CONCERNING THE IMPLEMENTATION OF THIS
6 SECTION. THE REPORT, AT A MINIMUM, SHALL INCLUDE:

7 (I) THE LOCATION AND LENGTH OF EACH WILDLIFE CROSSING ZONE
8 THAT THE DEPARTMENT OF TRANSPORTATION HAS ESTABLISHED
9 PURSUANT TO THIS SECTION;

10 (II) THE TOTAL NUMBER OF MILES WITHIN THE PUBLIC HIGHWAYS
11 OF THE STATE THAT THE DEPARTMENT OF TRANSPORTATION HAS
12 ESTABLISHED AS WILDLIFE CROSSING ZONES PURSUANT TO THIS SECTION;

13 (III) THE TOTAL NUMBER OF WILDLIFE CROSSING ZONES WITHIN
14 THE STATE FOR WHICH THE DEPARTMENT OF TRANSPORTATION HAS
15 ESTABLISHED A LOWER SPEED LIMIT, INCLUDING IDENTIFICATION OF EACH
16 WILDLIFE CROSSING ZONE FOR WHICH THE DEPARTMENT HAS ESTABLISHED
17 A LOWER SPEED LIMIT;

18 (IV) THE EFFECT, IF ANY, THAT THE ESTABLISHMENT OF EACH
19 WILDLIFE CROSSING ZONE HAS HAD IN REDUCING THE FREQUENCY OF
20 TRAFFIC ACCIDENTS WITHIN THE AREA OF THE PUBLIC HIGHWAY THAT HAS
21 BEEN ESTABLISHED AS A WILDLIFE CROSSING ZONE; AND

22 (V) A RECOMMENDATION BY THE DEPARTMENT OF
23 TRANSPORTATION AS TO WHETHER THE GENERAL ASSEMBLY SHOULD:

24 (A) DISCONTINUE THE ESTABLISHMENT OF WILDLIFE CROSSING
25 ZONES;

26 (B) CONTINUE THE ESTABLISHMENT OF WILDLIFE CROSSING ZONES,
27 AS LIMITED BY THE PROVISIONS OF PARAGRAPH (b) OF SUBSECTION (1) OF

1 THIS SECTION; OR

2 (C) EXPAND THE ESTABLISHMENT OF WILDLIFE CROSSING ZONES
3 BEYOND THE LIMITS DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (1) OF
4 THIS SECTION.

5 (b) THIS SUBSECTION (7) IS REPEALED, EFFECTIVE MARCH 2, 2012.

6 SECTION 2. Part 6 of article 4 of title 42, Colorado Revised
7 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
8 read:

9 42-4-616. Wildlife crossing zones - increase in penalties for
10 moving traffic violations. (1) EXCEPT AS DESCRIBED BY SUBSECTION (4)
11 OF THIS SECTION, A PERSON WHO COMMITS A MOVING TRAFFIC VIOLATION
12 IN A WILDLIFE CROSSING ZONE IS SUBJECT TO THE INCREASED PENALTIES
13 AND SURCHARGES IMPOSED BY SECTION 42-4-1701 (4) (d.5).

14 (2) FOR THE PURPOSES OF THIS SECTION, "WILDLIFE CROSSING
15 ZONE" MEANS AN AREA ON A PUBLIC HIGHWAY THAT:

16 (a) BEGINS AT A SIGN THAT CONFORMS TO THE STATE TRAFFIC
17 CONTROL MANUAL, WAS ERECTED BY THE DEPARTMENT OF
18 TRANSPORTATION PURSUANT TO SECTION 42-4-118, AND INDICATES THAT
19 A PERSON IS ABOUT TO ENTER A WILDLIFE CROSSING ZONE; AND

20 (b) EXTENDS TO:

21 (I) A SIGN THAT CONFORMS TO THE STATE TRAFFIC CONTROL
22 MANUAL, WAS ERECTED BY THE DEPARTMENT OF TRANSPORTATION
23 PURSUANT TO SECTION 42-4-118, AND INDICATES THAT A PERSON IS ABOUT
24 TO LEAVE A WILDLIFE CROSSING ZONE; OR

25 (II) IF NO SIGN EXISTS THAT COMPLIES WITH SUBPARAGRAPH (I) OF
26 THIS PARAGRAPH (b), THE DISTANCE INDICATED ON THE SIGN INDICATING
27 THE BEGINNING OF THE WILDLIFE CROSSING ZONE; OR

1 (III) IF NO SIGN EXISTS THAT COMPLIES WITH SUBPARAGRAPH (I)
2 OR (II) OF THIS PARAGRAPH (b), ONE-HALF MILE BEYOND THE SIGN
3 INDICATING THE BEGINNING OF THE WILDLIFE CROSSING ZONE.

4 (3) (a) IF THE DEPARTMENT OF TRANSPORTATION ERECTS A SIGN
5 THAT INDICATES THAT A PERSON IS ABOUT TO ENTER A WILDLIFE CROSSING
6 ZONE PURSUANT TO SECTION 42-4-118, THE DEPARTMENT OF
7 TRANSPORTATION SHALL:

8 (I) ESTABLISH THE TIMES OF DAY AND THE PERIODS OF THE
9 CALENDAR YEAR DURING WHICH THE AREA WILL BE DEEMED TO BE A
10 WILDLIFE CROSSING ZONE FOR THE PURPOSES OF THIS SECTION; AND

11 (II) ENSURE THAT THE SIGN INDICATES THE TIMES OF DAY AND THE
12 PERIODS OF THE CALENDAR YEAR DURING WHICH THE AREA WILL BE
13 DEEMED TO BE A WILDLIFE CROSSING ZONE FOR THE PURPOSES OF THIS
14 SECTION.

15 (b) IN ERECTING SIGNS AS DESCRIBED IN PARAGRAPH (a) OF THIS
16 SUBSECTION (3), THE DEPARTMENT OF TRANSPORTATION, PURSUANT TO
17 SECTION 42-4-118, SHALL NOT ERECT SIGNS ESTABLISHING A LOWER SPEED
18 LIMIT FOR MORE THAN ONE HUNDRED MILES OF THE PUBLIC HIGHWAYS OF
19 THE STATE THAT HAVE BEEN ESTABLISHED AS WILDLIFE CROSSING ZONES.

20 (4) THIS SECTION SHALL NOT APPLY IF:

21 (a) THE PERSON WHO COMMITS A MOVING TRAFFIC VIOLATION IN
22 A WILDLIFE CROSSING ZONE IS ALREADY SUBJECT TO INCREASED
23 PENALTIES AND SURCHARGES FOR SAID VIOLATION PURSUANT TO SECTION
24 42-4-614 OR 42-4-615;

25 (b) THE SIGN INDICATING THAT A PERSON IS ABOUT TO ENTER A
26 WILDLIFE CROSSING ZONE DOES NOT INDICATE THAT INCREASED TRAFFIC
27 PENALTIES ARE IN EFFECT IN THE ZONE; OR

1 (c) THE PERSON WHO COMMITS A MOVING TRAFFIC VIOLATION IN
2 A WILDLIFE CROSSING ZONE COMMITS THE VIOLATION DURING A TIME THAT
3 THE AREA IS NOT DEEMED BY THE DEPARTMENT OF TRANSPORTATION TO
4 BE A WILDLIFE CROSSING ZONE FOR THE PURPOSES OF THIS SECTION.

5 **SECTION 3.** 42-4-1701 (4), Colorado Revised Statutes, is
6 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

7 **42-4-1701. Traffic offenses and infractions classified -**
8 **penalties - penalty and surcharge schedule - repeal.** (4) (d.5) (I) THE
9 PENALTY AND SURCHARGE IMPOSED FOR ANY MOVING TRAFFIC VIOLATION
10 UNDER SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (4) ARE
11 DOUBLED IF THE VIOLATION OCCURS WITHIN A WILDLIFE CROSSING ZONE
12 PURSUANT TO SECTION 42-4-616.

13 (II) (A) THERE IS HEREBY CREATED, WITHIN THE HIGHWAY USERS
14 TAX FUND, THE WILDLIFE CROSSING ZONES SAFETY ACCOUNT.

15 (B) IF A PENALTY AND SURCHARGE ARE DOUBLED PURSUANT TO
16 SUBPARAGRAPH (I) OF THIS PARAGRAPH (d.5), ONE-HALF OF THE PENALTY
17 AND SURCHARGE ALLOCATED TO THE STATE BY SECTIONS 42-1-217 AND
18 43-4-205, C.R.S., SHALL BE TRANSFERRED TO THE STATE TREASURER,
19 WHO SHALL DEPOSIT THE MONEYS IN THE WILDLIFE CROSSING ZONES
20 SAFETY ACCOUNT WITHIN THE HIGHWAY USERS TAX FUND TO BE
21 CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT OF TRANSPORTATION
22 FOR WILDLIFE CROSSING ZONES SIGNS AND LAW ENFORCEMENT.

23 **SECTION 4. Applicability.** This act shall apply to offenses
24 committed on or after the effective date of this act.

25 **SECTION 5. Act subject to petition - specified effective date.**
26 This act shall take effect September 1, 2010; except that, if a referendum
27 petition is filed pursuant to section 1 (3) of article V of the state

1 constitution against this act or an item, section, or part of this act within
2 the ninety-day period after final adjournment of the general assembly,
3 then the act, item, section, or part shall not take effect unless approved by
4 the people at the general election to be held in November 2010 and shall
5 take effect on the date of the official declaration of the vote thereon by
6 the governor.