

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

PREAMENDED

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

LLS NO. 10-0823.01 Ed DeCecco

HOUSE BILL 10-1287

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A BILL FOR AN ACT

101 **CONCERNING THE USE OF A STATE-OWNED MOTOR VEHICLE FOR**
102 **COMMUTING PURPOSES.**

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 makes the following changes related to the use of a state-owned motor vehicle for commuting purposes:

- ! Prohibits commuting unless the job description of an officer or employee of a state agency includes the provision of a public health, safety, or emergency response service

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.

- outside of business hours;
- ! Eliminates the ability of a state agency to waive reimbursement to the state for commuting;
- ! Requires a state agency to provide a report about commuting to the division of central services in the department of personnel; and
- ! Establishes a civil penalty for any individual who fails to reimburse the state for commuting.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds, determines, and declares that:

4 (a) The state of Colorado should generally limit the use of
5 state-owned motor vehicles to official state business, but incidental
6 personal use is sometimes unavoidable, reasonable, and for the benefit of
7 the state;

8 (b) Regular personal use of state-owned motor vehicles for
9 commuting is considered to be a fringe benefit, and in most instances
10 employees should fairly and fully reimburse the state for this personal
11 use;

12 (c) Unreimbursed fringe benefits may be subject to federal and
13 state taxation; and

14 (d) Actual vehicle operating costs and reimbursements for
15 commuting must be reported accurately to ensure appropriate oversight
16 of state assets, preparation of the state budget, and compliance with
17 federal and state laws.

18 (2) Now, therefore, the general assembly intends to increase
19 transparency and oversight of the use of state-owned motor vehicles and
20 to ensure that such vehicles used for commuting are managed in a fair,
21 responsible, and economical manner.

1 **SECTION 2.** 24-30-1113, Colorado Revised Statutes, is amended
2 to read:

3 **24-30-1113. Commuting - reimbursement by state officers and**
4 **employees - state-owned motor vehicle commuter cash fund -**
5 **creation - definitions.** (1) Except as provided in this section, ~~the~~ A state
6 agency shall not assign any state-owned motor vehicle to an ~~officer or~~
7 employee of a state agency for any reason other than as necessitated by
8 the conduct of official state business.

9 (2) The use of state-owned motor vehicles for commuting
10 purposes by ~~officers and~~ employees of state agencies ~~between official~~
11 ~~work stations and residences~~ may be authorized by the state agency's
12 executive director where the state agency's executive director determines
13 that such use is based on rules ~~and regulations~~ promulgated by the
14 division. ~~and which includes~~ SUCH RULES SHALL INCLUDE THE FOLLOWING
15 REQUIREMENTS:

16 (a) ~~Promotion of~~ COMMUTING WITH THE STATE-OWNED MOTOR
17 VEHICLE PROMOTES a legitimate nonpartisan state interest;

18 (b) ~~Promotion of~~ COMMUTING WITH THE STATE-OWNED MOTOR
19 VEHICLE PROMOTES the efficient operation of the state motor vehicle fleet
20 system; ~~and~~

21 (c) COMMUTING WITH THE STATE-OWNED MOTOR VEHICLE is
22 cost-effective to the state agency; AND

23 (d) THE NEED FOR AN EMPLOYEE TO COMMUTE WITH A
24 STATE-OWNED MOTOR VEHICLE IS SET FORTH IN THE POSITION
25 DESCRIPTION QUESTIONNAIRE FOR THE EMPLOYEE'S POSITION.

26 (3) (a) A STATE AGENCY SHALL SUBMIT A WRITTEN APPLICATION
27 FOR EACH EMPLOYEE WHO THE EXECUTIVE DIRECTOR OF THE STATE

1 AGENCY AUTHORIZES FOR COMMUTING WITH A STATE-OWNED MOTOR
2 VEHICLE. BEGINNING OCTOBER 1, 2010, NO EMPLOYEE SHALL USE A
3 STATE-OWNED MOTOR VEHICLE FOR COMMUTING, UNLESS THE DIVISION
4 DETERMINES THAT THE USE MEETS THE CRITERIA FOR COMMUTING
5 AUTHORIZATION AND APPROVES SUCH USE. A determination by the
6 ~~director~~ DIVISION that ~~commuting purposes meet~~ AN EMPLOYEE MEETS the
7 criteria for commuting authorization shall be based on review and
8 verification of written application forms and supporting documentation
9 submitted in the manner provided in rules ~~and regulations~~ adopted by the
10 division. THE DIVISION SHALL NOT GRANT APPROVAL FOR AN EMPLOYEE
11 TO USE A STATE-OWNED MOTOR VEHICLE FOR COMMUTING IF THE
12 APPLICATION FORM FOR THE EMPLOYEE IS INCOMPLETE.

13 (b) BEGINNING OCTOBER 1, 2010, AN EMPLOYEE WHO IS NOT
14 EXEMPT FROM REIMBURSEMENT PURSUANT TO PARAGRAPH (b) OF
15 SUBSECTION (4) OF THIS SECTION SHALL NOT BE ASSIGNED A MOTOR
16 VEHICLE FOR COMMUTING UNLESS THE EMPLOYEE AGREES IN WRITING
17 THAT THE REIMBURSEMENT FOR COMMUTING MAY BE DEDUCTED FROM HIS
18 OR HER SALARY.

19 (c) IF AN EMPLOYEE AUTHORIZED TO USE A STATE-OWNED MOTOR
20 VEHICLE FOR COMMUTING HAS THE ASSIGNMENT OF THAT MOTOR VEHICLE
21 REVOKED PURSUANT TO SECTION 24-30-1112 (3) (a), THE DIVISION SHALL
22 COLLECT REIMBURSEMENT FROM THE EMPLOYEE FOR THE OTHER THAN
23 OFFICIAL BUSINESS USE THAT LEAD TO THE REVOCATION, WHICH AMOUNT
24 SHALL BE IN ADDITION TO ANY OTHER REIMBURSEMENT REQUIRED
25 PURSUANT TO THIS SECTION.

26 (4) (a) EXCEPT AS SET FORTH IN PARAGRAPH (b) OF THIS
27 SUBSECTION (4), any ~~individual~~ EMPLOYEE who has received the state

1 agency executive director's authorization to use a state-owned motor
2 vehicle for commuting purposes shall reimburse the state for such use at
3 a rate computed by the division. This rate shall approximate the benefit
4 derived from the use of the vehicle. Reimbursement shall be for twenty
5 days per month regardless of how many days the individual uses the
6 vehicle to commute during the month. Reimbursement shall be made as
7 provided by rule THAT IS ESTABLISHED ANNUALLY BASED ON THE
8 AUTOMOBILE LEASE-VALUE RULE ESTABLISHED BY THE INTERNAL
9 REVENUE SERVICE PURSUANT TO 26 CFR 1.61-21 OR ANY SUCCESSOR
10 PROVISION. SUCH REIMBURSEMENT SHALL BE DEDUCTED FROM THE
11 EMPLOYEE'S SALARY BY THE STATE AGENCY, BUT SHALL NOT BE
12 CONSIDERED TO BE STATE AGENCY MONEYS OR APPROPRIATED TO THE
13 STATE AGENCY. THE STATE AGENCY SHALL CAUSE THE REIMBURSEMENT
14 TO BE PAID TO THE DIVISION AND THE REIMBURSEMENT SHALL BE
15 CREDITED TO THE STATE-OWNED MOTOR VEHICLE COMMUTER CASH FUND,
16 WHICH IS HEREBY CREATED IN THE STATE TREASURY. MONEYS IN THE
17 FUND SHALL BE APPROPRIATED TO THE DIVISION TO PAY THE OPERATING
18 EXPENSES FOR THE STATE-OWNED MOTOR VEHICLE USED BY THE
19 EMPLOYEE FOR COMMUTING, AND THE APPROPRIATION TO THE STATE
20 AGENCY OR OTHER FUNDING FOR OPERATING EXPENSES FOR THE
21 STATE-OWNED MOTOR VEHICLE SHALL BE REDUCED BY THE AMOUNT OF
22 SUCH APPROPRIATION FROM THE FUND. ALL INTEREST AND INCOME
23 DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND
24 SHALL BE CREDITED TO THE FUND. ANY MONEYS NOT APPROPRIATED BY
25 THE GENERAL ASSEMBLY SHALL REMAIN IN THE FUND AND SHALL NOT BE
26 TRANSFERRED OR REVERT TO THE GENERAL FUND AT THE END OF ANY
27 FISCAL YEAR.

1 (b) ~~Unless provided by rule, no exceptions shall be made to the~~
2 ~~reimbursement provisions of this subsection~~ (4) REIMBURSEMENT SHALL
3 NOT BE REQUIRED IF THE DIVISION DETERMINES THAT THE EMPLOYEE IS
4 DRIVING A CLEARLY MARKED POLICE OR FIRE VEHICLE OR OTHER
5 QUALIFIED NONPERSONAL USE VEHICLE.

6 (c) THE STATE AGENCY SHALL TAX THE BENEFIT ASSOCIATED WITH
7 USING THE STATE-OWNED MOTOR VEHICLE FOR COMMUTING IF THE
8 AMOUNT OF REIMBURSEMENT REQUIRED BY THIS SECTION FOR COMMUTING
9 IS LESS THAN THE VALUE OF THE BENEFIT AS DETERMINED BY THE
10 REGULATIONS ESTABLISHED BY THE INTERNAL REVENUE SERVICE.

11 (5) ON OR BEFORE OCTOBER 1, 2011, AND ON OR BEFORE OCTOBER
12 1 OF EACH YEAR THEREAFTER, THE DIVISION SHALL PROVIDE A REPORT TO
13 THE JOINT BUDGET COMMITTEE THAT INCLUDES THE FOLLOWING
14 INFORMATION:

15 (a) AN ESTIMATE OF THE AUTOMOBILE LEASE-VALUE RULE THAT
16 WILL BE USED FOR THE NEXT STATE FISCAL YEAR TO DETERMINE THE
17 REIMBURSEMENT OWED BY EACH EMPLOYEE PURSUANT TO THIS SECTION;

18 (b) THE NAME OF EACH EMPLOYEE AUTHORIZED TO USE A
19 STATE-OWNED MOTOR VEHICLE FOR COMMUTING AND THE ESTIMATED
20 REIMBURSEMENT TO BE PAID BY THE EMPLOYEE FOR THE NEXT STATE
21 FISCAL YEAR, WHICH INFORMATION SHALL BE ORGANIZED BY
22 DEPARTMENT, DIVISION, AND PROGRAM;

23 (c) FOR EACH EMPLOYEE IDENTIFIED IN PARAGRAPH (b) OF THIS
24 SUBSECTION (5), THE ANTICIPATED APPROPRIATION LINE ITEM IN THE
25 ANNUAL GENERAL APPROPRIATION ACT AND FUNDING SOURCE THAT WILL
26 BE USED TO PAY EXPENSES FOR THE STATE-OWNED MOTOR VEHICLE USED
27 FOR COMMUTING;

1 (d) THE TOTAL PERCENTAGE OF MILES TRAVELED AND OPERATING
2 COSTS FOR STATE-OWNED MOTOR VEHICLES ATTRIBUTED TO COMMUTING
3 FOR EACH DEPARTMENT FOR THE PRIOR STATE FISCAL YEAR;

4 (e) THE TOTAL NUMBER OF EMPLOYEES FROM EACH DEPARTMENT
5 FOR THE PRIOR STATE FISCAL YEAR WHO WERE NOT REQUIRED TO
6 REIMBURSE THE STATE FOR THE USE OF A STATE-OWNED MOTOR VEHICLE
7 FOR COMMUTING; AND

8 (f) THE TOTAL OPERATING EXPENSES FOR EACH DEPARTMENT FOR
9 THE PRIOR STATE FISCAL YEAR FOR STATE-OWNED MOTOR VEHICLES USED
10 FOR COMMUTING.

11 (6) THE DIVISION SHALL PROMULGATE, IN ACCORDANCE WITH
12 ARTICLE 4 OF THIS TITLE, ANY RULES NECESSARY FOR THE
13 ADMINISTRATION OF THIS SECTION.

14 (7) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
15 REQUIRES:

16 (a) "CLEARLY MARKED POLICE OR FIRE VEHICLE" SHALL HAVE THE
17 SAME MEANING AS SET FORTH IN 26 CFR 1.274-5T (k) (3) OR ANY
18 SUCCESSOR PROVISION.

19 (b) (I) "COMMUTING" MEANS DRIVING BETWEEN AN EMPLOYEE'S
20 RESIDENCE AND:

21 (A) THE EMPLOYEE'S PRINCIPAL PLACE OF BUSINESS; OR

22 (B) TEMPORARY WORK LOCATIONS, IF SUB-SUBPARAGRAPH (B) OF
23 SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) DOES NOT APPLY.

24 (II) "COMMUTING" DOES NOT INCLUDE DRIVING BETWEEN AN
25 EMPLOYEE'S RESIDENCE AND:

26 (A) A LOCATION OTHER THAN THE EMPLOYEE'S PRINCIPAL
27 WORKPLACE THAT IS IN RESPONSE TO AN EMERGENCY SITUATION; OR

1 (B) TEMPORARY WORK LOCATIONS, IF THE EMPLOYEE HAS AN
2 OFFICE IN HIS OR HER RESIDENCE, WHICH OFFICE QUALIFIES AS A PRINCIPAL
3 PLACE OF BUSINESS.

4 (c) "DIVISION" MEANS THE DIVISION OF CENTRAL SERVICES IN THE
5 DEPARTMENT OF PERSONNEL.

6 (d) "EMPLOYEE" MEANS AN EMPLOYEE OF A STATE AGENCY AND
7 INCLUDES AN OFFICER.

8 (e) "QUALIFIED NONPERSONAL USE VEHICLE" SHALL HAVE THE
9 SAME MEANING AS SET FORTH IN 26 CFR 1.274-5T (k) (2) OR ANY
10 SUCCESSOR PROVISION.

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