

**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

SENATE BILL 17-278

BY SENATOR(S) Coram, Aguilar, Court, Fenberg, Fields, Garcia, Jones, Kagan, Kefalas, Kerr, Merrifield, Todd, Zenzinger;  
also REPRESENTATIVE(S) Ginal, Becker K., Foote, Gray, Hamner, Hansen, Hooton, Kennedy, Lontine, Melton, Mitsch Bush, Rosenthal, Young.

CONCERNING A PROHIBITION AGAINST ENGAGING IN A NUISANCE  
EXHIBITION OF MOTOR VEHICLE EXHAUST.

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

**SECTION 1.** In Colorado Revised Statutes, 42-4-314, **amend** (3);  
and **add** (6) as follows:

**42-4-314. Automobile emissions control systems - tampering - operation of vehicle.** (3) (a) ~~Any~~ A person who violates ~~any provision~~ SUBSECTION (1) OR (2) of this section commits a class A traffic infraction AND SHALL BE FINED THIRTY-FIVE DOLLARS PURSUANT TO SECTION 42-4-1701 (4)(a)(I)(N). The department shall not assess any points under section 42-2-127 for a conviction pursuant to SUBSECTION (1) OR (2) OF this section.

(b) A PERSON WHO VIOLATES SUBSECTION (6) OF THIS SECTION

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

COMMITTS A CLASS A TRAFFIC INFRACTION AND SHALL BE FINED ONE HUNDRED DOLLARS PURSUANT TO SECTION 42-4-1701 (4)(a)(I)(N). THE DEPARTMENT SHALL NOT ASSESS ANY POINTS UNDER SECTION 42-2-127 FOR A CONVICTION PURSUANT TO SUBSECTION (6) OF THIS SECTION.

(6) (a) **Nuisance exhibition of motor vehicle exhaust - prohibition.** A PERSON SHALL NOT ENGAGE IN A NUISANCE EXHIBITION OF MOTOR VEHICLE EXHAUST, WHICH IS THE KNOWING RELEASE OF SOOT, SMOKE, OR OTHER PARTICULATE EMISSIONS FROM A MOTOR VEHICLE WITH A GROSS VEHICLE WEIGHT RATING OF FOURTEEN THOUSAND POUNDS OR LESS INTO THE AIR AND ONTO ROADWAYS, OTHER MOTOR VEHICLES, BICYCLISTS, OR PEDESTRIANS, IN A MANNER THAT OBSTRUCTS OR OBSCURES ANOTHER PERSON'S VIEW OF THE ROADWAY, OTHER USERS OF THE ROADWAY, OR A TRAFFIC CONTROL DEVICE OR OTHERWISE CREATES A HAZARD TO A DRIVER, BICYCLIST, OR PEDESTRIAN.

(b) THE PROHIBITION SET FORTH IN SUBSECTION (6)(a) OF THIS SECTION DOES NOT APPLY TO:

(I) A COMMERCIAL VEHICLE, AS DEFINED IN SECTION 42-1-102 (17.5);

(II) A COMMON CARRIER, AS DEFINED IN SECTION 40-1-102 (3)(a)(I);

(III) A MOTOR CARRIER, AS DEFINED IN SECTION 40-10.1-101 (10);

(IV) A MOTOR CARRIER OF PASSENGERS, PERMITTED PURSUANT TO SECTION 40-10.1-302;

(V) A MOTOR CARRIER OF TOWED MOTOR VEHICLES, PERMITTED PURSUANT TO SECTION 40-10.1-401;

(VI) A MOTOR CARRIER OF HOUSEHOLD GOODS, PERMITTED PURSUANT TO SECTION 40-10.1-502;

(VII) A MOTOR VEHICLE USED FOR AGRICULTURAL PURPOSES; OR

(VIII) ANY OTHER VEHICLE USED FOR COMMERCIAL ACTIVITIES.

**SECTION 2.** In Colorado Revised Statutes, 42-4-1701, **amend**

(4)(a)(I) introductory portion and (4)(a)(I)(N) as follows:

**42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule - repeal.**

(4) (a) (I) Except as provided in ~~paragraph (c) of subsection (5)~~ SUBSECTION (5)(c) of this section, every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of ~~any provision of this title~~ TITLE 42 to which ~~paragraph (a) or (b) of subsection (5)~~ SUBSECTION (5)(a) OR (5)(b) of this section ~~apply~~ APPLIES shall be fined or penalized and have a surcharge levied in accordance with sections 24-4.1-119 (1)(f) and 24-4.2-104 (1)(b)(I) C.R.S., in accordance with the penalty and surcharge schedule set forth in ~~sub-subparagraphs (A) to (P) of this subparagraph (F)~~ SUBSECTIONS (4)(a)(I)(A) TO (4)(a)(I)(P) OF THIS SECTION; or, if no penalty or surcharge is specified in the schedule, the penalty for class A and class B traffic infractions is fifteen dollars, and the surcharge is four dollars. These penalties and surcharges apply whether the defendant acknowledges the defendant's guilt or liability in accordance with the procedure set forth by ~~paragraph (a) of subsection (5)~~ SUBSECTION (5)(a) of this section, is found guilty by a court of competent jurisdiction, or has judgment entered against the defendant by a county court magistrate. Penalties and surcharges for violating specific sections are as follows:

Section Violated	Penalty	Surcharge
<b>(N) Other offenses:</b>		
42-4-1301 (2)(d)	\$ 100.00	\$ 16.00
42-4-1305	50.00	16.00
42-4-1402	150.00	16.00
42-4-1403	30.00	6.00
42-4-1404	15.00	6.00
42-4-1406	35.00	10.00
42-4-1407 (3)(a)	35.00	10.00
42-4-1407 (3)(b)	100.00	30.00
42-4-1407 (3)(c)	500.00	200.00
<del>42-4-314</del>	<del>35.00</del>	<del>10.00</del>
<del>42-4-1408</del>	<del>15.00</del>	<del>6.00</del>
42-4-314 (1) AND (2)	35.00	10.00
42-4-314 (6)(a)	100.00	10.00
42-4-1408	15.00	6.00

42-4-1414 (2)(a)	500.00	156.00
42-4-1414 (2)(b)	1,000.00	312.00
42-4-1414 (2)(c)	5,000.00	1,560.00
42-4-1416 (3)	75.00	4.00
42-20-109 (2)	250.00	66.00

**SECTION 3. Applicability.** This act applies to offenses committed on or after the effective date of this act.

**SECTION 4. Safety clause.** The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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Kevin J. Grantham  
PRESIDENT OF  
THE SENATE

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Crisanta Duran  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Effie Ameen  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO