

**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. 10-0518.01 Richard Sweetman

HOUSE BILL 10-1238

HOUSE SPONSORSHIP

Curry,

SENATE SPONSORSHIP

Schwartz,

House Committees

Transportation & Energy
Appropriations

Senate Committees

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.*

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 - cash fund -**

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

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

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

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

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

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

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

27 (I) IDENTIFYING THE ZONE IN ACCORDANCE WITH THE PROVISIONS

1 OF SECTION 42-4-616; AND

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

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

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

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

18 (b) THE RELATIVE LEVELS OF TRAFFIC CONGESTION AND MOBILITY
19 IN THE AREA; AND

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

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

26 (7) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
27 WILDLIFE CROSSING ZONES CASH FUND, REFERRED TO IN THIS SECTION AS

1 THE "FUND". THE FUND SHALL CONSIST OF MONEYS TRANSFERRED TO THE
2 FUND PURSUANT TO SECTION 42-4-1701 (4) (d) (II). THE MONEYS IN THE
3 FUND SHALL BE CONTINUOUSLY APPROPRIATED BY THE GENERAL
4 ASSEMBLY TO THE DEPARTMENT OF TRANSPORTATION FOR THE DIRECT
5 AND INDIRECT COSTS ASSOCIATED WITH:

6 (I) PLACEMENT OF SIGNS IDENTIFYING WILDLIFE CROSSING ZONES
7 AND ESTABLISHING A LOWER SPEED LIMIT FOR THE PORTION OF THE
8 HIGHWAY THAT LIES WITHIN EACH ZONE;

9 (II) CONSTRUCTION, RECONSTRUCTION, REPAIRS, IMPROVEMENT,
10 PLANNING, SUPERVISION, AND MAINTENANCE OF THE PORTIONS OF THE
11 PUBLIC HIGHWAYS OF THE STATE THAT HAVE BEEN ESTABLISHED AS
12 WILDLIFE CROSSING ZONES PURSUANT TO SUBSECTION (1) OF THIS
13 SECTION, TOGETHER WITH THE ACQUISITION OF RIGHTS-OF-WAY AND
14 ACCESS RIGHTS FOR THE SAME; AND

15 (III) REIMBURSING THE HIGHWAY USERS TAX FUND CREATED IN
16 SECTION 43-4-201, C.R.S., FOR ANY MONEYS THAT ARE USED FROM THE
17 HIGHWAY USERS TAX FUND FOR THE PURPOSES DESCRIBED IN
18 SUBPARAGRAPHS (I) OR (II) OF THIS PARAGRAPH (a).

19 (b) THE DEPARTMENT OF TRANSPORTATION IS AUTHORIZED TO
20 EXPEND MONEYS IN THE FUND FOR THE PURPOSES DESCRIBED IN
21 PARAGRAPH (a) OF THIS SUBSECTION (7).

22 (c) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSES
23 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (7) MAY BE INVESTED
24 BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND
25 INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE
26 FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND
27 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A

1 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR
2 TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

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

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

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

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

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

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

26 (A) DISCONTINUE THE ESTABLISHMENT OF WILDLIFE CROSSING
27 ZONES;

1 (B) CONTINUE THE ESTABLISHMENT OF WILDLIFE CROSSING ZONES,
2 AS LIMITED BY THE PROVISIONS OF PARAGRAPH (b) OF SUBSECTION (1) OF
3 THIS SECTION; OR

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

7 (b) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE MARCH 2, 2012.

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

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

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

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

22 (b) EXTENDS TO:

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

27 (II) IF NO SIGN EXISTS THAT COMPLIES WITH SUBPARAGRAPH (I) OF

1 THIS PARAGRAPH (b), THE DISTANCE INDICATED ON THE SIGN INDICATING
2 THE BEGINNING OF THE WILDLIFE CROSSING ZONE; OR

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

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

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

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

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

22 (4) THIS SECTION SHALL NOT APPLY IF:

23 (a) THE PERSON WHO COMMITS A MOVING TRAFFIC VIOLATION IN
24 A WILDLIFE CROSSING ZONE IS ALREADY SUBJECT TO INCREASED
25 PENALTIES AND SURCHARGES FOR SAID VIOLATION PURSUANT TO SECTION
26 42-4-614 OR 42-4-615;

27 (b) THE SIGN INDICATING THAT A PERSON IS ABOUT TO ENTER A

1 WILDLIFE CROSSING ZONE DOES NOT INDICATE THAT INCREASED TRAFFIC
2 PENALTIES ARE IN EFFECT IN THE ZONE; OR

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

7 **SECTION 3.** 42-4-1701 (4) (d), Colorado Revised Statutes, is
8 amended to read:

9 **42-4-1701. Traffic offenses and infractions classified -**
10 **penalties - penalty and surcharge schedule - repeal.** (4) (d) (I) The
11 penalty and surcharge imposed for any moving traffic violation under
12 subparagraph (I) of paragraph (a) of this subsection (4) are doubled if the
13 violation occurs within a school zone pursuant to section 42-4-615 OR
14 WITHIN A WILDLIFE CROSSING ZONE PURSUANT TO SECTION 42-4-616.

15 (II) FOR EACH PENALTY AND SURCHARGE THAT THE DEPARTMENT
16 OF TRANSPORTATION IMPOSES FOR A MOVING TRAFFIC VIOLATION THAT
17 OCCURS WITHIN A WILDLIFE CROSSING ZONE PURSUANT TO SECTION
18 42-4-616, THE DEPARTMENT SHALL TRANSMIT ONE HALF OF THE AMOUNT
19 COLLECTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO
20 THE WILDLIFE CROSSING ZONES CASH FUND CREATED IN SECTION 42-4-118.

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

23 **SECTION 5. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.