

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.



SENATE BILL 26-132

BY SENATOR(S) Roberts and Carson, Amabile, Baisley, Ball, Benavidez, Bridges, Bright, Catlin, Cutter, Daugherty, Exum, Frizell, Gonzales J., Hinrichsen, Jodeh, Kipp, Kirkmeyer, Kolker, Lindstedt, Liston, Marchman, Mullica, Pelton B., Pelton R., Rich, Rodriguez, Simpson, Snyder, Sullivan, Wallace, Weissman, Zamora Wilson, Coleman;
also REPRESENTATIVE(S) Joseph and Soper, Barron, Boesenecker, Bradley, Brown, Caldwell, Camacho, Clifford, Duran, Froelich, Goldstein, Gonzalez R., Hamrick, Jackson, Keltie, Lieder, Nguyen, Paschal, Phillips, Ricks, Rutinel, Smith, Taggart, McCluskie.

CONCERNING A REQUIREMENT THAT A LAW ENFORCEMENT OFFICER OFFER A VOLUNTARY PRELIMINARY SCREENING TEST FOR ALCOHOL TO A DRIVER, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Short title. The short title of this act is "Magnus' Law".

SECTION 2. Legislative declaration. (1) The general assembly finds and declares that:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(a) On July 29, 2023, at 12:28 p.m., Magnus White, a 17-year-old member of the USA Cycling National Team, was struck by a car and killed while training on a Boulder roadway. The investigation uncovered evidence that the car's driver consumed alcohol and drugs prior to the crash. However, because no preliminary screening test was administered on the scene, the driver was not charged with driving under the influence.

(b) Allowing a law enforcement officer discretion to decide whether to offer a voluntary preliminary screening test can result in inconsistent investigation practices, particularly at scenes of serious collisions involving multiple responding agencies where responsibility for specific investigative steps may be unclear;

(c) A preliminary screening test takes moments to administer. Without it, evidence suggesting a driver's sobriety or impairment may be permanently lost and the state must investigate a driver's sobriety or impairment through other means, at significant cost and with prolonged proceedings. As a result, the causes of some collisions may never be known.

(d) Requiring a law enforcement officer to offer a voluntary preliminary screening test to a driver involved in a collision involving a serious injury or fatality creates a clear protocol that removes ambiguity, ensures that all drivers are treated equally, and gives victims' families confidence that impairment will be investigated in every case;

(e) "Magnus' Law" preserves the right of drivers to refuse a voluntary preliminary screening test, imposes no penalty for refusal, and does not alter existing evidentiary standards; and

(f) The purpose of "Magnus' Law" is to honor the memory of Magnus White by ensuring that a law enforcement officer always offers a voluntary preliminary screening test to a driver involved in a collision involving a serious injury or fatality and that the opportunity to investigate is never lost at the scene of the most serious collisions on Colorado's roadways.

SECTION 3. In Colorado Revised Statutes, 42-4-1301, **add** (6)(i)(I.3), (6)(i)(I.4), (6)(i)(I.5), (6)(i)(I.6), and (9) as follows:

**42-4-1301. Driving under the influence - driving while impaired
- driving with excessive alcoholic content - penalties - definitions.**

(6)(i)(I.3) FOLLOWING LAWFUL CONTACT WITH AN INDIVIDUAL WHO HAS BEEN DRIVING A MOTOR VEHICLE OR VEHICLE INVOLVED IN A COLLISION RESULTING IN DEATH OR SUSPECTED SERIOUS BODILY INJURY, A LAW ENFORCEMENT OFFICER SHALL OFFER THE DRIVER THE OPPORTUNITY TO VOLUNTARILY SUBMIT A SAMPLE OF THE DRIVER'S BREATH FOR A PRELIMINARY SCREENING TEST FOR ALCOHOL USING A DEVICE APPROVED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AFTER FIRST ADVISING THE DRIVER THAT THE DRIVER MAY REFUSE OR AGREE TO THE PRELIMINARY TEST, WHEN:

(A) THE LAW ENFORCEMENT OFFICER HAS REASONABLE SUSPICION THAT THE INDIVIDUAL IS THE DRIVER AND IS AT FAULT IN THE COLLISION;

(B) THE INDIVIDUAL WHO THE LAW ENFORCEMENT OFFICER REASONABLY SUSPECTS TO BE THE DRIVER AT FAULT IN THE COLLISION IS NOT SIGNIFICANTLY INJURED OR IN NEED OF IMMEDIATE MEDICAL ATTENTION; AND

(C) THE LAW ENFORCEMENT OFFICER DOES NOT HAVE PROBABLE CAUSE NECESSARY FOR THE EXPRESSED CONSENT REQUIREMENTS DESCRIBED PURSUANT TO SECTION 42-4-1301.1.

(I.4) NOTWITHSTANDING SUBSECTION (6)(i)(I.3) OF THIS SECTION, A LAW ENFORCEMENT OFFICER IS NOT REQUIRED TO OFFER THE DRIVER THE OPPORTUNITY TO VOLUNTARILY SUBMIT A SAMPLE OF THE DRIVER'S BREATH FOR A PRELIMINARY SCREENING TEST FOR ALCOHOL PURSUANT TO SUBSECTION (6)(i)(I.3) OF THIS SECTION IF THE LAW ENFORCEMENT OFFICER'S INITIAL CONTACT WITH THE DRIVER:

(A) OCCURS MORE THAN TWO HOURS FOLLOWING THE COLLISION; OR

(B) ENDED, AND THE DRIVER HAS LEFT THE SCENE OF THE COLLISION OR THE AREA WHERE LAW ENFORCEMENT MADE INITIAL CONTACT WITH THE DRIVER AND THE DRIVER IS NOT IN LAW ENFORCEMENT'S PRESENCE BUT LAW ENFORCEMENT SUBSEQUENTLY LEARNS THAT THE COLLISION INVOLVED DEATH OR SERIOUS BODILY INJURY WHEN THAT WAS NOT INITIALLY SUSPECTED OR KNOWN.

(I.5) WHEN, PURSUANT TO SUBSECTION (6)(i)(I.3) OF THIS SECTION, A LAW ENFORCEMENT OFFICER ADVISES A DRIVER THAT THE DRIVER MAY EITHER REFUSE OR AGREE TO VOLUNTARILY PROVIDE A SAMPLE OF THE DRIVER'S BREATH FOR A PRELIMINARY SCREENING TEST, THE LAW ENFORCEMENT OFFICER SHALL ADVISE THE DRIVER IN PLAIN LANGUAGE THAT:

(A) THE INDIVIDUAL IS BEING ASKED TO PROVIDE A SAMPLE OF THEIR BREATH FOR A PRELIMINARY SCREENING TEST REGARDING WHETHER THEY ARE INTOXICATED BECAUSE THEY WERE DRIVING A MOTOR VEHICLE OR VEHICLE INVOLVED IN A SERIOUS COLLISION;

(B) IF THE INDIVIDUAL TAKES THE PRELIMINARY SCREENING TEST, THE RESULTS OR THE INDIVIDUAL'S REFUSAL TO TAKE THE TEST ARE NOT ADMISSIBLE IN COURT;

(C) IF THE INDIVIDUAL TAKES THE PRELIMINARY SCREENING TEST, EVIDENCE OF INTOXICATION MAY BE USED AS EVIDENCE TO REQUEST FURTHER TESTING THAT IS ADMISSIBLE IN COURT OR TO MAKE AN ARREST;

(D) THE PRELIMINARY SCREENING TEST IS VOLUNTARY; AND

(E) IF THE INDIVIDUAL REFUSES TO TAKE THE PRELIMINARY SCREENING TEST, THE REFUSAL DOES NOT AFFECT THE STATUS OF THEIR DRIVER'S LICENSE.

(I.6) IF A LAW ENFORCEMENT OFFICER IS UNABLE TO ADMINISTER A PRELIMINARY SCREENING TEST FOR ALCOHOL BECAUSE THE DEVICE MALFUNCTIONS OR IS UNABLE TO PRODUCE A VALID RESULT, OR IF THE LAW ENFORCEMENT OFFICER IS UNABLE TO OFFER A PRELIMINARY SCREENING TEST FOR ALCOHOL BECAUSE A DEVICE IS UNAVAILABLE DUE TO EXTENUATING CIRCUMSTANCES OR CIRCUMSTANCES BEYOND THE LAW ENFORCEMENT OFFICER'S REASONABLE CONTROL, THE LAW ENFORCEMENT OFFICER SHALL DOCUMENT ON ANY REQUIRED INCIDENT REPORT RELATED TO THE COLLISION THAT THE PRELIMINARY SCREENING TEST COULD NOT BE ADMINISTERED AND THE REASON WHY IT COULD NOT BE ADMINISTERED.

(9) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "SERIOUS BODILY INJURY" HAS THE MEANING SET FORTH IN SECTION 18-1-901.

SECTION 4. Appropriation. (1) For the 2026-27 state fiscal year, \$120,000 is appropriated to the department of natural resources for use by the division of Colorado parks and wildlife. This appropriation consists of \$90,000 from the parks and outdoor recreation cash fund created in section 33-10-111 (1), C.R.S., and \$30,000 from the wildlife cash fund created in section 33-1-112 (1)(a), C.R.S. To implement this act, the division may use this appropriation as follows:

(a) \$90,000 from the parks and outdoor recreation cash fund for state parks operations; and

(b) \$30,000 from the wildlife cash fund for wildlife operations.

SECTION 5. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to incidents occurring on or after the applicable effective date of this act.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO