

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0405.01 Troy Bratton

HOUSE BILL 10-1113

HOUSE SPONSORSHIP

McFadyen, Sonnenberg, Vaad

SENATE SPONSORSHIP

Hodge, Kester

House Committees

Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE MODIFICATION OF AGENCIES THAT PERFORM
102 OVERSIGHT OF THE COMMERCIAL VEHICLE INDUSTRY THROUGH
103 A TRANSFER OF THE PORTS OF ENTRY SECTION IN THE
104 DEPARTMENT OF REVENUE TO THE COLORADO STATE PATROL
105 IN THE DEPARTMENT OF PUBLIC SAFETY BY A TYPE 2 TRANSFER.

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>.)

Currently, port of entry weigh stations are operated by the

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.

department of revenue. The bill transfers the ports of entry section by a **type 2** transfer from the department of revenue to the Colorado state patrol in the department of public safety.

The **type 2** transfer will transfer all port of entry statutory authority, powers, duties, personnel, property, funding, budgeting, purchasing, and planning from the department of revenue to the Colorado state patrol.

The motor carrier services division of the department of revenue remains responsible for personnel and facilities dealing with motor vehicle registrations, while the Colorado state patrol is responsible for enforcement-related and certain permit-related functions at port of entry weigh stations.

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

2 **SECTION 1.** 16-2.5-115, Colorado Revised Statutes, is amended
3 to read:

4 **16-2.5-115. Port of entry officer.** A port of entry officer WHO IS
5 NOT A COLORADO STATE PATROL OFFICER is a peace officer while engaged
6 in the performance of his or her duties, ~~whose~~ AND THE OFFICER'S
7 authority shall be limited pursuant to section 42-8-104, C.R.S.

8 **SECTION 2.** 24-1-117 (4) (c) (II), Colorado Revised Statutes, is
9 amended to read:

10 **24-1-117. Department of revenue - creation.**
11 (4) (c) (II) Whenever any law of this state or any rule promulgated under
12 the laws of this state refers to the motor vehicle division ~~or the ports of~~
13 ~~entry division~~ of the department, such law or rule shall be deemed to refer
14 to the department of revenue.

15 **SECTION 3.** 24-1-128.6 (2) (a), Colorado Revised Statutes, is
16 amended to read:

17 **24-1-128.6. Department of public safety - creation - repeal.**
18 (2) The department of public safety shall consist of the following
19 divisions:

1 (a) (I) Colorado state patrol, the head of which shall be the chief
2 of the Colorado state patrol. The Colorado state patrol and the office of
3 chief thereof, created by part 2 of article 33.5 of this title, and their
4 powers, duties, and functions are transferred by a **type 2** transfer to the
5 department of public safety.

6 (II) The powers, duties, and functions of the state department of
7 highways relating to the Colorado state patrol are transferred by a **type 2**
8 transfer to the department of public safety and allocated to the Colorado
9 state patrol.

10 (III) THE POWERS, DUTIES, AND FUNCTIONS OF THE PORTS OF
11 ENTRY SECTION IN THE DEPARTMENT OF REVENUE ARE TRANSFERRED BY
12 A **TYPE 2** TRANSFER TO THE DEPARTMENT OF PUBLIC SAFETY AND
13 ALLOCATED TO THE COLORADO STATE PATROL. WHENEVER ANY LAW OF
14 THIS STATE OR ANY RULE PROMULGATED UNDER THE LAWS OF THIS STATE
15 REFERS TO THE PORTS OF ENTRY SECTION OF THE DEPARTMENT OF PUBLIC
16 SAFETY, SUCH LAW OR RULE SHALL BE DEEMED TO REFER TO THE
17 DEPARTMENT OF PUBLIC SAFETY.

18 **SECTION 4.** 24-33.5-203, Colorado Revised Statutes, is
19 amended BY THE ADDITION OF A NEW SUBSECTION to read:

20 **24-33.5-203. Duties of executive director and patrol.** (3) THE
21 COLORADO STATE PATROL SHALL BE RESPONSIBLE FOR ESTABLISHING AND
22 OPERATING PORT OF ENTRY WEIGH STATIONS PURSUANT TO ARTICLE 8 OF
23 TITLE 42, C.R.S.

24 **SECTION 5.** 40-14-103 (6) (a), Colorado Revised Statutes, is
25 amended to read:

26 **40-14-103. Requirements for issuance of a mover registration.**
27 (6) (a) The motor carrier services division created in section 42-8-103,

1 C.R.S., IN COOPERATION WITH THE COLORADO STATE PATROL, may issue,
2 through a port of entry weigh station created pursuant to article 8 of title
3 42, C.R.S., a temporary household mover registration. The temporary
4 registration shall be valid for fifteen consecutive days. A temporary
5 registration shall not be renewed. A mover or a mover's successor who
6 has been issued a temporary registration shall not be eligible for a
7 subsequent temporary registration.

8 **SECTION 6.** 40-14-111, Colorado Revised Statutes, is amended
9 to read:

10 **40-14-111. Enforcement.** The commission ~~the Colorado state~~
11 ~~patrol~~, and the ports of entry section of the ~~department of revenue~~
12 COLORADO STATE PATROL IN THE DEPARTMENT OF PUBLIC SAFETY shall
13 monitor the compliance of persons offering services pursuant to this
14 article with the requirements of this article and shall enforce such
15 requirements.

16 **SECTION 7.** 40-16-106, Colorado Revised Statutes, is amended
17 to read:

18 **40-16-106. Enforcement.** The ~~public utilities commission of this~~
19 ~~state, the Colorado state patrol~~, and the ports of entry section of the
20 ~~department of revenue~~ COLORADO STATE PATROL IN THE DEPARTMENT OF
21 PUBLIC SAFETY shall monitor the compliance of persons offering services
22 pursuant to this article with the requirements of this article and shall
23 enforce such requirements.

24 **SECTION 8.** 40-16-110 (5) (a), Colorado Revised Statutes, is
25 amended to read:

26 **40-16-110. Legislative declaration - federal preemption -**
27 **property carriers to surrender certificates and permits - issuance by**

1 **ports of entry.** (5) (a) The commission may, in its discretion, authorize
2 the Colorado motor carrier services division in the department of revenue
3 to issue, IN COOPERATION WITH THE COLORADO STATE PATROL, temporary
4 registrations to property carriers by motor vehicle for the seasonal
5 operation of motor vehicles for the purpose of transporting unprocessed
6 agricultural produce to market or to places of storage. The duration of
7 such temporary registrations shall be ninety consecutive days. An
8 applicant shall present evidence of insurance to the port of entry at the
9 time of application or sign an affidavit attesting to the fact that the person
10 making application is insured in accordance with the requirements of this
11 article. Upon presentation of such evidence and payment of a fee of
12 twenty dollars per vehicle, the port of entry shall issue said temporary
13 registrations as designated by the commission. The commission shall
14 subsequently verify the accuracy of said affidavit by requiring that proper
15 proof of liability insurance be filed with the commission after the
16 issuance of the temporary registration. An applicant's failure to comply
17 with this section shall be grounds for the refusal of the commission to
18 issue any further temporary registrations to the applicant unless the
19 applicant furnishes proof of currently effective insurance in the amounts
20 required by this article and in a form satisfactory to the commission.

21 **SECTION 9.** 42-4-510 (1) (a) and (8) (b), Colorado Revised
22 Statutes, are amended to read:

23 **42-4-510. Permits for excess size and weight and for**
24 **manufactured homes - rules.** (1) (a) The department of transportation
25 ~~the motor carrier services division of the department of revenue,~~ or the
26 Colorado state patrol with respect to PORTS OF ENTRY OR highways under
27 its jurisdiction or any local authority with respect to highways under its

1 jurisdiction may, upon application in writing and good cause being shown
2 therefor, issue a single trip, a special, or an annual permit in writing
3 authorizing the applicant to operate or move a vehicle or combination of
4 vehicles of a size or weight of vehicle or load exceeding the maximum
5 specified in this article or otherwise not in conformity with the provisions
6 of this article upon any highway under the jurisdiction of the party
7 granting such permit and for the maintenance of which said party is
8 responsible; except that permits for the movement of any manufactured
9 home shall be issued as provided in subsection (2) of this section.

10 (8) (b) Effective July 1, 1996, the ~~motor carrier services division~~
11 ~~in the department of revenue~~ COLORADO STATE PATROL shall have
12 available for issuance at each fixed port of entry weigh station permits for
13 extralegal vehicles or loads; except that special permits for extralegal
14 vehicles or loads that are considered extraordinary in dimensions or
15 weight, or both, and that require additional safety precautions while in
16 transit shall be issued only by the department of transportation. A port of
17 entry may issue such special permits if authorized to do so by the
18 department of transportation and under such rules as the department of
19 transportation may establish, and may deliver from a fixed port of entry
20 weigh station any permit issued by the department of transportation.

21 **SECTION 10.** 42-8-103, Colorado Revised Statutes, is amended
22 to read:

23 **42-8-103. Motor carrier services division.** (1) There is hereby
24 created within the department of revenue a motor carrier services
25 division, which division, acting under the authority and direction of the
26 executive director of the department of revenue, shall ~~be further~~
27 ~~subdivided into enforcement functions and service functions.~~

1 ~~Enforcement functions shall include, but need not be limited to, the ports~~
2 ~~of entry section. Service functions shall include~~ CARRY OUT SERVICE
3 FUNCTIONS INCLUDING, but need not be limited to, personnel and facilities
4 for dealing with interstate and international motor vehicle registrations.
5 SUCH PERSONNEL OF THE DIVISION MAY, IN COOPERATION WITH THE
6 COLORADO STATE PATROL, PERFORM REGISTRATION DUTIES AT PORT OF
7 ENTRY WEIGH STATIONS.

8 (2) ~~The executive director shall be responsible for establishing~~
9 ~~and operating port of entry weigh stations at such points along the public~~
10 ~~highways of this state as are determined to be necessary to carry out the~~
11 ~~purposes of this article. The executive director shall authorize permanent~~
12 ~~port of entry weigh stations and mobile port of entry weigh stations to be~~
13 ~~established and operated by the division. The location or relocation of~~
14 ~~such stationary or mobile port of entry weigh stations shall be determined~~
15 ~~by the executive director. Wherever any provision of this article refers to~~
16 ~~a motor vehicle inspection station or to a motor carrier inspection station,~~
17 ~~such provision shall be deemed to refer to a port of entry weigh station~~
18 ~~established and operated by the motor carrier services division.~~

19 **SECTION 11.** Article 8 of title 42, Colorado Revised Statutes, is
20 amended BY THE ADDITION OF A NEW SECTION to read:

21 **42-8-103.5. Port of entry weigh stations - establishment and**
22 **operation.** THE CHIEF OF THE COLORADO STATE PATROL, IN
23 CONSULTATION WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
24 PUBLIC SAFETY, SHALL BE RESPONSIBLE FOR ESTABLISHING AND
25 OPERATING PORT OF ENTRY WEIGH STATIONS AT SUCH POINTS ALONG THE
26 PUBLIC HIGHWAYS OF THIS STATE AS ARE DETERMINED TO BE NECESSARY
27 TO CARRY OUT THE PURPOSES OF THIS ARTICLE. THE CHIEF SHALL

1 AUTHORIZE PERMANENT PORT OF ENTRY WEIGH STATIONS AND MOBILE
2 PORT OF ENTRY WEIGH STATIONS TO BE ESTABLISHED AND OPERATED BY
3 THE COLORADO STATE PATROL. THE LOCATION OR RELOCATION OF SUCH
4 STATIONARY OR MOBILE PORT OF ENTRY WEIGH STATIONS SHALL BE
5 DETERMINED BY THE CHIEF.

6 **SECTION 12.** 42-8-104, Colorado Revised Statutes, is amended
7 to read:

8 **42-8-104. Powers and duties.** (1) The executive director of the
9 ~~department of revenue~~ DEPARTMENT OF PUBLIC SAFETY shall issue such
10 rules and regulations as the executive director deems necessary to
11 implement this article and carry out its purposes. ~~Said~~ THE executive
12 director shall, to the fullest extent possible, ~~house department~~ COLORADO
13 STATE PATROL field offices at such places as port of entry weigh stations
14 are established. All permanent port of entry weigh stations established
15 under the authority of this article shall be operated on a
16 twenty-four-hour-a-day basis, except for certain holidays or other times
17 determined by the executive director, ~~of the department of revenue~~, and
18 in such manner as to reasonably allow owners and operators of motor
19 vehicles subject to fees, licenses, or taxes or to regulations imposed by the
20 state of Colorado to comply with all such laws and regulations issued
21 pursuant thereto by clearance at a port of entry weigh station. All port of
22 entry weigh stations, either permanent or mobile, shall be equipped with
23 weighing equipment approved as to accuracy by the division of inspection
24 and consumer services of the department of agriculture.

25 (2) ~~The personnel of a port of entry weigh station~~ PURSUANT TO
26 SECTION 16-2.5-115, C.R.S., ANY PORT OF ENTRY OFFICER WHO IS NOT A
27 COLORADO STATE PATROL OFFICER during the time that ~~they are~~ SUCH

1 OFFICER IS actually engaged in ~~performing their~~ THE PERFORMANCE OF
2 duties as ~~such~~ A PORT OF ENTRY OFFICER and while acting under proper
3 orders, RULES, or regulations issued by ~~the executive director of the~~
4 ~~department of revenue~~ THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
5 PUBLIC SAFETY shall have and exercise all the powers invested in peace
6 officers in connection with the enforcement of the provisions of this
7 article, articles 2 and 20 of this title, part 5 of article 4 of this title, and
8 sections 42-3-107 (17), 42-4-225 (1.5), and 42-4-235; except that ~~they~~
9 SUCH OFFICER shall not have the power to serve civil writs and process
10 and, in the exercise of ~~their~~ HIS OR HER duties, such ~~personnel~~ OFFICER
11 shall have the authority to restrain and detain persons or vehicles and may
12 impound any vehicle until any tax or license fee imposed by law is paid
13 or until compliance is had with any tax or regulatory law or regulation
14 issued thereunder.

15 **SECTION 13.** 42-8-105 (4), Colorado Revised Statutes, is
16 amended to read:

17 **42-8-105. Clearance of motor vehicles at port of entry weigh**
18 **stations.** (4) ~~The department of revenue~~ THE COLORADO STATE PATROL
19 may issue a special revocable permit to the owner or operator of any
20 vehicle being operated over a regularly scheduled route waiving the
21 requirement that the owner or operator seek out and secure a valid
22 clearance at a port of entry weigh station not located directly on the route
23 being followed. In order for the permit to be effective, the vehicle must
24 be operating over a regularly scheduled route that has previously been
25 cleared with the department of revenue.

26 **SECTION 14.** 42-8-107, Colorado Revised Statutes, is amended
27 to read:

1 **42-8-107. Construction and rights-of-way.** Within thirty days
2 after receiving notification from the ~~executive director of the department~~
3 ~~of revenue~~ CHIEF OF THE COLORADO STATE PATROL, the department of
4 transportation shall make available without charge to the ~~department of~~
5 ~~revenue~~ COLORADO STATE PATROL OR THE DEPARTMENT OF PUBLIC
6 SAFETY such rights-of-way upon or adjacent to the public highways of
7 this state as are needed for the construction or reconstruction of port of
8 entry weigh stations. If such rights-of-way are not available, the
9 department of transportation shall acquire such rights-of-way as are
10 needed to carry out the purposes of this article out of money in the state
11 highway fund provided for right-of-way acquisition. If possible, the
12 construction, reconstruction, and maintenance of port of entry weigh
13 stations shall be accomplished with forces of the department of
14 transportation within thirty days after notification by the ~~executive~~
15 ~~director of the department of revenue~~ CHIEF OF THE COLORADO STATE
16 PATROL requesting such work.

17 **SECTION 15.** 42-8-108, Colorado Revised Statutes, is amended
18 to read:

19 **42-8-108. Cooperation among departments.** The governor of
20 Colorado shall require the executive director of the department of
21 revenue, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC
22 SAFETY, the chief of the Colorado state patrol, the chief engineer ~~of the~~
23 ~~division of highways~~ IN THE DEPARTMENT OF TRANSPORTATION, the
24 commissioner of agriculture, the director of ~~the division of~~ commerce and
25 development, and the ~~chairman~~ CHAIR of the public utilities commission
26 to cooperate to the fullest extent possible to the end that port of entry
27 weigh stations established under authority of this article shall serve the

1 broadest possible functions.

2 **SECTION 16.** 42-8-109 (3), Colorado Revised Statutes, is
3 amended to read:

4 **42-8-109. Fines and penalties.** (3) In addition to the penalties
5 imposed pursuant to subsection (1) of this section, the executive director
6 of the ~~department of revenue~~ DEPARTMENT OF PUBLIC SAFETY shall, upon
7 the conviction of any owner or operator or of any agent, officer, or
8 employee, after a third offense within one calendar year, notify the public
9 utilities commission of such conviction, and the commission may suspend
10 any license or permit for a period not to exceed six months or revoke all
11 such certificates and permits issued to the owner or operator of such
12 vehicles by the public utilities commission. Such certificate or permit can
13 be suspended or revoked only after due notice and hearing and for good
14 cause shown. The executive director of the ~~department of revenue~~
15 DEPARTMENT OF PUBLIC SAFETY shall file a complaint with the public
16 utilities commission, and the commission must hold a hearing within
17 thirty days after filing of a THE complaint. ~~by the said executive director.~~
18 If at the hearing the commission finds that the facts as stated in the
19 complaint by the ~~said~~ executive director are substantially correct, the
20 commission may immediately revoke all intrastate certificates and permits
21 issued by it to such violator.

22 **SECTION 17.** 42-8-111 (1), (4), and (5), Colorado Revised
23 Statutes, are amended to read:

24 **42-8-111. Cooperative agreements with contiguous states for**
25 **operations of ports of entry - regulations.** (1) In addition to any other
26 powers granted by law, the executive director of the ~~department of~~
27 ~~revenue~~ DEPARTMENT OF PUBLIC SAFETY is hereby authorized to negotiate

1 and enter into cooperative agreements with the designated representatives
2 of contiguous states for the operations of ports of entry at the borders
3 between Colorado and such contiguous states.

4 (4) The executive director of the ~~department of revenue~~
5 DEPARTMENT OF PUBLIC SAFETY is hereby authorized to appoint
6 employees and officials of a contiguous state as agents of the ports of
7 entry section of the ~~department of revenue~~ DEPARTMENT OF PUBLIC
8 SAFETY with the powers to enforce the laws of Colorado under the terms
9 of cooperative agreements entered into under the provisions of this
10 section.

11 (5) The executive director of the ~~department of revenue~~
12 DEPARTMENT OF PUBLIC SAFETY may promulgate such regulations as are
13 necessary for the implementation of the provisions of this section.

14 **SECTION 18.** 42-20-203 (1), Colorado Revised Statutes, is
15 amended to read:

16 **42-20-203. Carrying of permit and shipping papers.** (1) Any
17 person transporting hazardous materials that require placarding under 49
18 CFR 172 or 173 in this state shall carry a copy of the shipping papers
19 required in 49 CFR 172.200 and a copy of the hazardous materials
20 transportation permit issued by the public utilities commission or BY
21 DEPARTMENT OF REVENUE OR COLORADO STATE PATROL PERSONNEL AT
22 the port of entry weigh station in the transporting motor vehicle while in
23 this state; except that, if a ~~peace officer, as described in section~~
24 ~~16-2.5-101, C.R.S.~~ PORT OF ENTRY OFFICER OR COLORADO STATE PATROL
25 OFFICER, or any other enforcement official, ~~may determine~~ DETERMINES
26 that the hazardous materials transportation permit can be electronically
27 verified at the time of contact, a copy of the permit need not be carried by

1 the person transporting hazardous materials. Such permit shall be open
2 to inspection or electronic verification by any enforcement official.

3 **SECTION 19.** 42-20-404, Colorado Revised Statutes, is amended
4 to read:

5 **42-20-404. Inspections.** All vehicles carrying nuclear materials
6 entering the state on the public highways shall be inspected ~~by port of~~
7 ~~entry personnel or Colorado state patrol officers~~ at the port of entry weigh
8 station nearest the point at which the shipment enters the state or at a
9 location specified by the Colorado state patrol. For all shipments
10 originating within the state, inspection shall be made at the point of
11 origination by Colorado state patrol officers. All such inspections
12 ~~conducted by port of entry weigh station personnel and Colorado state~~
13 ~~patrol officers~~ shall be in accordance with the rules promulgated pursuant
14 to sections 42-4-235, 42-20-108 (2), and 42-20-403.

15 **SECTION 20.** 43-4-201 (3) (a) (I) (B), (3) (a) (I.1), and (3) (a)
16 (III) (C), Colorado Revised Statutes, are amended to read:

17 **43-4-201. Funds created.** (3) (a) (I) The general assembly shall
18 not make any annual appropriation (whether by regular, special, or
19 supplementary appropriation) or any statutory distribution from the
20 highway users tax fund for any purpose or purposes in a total amount that
21 is:

22 (B) Commencing in the fiscal year 1995-96, more than a six
23 percent increase over such appropriation to the department of public
24 safety for the Colorado state patrol and to the department of revenue for
25 ~~the ports of entry division~~ MOTOR CARRIER SERVICES DIVISION for the
26 prior fiscal year; except in fiscal years 2009-10 and 2010-11, more than
27 a six percent increase over such appropriation to the department of public

1 safety for the Colorado state patrol, to the department of revenue for the
2 ~~ports of entry division~~ MOTOR CARRIER SERVICES DIVISION, and to the
3 department of revenue for the division of motor vehicles pursuant to
4 sub-subparagraph (C) of subparagraph (III) of this paragraph (a) for the
5 prior fiscal year.

6 (I.1) Commencing with the fiscal year 1995-96, the general
7 assembly shall not make any annual appropriation or statutory distribution
8 from the highway users tax fund pursuant to this paragraph (a), except to
9 the department of public safety for the Colorado state patrol or to the
10 department of revenue for the ~~ports of entry section~~ MOTOR CARRIER
11 SERVICES DIVISION, that exceeds the annual appropriation or statutory
12 distribution for all purposes except the Colorado state patrol ~~and the ports~~
13 ~~of entry division~~ for the fiscal year 1994-95.

14 (III) (C) The general assembly shall not make any annual
15 appropriation or statutory distribution from the highway users tax fund for
16 the fiscal year 1997-98 or for any succeeding fiscal year authorized by
17 subparagraph (II) of this paragraph (a), excluding the annual
18 appropriation or statutory distribution to the Colorado state patrol ~~and the~~
19 ~~ports of entry section~~ and excluding any appropriation to the department
20 of revenue for the fiscal years 2008-09 and 2009-10 for expenses incurred
21 in connection with the administration of article 2 of title 42, C.R.S., by
22 the division of motor vehicles within the department.

23 **SECTION 21. Specified effective date.** This act shall take effect
24 July 1, 2010.

25 **SECTION 22. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.