

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

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 10-0405.01 Troy Bratton

**HOUSE BILL 10-1113**

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**HOUSE SPONSORSHIP**

**McFadyen**, Sonnenberg, Vaad

**SENATE SPONSORSHIP**

**Hodge**, Kester

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**House Committees**

Transportation & Energy  
Appropriations

**Senate Committees**

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**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 MOTOR CARRIER SAFETY ASSISTANCE**  
104             **PROGRAM OF THE PORTS OF ENTRY SECTION IN THE**  
105             **DEPARTMENT OF REVENUE TO THE COLORADO STATE PATROL**  
106             **IN THE DEPARTMENT OF PUBLIC SAFETY, AND MAKING AN**  
107             **APPROPRIATION IN CONNECTION THEREWITH.**

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**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*

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.*

HOUSE  
Amended 2nd Reading  
April 29, 2010

[http://www.leg.state.co.us/bills/summaries.](http://www.leg.state.co.us/bills/summaries/))

Currently, port of entry weigh stations are operated by the 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.

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

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

4 (a) Although the ports of entry section is currently operated by the  
5 department of revenue, many duties and functions of the ports of entry  
6 section are also performed by the Colorado state patrol in the department  
7 of public safety;

8 (b) The motor carrier safety assistance program of the port of  
9 entry section of the department of revenue would operate more efficiently  
10 if consolidated within the Colorado state patrol in the department of  
11 public safety;

12 (c) Such a transfer would promote operational efficiency and  
13 programmatic consolidation of state safety inspection and enforcement  
14 responsibilities by assigning program administration to a single agency;

15 (d) Such a transfer would improve traffic safety by implementing  
16 a broader and more effective commercial vehicle safety enforcement  
17 program because more state troopers would be strategically located

1 throughout the state; and

2 (e) Certain statutory changes are required to clarify the authority  
3 of the department of revenue and the Colorado state patrol in the  
4 department of public safety as the authority of those departments relate  
5 to the ports of entry.

6 (2) Therefore, it is the intent of the general assembly that:

7 (a) Such a transfer be completed prior to the implementation of  
8 the "CSA 2010" initiative by the federal motor carrier safety  
9 administration; and

10 (b) That the department of public safety, in coordination with the  
11 department of revenue and the department of transportation, initiate a  
12 study to examine additional efficiencies within the port of entry section,  
13 as specified in section 2 of this act.

14 **SECTION 2.** Part 1 of article 33.5 of title 24, Colorado Revised  
15 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
16 read:

17 **24-33.5-111. Motor carrier safety assistance - study.** (1) ON  
18 AUGUST 15, 2010, THE MOTOR CARRIER SAFETY INSPECTION PROGRAM OF  
19 THE PORTS OF ENTRY SECTION IN THE DEPARTMENT OF REVENUE IS HEREBY  
20 TRANSFERRED TO THE DEPARTMENT OF PUBLIC SAFETY AND ALLOCATED  
21 TO THE COLORADO STATE PATROL.

22 (2) NO LATER THAN JULY 1, 2010, THE DEPARTMENT OF PUBLIC  
23 SAFETY, IN COLLABORATION WITH THE DEPARTMENT OF TRANSPORTATION  
24 AND THE DEPARTMENT OF REVENUE, SHALL ISSUE A REQUEST FOR  
25 PROPOSAL FOR A PERFORMANCE STUDY TO BE CONDUCTED BY AN  
26 INDEPENDENT PRIVATE VENDOR, SUBJECT TO AVAILABLE APPROPRIATIONS.  
27 THE DEPARTMENTS SHALL WORK COOPERATIVELY TO DETERMINE THE

1 SCOPE OF THE STUDY AND THE INDEPENDENT PRIVATE VENDOR SHALL  
2 REQUEST AND CONSIDER INPUT FROM POTENTIALLY IMPACTED PARTIES  
3 DURING THE COURSE OF THE STUDY. THE STUDY SHALL INCLUDE, BUT NOT  
4 BE LIMITED TO, AN EXAMINATION OF THE PORTS OF ENTRY OPERATIONS,  
5 INFRASTRUCTURE, MANAGEMENT, POTENTIAL COST SAVINGS OR  
6 EFFICIENCIES, AS WELL AS HOW THE PORT OF ENTRY SECTION MAY  
7 MAXIMIZE RESOURCES AND TECHNOLOGY. THE STUDY SHALL ALSO  
8 DETERMINE WHICH PRINCIPAL DEPARTMENT IS MOST APPROPRIATE FOR  
9 OPERATING THE PORTS OF ENTRY SECTION IN A COST-EFFECTIVE MANNER.  
10 THE INDEPENDENT PRIVATE VENDOR SHALL COMPLETE THE PERFORMANCE  
11 REVIEW AND REPORT ITS FINDINGS TO THE TRANSPORTATION COMMITTEES  
12 OF THE SENATE AND THE HOUSE OF REPRESENTATIVES NO LATER THAN  
13 JUNE 1, 2011.

14 **SECTION 3.** 42-8-104 (2), Colorado Revised Statutes, is  
15 amended to read:

16 **42-8-104. Powers and duties.** (2) The personnel of a port of  
17 entry weigh station, during the time that they are actually engaged in  
18 performing their duties as such and while acting under proper orders or  
19 regulations issued by the executive director of the department of revenue,  
20 shall have and exercise all the powers invested in peace officers in  
21 connection with the enforcement of the provisions of this article, ~~articles~~  
22 ~~2 and 20~~ ARTICLE 2, PARTS 2, 3, AND 5 OF ARTICLE 20 of this title, part 5  
23 of article 4 of this title, and sections 42-3-107 (17), 42-4-225 (1.5), and  
24 42-4-235; except that they shall not have the power to serve civil writs  
25 and process and, in the exercise of their duties, such personnel shall have  
26 the authority to restrain and detain persons or vehicles and may impound  
27 any vehicle until any tax or license fee imposed by law is paid or until

1 compliance is had with any tax or regulatory law or regulation issued  
2 thereunder.

3 **SECTION 4.** 42-8-111 (2) (b) (II), Colorado Revised Statutes, is  
4 amended to read:

5 **42-8-111. Cooperative agreements with contiguous states for**  
6 **operations of ports of entry - regulations.** (2) An agreement with a  
7 contiguous state or contiguous states for the operation of ports of entry at  
8 the borders between Colorado and such contiguous state or states entered  
9 into under the provisions of this section may include, but shall not be  
10 limited to, the following provisions:

11 (b) A grant of authority to the port of entry employees and  
12 officials of Colorado and to the port of entry employees and officials of  
13 each other state which is a party to such agreement to:

14 (II) Take actions to enforce the laws of other states ~~which~~ THAT  
15 are parties to the agreement, including, but not limited to, the monitoring  
16 of licenses and other credential usage, the enforcement of tax restraint,  
17 distraint, or levy orders, the issuance of civil citations, and the conduct of  
18 any necessary safety and equipment inspections. PORT OF ENTRY  
19 PERSONNEL SHALL HAVE AND MAINTAIN THE AUTHORITY TO ENFORCE THE  
20 PROVISIONS OF SECTION 42-4-1414 REGARDING THE PROHIBITION ON THE  
21 USE OF DYED FUEL ON COLORADO HIGHWAYS.

22 **SECTION 5.** 42-20-404, Colorado Revised Statutes, is amended  
23 to read:

24 **42-20-404. Inspections.** All vehicles carrying nuclear materials  
25 entering the state on the public highways shall be inspected by ~~port of~~  
26 ~~entry personnel~~ or Colorado state patrol officers at the ~~port of entry weigh~~  
27 ~~station~~ nearest the point at which the shipment enters the state or at a

1 location specified by the Colorado state patrol. For all shipments  
2 originating within the state, inspection shall be made at the point of  
3 origination by Colorado state patrol officers. All such inspections  
4 conducted by ~~port of entry weigh station personnel~~ and Colorado state  
5 patrol officers shall be in accordance with the rules promulgated pursuant  
6 to sections 42-4-235, 42-20-108 (2), and 42-20-403.

7 **SECTION 6.** 42-20-406 (1) and (2), Colorado Revised Statutes,  
8 are amended to read:

9 **42-20-406. Violations - civil penalties - motor vehicles.**

10 (1) Any person who violates any provision of this part 4 or part 5 of this  
11 article or a rule or regulation promulgated by the chief pursuant to this  
12 part 4 and part 5 of this article, except for the violations enumerated in  
13 subsection (3) of this section and section 42-20-505, shall be subject to  
14 a civil penalty of not more than ten thousand dollars per day for each day  
15 during which such violation occurs. The penalty shall be assessed by the  
16 chief upon receipt of a complaint by any investigative personnel of the  
17 commission ~~port of entry personnel~~, or Colorado state patrol officer and  
18 after written notice and an opportunity for a hearing pursuant to section  
19 24-4-105, C.R.S. Payment of a civil penalty under this section shall not  
20 relieve any person from liability pursuant to article 11 of title 25, part 3  
21 of article 15 of title 25, or article 22 of title 29, C.R.S. Any person who  
22 is assessed a penalty pursuant to this subsection (1) shall have the right  
23 to appeal the chief's decision by filing a notice of appeal with the court  
24 of appeals as specified in section 24-4-106 (11), C.R.S.

25 (2) Any person who commits any of the acts enumerated in  
26 subsection (3) of this section shall be subject to the civil penalty listed in  
27 said subsection (3). ~~Ports of entry personnel~~, Investigative personnel of

1 the commission, and officers of the Colorado state patrol shall have the  
2 authority to issue civil penalty assessments for the enumerated violations.  
3 At any time that a person is cited for a violation enumerated in subsection  
4 (3) of this section, the person in charge of or operating the motor vehicle  
5 involved shall be given a notice in the form of a civil penalty assessment  
6 notice. Such notice shall be tendered by the enforcement official and  
7 shall contain the name and address of such person, the license number of  
8 the motor vehicle involved, if any, the number of such person's driver's  
9 license, the nature of the violation, the amount of the penalty prescribed  
10 for such violation, the date of the notice, a place for such person to  
11 execute a signed acknowledgment of his or her receipt of the civil  
12 penalty assessment notice, a place for such person to execute a signed  
13 acknowledgment of liability for the cited violation, and such other  
14 information as may be required by law to constitute such notice as a  
15 complaint to appear in court should the prescribed penalty not be paid  
16 within ten days. Every cited person shall execute the signed  
17 acknowledgment of his or her receipt of the civil penalty assessment  
18 notice. The acknowledgment of liability shall be executed at the time the  
19 cited person pays the prescribed penalty. The person cited shall pay the  
20 civil penalty specified in subsection (3) of this section for the violation  
21 involved at the office of the department of revenue either in person or by  
22 postmarking such payment within ten days of the citation. The  
23 department of revenue shall accept late payment of any penalty  
24 assessment up to twenty days after such payment becomes due. If the  
25 person cited does not pay the prescribed penalty within ten days of the  
26 notice, the civil penalty assessment notice shall constitute a complaint to  
27 appear in court unless payment for such penalty assessment has been

1 accepted by the department of revenue as evidenced by receipt, and the  
2 person cited shall, within the time specified in the civil penalty  
3 assessment notice, file an answer to this complaint with the county court  
4 for the county in which the penalty assessment was issued. The attorney  
5 general shall represent the state agency that issued the civil penalty  
6 assessment notice if so requested by the agency.

7 **SECTION 7. Appropriation - adjustments to the 2010 long**

8 **bill.** (1) In addition to any other appropriation, there is hereby  
9 appropriated, out of any moneys in the highway users tax fund pursuant  
10 to section 43-4-201 (3) (a) (III) (C), Colorado Revised Statutes, not  
11 otherwise appropriated, to the department of public safety, for allocation  
12 to the Colorado state patrol, for the fiscal year beginning July 1, 2010, the  
13 sum of two hundred fifty-five thousand eleven dollars (\$255,011) cash  
14 funds, or so much thereof as may be necessary, for the implementation of  
15 this act.

16 (2) For the implementation of this act, appropriations made in the  
17 annual general appropriation act for the fiscal year beginning July 1,  
18 2010, shall be adjusted as follows:

19 (a) The appropriation to the department of public safety, executive  
20 directors office, for centrally appropriated line items, is increased by nine  
21 thousand six hundred twenty-five dollars (\$9,625) cash funds. Said cash  
22 funds shall be from the highway users tax fund pursuant to section  
23 43-4-201 (3) (a) (III) (C), Colorado Revised Statutes.

24 (b) The appropriation to the department of public safety, Colorado  
25 state patrol, is increased by eight hundred thousand eight hundred  
26 ninety-one dollars (\$800,891) total funds and 8.8 FTE. Of said sum,  
27 thirty thousand seven hundred seventy dollars (\$30,770) shall be cash



1 funds from the highway users tax fund pursuant to section 43-4-201 (3)  
2 (a) (III) (C), Colorado Revised Statutes, twenty-nine thousand one  
3 hundred seventy-six dollars (\$29,176) shall be cash funds from the  
4 nuclear materials transportation fund created in section 42-20-511,  
5 Colorado Revised Statutes, seventy-three thousand three hundred  
6 sixty-four dollars (\$73,364) shall be reappropriated funds from the motor  
7 carrier safety assistance program, and six hundred sixty-seven thousand  
8 five hundred eighty-one dollars (\$667,581) shall be federal funds from  
9 the motor carrier safety assistance program grant.

10 (c) The appropriation to the department of revenue, executive  
11 directors office, for centrally appropriated line items, is decreased by nine  
12 thousand six hundred twenty-five dollars (\$9,625) cash funds. These  
13 funds shall be from the highway users tax fund pursuant to section  
14 43-4-201 (3) (a) (III) (C), Colorado Revised Statutes.

15 (d) The appropriation to the department of revenue, motor carrier  
16 services division, is decreased by eight hundred thousand eight hundred  
17 ninety-one dollars (\$800,891) total funds and 8.8 FTE. Of said sum,  
18 thirty thousand seven hundred seventy dollars (\$30,770) shall be cash  
19 funds from the highway users tax fund pursuant to section 43-4-201 (3)  
20 (a) (III) (C), Colorado Revised Statutes, twenty-nine thousand one  
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24 sixty-four dollars (\$73,364) shall be reappropriated funds from the motor  
25 carrier safety assistance program, and six hundred sixty-seven thousand  
26 five hundred eighty-one dollars (\$667,581) shall be federal funds from  
27 the motor carrier safety assistance program grant.

1           **SECTION 8. Specified effective date.** This act shall take effect  
2           July 1, 2010.

3           **SECTION 9. Safety clause.** The general assembly hereby finds,  
4           determines, and declares that this act is necessary for the immediate  
5           preservation of the public peace, health, and safety.