

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 10-0405.01 Troy Bratton

HOUSE BILL 10-1113

HOUSE SPONSORSHIP

McFadyen, Sonnenberg, Vaad

SENATE SPONSORSHIP

Hodge, Kester

House Committees

Transportation & Energy
Appropriations

Senate Committees

Transportation
Appropriations

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.**

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.*

SENATE
3rd Reading Unamended
May 10, 2010

SENATE
Amended 2nd Reading
May 7, 2010

HOUSE
Amended 3rd Reading
April 30, 2010

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.

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) THE DEPARTMENT OF PUBLIC SAFETY, IN COLLABORATION WITH
23 THE DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF
24 REVENUE, SHALL ISSUE A REQUEST FOR PROPOSAL FOR A PERFORMANCE
25 STUDY TO BE CONDUCTED BY AN INDEPENDENT PRIVATE VENDOR, SUBJECT
26 TO AVAILABLE APPROPRIATIONS. THE DEPARTMENTS SHALL WORK
27 COOPERATIVELY TO DETERMINE THE SCOPE OF THE STUDY AND THE

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

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

15 **42-8-104. Powers and duties.** (2) The personnel of a port of
16 entry weigh station, during the time that they are actually engaged in
17 performing their duties as such and while acting under proper orders or
18 regulations issued by the executive director of the department of revenue,
19 shall have and exercise all the powers invested in peace officers in
20 connection with the enforcement of the provisions of this article, ~~articles~~
21 ~~2 and 20~~ ARTICLE 2 OF THIS TITLE, PARTS 2, 3, AND 5 OF ARTICLE 20 of this
22 title, part 5 of article 4 of this title, and ~~sections 42-3-107 (17);~~
23 ~~42-4-225 (1.5), and 42-4-235~~ SECTION 42-3-107 (17); except that they
24 shall not have the power to serve civil writs and process and, in the
25 exercise of their duties, such personnel shall have the authority to restrain
26 and detain persons or vehicles and may impound any vehicle until any tax
27 or license fee imposed by law is paid or until compliance is had with any

1 tax or regulatory law or regulation issued thereunder.

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

4 **42-8-111. Cooperative agreements with contiguous states for**
5 **operations of ports of entry - regulations.** (2) An agreement with a
6 contiguous state or contiguous states for the operation of ports of entry at
7 the borders between Colorado and such contiguous state or states entered
8 into under the provisions of this section may include, but shall not be
9 limited to, the following provisions:

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

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

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

23 **42-20-404. Inspections.** All vehicles carrying nuclear materials
24 entering the state on the public highways shall be inspected by ~~port of~~
25 ~~entry personnel or~~ Colorado state patrol officers at the ~~port of entry weigh~~
26 ~~station~~ nearest the point at which the shipment enters the state or at a
27 location specified by the Colorado state patrol. For all shipments

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

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

8 **42-20-406. Violations - civil penalties - motor vehicles.**

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

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

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

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

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

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

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

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

23 (b) The appropriation to the department of public safety, Colorado
24 state patrol, is increased by eight hundred thousand eight hundred
25 ninety-one dollars (\$800,891) total funds and 8.8 FTE. Of said sum,
26 thirty thousand seven hundred seventy dollars (\$30,770) shall be cash
27 funds from the highway users tax fund pursuant to section 43-4-201 (3)

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

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

14 (d) The appropriation to the department of revenue, motor carrier
15 services division, is decreased by eight hundred thousand eight hundred
16 ninety-one dollars (\$800,891) total funds and 8.8 FTE. Of said sum,
17 thirty thousand seven hundred seventy dollars (\$30,770) shall be cash
18 funds from the highway users tax fund pursuant to section 43-4-201 (3)
19 (a) (III) (C), Colorado Revised Statutes, twenty-nine thousand one
20 hundred seventy-six dollars (\$29,176) shall be cash funds from the
21 nuclear materials transportation fund created in section 42-20-511,
22 Colorado Revised Statutes, seventy-three thousand three hundred
23 sixty-four dollars (\$73,364) shall be reappropriated funds from the motor
24 carrier safety assistance program, and six hundred sixty-seven thousand
25 five hundred eighty-one dollars (\$667,581) shall be federal funds from
26 the motor carrier safety assistance program grant.

27 **SECTION 8. Specified effective date.** This act shall take effect

1 July 1, 2010.

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