

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

April 19, 2012  
Date

Committee on State, Veterans, & Military Affairs.

After consideration on the merits, the Committee recommends the following:

HB12-1136 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3           **"SECTION 1. Legislative declaration.** (1) The general  
4 assembly hereby finds and declares that:

5           (a) When the United States congress created the interstate  
6 highway system in 1956, community leaders feared that local businesses,  
7 jobs, and tax bases would shrink as truck drivers and other motorists  
8 bypassed their cities and towns. As a result, congress prohibited  
9 automotive service stations or other commercial establishments for  
10 serving motor vehicle users from being constructed or located on the  
11 rights-of-way of the interstate highway system.

12           (b) This prohibition has been an undeniable success, resulting in  
13 industries that provide valuable services such as gas stations, travel  
14 plazas, and truck stops, and the idea is good for Colorado state highways  
15 and roads as well.

16           (c) If such a policy is not adopted for Colorado state highways and  
17 roads, automotive service stations and other commercial establishments  
18 within communities will be unable to compete with commercialized rest  
19 areas and public-private partnerships located on public land near state  
20 highways and roads because their proximity to the state highways and  
21 roads would create a de facto monopoly favoring businesses operated on  
22 taxpayer land. Such commercialization on public land destroys the  
23 long-term property tax base of local governments and puts many retailers  
24 out of business. Such commercialization also results in an unfair

1 competitive environment for privately-operated retailers and destroys  
2 successful economic business models that have proven beneficial for  
3 consumers and retailers.

4 **SECTION 2.** In Colorado Revised Statutes, **add** part 5 to article  
5 2 of title 43 as follows:

6 **PART 5**  
7 **PROHIBIT USE OF PUBLIC LAND NEAR**  
8 **A HIGHWAY FOR RETAIL SALES**

9 **43-2-501. Definitions.** AS USED IN THIS PART 5, UNLESS THE  
10 CONTEXT OTHERWISE REQUIRES:

11 (1) "HIGHWAY" MEANS THE STATE HIGHWAY SYSTEM AS  
12 DESCRIBED IN SECTION 43-2-101 (1), A PUBLIC HIGHWAY AS DESCRIBED IN  
13 SECTION 43-2-201, A FREEWAY DESIGNATED PURSUANT TO SECTION  
14 43-3-101, A COUNTY ROAD, OR A MUNICIPAL STREET.

15 (2) "POLITICAL SUBDIVISION" MEANS A GOVERNING SUBDIVISION  
16 OF THE STATE, INCLUDING A COUNTY, A MUNICIPALITY, THE REGIONAL  
17 TRANSPORTATION DISTRICT, OR ANY OTHER SPECIAL DISTRICT.

18 (3) "PRIVATE ENTITY" MEANS ANY INDIVIDUAL, CORPORATION,  
19 BUSINESS TRUST, ESTATE, TRUST, LIMITED LIABILITY COMPANY,  
20 PARTNERSHIP, ASSOCIATION, OR OTHER LEGAL ENTITY.

21 (4) "PUBLIC ENTITY" MEANS THE COLORADO DEPARTMENT OF  
22 TRANSPORTATION OR ANY POLITICAL SUBDIVISION OF THE STATE; EXCEPT  
23 THAT "PUBLIC ENTITY" DOES NOT INCLUDE A STATE INSTITUTION OF  
24 HIGHER EDUCATION OR AN AIRPORT AS DEFINED IN SECTION 41-3-103 (2),  
25 C.R.S.

26 (5) "PUBLIC LAND" MEANS LAND OWNED OR CONTROLLED BY THE  
27 COLORADO DEPARTMENT OF TRANSPORTATION OR A POLITICAL  
28 SUBDIVISION.

29 (6) "STATE INSTITUTION OF HIGHER EDUCATION" HAS THE SAME  
30 MEANING AS SET FORTH IN SECTION 23-18-102 (10), C.R.S. FOR PURPOSES  
31 OF THIS SECTION, "STATE INSTITUTION OF HIGHER EDUCATION" ALSO  
32 INCLUDES THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN  
33 ARTICLE 70 OF TITLE 23, C.R.S.

34 **43-2-502. Prohibit use of public land for retail sales.**

35 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS  
36 PROVIDED IN SUBSECTION (2) OF THIS SECTION, A PUBLIC ENTITY SHALL  
37 NOT OPERATE, OR CONTRACT WITH A PRIVATE ENTITY TO OPERATE, FOR  
38 PUBLIC USE ANY TRUCK STOP, FUELING STATION, CONVENIENCE STORE, OR  
39 OTHER AUTOMOTIVE SERVICE STATION THAT SERVES MOTOR VEHICLE  
40 USERS ON OR NEAR THE RIGHT-OF-WAY OF A HIGHWAY OR ON PUBLIC  
41 LAND. NOTHING IN THIS PART 5 PROHIBITS A PUBLIC ENTITY FROM  
42 MAINTAINING EXISTING PUBLIC REST AREAS OR CONSTRUCTING NEW

1 PUBLIC REST AREAS LOCATED, AS ALLOWED BY LAW, ON OR NEAR THE  
2 RIGHT-OF-WAY OF A HIGHWAY OR ON PUBLIC LAND.

3 (2) (a) THE PROHIBITION SET FORTH IN THIS PART 5 DOES NOT  
4 APPLY TO ANY TRUCK STOP, FUELING STATION, CONVENIENCE STORE, OR  
5 OTHER AUTOMOTIVE SERVICE STATION THAT SERVES MOTOR VEHICLE  
6 USERS IN OPERATION PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION  
7 (2) THAT IS LOCATED ON OR NEAR THE RIGHT-OF-WAY OF A HIGHWAY OR  
8 ON PUBLIC LAND WITHIN FIFTY YARDS OF A HIGHWAY.

9 (b) THE PROHIBITION SET FORTH IN THIS PART 5 DOES NOT APPLY  
10 TO ANY PROGRAMS LICENSED, MANAGED, OR OPERATED PURSUANT TO  
11 SECTION 26-8.5-102, C.R.S., OR THE "RANDOLPH-SHEPPARD ACT", 20  
12 U.S.C. SEC. 107.

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

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