

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0203.01 Esther van Mourik x4215

**HOUSE BILL 12-1136**

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**HOUSE SPONSORSHIP**

**Ramirez,**

**SENATE SPONSORSHIP**

**Roberts,**

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**House Committees**  
State, Veterans, & Military Affairs

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING A PROHIBITION ON THE USE OF PUBLIC LAND FOR RETAIL**  
102 **SALES.**

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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 <http://www.leg.state.co.us/billsummaries>.)*

The bill prohibits a public entity from operating, or contracting with a private entity to operate, for public use any truck stop, fueling station, or convenience store on or near public land, state highways, toll roads, or any other similar infrastructure supported by any state revenues. The bill does not prohibit a public entity from maintaining existing

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.*

interstate public rest areas or constructing new interstate public rest areas as allowed by law. The bill also specifies that the prohibition is not retroactive and does not apply to restaurants or service centers related to a golf course or any souvenir shops that are on or near such public land, state highways, toll roads, or such similar infrastructure.

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

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

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

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

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

1 SUBDIVISION.

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

7 **43-2-502. Prohibit use of public land for retail sales.**

8 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS  
9 PROVIDED IN SUBSECTION (2) OF THIS SECTION, A PUBLIC ENTITY SHALL  
10 NOT OPERATE, OR CONTRACT WITH A PRIVATE ENTITY TO OPERATE, FOR  
11 PUBLIC USE ANY TRUCK STOP, FUELING STATION, CONVENIENCE STORE, OR  
12 OTHER AUTOMOTIVE SERVICE STATION THAT SERVES MOTOR VEHICLE  
13 USERS ON OR NEAR THE RIGHT-OF-WAY OF A HIGHWAY OR ON PUBLIC  
14 LAND. NOTHING IN THIS PART 5 PROHIBITS A PUBLIC ENTITY FROM  
15 MAINTAINING EXISTING PUBLIC REST AREAS OR CONSTRUCTING NEW  
16 PUBLIC REST AREAS LOCATED, AS ALLOWED BY LAW, ON OR NEAR THE  
17 RIGHT-OF-WAY OF A HIGHWAY OR ON PUBLIC LAND.

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

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

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