

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 12-0203.01 Esther van Mourik x4215

HOUSE BILL 12-1136

HOUSE SPONSORSHIP

Ramirez,

SENATE SPONSORSHIP

Roberts,

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

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

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.

HOUSE
Amended 2nd Reading
April 24, 2012

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.

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.

14 (c) If such a policy is not adopted in the state, automotive service
15 stations and other commercial establishments within communities will be
16 unable to compete with commercialized rest areas and public-private
17 partnerships located on taxpayer subsidized land and would create a de
18 facto monopoly favoring businesses operated on such land. Such
19 commercialization on public land destroys the long-term property tax base
20 of local governments and puts many retailers out of business. Such
21 commercialization also results in an unfair competitive environment for
22 privately-operated retailers and destroys successful economic business
23 models that have proven beneficial for consumers and retailers.

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

3 PART 5

4 PROHIBIT USE OF PUBLIC LAND NEAR
5 A HIGHWAY FOR RETAIL SALES

6 **43-2-501. Definitions.** AS USED IN THIS PART 5, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

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

12 (2) "INTERSTATE SYSTEM" HAS THE SAME MEANING AS SET FORTH
13 IN SECTION 43-2-101 (2), C.R.S.

14 (3) "MOTOR FUEL" MEANS ANY SOURCE OF ENERGY USED TO
15 PROPEL A MOTOR VEHICLE ON A HIGHWAY OR INTERSTATE SYSTEM.

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

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

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

27 (7) "STATE INSTITUTION OF HIGHER EDUCATION" HAS THE SAME

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

5 **43-2-502. Prohibit use of public land for retail sales.**

6 (1) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT
7 AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), A PUBLIC ENTITY
8 SHALL NOT PERMIT AUTOMOTIVE SERVICE STATIONS OR OTHER
9 COMMERCIAL ESTABLISHMENTS FOR SERVING MOTOR VEHICLE USERS TO
10 BE CONSTRUCTED OR LOCATED ON THE RIGHTS-OF-WAY OF THE
11 INTERSTATE SYSTEM.

12 (b) (I) NOTHING IN THIS SUBSECTION (1) PROHIBITS A PUBLIC
13 ENTITY FROM MAINTAINING EXISTING PUBLIC REST AREAS OR
14 CONSTRUCTING NEW PUBLIC REST AREAS LOCATED, AS ALLOWED BY LAW,
15 ON THE RIGHTS-OF-WAY OF THE INTERSTATE SYSTEM.

16 (II) A PUBLIC ENTITY MAY PERMIT THE PLACEMENT OF VENDING
17 MACHINES IN REST AND RECREATION AREAS, AND IN SAFETY REST AREAS,
18 CONSTRUCTED OR LOCATED ON RIGHTS-OF-WAY OF THE INTERSTATE
19 SYSTEM IN THE STATE. SUCH VENDING MACHINES MAY ONLY DISPENSE
20 FOOD, DRINK, AND OTHER ARTICLES AS THE PUBLIC ENTITY DETERMINES
21 ARE APPROPRIATE AND DESIRABLE. THE VENDING MACHINES MAY ONLY BE
22 OPERATED BY THE STATE. PRIORITY SHALL BE GIVEN TO VENDING
23 MACHINES THAT ARE LICENSED, MANAGED, OR OPERATED PURSUANT TO
24 SECTION 26-8.5-102, C.R.S., OR THE "RANDOLPH-SHEPPARD ACT", 20
25 U.S.C. SEC. 107.

26 (2) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
27 PUBLIC ENTITY SHALL NOT RETAIL MOTOR FUEL FOR PUBLIC USE, OR

1 CONTRACT WITH A PRIVATE ENTITY TO RETAIL MOTOR FUEL FOR PUBLIC
2 USE, AT ANY TRUCK STOP, FUELING STATION, CONVENIENCE STORE, OR
3 OTHER AUTOMOTIVE SERVICE STATION.

4 (b) THE PROHIBITION SET FORTH IN THIS SUBSECTION (2) DOES NOT
5 APPLY TO ANY TRUCK STOP, FUELING STATION, CONVENIENCE STORE, OR
6 OTHER AUTOMOTIVE SERVICE STATION THAT RETAILS MOTOR FUEL PRIOR
7 TO THE EFFECTIVE DATE OF THIS SUBSECTION (2).

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