

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 13-0841.01 Esther van Mourik x4215

SENATE BILL 13-203

SENATE SPONSORSHIP

Schwartz, Giron, King

HOUSE SPONSORSHIP

Coram, DelGrosso, Priola, Singer, Tyler

Senate Committees
Transportation

House Committees

A BILL FOR AN ACT

101 **CONCERNING LIMITATIONS ON THE USE OF CERTAIN PUBLIC LAND FOR**
102 **AUTOMOTIVE SERVICE STATIONS IN ORDER TO LIMIT**
103 **GOVERNMENT COMPETITION.**

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 codifies in statute the current federal prohibition on the commercialization of the interstate rest areas. The bill provides an exception for vending machines placed in rest areas in conformance with the federal "Randolph-Sheppard Vending Stand Act".

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.

The bill prohibits certain public entities, including the Colorado department of transportation and political subdivisions, from retailing motor fuel, not including electricity, directly to the public but allows such public entities to enter into contracts with a private entity to retail motor fuel for public use within certain parameters established in the bill. The bill does not prohibit a public entity from servicing its fleets.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 2 to article
3 113 of title 24 as follows:

4 PART 2

5 LIMIT USE OF PUBLIC LAND FOR
6 AUTOMOTIVE SERVICE STATIONS

7 **24-113-201. Definitions.** AS USED IN THIS PART 2, UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

9 (1) "AUTOMOTIVE SERVICE STATION" MEANS ANY TRUCK STOP,
10 FUELING STATION, CONVENIENCE STORE, OR OTHER COMMERCIAL
11 ESTABLISHMENT FOR SERVING MOTOR VEHICLE USERS.

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

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

19 (4) "MOTOR FUEL" MEANS ANY SOURCE OF ENERGY USED TO
20 PROPEL A MOTOR VEHICLE ON A HIGHWAY OR INTERSTATE SYSTEM, BUT
21 DOES NOT INCLUDE ELECTRICITY.

22 (5) "POLITICAL SUBDIVISION" MEANS A GOVERNING SUBDIVISION

1 OF THE STATE, INCLUDING A COUNTY, A MUNICIPALITY, THE REGIONAL
2 TRANSPORTATION DISTRICT, OR ANY OTHER SPECIAL DISTRICT.

3 (6) "PRIVATE ENTITY" MEANS ANY INDIVIDUAL, CORPORATION,
4 BUSINESS TRUST, ESTATE, TRUST, LIMITED LIABILITY COMPANY,
5 PARTNERSHIP, ASSOCIATION, OR OTHER LEGAL ENTITY.

6 (7) "PUBLIC ENTITY" MEANS THE COLORADO DEPARTMENT OF
7 TRANSPORTATION OR ANY POLITICAL SUBDIVISION OF THE STATE; EXCEPT
8 THAT "PUBLIC ENTITY" DOES NOT INCLUDE A STATE INSTITUTION OF
9 HIGHER EDUCATION AS DEFINED IN SECTION 23-18-102 (10), C.R.S., THE
10 AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF
11 TITLE 23, C.R.S., OR AN AIRPORT AS DEFINED IN SECTION 41-3-103 (2),
12 C.R.S.

13 **24-113-202. Limit use of public land for retail sales.**

14 (1) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT
15 AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), A PUBLIC ENTITY
16 SHALL NOT PERMIT AUTOMOTIVE SERVICE STATIONS TO BE CONSTRUCTED
17 OR LOCATED ON THE RIGHTS-OF-WAY OF THE INTERSTATE SYSTEM.

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

22 (II) A PUBLIC ENTITY MAY PERMIT THE PLACEMENT OF VENDING
23 MACHINES IN REST AND RECREATION AREAS, AND IN SAFETY REST AREAS,
24 CONSTRUCTED OR LOCATED ON RIGHTS-OF-WAY OF THE INTERSTATE
25 SYSTEM IN THE STATE. SUCH VENDING MACHINES MAY ONLY DISPENSE
26 FOOD, DRINK, AND OTHER ARTICLES AS THE PUBLIC ENTITY DETERMINES
27 ARE APPROPRIATE AND DESIRABLE. PRIORITY SHALL BE GIVEN TO VENDING

1 MACHINES THAT ARE LICENSED, MANAGED, OR OPERATED PURSUANT TO
2 SECTION 26-8.5-102, C.R.S., OR THE "RANDOLPH-SHEPPARD VENDING
3 STAND ACT", 20 U.S.C. SEC. 107.

4 (2) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
5 PUBLIC ENTITY SHALL NOT DIRECTLY RETAIL MOTOR FUEL FOR PUBLIC USE
6 AT ANY TRUCK STOP, FUELING STATION, CONVENIENCE STORE, OR OTHER
7 AUTOMOTIVE SERVICE STATION.

8 (b) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
9 PUBLIC ENTITY MAY CONTRACT WITH A PRIVATE ENTITY TO RETAIL MOTOR
10 FUEL FOR PUBLIC USE AT ANY TRUCK STOP, FUELING STATION,
11 CONVENIENCE STORE, OR OTHER AUTOMOTIVE SERVICE STATION, EXCEPT
12 THAT A PUBLIC ENTITY MAY PROVIDE ELECTRIC VEHICLE CHARGING
13 STATIONS IN ORDER TO CHARGE AN ELECTRIC MOTOR VEHICLE, SO LONG AS
14 SUCH CHARGING STATIONS DO NOT PROVIDE ANY ADDITIONAL SERVICES,
15 LIKE THOSE AN AUTOMOTIVE SERVICE STATION WOULD PROVIDE.

16 (II) IF A PUBLIC ENTITY CONTRACTS WITH A PRIVATE ENTITY TO
17 RETAIL MOTOR FUEL FOR PUBLIC USE PURSUANT TO THIS PARAGRAPH (b),
18 THE CONTRACT SHALL ADDRESS WHETHER THE PRICE CHARGED FOR THE
19 MOTOR FUEL REFLECTS THE DIRECT AND INDIRECT COSTS OF PROVIDING
20 SUCH MOTOR FUEL IN COMPARISON TO THE PRICE CHARGED FOR THE
21 MOTOR FUEL IN THE PRIVATE MARKETPLACE, INCLUDING, BUT NOT LIMITED
22 TO, THE COSTS OF:

- 23 (A) PROPERTY TAX;
- 24 (B) BUSINESS PERSONAL PROPERTY TAX;
- 25 (C) REMITTING THE FUEL EXCISE TAX THROUGH A LICENSED
26 DISTRIBUTOR;
- 27 (D) MAINTAINING THE PUBLIC LAND ON WHICH THE RETAIL

1 OPERATION IS LOCATED; AND

2 (E) SPECIALIZED EQUIPMENT JOINTLY UTILIZED BY BOTH THE
3 PUBLIC ENTITY AND THE PRIVATE ENTITY.

4 (III) IF A PUBLIC ENTITY CONTRACTS WITH A PRIVATE ENTITY TO
5 RETAIL MOTOR FUEL FOR PUBLIC USE PURSUANT TO THIS PARAGRAPH (b),
6 AND IF THE PRIVATE ENTITY FAILS TO SUFFICIENTLY CLOSE THE FACILITY,
7 THE PUBLIC ENTITY SHALL DISPOSE OF ANY HAZARDOUS MATERIALS AND
8 REMEDIATE THE PROPERTY, INCLUDING ANY STORAGE TANKS OR OTHER
9 INFRASTRUCTURE, AS PROVIDED BY LAW.

10 (c) THE PROVISIONS OF THIS SUBSECTION (2) DO NOT APPLY TO ANY
11 TRUCK STOP, FUELING STATION, CONVENIENCE STORE, OR OTHER
12 AUTOMOTIVE SERVICE STATION THAT RETAILS MOTOR FUEL PRIOR TO THE
13 EFFECTIVE DATE OF THIS SUBSECTION (2).

14 **SECTION 2.** In Colorado Revised Statutes, 24-113-102, **amend**
15 introductory portion as follows:

16 **24-113-102. Definitions.** As used in this ~~article~~ PART 1, unless
17 the context otherwise requires:

18 **SECTION 3. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly (August
21 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within such period, then the act, item, section, or part will not take effect
25 unless approved by the people at the general election to be held in
26 November 2014 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.