

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

ENGROSSED

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

LLS NO. 14-0256.01 Gregg Fraser x4325

HOUSE BILL 14-1216

HOUSE SPONSORSHIP

Sonnenberg,

SENATE SPONSORSHIP

Brophy,

House Committees

Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING REQUIRED SAFETY MARKINGS FOR CERTAIN TOWERS**
102 **OVER FIFTY FEET IN HEIGHT THAT ARE LOCATED IN**
103 **UNINCORPORATED AREAS OF THE STATE.**

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>.)

Towers under 200 feet in height are not currently regulated by the federal aviation administration and, consequently, may not have certain safety markings that are required for taller towers.

The bill creates specified safety marking requirements for towers

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
March 10, 2014

located in rural areas of the state, including the marking of guy wires supporting the towers and painting the towers in alternating colors. Previously constructed towers are given one year to comply with the requirements of the bill. Noncompliance with the requirements constitutes a misdemeanor.

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 that:

4 (a) With the rise in the development of wind energy conversion
5 facilities, there has been a corresponding increase in the use of temporary
6 meteorological evaluation towers to document wind speed and direction
7 in many areas of the state;

8 (b) A number of other temporary and permanent towers exist or
9 are regularly erected in rural areas of the state for communications and
10 other purposes;

11 (c) The federal aviation administration generally only regulates
12 structures over two hundred feet in height, and many towers are
13 constructed at a height of under two hundred feet;

14 (d) These towers are typically only six to eight inches in diameter,
15 which makes them difficult for aircraft in rural areas of the state to see,
16 especially if the towers do not have adequate markings;

17 (e) Towers are also supported by guy wires spreading out in a
18 wide pattern around the tower, making them particularly dangerous to
19 low-altitude aviation operations;

20 (f) Towers can be erected in a matter of hours, adversely affecting
21 navigable airspace for low-flying operations without notice;

22 (g) At least three fatal airplane accidents investigated by the
23 national transportation safety board have been attributed to towers that

1 were not seen by pilots despite the fact that they were flying during the
2 daytime in good weather conditions;

3 (h) The national transportation safety board has recommended that
4 states enact legislation requiring certain towers within their boudaries to
5 be adequately marked;

6 (i) Ten states have taken action to enact or initiate legislation
7 requiring meteorological evaluation towers over fifty feet tall to be
8 adequately marked; and

9 (j) It is critically important to the safety of aircraft pilots and
10 passengers using low-level airspace that the state require the adequate
11 marking of towers that are greater than fifty feet but less than two
12 hundred feet in height.

13 **SECTION 2.** In Colorado Revised Statutes, **add** 43-10-117 as
14 follows:

15 **43-10-117. Towers - marking - definitions.** (1) AS USED IN THIS
16 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

17 (a) "HEIGHT" MEANS THE DISTANCE FROM THE ORIGINAL GRADE AT
18 THE BASE OF A TOWER TO THE HIGHEST POINT OF THE TOWER.

19 (b) "TOWER" MEANS A STRUCTURE THAT IS EITHER SELF-STANDING
20 OR SUPPORTED BY GUY WIRES AND GROUND ANCHORS, IS SMALLER THAN
21 SIX FEET IN DIAMETER AT THE BASE, AND HAS ACCESSORY FACILITIES
22 ON WHICH AN ANTENNA, SENSOR, CAMERA, METEOROLOGICAL
23 INSTRUMENT, OR OTHER EQUIPMENT IS MOUNTED. "TOWER" DOES NOT
24 INCLUDE A STRUCTURE THAT IS LOCATED ADJACENT TO A BUILDING,
25 HOUSE, BARN, OR ELECTRIC UTILITY SUBSTATION.

26 (2) WHERE THE APPEARANCE OF A TOWER IS NOT OTHERWISE
27 GOVERNED BY STATE OR FEDERAL LAW, RULE, OR REGULATION, ANY

1 TOWER OVER FIFTY FEET IN HEIGHT THAT IS LOCATED OUTSIDE THE
2 BOUNDARIES OF AN INCORPORATED CITY OR TOWN ON LAND THAT IS
3 PRIMARILY RURAL OR UNDEVELOPED OR USED FOR AGRICULTURAL
4 PURPOSES MUST BE MARKED AND PAINTED OR OTHERWISE CONSTRUCTED
5 TO BE VISIBLE IN CLEAR AIR DURING DAYLIGHT HOURS FROM A DISTANCE
6 OF NOT LESS THAN TWO THOUSAND FEET. TOWERS MUST ALSO COMPLY
7 WITH THE FOLLOWING ADDITIONAL REQUIREMENTS:

8 (a) A TOWER MUST BE PAINTED IN EQUAL ALTERNATING BANDS OF
9 AVIATION ORANGE AND WHITE, BEGINNING WITH ORANGE AT THE TOP OF
10 THE TOWER;

11 (b) ONE MARKER BALL MUST BE ATTACHED TO THE TOP THIRD OF
12 EACH OUTSIDE GUY WIRE; AND

13 (c) GUY WIRES MUST HAVE A SEVEN-FOOT LONG SAFETY SLEEVE
14 AT EACH ANCHOR POINT THAT EXTENDS FROM THE ANCHOR POINT ALONG
15 EACH GUY WIRE ATTACHED TO THE ANCHOR POINT.

16 (3) ANY TOWER THAT WAS ERECTED PRIOR TO THE EFFECTIVE
17 DATE OF THIS SECTION MUST BE MARKED AS REQUIRED BY THE PROVISIONS
18 OF THIS SECTION WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS
19 SECTION. ANY TOWER THAT IS ERECTED ON OR AFTER THE EFFECTIVE DATE
20 OF THIS SECTION MUST BE MARKED AS REQUIRED BY THIS SECTION AT THE
21 TIME IT IS ERECTED.

22 (4) (a) THIS SECTION DOES NOT APPLY TO:

23 (I) TOWERS OR POLES THAT SUPPORT ELECTRIC UTILITY
24 TRANSMISSION LINES OR DISTRIBUTION LINES;

25 (II) FACILITIES LICENSED BY THE FEDERAL COMMUNICATIONS
26 COMMISSION OR ANY STRUCTURE WITH THE PRIMARY PURPOSE OF
27 SUPPORTING TELECOMMUNICATIONS EQUIPMENT, INCLUDING MICROWAVE

1 RELAY FACILITIES AND TOWERS ERECTED FOR THE PURPOSE OF PROVIDING
2 COMMERCIAL MOBILE RADIO SERVICE OR COMMERCIAL MOBILE DATA
3 SERVICE AS DEFINED IN 47 CFR 20.3;

4 (III) TOWERS WITHIN A SKI AREA BOUNDARY;

5 (IV) WIND-POWERED ELECTRICAL GENERATORS WITH A ROTOR
6 BLADE RADIUS GREATER THAN SIX FEET; OR

7 (V) STREET LIGHTS ERECTED OR MAINTAINED BY THE
8 DEPARTMENT OF TRANSPORTATION.

9 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (4),
10 THIS SECTION APPLIES TO TOWERS OR POLES WITH A PRIMARY PURPOSE OF
11 PROVIDING PRIVATE MOBILE RADIO SERVICES OTHER THAN COMMERCIAL
12 MOBILE DATA SERVICE AS DEFINED IN 47 CFR 20.3.

13 (5) ANY PERSON WHO VIOLATES A PROVISION OF THIS SECTION IS
14 GUILTY OF A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS
15 PROVIDED IN SECTION 18-1.3-501, C.R.S.

16 **SECTION 3. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the
21 state constitution against this act or an item, section, or part of this act
22 within such period, then the act, item, section, or part will not take effect
23 unless approved by the people at the general election to be held in
24 November 2014 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.