

**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. 12-0742.01 Chuck Brackney x2295

HOUSE BILL 12-1258

HOUSE SPONSORSHIP

DelGrosso,

SENATE SPONSORSHIP

Jahn,

House Committees
Transportation

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING REGULATION OF PUBLIC UTILITIES IN TERMS OF**
102 **ALTERNATIVE FUEL VEHICLES.**

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 specifies that sellers of electricity as fuel for alternative fuel vehicles are not regulated as public utilities. Generating electricity for sale as fuel for alternative fuel vehicles also does not make the seller subject to regulation as a public utility if the seller generates the electricity on the property where the fueling facilities are located and the

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.*

electricity is generated from a renewable resource.

Public utilities must make commercially reasonable efforts to provide connection of electric and natural gas service to alternative fuel vehicle charging facilities. A public utility's right to make unregulated operating expenditures and investments via an unregulated subsidiary with regard to alternative fuel vehicle charging facilities is not limited.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-1-102, **amend** (1);
3 and **add** (1.5) as follows:

4 **40-1-102. Definitions.** As used in articles 1 to 7 of this title,
5 unless the context otherwise requires:

6 (1) ~~"Commission" means the public utilities commission of the~~
7 ~~state of Colorado~~ "ALTERNATIVE FUEL VEHICLE" MEANS ANY
8 AUTOMOBILE, TRUCK, MOTOR BUS, BOAT, AIRPLANE, TRAIN, TRACTOR, OR
9 OTHER TYPE OF MOTORIZED OFF-HIGHWAY EQUIPMENT OR OTHER
10 SELF-PROPELLED DEVICE OR VESSEL THAT IS CAPABLE OF MOVING ITSELF
11 OR BEING MOVED FROM PLACE TO PLACE UTILIZING, IN WHOLE OR IN PART,
12 LIQUEFIED PETROLEUM GAS, NATURAL GAS, ELECTRICITY, OR A
13 COMBINATION OF NATURAL GAS AND ELECTRICITY AS TRANSPORTATION
14 FUEL, WHETHER OR NOT THE VEHICLE IS USED IN AGRICULTURAL,
15 COMMERCIAL, DOMESTIC, OR INDUSTRIAL OPERATIONS.

16 (1.5) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF
17 THE STATE OF COLORADO.

18 **SECTION 2.** In Colorado Revised Statutes, 40-1-103, **repeal** (4)
19 as follows:

20 **40-1-103. Public utility defined.** (4) ~~For the purposes of articles~~
21 ~~1 to 7 of this title, persons selling compressed natural gas or its~~
22 ~~component parts or by-products to governmental entities or to the public~~

1 ~~for use as fuel in alternative fuel vehicles shall not be considered to be~~
2 ~~public utilities. As used in this subsection (4), "alternative fuel vehicle"~~
3 ~~means any automobile, truck, motor bus, or other self-propelled device or~~
4 ~~vessel which is capable of moving itself or being moved from place to~~
5 ~~place, whether or not it is used in agricultural, commercial, domestic, or~~
6 ~~industrial operations.~~

7 **SECTION 3.** In Colorado Revised Statutes, **add** 40-1-103.3 as
8 follows:

9 **40-1-103.3. Alternative fuel vehicles - definition.** (1) AS USED
10 IN THIS SECTION, "PROPERTY OR PREMISES", WITH RESPECT TO AN
11 ELECTRIC, NATURAL GAS, OR LIQUEFIED PETROLEUM GAS EXTENSION OR
12 CONNECTION OF SERVICE, INCLUDES ALTERNATIVE FUEL VEHICLE
13 CHARGING AND FUELING FACILITIES IN ADDITION TO BUILDINGS AND
14 OTHER IMPROVEMENTS.

15 (2) FOR THE PURPOSES OF ARTICLES 1 TO 7 OF THIS TITLE, PERSONS
16 GENERATING ELECTRICITY FOR USE IN ALTERNATIVE FUEL VEHICLE
17 CHARGING OR FUELING FACILITIES AS AUTHORIZED BY SUBSECTION (4) OF
18 THIS SECTION, PERSON'S RESELLING ELECTRICITY SUPPLIED BY A PUBLIC
19 UTILITY, OR PERSONS RESELLING COMPRESSED OR LIQUEFIED NATURAL
20 GAS, LIQUEFIED PETROLEUM GAS, OR ANY COMPONENT PARTS OR
21 BY-PRODUCTS TO GOVERNMENTAL ENTITIES OR TO THE PUBLIC FOR USE AS
22 FUEL IN ALTERNATIVE FUEL VEHICLES OR BUYING ELECTRICITY STORED IN
23 SUCH VEHICLES FOR RESALE ARE NOT SUBJECT TO REGULATION AS A
24 PUBLIC UTILITY. ELECTRIC AND NATURAL GAS PUBLIC UTILITIES MAY
25 PROVIDE THE SERVICES DESCRIBED IN THIS SUBSECTION (2) AS EITHER
26 REGULATED OR UNREGULATED SERVICES. IF PROVIDED AS UNREGULATED
27 SERVICES, THESE UNREGULATED SERVICES MAY NOT BE SUBSIDIZED BY

1 THE REGULATED SERVICES OF THE ELECTRIC OR NATURAL GAS PUBLIC
2 UTILITY.

3 (3) OWNERS OR OPERATORS OF PROPERTY OR PREMISES
4 CONTAINING AN ALTERNATIVE FUEL VEHICLE CHARGING OR FUELING
5 FACILITY, OR THE OWNERS OR OPERATORS OF THE FACILITY, SHALL
6 PURCHASE THE ELECTRICITY REQUIRED FOR THE FACILITY FROM A PUBLIC
7 UTILITY WITH THE RIGHT TO SELL ELECTRICITY TO THE PROPERTY,
8 PREMISES, OR FACILITY EXCEPT WHEN THE OWNERS OR OPERATORS OF THE
9 PROPERTY, PREMISES, OR FACILITY GENERATE ELECTRICITY ON THE
10 PROPERTY OR PREMISES FOR USE IN ALTERNATIVE FUEL VEHICLES AS
11 AUTHORIZED BY SUBSECTION (4) OF THIS SECTION.

12 (4) THE OWNER OR OPERATOR OF A FACILITY THAT GENERATES
13 ELECTRICITY FOR USE IN ALTERNATIVE FUEL VEHICLE CHARGING OR
14 FUELING FACILITIES IS NOT SUBJECT TO REGULATION AS A PUBLIC UTILITY,
15 IF:

16 (a) THE ELECTRICITY IS GENERATED ON THE PROPERTY OR
17 PREMISES WHERE THE CHARGING OR FUELING FACILITIES ARE LOCATED;
18 AND

19 (b) THE ELECTRICITY IS GENERATED FROM A RENEWABLE
20 RESOURCE THAT:

21 (I) QUALIFIES AS "RETAIL DISTRIBUTED GENERATION" AS DEFINED
22 IN SECTION 40-2-124 (1) (a) (V), IF LOCATED ON THE SYSTEM OF AN
23 ENTITY SUBJECT TO THE REQUIREMENTS OF SECTION 40-2-124. THE
24 ELECTRIC POWER REQUIREMENTS FOR THE PROPERTY PURSUANT TO
25 SECTION 40-2-124 (1) INCLUDE THE DEMAND FOR EXISTING OR PROPOSED
26 ALTERNATIVE FUEL VEHICLE CHARGING OR FUELING FACILITIES IN
27 ADDITION TO BUILDINGS AND OTHER IMPROVEMENTS.

1 (II) COMPLIES WITH SECTION 40-9.5-118, IF LOCATED ON THE
2 SYSTEM OF A COOPERATIVE ELECTRIC ASSOCIATION; OR

3 (III) COMPLIES WITH SECTION 40-2-124 (7), IF LOCATED ON THE
4 SYSTEM OF A MUNICIPALLY OWNED UTILITY.

5 (5) SALE OF ELECTRICITY OR NATURAL GAS BY A PUBLIC UTILITY
6 TO THE OWNER OR OPERATOR OF AN ALTERNATIVE FUEL VEHICLE
7 CHARGING OR FUELING FACILITY IS A RETAIL TRANSACTION.

8 [REDACTED]

9 (6) THE REGULATED EXPENDITURES AND INVESTMENTS MADE BY
10 A PUBLIC UTILITY TO ACCOMMODATE ALTERNATIVE FUEL VEHICLE
11 CHARGING AND FUELING FACILITIES ARE EQUAL IN PRIORITY TO ALL OTHER
12 INFRASTRUCTURE NECESSARY TO SERVE ANY CUSTOMER OF THE PUBLIC
13 UTILITY IN ITS SERVICE TERRITORY, BUT ARE SUBORDINATE TO THE SAFETY
14 AND RELIABILITY OBLIGATIONS OF THE UTILITY.

15 [REDACTED]

16 **SECTION 4. 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 8, 2012, if adjournment sine die is on May 9, 2012); 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 2012 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.