

CHAPTER 147

PUBLIC UTILITIES

HOUSE BILL 12-1258

BY REPRESENTATIVE(S) DelGrosso, Ferrandino, Fischer, Hamner, Jones, Kagan, Kerr A., Kerr J., Labuda, Lee, Levy, McCann, Pace, Schafer S., Scott, Singer, Solano, Todd, Vigil, Williams A., Wilson, Young;
also SENATOR(S) Jahn, Carroll, Giron, Hodge, Newell, Schwartz, Spence, Steadman, Williams S.

AN ACT**CONCERNING REGULATION OF PUBLIC UTILITIES IN TERMS OF ALTERNATIVE FUEL VEHICLES.**

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

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

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

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

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

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

40-1-103. Public utility defined. (4) ~~For the purposes of articles 1 to 7 of this title, persons selling compressed natural gas or its component parts or by-products to governmental entities or to the public for use as fuel in alternative fuel vehicles~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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

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

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

(2) FOR THE PURPOSES OF ARTICLES 1 TO 7 OF THIS TITLE, PERSONS GENERATING ELECTRICITY FOR USE IN ALTERNATIVE FUEL VEHICLE CHARGING OR FUELING FACILITIES AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION, PERSONS RESELLING ELECTRICITY SUPPLIED BY A PUBLIC UTILITY, OR PERSONS RESELLING COMPRESSED OR LIQUEFIED NATURAL GAS, LIQUEFIED PETROLEUM GAS, OR ANY COMPONENT PARTS OR BY-PRODUCTS TO GOVERNMENTAL ENTITIES OR TO THE PUBLIC FOR USE AS FUEL IN ALTERNATIVE FUEL VEHICLES OR BUYING ELECTRICITY STORED IN SUCH VEHICLES FOR RESALE ARE NOT SUBJECT TO REGULATION AS A PUBLIC UTILITY. ELECTRIC AND NATURAL GAS PUBLIC UTILITIES MAY PROVIDE THE SERVICES DESCRIBED IN THIS SUBSECTION (2) AS UNREGULATED SERVICES, AND THESE UNREGULATED SERVICES MAY NOT BE SUBSIDIZED BY THE REGULATED SERVICES OF THE ELECTRIC OR NATURAL GAS PUBLIC UTILITY.

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

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

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

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

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

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

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

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

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

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 3, 2012