

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 22-0694.04 Jery Payne x2157

HOUSE BILL 22-1372

HOUSE SPONSORSHIP

Carver, Boesenecker, Catlin, Lindsay, Lynch, Michaelson Jenet, Ortiz, Pico, Ricks, Sandridge, Soper, Valdez D., Van Beber, Will

SENATE SPONSORSHIP

Gardner and Fields,

House Committees

State, Civic, Military, & Veterans Affairs

Senate Committees

Transportation & Energy

A BILL FOR AN ACT

101 **CONCERNING AN EXEMPTION FROM AIR EMISSION LIMITS FOR THE USE**
102 **OF A STATIONARY ENGINE TO SUPPORT CRITICAL**
103 **INFRASTRUCTURE IN EMERGENCIES.**

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://leg.colorado.gov>.)

The bill authorizes the use of an emergency stationary engine if:

- The emergency stationary engine is providing electric power to or mechanical work for military facilities or facilities under the control of the United States department of defense;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
May 4, 2022

HOUSE
3rd Reading Unamended
April 29, 2022

HOUSE
Amended 2nd Reading
April 28, 2022

- The emergency stationary engine is in compliance with 40 CFR 60, subparts IIII and JJJJ, as in effect on January 1, 2022;
- The emergency stationary engine's air pollution control and monitoring equipment is installed, operated, and maintained in compliance with the manufacturer's standards; and
- The emergency stationary engine is undergoing routine maintenance or testing or providing primary electrical power or mechanical work during an emergency situation pursuant to 40 CFR 60 or 63, as in effect on January 1, 2022.

A person that operates an emergency stationary engine is required to:

- Minimize the use of emergency stationary engines as much as practicable, consistent with the health, safety, and welfare of the people of Colorado;
- Report each emergency event that causes the engine to be operated within the later of 48 hours after or noon on the business day following the emergency event;
- Record information about each emergency event; and
- Submit compliance reports detailing the operation of the engine, the reason for the operation, deviations, and corrective actions.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-7-103, **add** (9.7)
 3 and (9.8) as follows:

4 **25-7-103. Definitions.** As used in this article 7, unless the context
 5 otherwise requires:

6 (9.7) "EMERGENCY EVENT" MEANS A SITUATION ARISING FROM A
 7 SUDDEN AND REASONABLY UNFORESEEN NATURAL DISASTER OR OTHER
 8 UNFORESEEN EVENT, INCLUDING THE LOSS OF UTILITY SERVICE, THAT
 9 REQUIRES THE USE OF EMERGENCY STATIONARY ENGINES TO ALLEVIATE
 10 A THREAT TO HEALTH, SAFETY, AND WELFARE PURSUANT TO 40 CFR 60 OR
 11 63, AS IN EFFECT ON JANUARY 1, 2022. A THREAT TO HEALTH, SAFETY,

1 AND WELFARE INCLUDES NATIONAL SECURITY THREATS.

2 (9.8) "EMERGENCY STATIONARY ENGINE" MEANS AN ENGINE THAT
3 IS NOT MOBILE AND THAT IS USED TO PROVIDE ELECTRIC POWER TO OR
4 MECHANICAL WORK FOR CRITICAL INFRASTRUCTURE DURING AN
5 EMERGENCY EVENT.

6 **SECTION 2.** In Colorado Revised Statutes, **add 25-7-143** as
7 follows:

8 **25-7-143. Emergency stationary engine exception - legislative**
9 **declaration - rules.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS
10 THAT:

11 (I) THE UNITED STATES ARMED FORCES PROTECT THE UNITED
12 STATES, INCLUDING THE PEOPLE OF COLORADO, FROM THREATS DOMESTIC
13 AND ABROAD;

14 (II) COLORADO IS HOME TO THE NORTH AMERICAN AEROSPACE
15 DEFENSE COMMAND, U.S. STRATEGIC COMMAND, U.S. AIR FORCE SPACE
16 COMMAND, AND U.S. NORTHERN COMMAND;

17 (III) THESE COMMAND AND MILITARY FACILITIES PLAY A CRITICAL
18 ROLE IN AEROSPACE DEFENSE, INCLUDING DEFENSE AGAINST
19 INTERCONTINENTAL BALLISTIC MISSILES AND WEAPONS OF MASS
20 DESTRUCTION; AND

21 (IV) REGULATIONS PROMULGATED UNDER THE FEDERAL ACT
22 AUTHORIZE EMERGENCY STATIONARY ENGINES TO OPERATE DURING AN
23 EMERGENCY EVENT.

24 (b) THEREFORE, THE GENERAL ASSEMBLY HEREBY DECLARES
25 THAT:

26 (I) MAINTAINING THE OPERATING CAPACITY OF COLORADO'S
27 MILITARY FACILITIES IS CRITICAL TO PROTECTING THE HEALTH, SAFETY,

1 AND WELFARE OF THE PEOPLE OF COLORADO;

2 (II) ALTHOUGH REGULATION OF EMISSIONS IS IMPORTANT TO THE
3 HEALTH, SAFETY, AND WELFARE OF THE PEOPLE OF COLORADO, FAILURE
4 TO MAINTAIN OPERATION AT ALL TIMES OF THESE CRITICAL FACILITIES
5 DURING AN EMERGENCY EVENT COULD LEAD TO SEVERE LOSS OF LIFE AND
6 DEVASTATING ENVIRONMENTAL CONSEQUENCES IN COLORADO;

7 (III) EMERGENCY STATIONARY ENGINES ARE CRITICAL TO
8 PROVIDING POWER AND OTHER SERVICES NECESSARY TO MAINTAIN THE
9 OPERATION OF THESE MILITARY FACILITIES AT ALL TIMES; █

10 (IV) THIS SECTION IS SELF EXECUTING; AND

11 (V) CREATION OF AN EXEMPTION FOR EMERGENCY STATIONARY
12 ENGINE USE AT MILITARY INSTALLATIONS REQUIRES A CHANGE TO
13 COLORADO'S STATE IMPLEMENTATION PLAN, WHICH MUST BE APPROVED
14 BY THE ADMINISTRATOR OF THE FEDERAL ENVIRONMENTAL PROTECTION
15 AGENCY.

16 (2) NOTWITHSTANDING ANY REQUIREMENTS OR EMISSION LIMITS
17 ESTABLISHED BY STATE STATUTE OR RULE, A PERSON MAY OPERATE AN
18 EMERGENCY STATIONARY ENGINE, AS AUTHORIZED BY THE FEDERAL ACT,
19 IF:

20 (a) THE EMERGENCY STATIONARY ENGINE IS PROVIDING ELECTRIC
21 POWER TO OR MECHANICAL WORK FOR MILITARY FACILITIES OR FACILITIES
22 UNDER THE CONTROL OF THE UNITED STATES DEPARTMENT OF DEFENSE;

23 (b) THE EMERGENCY STATIONARY ENGINE IS IN COMPLIANCE WITH
24 40 CFR 60, SUBPARTS IIII AND JJJJ, AS IN EFFECT ON JANUARY 1, 2022;

25 (c) THE EMERGENCY STATIONARY ENGINE'S AIR POLLUTION
26 CONTROL AND MONITORING EQUIPMENT IS INSTALLED, OPERATED, AND
27 MAINTAINED IN COMPLIANCE WITH THE MANUFACTURER'S STANDARDS;

1 AND

2 (d) THE EMERGENCY STATIONARY ENGINE IS:

3 (I) UNDERGOING ROUTINE MAINTENANCE OR TESTING; OR

4 (II) PROVIDING PRIMARY ELECTRICAL POWER OR MECHANICAL
5 WORK DURING AN EMERGENCY EVENT PURSUANT TO 40 CFR 60 OR 63, AS
6 IN EFFECT ON JANUARY 1, 2022, FOR THE DURATION OF THE EMERGENCY
7 EVENT.

8 (3) (a) A PERSON THAT OPERATES AN EMERGENCY STATIONARY
9 ENGINE AT MILITARY FACILITIES OR FACILITIES UNDER THE CONTROL OF
10 THE UNITED STATES DEPARTMENT OF DEFENSE SHALL:

11 (I) MINIMIZE THE USE OF EMERGENCY STATIONARY ENGINES AS
12 MUCH AS PRACTICABLE, CONSISTENT WITH THE HEALTH, SAFETY, AND
13 WELFARE OF THE PEOPLE OF COLORADO;

14 (II) REPORT AN EMERGENCY EVENT TO THE DIVISION WITHIN THE
15 LATER OF FORTY-EIGHT HOURS OR BY NOON ON THE NEXT BUSINESS DAY
16 AFTER COMMENCING OPERATION OF AN EMERGENCY STATIONARY ENGINE
17 BECAUSE OF THE EMERGENCY EVENT; AND

18 (III) EACH TIME AN EMERGENCY STATIONARY ENGINE IS
19 OPERATED, RECORD:

20 (A) THAT THE EMERGENCY STATIONARY ENGINE WAS OPERATED;

21 (B) THE DATE THAT THE OPERATION BEGAN;

22 (C) THE DURATION OF THE OPERATION;

23 (D) THE REASON FOR EACH OPERATION, INCLUDING AN
24 EMERGENCY EVENT, MAINTENANCE, OR TESTING; AND

25 (E) WHETHER ANY ACTION WAS TAKEN TO MITIGATE THE USE OF
26 THE EMERGENCY STATIONARY ENGINE DURING THE EMERGENCY EVENT.

27 (b) A PERSON THAT INSTALLS AN EMERGENCY STATIONARY ENGINE

1 SHALL RETAIN FOR FIVE YEARS AND MAKE AVAILABLE FOR INSPECTION THE
2 INSTALLATION, MAINTENANCE, AND OPERATION RECORDS AND DATA OF
3 THE EMERGENCY STATIONARY ENGINE, INCLUDING, AT A MINIMUM:

- 4 (I) MONITORING RESULTS;
- 5 (II) OPERATION AND MAINTENANCE PROCEDURES; AND
- 6 (III) OPERATION AND MAINTENANCE RECORDS.

7 (4) A PERSON THAT OPERATES AN EMERGENCY STATIONARY
8 ENGINE AT MILITARY FACILITIES OR FACILITIES UNDER THE CONTROL OF
9 THE UNITED STATES DEPARTMENT OF DEFENSE SHALL SUBMIT A
10 COMPLIANCE REPORT TO THE DIVISION ANNUALLY ON THE DATE THE
11 PERSON REGULARLY SUBMITS REPORTS IN ACCORDANCE WITH ANY
12 PERMITS HELD BY THE PERSON. EACH COMPLIANCE REPORT MUST INCLUDE
13 THE FOLLOWING INFORMATION:

- 14 (a) THE INSTALLATION NAME AND ADDRESS;
- 15 (b) THE DATE OF THE REPORT AND THE BEGINNING AND END DATES
16 OF THE REPORTING PERIOD;
- 17 (c) THE INFORMATION REQUIRED TO BE RECORDED IN SUBSECTION
18 (3)(a)(III) OF THIS SECTION;
- 19 (d) ANY ACTION TAKEN TO MINIMIZE THE OPERATION OF THE
20 EMERGENCY STATIONARY ENGINE; AND
- 21 (e) A STATEMENT BY THE REPORTING PERSON, INCLUDING THE
22 PERSON'S NAME, TITLE, AND SIGNATURE, CERTIFYING THE ACCURACY OF
23 THE REPORT.

24 (5) COMPLIANCE WITH THIS SECTION IS A CONDITION OF EVERY AIR
25 QUALITY PERMIT ISSUED OR RENEWED BY THE DIVISION FOR EMERGENCY
26 STATIONARY ENGINES FOR MILITARY FACILITIES OR FACILITIES UNDER THE
27 CONTROL OF THE UNITED STATES DEPARTMENT OF DEFENSE.

1 (6) (a) NO LATER THAN SEPTEMBER 1, 2022, THE GOVERNOR OR
2 THE GOVERNOR'S DESIGNEE SHALL SUBMIT THIS SECTION TO THE
3 ADMINISTRATOR FOR INCLUSION IN COLORADO'S STATE IMPLEMENTATION
4 PLAN.

5 (b) THIS SECTION WILL TAKE EFFECT ONLY IF THE ADMINISTRATOR
6 APPROVES THIS SECTION'S INCLUSION IN THE STATE IMPLEMENTATION
7 PLAN. THE DIVISION SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING
8 OF THE DATE ON WHICH THE CONDITION SPECIFIED IN THIS SUBSECTION
9 (6)(b) HAS OCCURRED BY E-MAILING THE NOTICE TO
10 REVISOROFSTATUTES.GA@STATE.CO.US. THIS SECTION TAKES EFFECT ON
11 THE EFFECTIVE DATE IDENTIFIED IN THE NOTICE THAT THE ADMINISTRATOR
12 APPROVED THIS SECTION'S INCLUSION IN COLORADO'S STATE
13 IMPLEMENTATION PLAN OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE,
14 UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

15 (7) IF THE ADMINISTRATOR FAILS TO APPROVE INCLUSION OF THIS
16 SECTION INTO COLORADO'S STATE IMPLEMENTATION PLAN BY SEPTEMBER
17 1, 2025:

18 (a) THIS SECTION IS REPEALED, EFFECTIVE OCTOBER 1, 2025; AND

19 (b) THE GOVERNOR OR THE GOVERNOR'S DESIGNEE SHALL
20 WITHDRAW THIS SECTION AS A STATE IMPLEMENTATION PLAN REVISION.

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