

CHAPTER 88

TRANSPORTATION

HOUSE BILL 99-1327

BY REPRESENTATIVES S. Williams, Swenson, Witwer, Bacon, Keller, Mace, May, Ragsdale, Tupa, Veiga, Zimmerman, Clarke, Coleman, Gordon, Hoppe, Plant, Tate, and Vigil;
also SENATORS Perlmutter, Anderson, Blickensderfer, Epps, Evans, Hernandez, Lacy, Pascoe, Reeves, Teck, and Weddig.

AN ACT

CONCERNING AUTHORIZATION FOR THE CODEVELOPMENT OF PUBLIC TRANSPORTATION TRANSFER FACILITIES FOR THE PURPOSE OF PROVIDING RETAIL OR COMMERCIAL GOODS AND SERVICES AT SUCH FACILITIES.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

- (a) The growth in population in Colorado and attendant increase in automobile traffic within Colorado has placed unprecedented demands on the state's transportation system;
- (b) The use of public transportation as a means to relieve demand and congestion in the state's transportation system is a matter of statewide concern;
- (c) The availability of property along state highway corridors is limited and is being rapidly developed by the private sector;
- (d) It is in the state's interest to maximize the utilization of property along state highway corridors by encouraging codevelopment between public and private entities of public transportation transfer facilities;
- (e) Allowing the provision of retail or commercial goods and services at public transportation transfer facilities enables the private sector to participate in codevelopment of such facilities;
- (f) The provision of retail and commercial goods and services at public

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

transportation transfer facilities by means of private development at such facilities also serves the public interest by encouraging the use of public transportation and is in the public interest.

SECTION 2. 32-9-119.8 (2) and (6), Colorado Revised Statutes, are amended, and the said 32-9-119.8 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

32-9-119.8. Provision of retail and commercial goods and services at district transfer facilities. (2) EXCEPT AS PROVIDED IN SUBSECTION (2.5) OF THIS SECTION, the district shall have the authority to negotiate and enter into agreements with any person or public entity for the provision of retail and commercial goods and services to the public at transfer facilities. The district itself shall not provide retail and commercial goods and services at transfer facilities pursuant to this section, except for the sale of mass transportation tickets, tokens, passes, and other transactions directly and necessarily related to the operation of a mass transportation system.

(2.5) THE DISTRICT SHALL NOTIFY AND OBTAIN THE APPROVAL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION BEFORE NEGOTIATING AND ENTERING INTO ANY AGREEMENT WITH ANY PERSON OR PUBLIC ENTITY FOR THE PROVISION OF RETAIL AND COMMERCIAL GOODS AND SERVICES TO THE PUBLIC AT A TRANSFER FACILITY THAT IS LOCATED ON PROPERTY THAT IS OWNED BY THE DEPARTMENT OF TRANSPORTATION AND LEASED TO THE DISTRICT FOR THE OPERATION OF SUCH TRANSFER FACILITY.

(6) SUBJECT TO SUBSECTION (2.5) OF THIS SECTION, section 43-3-101 (3), C.R.S., shall not bar the provision or sale of retail or commercial goods or services conducted in accordance with the provisions of this section upon any property owned by the Colorado department of transportation and leased to the regional transportation district for the operation of transfer facilities.

SECTION 3. 43-1-1202 (1) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

43-1-1202. Department powers. (1) Notwithstanding any other law, the department may:

(a) Solicit and consider proposals, enter into agreements, grant benefits, and accept contributions for public-private initiatives pursuant to this part 12 concerning any of the following:

(XII) CODEVELOPMENT OF TRANSPORTATION TRANSFER FACILITIES, AS DEFINED IN SECTION 43-1-1501 (1) (c), INCLUDING TRANSFER FACILITIES THAT PROVIDE RETAIL GOODS AND SERVICES BY PRIVATE ENTITIES.

SECTION 4. 43-1-1202 (3), Colorado Revised Statutes, is amended to read:

43-1-1202. Department powers. (3) Retail goods and services shall not be authorized under this part 12. This subsection (3) shall not prohibit:

(a) Retail goods and services existing on April 17, 1995; ~~nor~~

(b) Any vending facilities defined in section 26-8.5-101, C.R.S.;

(c) THE PROVISION OF RETAIL GOODS AND SERVICES AT TRANSFER FACILITIES AUTHORIZED UNDER PART 15 OF ARTICLE 1 OF THIS TITLE.

SECTION 5. Article 1 of title 43, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 15

PROVISION OF RETAIL OR COMMERCIAL GOODS AND SERVICES AT PUBLIC TRANSPORTATION TRANSFER FACILITIES ON DEPARTMENT-OWNED PROPERTY

43-1-1501. Definitions. (1) AS USED IN THIS PART 15, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "PUBLIC ENTITY" INCLUDES, BUT IS NOT LIMITED TO, A PUBLIC BODY, AS THAT TERM IS DEFINED IN SECTION 32-9-103 (11), C.R.S., AND ANY OTHER GOVERNMENTAL ENTITY, AGENCY, OR OFFICIAL.

(b) "RETAIL GOODS AND SERVICES" MEANS ALL GOODS AND SERVICES SOLD TO THE PUBLIC.

(c) "TRANSFER FACILITY" MEANS A PUBLIC PARK-N-RIDE, BUS TERMINAL, LIGHT RAIL STATION, OR OTHER BUS OR RAIL TRANSFER FACILITY OPERATED ON PROPERTY THAT IS OWNED BY THE DEPARTMENT.

43-1-1502. Provision of retail and commercial goods and services at transfer facilities on department property. ANY PUBLIC ENTITY OTHER THAN THE DEPARTMENT SHALL OBTAIN THE APPROVAL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT BEFORE NEGOTIATING AND ENTERING INTO ANY AGREEMENT WITH ANY PERSON OR PUBLIC ENTITY FOR THE PROVISION OF RETAIL AND COMMERCIAL GOODS AND SERVICES TO THE PUBLIC AT A TRANSFER FACILITY THAT IS LOCATED ON PROPERTY THAT IS OWNED BY THE DEPARTMENT AND LEASED TO THE REGIONAL TRANSPORTATION DISTRICT OR SUCH OTHER PUBLIC ENTITY FOR THE OPERATION OF SUCH TRANSFER FACILITY.

43-1-1503. Department transfer facilities - provision of retail and commercial goods and services. (1) NOTWITHSTANDING THE PROVISIONS OF SECTION 43-3-101, THE EXECUTIVE DIRECTOR SHALL HAVE THE AUTHORITY TO NEGOTIATE AND ENTER INTO AGREEMENTS WITH ANY PERSON OR PUBLIC ENTITY FOR THE PROVISION OF RETAIL AND COMMERCIAL GOODS AND SERVICES TO THE PUBLIC AT ANY TRANSFER FACILITY THAT IS OWNED, LEASED, OR OPERATED BY THE DEPARTMENT.

(2) ANY PERSON OR PUBLIC ENTITY OBTAINING THE USE OF ANY PORTION OF A TRANSFER FACILITY THAT IS OWNED, LEASED, OR OPERATED BY THE DEPARTMENT FOR THE PROVISION OF RETAIL OR COMMERCIAL GOODS OR SERVICES SHALL ENTER INTO AN AGREEMENT WITH THE DEPARTMENT THAT IS CONSISTENT WITH SECTION 43-1-1204. SUCH AGREEMENT MAY PROVIDE THAT PRIVATE CONTRIBUTIONS TO THE DEPARTMENT INCLUDE THE PROVISION OF REAL PROPERTY, SERVICES, OR CAPITAL IMPROVEMENTS TO FACILITIES USED IN TRANSIT SERVICES.

(3) ANY USE OF A TRANSFER FACILITY THAT IS OWNED, LEASED, OR OPERATED BY THE DEPARTMENT FOR THE PROVISION OF RETAIL OR COMMERCIAL GOODS OR SERVICES SHALL NOT BE IMPLEMENTED IF THE USE WOULD REDUCE TRANSIT SERVICES OR THE AVAILABILITY OF ADEQUATE PARKING FOR THE PUBLIC OR WOULD RESULT IN A COMPETITIVE DISADVANTAGE TO A PRIVATE BUSINESS REASONABLY NEAR A TRANSFER FACILITY ENGAGING IN THE SALE OF SIMILAR GOODS AND SERVICES. THE PROVISION OF RETAIL AND COMMERCIAL GOODS AND SERVICES AT TRANSFER FACILITIES THAT ARE OWNED, LEASED, OR OPERATED BY THE DEPARTMENT SHALL BE DESIGNED TO OFFER CONVENIENCE TO TRANSIT CUSTOMERS AND SHALL NOT BE CONDUCTED IN A MANNER THAT ENCOURAGES AUTOMOBILE TRAFFIC FROM NONTRANSIT USERS.

(4) ANY DEVELOPMENT OF ANY PORTION OF A TRANSFER FACILITY OWNED, LEASED, OR OPERATED BY THE DEPARTMENT AND MADE AVAILABLE BY THE DEPARTMENT FOR THE PROVISION OF RETAIL OR COMMERCIAL GOODS OR SERVICES SHALL BE SUBJECT TO ALL APPLICABLE LAWS, ORDINANCES, AND REGULATIONS OF ANY MUNICIPALITY, COUNTY, OR CITY AND COUNTY IN WHICH THE TRANSFER FACILITY IS LOCATED, INCLUDING PLANNING AND ZONING REGULATIONS.

43-1-1504. Possessory interests in transfer facilities - taxation. NOTWITHSTANDING SECTION 39-3-136, C.R.S., IF THE COLORADO SUPREME COURT RULES THAT THE COLORADO CONSTITUTION REQUIRES THAT POSSESSORY INTERESTS IN EXEMPT LAND, IMPROVEMENTS, AND PERSONAL PROPERTY BE SUBJECT TO PROPERTY TAXATION, ANY PERSON OBTAINING A POSSESSORY INTEREST IN ANY PORTION OF A TRANSFER FACILITY LOCATED ON PROPERTY THAT IS OWNED BY THE DEPARTMENT FOR THE PROVISION OF RETAIL OR COMMERCIAL GOODS OR SERVICES PURSUANT TO THIS SECTION SHALL BE DEEMED IN CONTROL OF THAT PORTION OF THE FACILITY AND SHALL BE SUBJECT TO PROPERTY TAXATION TO THE EXTENT OF THE PERSON'S POSSESSORY INTEREST IN THAT PORTION OF THE FACILITY.

SECTION 6. 43-3-101 (3), Colorado Revised Statutes, is amended to read:

43-3-101. Freeways - how declared - commercial enterprises prohibited. (3) Except as provided in section 32-9-119.8, C.R.S., AND PART 15 OF ARTICLE 1 OF THIS TITLE, no commercial enterprise or activity for serving motorists, other than emergency services for disabled vehicles, shall be conducted or authorized on any property designated as or acquired for or in connection with a freeway or highway by the department of transportation, or any other governmental agency. At locations deemed appropriate by the transportation commission, the department of transportation shall construct local service roads, which open into or connect with a freeway, in such manner as to facilitate the establishment and operation of competitive commercial enterprises for serving users of the freeway on private property abutting such local service roads.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 9, 1999