

CHAPTER 228

TRANSPORTATION

HOUSE BILL 14-1216

BY REPRESENTATIVE(S) Sonnenberg, Labuda, Moreno, Rosenthal;
also SENATOR(S) Brophy, Guzman, Heath, Herpin, Jones, Rivera, Schwartz, Tochtrop, Todd.

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

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds that:

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

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

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

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

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

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

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

(g) At least three fatal airplane accidents investigated by the national transportation safety board have been attributed to towers that were not seen by pilots despite the fact that they were flying during the daytime in good weather conditions;

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

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

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

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

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

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

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

(2) WHERE THE APPEARANCE OF A TOWER IS NOT OTHERWISE GOVERNED BY STATE OR FEDERAL LAW, RULE, OR REGULATION, ANY TOWER OVER FIFTY FEET IN HEIGHT THAT IS LOCATED OUTSIDE THE BOUNDARIES OF AN INCORPORATED CITY OR TOWN ON LAND THAT IS PRIMARILY RURAL OR UNDEVELOPED OR USED FOR AGRICULTURAL PURPOSES MUST BE MARKED AND PAINTED OR OTHERWISE CONSTRUCTED TO BE VISIBLE IN CLEAR AIR DURING DAYLIGHT HOURS FROM A DISTANCE OF NOT LESS THAN TWO THOUSAND FEET. TOWERS MUST ALSO COMPLY WITH THE FOLLOWING ADDITIONAL REQUIREMENTS:

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

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

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

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

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

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

(II) FACILITIES LICENSED BY THE FEDERAL COMMUNICATIONS COMMISSION OR ANY STRUCTURE WITH THE PRIMARY PURPOSE OF SUPPORTING TELECOMMUNICATIONS EQUIPMENT, INCLUDING MICROWAVE RELAY FACILITIES AND TOWERS ERECTED FOR THE PURPOSE OF PROVIDING COMMERCIAL MOBILE RADIO SERVICE OR COMMERCIAL MOBILE DATA SERVICE AS DEFINED IN 47 CFR 20.3;

(III) TOWERS WITHIN A SKI AREA BOUNDARY;

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

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

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

(5) ANY PERSON WHO VIOLATES A PROVISION OF THIS SECTION AND A COLLISION WITH THE TOWER AT ISSUE RESULTS IN THE INJURY OR DEATH OF ANOTHER PERSON IS GUILTY OF A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S. ANY PERSON WHO VIOLATES A PROVISION OF THIS SECTION AND THE VIOLATION DOES NOT RESULT IN THE INJURY OR DEATH OF ANOTHER PERSON IS GUILTY OF A MISDEMEANOR AND SHALL BE PUNISHED BY A FINE OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS.

SECTION 3. 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 6, 2014, if adjournment sine die is on May 7, 2014); 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 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 17, 2014