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HOUSE BILL 10-1238

BY REPRESENTATIVE(S) Curry, Fischer, Frangas, Levy, Primavera;
also SENATOR(S) Schwartz.

CONCERNING WILDLIFE CROSSING ZONES.

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

SECTION 1. Part 1 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-118. Establishment of wildlife crossing zones - report - repeal. (1) THE DEPARTMENT OF TRANSPORTATION CREATED IN SECTION 43-1-103, C.R.S., IN CONSULTATION WITH BOTH THE COLORADO STATE PATROL CREATED PURSUANT TO SECTION 24-33.5-201, C.R.S., AND THE DIVISION OF WILDLIFE CREATED PURSUANT TO SECTION 24-1-124 (3) (h), C.R.S., IN THE DEPARTMENT OF NATURAL RESOURCES, MAY ESTABLISH AREAS WITHIN THE PUBLIC HIGHWAYS OF THE STATE AS WILDLIFE CROSSING ZONES.

(2) (a) IF THE DEPARTMENT OF TRANSPORTATION ESTABLISHES AN AREA WITHIN A PUBLIC HIGHWAY OF THE STATE AS A WILDLIFE CROSSING ZONE, THE DEPARTMENT OF TRANSPORTATION MAY ERECT SIGNS:

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

(I) IDENTIFYING THE ZONE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 42-4-616; AND

(II) ESTABLISHING A LOWER SPEED LIMIT FOR THE PORTION OF THE HIGHWAY THAT LIES WITHIN THE ZONE.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2) TO THE CONTRARY, THE DEPARTMENT OF TRANSPORTATION SHALL NOT ESTABLISH A LOWER SPEED LIMIT FOR MORE THAN ONE HUNDRED MILES OF THE PUBLIC HIGHWAYS OF THE STATE THAT HAVE BEEN ESTABLISHED AS WILDLIFE CROSSING ZONES.

(3) (a) THE DEPARTMENT OF TRANSPORTATION MAY ESTABLISH AN AREA WITHIN THE FEDERAL HIGHWAYS OF THE STATE AS A WILDLIFE CROSSING ZONE IF THE DEPARTMENT OF TRANSPORTATION RECEIVES AUTHORIZATION FROM THE FEDERAL GOVERNMENT.

(b) IF THE DEPARTMENT OF TRANSPORTATION ESTABLISHES AN AREA WITHIN THE FEDERAL HIGHWAYS OF THE STATE AS A WILDLIFE CROSSING ZONE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE DEPARTMENT OF TRANSPORTATION MAY ERECT SIGNS:

(I) IDENTIFYING THE ZONE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 42-4-616; AND

(II) ESTABLISHING A LOWER SPEED LIMIT FOR THE PORTION OF THE HIGHWAY THAT LIES WITHIN THE ZONE.

(4) IF THE DEPARTMENT OF TRANSPORTATION ERECTS A NEW WILDLIFE CROSSING ZONE SIGN PURSUANT TO SUBSECTION (2) OR (3) OF THIS SECTION, IT SHALL ENSURE THAT THE SIGN INDICATES, IN CONFORMITY WITH THE STATE TRAFFIC CONTROL MANUAL, THAT INCREASED TRAFFIC PENALTIES ARE IN EFFECT WITHIN THE WILDLIFE CROSSING ZONE. FOR THE PURPOSES OF THIS SECTION, IT SHALL BE SUFFICIENT THAT THE SIGN STATES "INCREASED PENALTIES IN EFFECT".

(5) IN ESTABLISHING A LOWER SPEED LIMIT WITHIN A WILDLIFE CROSSING ZONE, THE DEPARTMENT OF TRANSPORTATION SHALL GIVE DUE CONSIDERATION TO FACTORS INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(a) THE PERCENTAGE OF TRAFFIC ACCIDENTS THAT OCCUR WITHIN THE AREA THAT INVOLVE THE PRESENCE OF WILDLIFE ON THE PUBLIC HIGHWAY;

(b) THE RELATIVE LEVELS OF TRAFFIC CONGESTION AND MOBILITY IN THE AREA; AND

(c) THE RELATIVE NUMBERS OF TRAFFIC ACCIDENTS THAT OCCUR WITHIN THE AREA DURING THE DAYTIME AND EVENING HOURS AND INVOLVE THE PRESENCE OF WILDLIFE ON THE PUBLIC HIGHWAY.

(6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "WILDLIFE" SHALL HAVE THE SAME MEANING AS "BIG GAME" AS SET FORTH IN SECTION 33-1-102 (2), C.R.S.

(7) (a) ON OR BEFORE MARCH 1, 2012, THE DEPARTMENT OF TRANSPORTATION SHALL PREPARE AND SUBMIT TO THE TRANSPORTATION AND ENERGY COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE TRANSPORTATION COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, A REPORT CONCERNING THE IMPLEMENTATION OF THIS SECTION. THE REPORT, AT A MINIMUM, SHALL INCLUDE:

(I) THE LOCATION AND LENGTH OF EACH WILDLIFE CROSSING ZONE THAT THE DEPARTMENT OF TRANSPORTATION HAS ESTABLISHED PURSUANT TO THIS SECTION;

(II) THE TOTAL NUMBER OF MILES WITHIN THE PUBLIC HIGHWAYS OF THE STATE THAT THE DEPARTMENT OF TRANSPORTATION HAS ESTABLISHED AS WILDLIFE CROSSING ZONES PURSUANT TO THIS SECTION;

(III) THE TOTAL NUMBER OF WILDLIFE CROSSING ZONES WITHIN THE STATE FOR WHICH THE DEPARTMENT OF TRANSPORTATION HAS ESTABLISHED A LOWER SPEED LIMIT, INCLUDING IDENTIFICATION OF EACH WILDLIFE CROSSING ZONE FOR WHICH THE DEPARTMENT HAS ESTABLISHED A LOWER SPEED LIMIT;

(IV) THE EFFECT, IF ANY, THAT THE ESTABLISHMENT OF EACH WILDLIFE CROSSING ZONE HAS HAD IN REDUCING THE FREQUENCY OF TRAFFIC ACCIDENTS WITHIN THE AREA OF THE PUBLIC HIGHWAY THAT HAS BEEN ESTABLISHED AS A WILDLIFE CROSSING ZONE; AND

(V) A RECOMMENDATION BY THE DEPARTMENT OF TRANSPORTATION AS TO WHETHER THE GENERAL ASSEMBLY SHOULD:

(A) DISCONTINUE THE ESTABLISHMENT OF WILDLIFE CROSSING ZONES;

(B) CONTINUE THE ESTABLISHMENT OF WILDLIFE CROSSING ZONES, AS LIMITED BY THE PROVISIONS OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION; OR

(C) EXPAND THE ESTABLISHMENT OF WILDLIFE CROSSING ZONES BEYOND THE LIMITS DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

(b) THIS SUBSECTION (7) IS REPEALED, EFFECTIVE MARCH 2, 2012.

(8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DEPARTMENT OF TRANSPORTATION SHALL NOT ESTABLISH ANY AREA OF ANY INTERSTATE HIGHWAY AS A WILDLIFE CROSSING ZONE.

SECTION 2. Part 6 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-616. Wildlife crossing zones - increase in penalties for moving traffic violations. (1) EXCEPT AS DESCRIBED BY SUBSECTION (4) OF THIS SECTION, A PERSON WHO COMMITS A MOVING TRAFFIC VIOLATION IN A WILDLIFE CROSSING ZONE IS SUBJECT TO THE INCREASED PENALTIES AND SURCHARGES IMPOSED BY SECTION 42-4-1701 (4) (d.5).

(2) FOR THE PURPOSES OF THIS SECTION, "WILDLIFE CROSSING ZONE" MEANS AN AREA ON A PUBLIC HIGHWAY THAT:

(a) BEGINS AT A SIGN THAT CONFORMS TO THE STATE TRAFFIC CONTROL MANUAL, WAS ERECTED BY THE DEPARTMENT OF TRANSPORTATION PURSUANT TO SECTION 42-4-118, AND INDICATES THAT A PERSON IS ABOUT TO ENTER A WILDLIFE CROSSING ZONE; AND

(b) EXTENDS TO:

(I) A SIGN THAT CONFORMS TO THE STATE TRAFFIC CONTROL

MANUAL, WAS ERECTED BY THE DEPARTMENT OF TRANSPORTATION PURSUANT TO SECTION 42-4-118, AND INDICATES THAT A PERSON IS ABOUT TO LEAVE A WILDLIFE CROSSING ZONE; OR

(II) IF NO SIGN EXISTS THAT COMPLIES WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE DISTANCE INDICATED ON THE SIGN INDICATING THE BEGINNING OF THE WILDLIFE CROSSING ZONE; OR

(III) IF NO SIGN EXISTS THAT COMPLIES WITH SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (b), ONE-HALF MILE BEYOND THE SIGN INDICATING THE BEGINNING OF THE WILDLIFE CROSSING ZONE.

(3) (a) IF THE DEPARTMENT OF TRANSPORTATION ERECTS A SIGN THAT INDICATES THAT A PERSON IS ABOUT TO ENTER A WILDLIFE CROSSING ZONE PURSUANT TO SECTION 42-4-118, THE DEPARTMENT OF TRANSPORTATION SHALL:

(I) ESTABLISH THE TIMES OF DAY AND THE PERIODS OF THE CALENDAR YEAR DURING WHICH THE AREA WILL BE DEEMED TO BE A WILDLIFE CROSSING ZONE FOR THE PURPOSES OF THIS SECTION; AND

(II) ENSURE THAT THE SIGN INDICATES THE TIMES OF DAY AND THE PERIODS OF THE CALENDAR YEAR DURING WHICH THE AREA WILL BE DEEMED TO BE A WILDLIFE CROSSING ZONE FOR THE PURPOSES OF THIS SECTION.

(b) IN ERECTING SIGNS AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3), THE DEPARTMENT OF TRANSPORTATION, PURSUANT TO SECTION 42-4-118, SHALL NOT ERECT SIGNS ESTABLISHING A LOWER SPEED LIMIT FOR MORE THAN ONE HUNDRED MILES OF THE PUBLIC HIGHWAYS OF THE STATE THAT HAVE BEEN ESTABLISHED AS WILDLIFE CROSSING ZONES.

(4) THIS SECTION SHALL NOT APPLY IF:

(a) THE PERSON WHO COMMITS A MOVING TRAFFIC VIOLATION IN A WILDLIFE CROSSING ZONE IS ALREADY SUBJECT TO INCREASED PENALTIES AND SURCHARGES FOR SAID VIOLATION PURSUANT TO SECTION 42-4-614 OR 42-4-615;

(b) THE SIGN INDICATING THAT A PERSON IS ABOUT TO ENTER A WILDLIFE CROSSING ZONE DOES NOT INDICATE THAT INCREASED TRAFFIC

PENALTIES ARE IN EFFECT IN THE ZONE; OR

(c) THE PERSON WHO COMMITS A MOVING TRAFFIC VIOLATION IN A WILDLIFE CROSSING ZONE COMMITS THE VIOLATION DURING A TIME THAT THE AREA IS NOT DEEMED BY THE DEPARTMENT OF TRANSPORTATION TO BE A WILDLIFE CROSSING ZONE FOR THE PURPOSES OF THIS SECTION.

SECTION 3. 42-4-1701 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule - repeal. (4) (d.5) (I) THE PENALTY AND SURCHARGE IMPOSED FOR ANY MOVING TRAFFIC VIOLATION UNDER SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (4) ARE DOUBLED IF THE VIOLATION OCCURS WITHIN A WILDLIFE CROSSING ZONE PURSUANT TO SECTION 42-4-616.

(II) (A) THERE IS HEREBY CREATED, WITHIN THE HIGHWAY USERS TAX FUND, THE WILDLIFE CROSSING ZONES SAFETY ACCOUNT.

(B) IF A PENALTY AND SURCHARGE ARE DOUBLED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (d.5), ONE-HALF OF THE PENALTY AND SURCHARGE ALLOCATED TO THE STATE BY SECTIONS 42-1-217 AND 43-4-205, C.R.S., SHALL BE TRANSFERRED TO THE STATE TREASURER, WHO SHALL DEPOSIT THE MONEYS IN THE WILDLIFE CROSSING ZONES SAFETY ACCOUNT WITHIN THE HIGHWAY USERS TAX FUND TO BE CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT OF TRANSPORTATION FOR WILDLIFE CROSSING ZONES SIGNS AND LAW ENFORCEMENT.

SECTION 4. Applicability. This act shall apply to offenses committed on or after the effective date of this act.

SECTION 5. Act subject to petition - specified effective date. This act shall take effect September 1, 2010; 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 the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part shall not take effect unless approved by the people at the

general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO