

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 19-0546.01 Jason Gelender x4330

SENATE BILL 19-032

SENATE SPONSORSHIP

Scott, Bridges, Cooke, Coram, Donovan, Garcia, Gardner, Ginal, Hill, Hisey, Holbert, Lee, Lundeen, Marble, Moreno, Priola, Smallwood, Sonnenberg, Story, Tate, Todd, Woodward, Zenzinger

HOUSE SPONSORSHIP

McCluskie,

Senate Committees
Transportation & Energy

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ROUTING OF HAZARDOUS MATERIALS BEING**
102 **TRANSPORTED ON THE ROADWAYS OF THE STATE.**

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 a public highway authority or a governmental partner in a public-private partnership to apply to the Colorado state patrol (CSP) for a new or modified hazardous materials route designation for a road or highway that it directly or indirectly maintains. The bill also requires the department of transportation (CDOT) to conduct a study to assess the feasibility of allowing the transportation of hazardous materials

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
3rd Reading Unamended
January 29, 2019

SENATE
Amended 2nd Reading
January 28, 2019

through the Eisenhower-Edwin C. Johnson Memorial Tunnel and prepare a study report that includes findings and recommendations as to whether and under what conditions the transportation of hazardous materials through the tunnel should be allowed. CDOT must solicit input from representatives of specified counties, towns, communities, ski resorts, industries, organizations, emergency services providers, and the CSP regarding the scope of the study and must consider specified information and criteria and conduct specified types of analysis when conducting the study.

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

2 **SECTION 1.** In Colorado Revised Statutes, 42-20-302, **add**
3 (1)(d) and (1)(e) as follows:

4 **42-20-302. Application for route designation - procedure -**
5 **approval.** (1) Petitions for new route designations or for a change in an
6 existing route designation may be submitted to the patrol no more than
7 once a year:

8 (d) BY A PUBLIC HIGHWAY AUTHORITY CREATED PURSUANT TO
9 PART 5 OF ARTICLE 4 OF TITLE 43 WITH RESPECT TO ANY PUBLIC HIGHWAY,
10 AS DEFINED IN SECTION 43-4-503 (12), THAT IT MAINTAINS, EITHER
11 DIRECTLY OR INDIRECTLY THROUGH A CONCESSION AGREEMENT OR OTHER
12 AGREEMENT WITH A THIRD PARTY, UPON APPROVAL OF THE PETITION BY
13 THE BOARD OF DIRECTORS OF THE PUBLIC HIGHWAY AUTHORITY; OR

14 (e) BY ANY GOVERNMENTAL ENTITY THAT IS A PARTNER IN A
15 PUBLIC-PRIVATE PARTNERSHIP WITH RESPECT TO ANY HIGHWAY, ROAD, OR
16 STREET THAT IT MAINTAINS, EITHER DIRECTLY OR INDIRECTLY THROUGH
17 A CONCESSION AGREEMENT OR OTHER AGREEMENT WITH A PRIVATE
18 PARTNER, UPON APPROVAL BY THE GOVERNING BODY OF THE
19 GOVERNMENTAL ENTITY.

20 **SECTION 2.** In Colorado Revised Statutes, **add** 42-20-306 as

1 follows:

2 **42-20-306. Transportation of hazardous materials through**
3 **Eisenhower-Edwin C. Johnson Memorial Tunnel - study - definitions**

4 **- repeal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
5 REQUIRES:

6 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF TRANSPORTATION
7 CREATED IN SECTION 43-1-103.

8 (b) "TUNNEL" MEANS THE EISENHOWER-EDWIN C. JOHNSON
9 MEMORIAL TUNNEL.

10 (2) THE DEPARTMENT SHALL CONDUCT A STUDY TO ASSESS THE
11 FEASIBILITY OF ALLOWING THE TRANSPORTATION OF HAZARDOUS
12 MATERIALS THROUGH THE TUNNEL AND SHALL PREPARE A STUDY REPORT
13 THAT INCLUDES FINDINGS AND RECOMMENDATIONS AS TO WHETHER AND
14 UNDER WHAT CONDITIONS THE TRANSPORTATION OF HAZARDOUS
15 MATERIALS THROUGH THE TUNNEL SHOULD BE ALLOWED. THE
16 DEPARTMENT SHALL COMPLETE THE STUDY AND STUDY REPORT NO LATER
17 THAN DECEMBER 1, 2020, AND SHALL PROVIDE COPIES OF THE REPORT TO
18 THE MEMBERS OF THE TRANSPORTATION COMMISSION, THE COLORADO
19 STATE PATROL, THE PRIME SPONSORS OF SENATE BILL 19-032, ENACTED
20 IN 2019, AND THE REPRESENTATIVES OF THE ENTITIES LISTED IN
21 SUBSECTION (3) OF THIS SECTION.

22 (3) IN DETERMINING THE SCOPE OF THE STUDY, THE DEPARTMENT
23 SHALL SOLICIT INPUT FROM REPRESENTATIVES OF:

24 (a) SUMMIT COUNTY;

25 (b) CLEAR CREEK COUNTY;

26 (c) THE TOWNS OF DILLON, GEORGETOWN, SILVER PLUME, AND
27 SILVERTHORNE AND THE RESIDENTS OF THE UNINCORPORATED

1 COMMUNITY OF KEYSTONE;

2 (d) SUMMIT FIRE & EMS;

3 (e) CLEAR CREEK FIRE AUTHORITY;

4 (f) CLUB 20, WHICH REPRESENTATIVE OR REPRESENTATIVES SHALL

5 NOT RESIDE IN SUMMIT COUNTY;

6 (g) THE DEPARTMENT OF PUBLIC SAFETY, INCLUDING

7 REPRESENTATIVES OF THE DIVISION OF FIRE PREVENTION AND CONTROL

8 AND THE COLORADO STATE PATROL;

9 (h) DISTRIBUTORS AND SELLERS OF FUEL;

10 (i) MOTOR CARRIERS THAT TRANSPORT FUEL; AND

11 (j) THE COLORADO SKI INDUSTRY, INCLUDING REPRESENTATIVES

12 OF THE KEYSTONE, LOVELAND, AND ARAPAHOE BASIN SKI RESORTS.

13 (4) IN CONDUCTING THE STUDY AND PREPARING THE STUDY

14 REPORT, THE DEPARTMENT SHALL, AT A MINIMUM:

15 (a) CONSIDER ALL OF THE "FACTORS TO ADDRESS WHEN

16 CONSIDERING ROUTE CHANGES" THAT ARE LISTED IN THE DEPARTMENT'S

17 "PROCEDURAL DIRECTIVE NO. 1903.1 - HAZARDOUS MATERIALS ROUTING

18 PROCEDURE", DATED FEBRUARY 3, 2011;

19 (b) AVOID DUPLICATION OF EFFORT BY TAKING INTO ACCOUNT

20 PAST STUDIES AND RECOMMENDATIONS INCLUDING, AT A MINIMUM:

21 (I) THE FINAL REPORT TITLED "FIRE EMERGENCY PREPAREDNESS

22 AT THE EISENHOWER-JOHNSON MEMORIAL TUNNELS, CO", DATED

23 FEBRUARY 24, 2017, THAT THE COLORADO SCHOOL OF MINES PREPARED

24 FOR THE DEPARTMENT AND THAT THE DEPARTMENT HAS LABELED AS

25 REPORT No. CDOT-2017-06; AND

26 (II) THE FINAL REPORT TITLED "RISK ANALYSIS STUDY OF

27 HAZARDOUS MATERIALS TRUCKS THROUGH EISENHOWER/JOHNSON

1 MEMORIAL TUNNELS", DATED JUNE 2006, THAT PARSONS BRINCKERHOFF
2 QUADE & DOUGLAS PREPARED FOR THE DEPARTMENT;

3 (c) ANALYZE THE DIFFERENT LEVELS AND TYPES OF RISK TO
4 PUBLIC SAFETY OF MULTIPLE OPTIONS THAT ALLOW THE TRANSPORTATION
5 OF HAZARDOUS MATERIALS THROUGH THE TUNNEL ON A LIMITED BASIS IN
6 LIEU OF ALLOWING TRANSPORTATION OF ALL HAZARDOUS MATERIALS
7 THROUGH THE TUNNEL AT ALL TIMES, WHICH MUST INCLUDE, AT A
8 MINIMUM, ANALYSIS OF:

9 (I) EASTBOUND VERSUS WESTBOUND TRANSPORTATION OF
10 HAZARDOUS MATERIALS THROUGH THE TUNNEL;

11 (II) LIMITATIONS ON THE DAYS OR TIMES DURING WHICH
12 TRANSPORTATION OF HAZARDOUS MATERIALS THROUGH THE TUNNEL IS
13 ALLOWED;

14 (III) WHETHER THE TRANSPORTATION OF GASOLINE, DIESEL, AND
15 LIQUEFIED PETROLEUM GAS THROUGH THE TUNNEL SHOULD BE SUBJECT TO
16 DIFFERENT REQUIREMENTS THAN THE TRANSPORTATION OF OTHER
17 HAZARDOUS MATERIALS THROUGH THE TUNNEL; AND

18 (d) CONSIDER THE IMPACT THAT POTENTIAL IMPROVEMENTS TO
19 THE INTERSTATE HIGHWAY 70 MOUNTAIN CORRIDOR BETWEEN MILE
20 MARKERS 204 AND 223 AND THE U.S. HIGHWAY 6 CORRIDOR ON AND
21 ADJACENT TO LOVELAND PASS MIGHT HAVE ON THE SAFETY RISKS OF
22 TRANSPORTING HAZARDOUS MATERIALS OVER THOSE HIGHWAYS AND THE
23 COSTS OF MAKING OR NOT MAKING SUCH IMPROVEMENTS.

24 (5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2021.

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