

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

April 21, 2022

Committee on Business Affairs & Labor.

After consideration on the merits, the Committee recommends the following:

HB22-1314 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 4, line 3, after "(3)(c)(I)(A)," insert
2 "(3)(c)(I)(D)".
- 3 Page 6, line 7, strike "BY TELEPHONE AND".
- 4 Page 6, line 11, after the period add "AN OPERATOR SHOULD WAIT
5 TWENTY-FOUR HOURS AFTER THE TOW TO NOTIFY THE OWNER AND ANY
6 LIENHOLDER AND SEND THE NOTICE AS SOON AS REASONABLY PRACTICAL
7 AFTER THE TWENTY-FOUR HOURS. AN OPERATOR SHALL NOT CHARGE
8 MORE THAN SEVENTY-FIVE DOLLARS TO SEND THE NOTICE.
9 (D) The cost of complying with this ~~paragraph (c)~~ SUBSECTION
10 (3)(c) is a cost of towing. ~~except that the total of all costs of complying~~
11 ~~with this section shall not exceed one hundred fifty dollars.~~ The tow
12 operator shall send the notice to the owner and lienholder within five days
13 after receiving the information from the department IN ACCORDANCE WITH
14 SUBSECTION (3)(c)(I)(A) OF THIS SECTION."
- 15 Page 6, line 26, strike "BY TELEPHONE AND".
- 16 Page 7, line 5, before "(4)" insert "(1)(a) and".
- 17 Page 7, after line 6 insert:
18 "(1) (a) TO SELL A motor ~~vehicles that are~~ VEHICLE THAT WAS
19 abandoned on private property, ~~shall be appraised and sold by~~ the
20 operator MUST SELL THE MOTOR VEHICLE in a commercially reasonable
21 manner at a public or private sale held not less than thirty days nor more
22 than sixty days after the postmarked date the notice was mailed pursuant
23 to section 42-4-2103 (4) or the date the operator receives notice that no

1 record exists for such vehicle. ~~Such sale shall be made~~ THE OPERATOR
2 MUST MAKE THE SALE to a licensed motor vehicle dealer or wholesaler, or
3 wholesale motor vehicle auction dealer, or through a classified newspaper
4 advertisement published in Colorado. THE APPRAISAL MUST BE
5 PERFORMED BY AN INDEPENDENT THIRD PERSON. For purposes of this
6 section, a sale ~~shall not be considered~~ IS NOT commercially reasonable if:

7 (I) The vehicle's appraisal value is more than three hundred fifty
8 dollars and the vehicle is sold to an officer or partner of the operator that
9 has possession of the vehicle or to any other person with a proprietary
10 interest in ~~such~~ THE operator; OR

11 (II) THE OPERATOR FAILS TO SET THE SALE PRICE AT THE TIME OF
12 SALE, LIST THE FAIR MARKET PRICE AT THE TIME OF SALE, OR REPORT THE
13 SALE; OR REPORT THE SALE PRICE TO THE DEPARTMENT WITHIN FIVE
14 BUSINESS DAYS AFTER THE SALE."

15 Page 7, line 13, strike "(1) Whenever an" and substitute
16 "(1) (a) ~~Whenever~~ IN ACCORDANCE WITH THE ATTACHMENT SCHEDULE
17 IN SUBSECTION (1)(b) OF THIS SECTION, an".

18 Page 7, strike lines 17 through 19 and substitute "authorized person in
19 control of ~~such~~ THE motor vehicle, or from the owner or lessee of real
20 property upon which a motor vehicle is illegally parked or ~~such~~
21 ABANDONED OR THE owner's or lessee's agent authorized in writing, ~~such~~
22 THE".

23 Page 7, after line 27 insert:

24 "(b) THE LIEN GRANTED IN SUBSECTION (1)(a) OF THIS SECTION
25 ATTACHES TO THE MOTOR VEHICLE IN ACCORDANCE WITH THE FOLLOWING
26 SCHEDULE:

27 (I) IF THE OPERATOR RECOVERED, REMOVED, OR STORED THE
28 MOTOR VEHICLE UPON INSTRUCTIONS FROM THE OWNER OF RECORD OR
29 ANY OTHER LEGALLY AUTHORIZED PERSON IN CONTROL OF THE MOTOR
30 VEHICLE, THE LIEN ATTACHES TO THE MOTOR VEHICLE WHEN THE
31 OPERATOR TAKES POSSESSION OF THE MOTOR VEHICLE; OR

32 (II) IF THE OPERATOR RECOVERED, REMOVED, OR STORED THE
33 MOTOR VEHICLE UPON INSTRUCTIONS OF THE OWNER OR LESSEE OF REAL
34 PROPERTY UPON WHICH A MOTOR VEHICLE WAS ILLEGALLY PARKED OR
35 ABANDONED OR UPON THE OWNER'S OR LESSEE'S AGENT AUTHORIZED IN
36 WRITING, THE LIEN ATTACHES TO THE MOTOR VEHICLE THIRTY DAYS AFTER
37 THE POSTMARKED DATE THE NOTICE WAS MAILED IN ACCORDANCE WITH
38 SECTION 42-4-2103 (4) OR THE DATE THE OPERATOR RECEIVED NOTICE
39 THAT NO RECORD EXISTS FOR THE MOTOR VEHICLE."

1 Page 8, line 15, after "~~such~~" insert "THE LIEN IS NOT PERFECTED UNTIL
2 THE LIEN ATTACHES IN ACCORDANCE WITH THE SCHEDULE DESCRIBED IN
3 SECTION 42-4-2105 (1)(b).".

4 Page 9, line 11, strike "(1)" and substitute "(1), (2) introductory portion,
5 and (2)(c)".

6 Page 9, after line 26 insert:

7 "(2) If the sale of any motor vehicle and its attached accessories
8 or equipment under the provisions of section 42-4-2104 produces an
9 amount greater than the sum of all charges of the operator who has
10 perfected ~~his or her~~ THE OPERATOR'S lien:

11 (c) Any balance remaining after payment pursuant to ~~paragraph~~
12 ~~(b) of this subsection (2)~~ SUBSECTION (2)(b) OF THIS SECTION shall be paid
13 by the department: First, to any lienholder of record as the lienholder's
14 interest may appear upon the records of the department; second, to any
15 owner of record as the owner's interest may so appear; and then to any
16 person submitting proof of such person's interest in such motor vehicle
17 upon the application of such lienholder, owner, or person. THE
18 DEPARTMENT SHALL ATTEMPT TO NOTIFY THE OWNER OF RECORD VIA
19 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, IMMEDIATELY, AFTER
20 THIRTY DAYS IF THE OWNER OF RECORD DOES NOT RESPOND TO THE
21 IMMEDIATE NOTIFICATION, AND AFTER SIXTY DAYS IF THE OWNER OF
22 RECORD DOES NOT RESPOND TO THE THIRTY-DAY NOTICE. If such
23 payments are not requested and made within one hundred twenty days
24 after the sale of the abandoned motor vehicle, the balance shall be
25 transmitted to the state treasurer, who shall credit the same to the ~~highway~~
26 ~~users tax fund for allocation and expenditure as specified in section~~
27 ~~43-4-205 (5.5)(e), C.R.S.~~ UNCLAIMED PROPERTY TRUST FUND, CREATED
28 IN SECTION 38-13-801, AND DISPOSED OF IN ACCORDANCE WITH ARTICLE
29 13 OF TITLE 38."

30 Page 10, line 1, strike "(6.5), and (13.5)" and substitute "and (6.5)".

31 Page 11, strike lines 13 and 14.

32 Page 11, before line 15 insert:

33 "**SECTION 8.** In Colorado Revised Statutes, 40-10.1-401, **amend**
34 (2) as follows:

35 **40-10.1-401. Permit requirements.** (2) (a) The commission may
36 deny an application OR REFUSE TO RENEW A PERMIT under this part 4 of
37 a person who has, within the immediately preceding five years, been
38 convicted of, or pled guilty or nolo contendere to, a felony OR A

1 TOWING-RELATED OFFENSE. The commission may also deny an
2 application under this part 4 or refuse to renew the permit of a towing
3 carrier based upon a determination that the towing carrier or any of its
4 owners, principals, officers, members, partners, or directors has not
5 satisfied a civil penalty arising out of any administrative or enforcement
6 action brought by the commission.

7 (b) THE COMMISSION MAY DENY AN APPLICATION OR REFUSE TO
8 RENEW A PERMIT OF A TOWING CARRIER UNDER THIS PART 4 BASED ON A
9 DETERMINATION THAT THERE IS GOOD CAUSE TO BELIEVE THE ISSUANCE
10 OF OR RENEWAL OF THE PERMIT IS NOT IN THE PUBLIC INTEREST. THE
11 DETERMINATION IS SUBJECT TO APPEAL IN ACCORDANCE WITH
12 COMMISSION RULES.

13 **SECTION 9.** In Colorado Revised Statutes, 40-10.1-403, **amend**
14 (5)(a); and **add** (4)(d)(I)(C) and (5)(c) as follows:

15 **40-10.1-403. Towing task force - creation - rules - repeal.**

16 (4) (d) (I) By December 1 of each year, the commission shall make a
17 report to the house of representatives transportation and local government
18 committee, the house of representatives business affairs and labor
19 committee, the senate business, labor, and technology committee, and the
20 senate transportation and energy committee, or any successor committees.
21 The report must:

22 (C) INCLUDE THE ANALYSIS REQUIRED IN SUBSECTION (5)(C) OF
23 THIS SECTION.

24 (5) The task force has the following duties and powers:

25 (a) To make comprehensive recommendations to the commission
26 about the maximum rates that may be charged for the recovery, towing,
27 and storage of a vehicle that has been towed without the owner's consent.
28 The task force shall make comprehensive recommendations to the
29 commission about the maximum rates after July 1, 2022, but no later than
30 ~~September 1, 2022~~ November 1, 2022.

31 (c) TO ANALYZE AND MAKE RECOMMENDATIONS TO THE
32 COMMISSION ABOUT NONCONSENSUAL TOWING RATES CHARGED TO THE
33 PUBLIC. IN ANALYZING NONCONSENSUAL RATES, THE TASK FORCE SHALL
34 TAKE INTO ACCOUNT CURRENT CONSENSUAL TOWING MARKET RATES AND
35 THEIR RELATIONSHIP TO NONCONSENSUAL TOWING RATES."

36 Renumber succeeding sections accordingly.

37 Page 11, lines 16 and 17, strike "40-10.1-409, 40-10.1-410, and
38 40-10.1-411" and substitute "and 40-10.1-409".

39 Page 11, strike lines 19 through 27 and substitute "**and lienholders -**
40 **rules. (1) Towing fees. (a) TOWING CARRIERS SHALL PROMINENTLY**

1 DISPLAY AT THEIR PLACE OF BUSINESS AND ON ANY WEBSITE OF THE
2 TOWING CARRIER THE CURRENT MAXIMUM RATES PERMITTED BY RULE OF
3 THE COMMISSION FOR EACH TOW SERVICE PROVIDED BY THE TOWING
4 CARRIER. THE SIGN MUST INCLUDE THE FOLLOWING STATEMENT: "THE
5 MAXIMUM PERMITTED RATE IS BASED UPON RULES OF THE PUBLIC
6 UTILITIES COMMISSION, AND IF THERE ARE CONCERNS OR QUESTIONS
7 ABOUT THESE RATES OR THE TOWING CARRIER, THEN CALL THE PUBLIC
8 UTILITIES COMMISSION CONSUMER AFFAIRS HOTLINE AT 303-894-2070."

9 Page 12, strike lines 1 through 13.

10 Reletter succeeding paragraphs accordingly.

11 Page 12, line 21, strike "(1)(c)" and substitute "(1)(b)".

12 Page 12, line 24, strike "VEHICLE;" and substitute "VEHICLE, BUT THE
13 TOWING CARRIER MAY CHARGE A PRORATED FEE FOR ANY PART OF A
14 TWENTY-FOUR-HOUR PERIOD THE TOWING CARRIER STORED THE
15 VEHICLE;"

16 Page 14, line 19, strike "AUTHORIZED BY COURT ORDER OR" and substitute
17 "ORDERED OR AUTHORIZED BY A COURT ORDER, AN ADMINISTRATIVE
18 ORDER, OR A PEACE OFFICER OR BY".

19 Page 15, line 9, strike "(3)(b)(III)" and substitute "(3)(b)(IV)".

20 Page 15, line 19, strike "OR".

21 Page 15, strike line 22 and substitute "ROADWAY;

22 (E) THE VEHICLE IS PARKED IN VIOLATION OF SECTION 42-4-1208
23 (4) OR IN RESERVED PARKING FOR PEOPLE WITH DISABILITIES WITHOUT
24 DISPLAYING AN IDENTIFYING PLACARD OR AN IDENTIFYING PLATE, AS
25 THOSE TERMS ARE DEFINED IN SECTION 42-3-204 (1)(f) AND (1)(g), THAT
26 IS CURRENTLY VALID OR HAS BEEN EXPIRED FOR NO MORE THAN SIXTY
27 DAYS;

28 (F) THE VEHICLE IS PARKED IN OR EFFECTIVELY OBSTRUCTING A
29 DESIGNATED AND MARKED FIRE ZONE;

30 (G) THE VEHICLE IS OCCUPYING WITHOUT PERMISSION OR
31 EFFECTIVELY OBSTRUCTING ACCESS TO OR FROM AN INDIVIDUALLY
32 DESIGNATED, RENTED, OR PURCHASED PARKING SPACE OF A RESIDENT; OR

33 (H) THE VEHICLE IS PARKED WITHOUT DISPLAYING VALID
34 AUTHORIZATION IN A PARKING LOT MARKED FOR THE EXCLUSIVE USE OF
35 RESIDENTS."

- 1 Page 15, strike lines 24 through 26 and substitute "THE NOTICE DESCRIBED
2 IN SUBSECTION (3)(b)(I) OF THIS SECTION BY PLACING A WRITTEN NOTICE
3 ON THE WINDSHIELD OF THE".
- 4 Page 16, after line 22 insert:
5 "(c) IN ORDER FOR A TOWING CARRIER TO CONDUCT A
6 NONCONSENSUAL TOW UNDER SUBSECTION (3)(b)(I)(G) OR (3)(b)(I)(H) OF
7 THIS SECTION, THE PROPERTY OWNER MUST HAVE POSTED SIGNAGE VISIBLE
8 AND FACING THE DRIVER AT EACH ENTRY WAY INTO A PARKING AREA
9 INDICATING THAT PARKING SPACES ARE DESIGNATED FOR ONE OR MORE
10 SPECIFIED RESIDENTS AND THAT A VEHICLE PARKED WITHOUT
11 AUTHORIZATION IS SUBJECT TO BEING TOWED. THE SIGN MUST ALSO
12 CONTAIN THE INTERNATIONAL TOWING SYMBOL NO SMALLER THAN FOUR
13 INCHES BY FOUR INCHES AND BE PERMANENTLY MOUNTED IN A POSITION
14 THAT IS NO LOWER THAN FIVE FEET AND NO HIGHER THAN EIGHT FEET."
- 15 Page 16, strike lines 23 through 27.
- 16 Page 17, line 20, strike "ENGLISH AND SPANISH." and substitute
17 "ENGLISH."
- 18 Page 18, line 1, strike "(1)(c)" and substitute "(1)(b)".
- 19 Page 18, strike lines 26 and 27 and substitute "BEFORE THE PERSON
20 AGREES TO BE A TENANT.
21 (III) A TOWING CARRIER THAT ENTERS INTO AN AGREEMENT WITH
22 A PROPERTY OWNER TO NONCONSENSUALLY TOW VEHICLES FROM THE
23 PROPERTY SHALL POST SIGNS THAT:".
- 24 Page 19, line 8, "ENGLISH AND SPANISH;" and substitute "ENGLISH;".
- 25 Page 20, line 4, strike "THE VEHICLE OR".
- 26 Page 20, line 8, strike "CONSENT," and substitute "CONSENT WITHIN
27 THIRTY DAYS AFTER THE POSTMARKED DATE THE NOTICE WAS MAILED IN
28 ACCORDANCE WITH SECTION 42-4-2103 (4) OR THE DATE THE OPERATOR
29 RECEIVED NOTICE THAT NO RECORD EXISTS FOR THE MOTOR VEHICLE,".
- 30 Page 20, after line 15 insert:
31 "(c) FOR AN AUTHORIZED OR INTERESTED PERSON TO RETRIEVE A
32 VEHICLE WITHOUT PAYING THE TOWING CARRIER, THE AUTHORIZED OR
33 INTERESTED PERSON MUST SIGN A FORM AFFIRMING THAT THE
34 AUTHORIZED OR INTERESTED PERSON OWES THE TOWING CARRIER

1 PAYMENT FOR FEES THAT COMPLY WITH THIS ARTICLE 10.1, PART 18 OR 21
2 OF ARTICLE 4 OF TITLE 42, OR ARTICLE 20 OF TITLE 38. THE TOWING
3 CARRIER MAY USE THE FORM TO TAKE REASONABLE ACTIONS TO COLLECT
4 THE DEBT, INCLUDING INITIATING A COURT ACTION OR USING A
5 COLLECTION AGENCY. THE DEPARTMENT SHALL:

- 6 (I) CREATE THE FORM;
7 (II) GIVE THE FORM THE FOLLOWING TITLE: "TOWED VEHICLE
8 RELEASE NOTICE: RETRIEVAL WITH PAYMENT OWED"; AND
9 (III) PROVIDE THE FORM ON THE PUBLIC UTILITIES COMMISSION
10 WEBSITE FOR TOWING CARRIERS TO RETRIEVE AND USE."

11 Page 20, line 20, strike "MAY" and substitute "SHALL NOT".

12 Page 20, strike lines 25 through 27 and substitute "PERSON THAT THE
13 TOWING CARRIER IS REQUIRED TO RELEASE THE VEHICLE UPON REQUEST
14 OF THE AUTHORIZED OR INTERESTED PERSON."

15 Page 21, strike lines 1 through 3.

16 Page 21, line 10, before "INDICATES" insert "OR THE RECORD OBTAINED
17 USING THE SYSTEM DESCRIBED IN SECTION 42-4-2103 (3)(c)(III)".

18 Page 21, after line 15 insert:

- 19 "(9) **Applicability.** THIS SECTION DOES NOT APPLY TO:
20 (a) A TOW ORDERED BY A PEACE OFFICER OR TECHNICIAN
21 DIRECTED BY A PEACE OFFICER IN THE COURSE AND SCOPE OF THE
22 OFFICER'S OR TECHNICIAN'S DUTIES; OR
23 (b) A TOW FROM A PARKING SPACE THAT SERVES A BUSINESS IF:
24 (I) THE PARKING SPACE IS NOT IN A COMMON PARKING AREA; AND
25 (II) THE PARKING SPACE IS ON COMMERCIAL REAL ESTATE, AS
26 DEFINED IN SECTION 38-22.5-102 (2)."

27 Page 21, strike lines 16 through line 27.

28 Strike pages 22 and 23.

29 Renumber succeeding C.R.S. sections accordingly.

30 Page 24, line 2, strike "SECTION 40-10.1-405," and substitute "THIS
31 ARTICLE 10.1, ARTICLE 20 OF TITLE 38, OR PART 18 OR 21 OF ARTICLE 4 OF
32 TITLE 42 OR ANY RULE PROMULGATED UNDER THIS ARTICLE 10.1 OR PART
33 18 OR 21 OF ARTICLE 4 OF TITLE 42,".

- 1 Page 24, line 17, strike "COURT, ADMINISTRATIVE LAW JUDGE, OR
2 HEARING OFFICER" and substitute "COURT".
- 3 Page 25, line 7, strike "OR ADMINISTRATIVE PROCEEDING".
- 4 Page 25, line 10, after "INTERESTED PERSON" insert "FROM A TOWING
5 CARRIER".
- 6 Page 25, line 13, strike "COURT, ADMINISTRATIVE LAW JUDGE, OR
7 HEARING OFFICER" and substitute "COURT".
- 8 Page 25, line 23, strike the second "NUMBER" and substitute "NUMBER, IF
9 AVAILABLE,".
- 10 Page 26, line 7, strike "AND".
- 11 Page 26, line 14, strike "STORAGE." and substitute "STORAGE; AND
12 (k) ANY OTHER INFORMATION REQUIRED BY RULE OF THE
13 COMMISSION.".
- 14 Page 27, lines 3 and 4, strike "TO A LANDOWNER OR BUSINESS".
- 15 Page 27, after line 12 insert:
16 "SECTION 11. In Colorado Revised Statutes, **add** 40-10.1-412
17 as follows:
18 **40-10.1-412. Nonconsensual towing rules.** UPON MAKING A
19 FINDING THAT A NONCONSENSUAL TOWING PRACTICE HARMS THE PUBLIC
20 INTEREST, THE COMMISSION MAY PROMULGATE RULES, AS NECESSARY, TO
21 STOP OR CHANGE THE NONCONSENSUAL TOWING PRACTICE THAT HARMS
22 THE PUBLIC INTEREST.".
- 23 Renumber succeeding sections accordingly.
- 24 Page 28, line 7, strike "A VEHICLE OR".

** ** ** ** **