

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 17-0935.01 Jennifer Berman x3286

SENATE BILL 17-180

SENATE SPONSORSHIP

Cooke,

HOUSE SPONSORSHIP

Esgar,

Senate Committees

Transportation
Appropriations

House Committees

Transportation & Energy
Appropriations

HOUSE
3rd Reading Unamended
May 8, 2017

A BILL FOR AN ACT

101 **CONCERNING A STREAMLINED APPROACH FOR THE ENFORCEMENT OF**
102 **REGULATIONS GOVERNING MOTOR CARRIERS IN MATTERS**
103 **BEFORE THE PUBLIC UTILITIES COMMISSION.**

HOUSE
2nd Reading Unamended
May 5, 2017

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>.)

SENATE
3rd Reading Unamended
April 11, 2017

The public utilities commission (commission) in the department of regulatory agencies (department) regulates motor carriers through the issuance of permits. The bill streamlines the commission's enforcement of motor carrier permits as follows:

! **Section 2** of the bill clarifies language concerning the

SENATE
Amended 2nd Reading
April 10, 2017

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

imposition of civil penalties for violations of motor carrier regulations, including the civil penalties applicable for subsequent violations. Section 2 also relieves the commission of the obligation to prove that a violation was intentional.

- ! **Section 3** creates a legal services offset fund (fund) to supplement the money appropriated to the department for legal representation of commission staff by the department of law in commission matters concerning the enforcement of motor carrier regulations. Section 3 requires that the state treasurer transfer any money in excess of \$250,000 in the fund to the general fund and sets an alternative maximum reserve for the fund, distinct from the maximum reserve generally applicable to cash funds, of \$250,000.
- ! **Section 1** requires the commission to transfer all penalties collected for violations of motor carrier regulations to the fund.
- ! **Sections 4, 5, and 6** clarify that a permittee's motor carrier permit is immediately revoked for failure to pay a civil penalty. These sections apply to permittees that are motor carriers of passengers, motor carriers of towed motor vehicles, and motor carriers of household goods, respectively.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-7-112, **amend**
3 (1)(b) as follows:

4 **40-7-112. Applicability of civil penalties.** (1) (b) The
5 commission shall transmit all penalties it collects to the state treasurer,
6 who shall credit them to the ~~general fund~~ LEGAL SERVICES OFFSET FUND
7 CREATED IN SECTION 40-7-118; except that the state treasurer shall credit
8 one-half of any civil penalty imposed upon a motor carrier of household
9 goods to the moving outreach fund created in section 40-10.1-509.

10 **SECTION 2.** In Colorado Revised Statutes, 40-7-113, **amend** (1)
11 introductory portion, (1)(g), (3), and (4) as follows:

12 **40-7-113. Civil penalties - fines.** (1) In addition to any other

1 penalty otherwise authorized by law and except as otherwise provided in
2 subsections (3) and (4) of this section, any person who violates article
3 10.1 or 10.5 of this ~~title~~ TITLE 40 or any rule promulgated by the
4 commission pursuant to ~~such articles~~ ARTICLES 10.1 OR 10.5, which article
5 or rule is applicable to the person, may be subject to fines as specified in
6 the following paragraphs:

7 (g) A person who ~~intentionally~~ violates any provision of article
8 10.1 or 10.5 of this ~~title~~ TITLE 40 not enumerated in ~~paragraph (a), (b), or~~
9 ~~(c) of this subsection (1)~~ SUBSECTION (1)(a), (1)(b), OR (1)(e) OF THIS
10 SECTION, any rule promulgated by the commission pursuant to this ~~title~~
11 TITLE 40, or any safety rule adopted by the department of public safety
12 relating to motor carriers as defined in section 40-10.1-101 may be
13 assessed a civil penalty of not more than one thousand one hundred
14 dollars; except that any person who violates a safety rule promulgated by
15 the commission is subject to the civil penalties authorized pursuant to 49
16 CFR 386, subpart G, and associated appendices to part 386, as ~~such~~ THE
17 subpart existed on ~~October 1, 2010~~ JANUARY 1, 2017.

18 (3) If a person ~~receives~~ IS ASSESSED a ~~second~~ civil penalty
19 ~~assessment~~ for a violation of REFERENCED IN subsection (1) of this section
20 ~~within one year~~ OCCURRING ON A DATE WITHIN TWENTY-FOUR MONTHS
21 after ~~the first~~ A PREVIOUS violation, the civil penalty assessed for the
22 second violation may be UP TO two times the amount specified by rule for
23 the violation.

24 (4) If a person receives more than two civil penalty assessments
25 for violation of VIOLATES subsection (1) of this section THREE TIMES
26 within one year TWENTY-FOUR MONTHS, the PERSON MAY BE ASSESSED A
27 civil penalty assessed UP TO THREE TIMES THE AMOUNT SPECIFIED BY RULE

1 FOR THE THIRD VIOLATION AND for each subsequent violation. may be
2 three times the amount specified by rule for the violation. _____

3 **SECTION 3.** In Colorado Revised Statutes, **add** 40-7-118 as
4 follows:

5 **40-7-118. Legal services offset fund - creation - exemption from**
6 **maximum reserve.** (1) (a) THE LEGAL SERVICES OFFSET FUND IS HEREBY
7 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF THE CIVIL
8 PENALTIES THAT ARE COLLECTED AND CREDITED TO THE FUND PURSUANT
9 TO SECTION 40-7-112 (1)(b) FOR VIOLATIONS OF ARTICLE 10.1 OF THIS
10 TITLE 40 OR COMMISSION RULES PROMULGATED PURSUANT TO ARTICLE
11 10.1. THE MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
12 DEPARTMENT OF LAW FOR USE TO OFFSET THE COSTS OF LEGAL
13 REPRESENTATION OF THE STAFF OF THE COMMISSION IN PROCEEDINGS
14 BEFORE THE COMMISSION CONCERNING THE ENFORCEMENT OF ARTICLE
15 10.1 OF THIS TITLE 40. THE DEPARTMENT OF LAW SHALL USE THE MONEY
16 IN THE LEGAL SERVICES OFFSET FUND ONLY TO SUPPLEMENT
17 APPROPRIATIONS MADE TO THE DEPARTMENT OF REGULATORY AGENCIES
18 THAT ARE USED FOR LEGAL REPRESENTATION OF THE STAFF OF THE
19 COMMISSION IN PROCEEDINGS CONCERNING THE ENFORCEMENT OF
20 ARTICLE 10.1 OF THIS TITLE 40 WHEN THE APPROPRIATIONS ARE
21 INSUFFICIENT TO COVER THE COSTS OF SUCH REPRESENTATION.

22 (b) THE MONEY IN THE FUND AND ANY INTEREST EARNED ON
23 MONEY IN THE FUND AT THE END OF ANY FISCAL YEAR REMAINS IN THE
24 FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY
25 OTHER FUND; EXCEPT THAT, IF THE BALANCE IN THE FUND EXCEEDS TWO
26 HUNDRED FIFTY THOUSAND DOLLARS, THE STATE TREASURER SHALL
27 TRANSFER THE MONEY IN EXCESS OF TWO HUNDRED FIFTY THOUSAND

1 DOLLARS TO THE GENERAL FUND.

2 (2) IN ACCORDANCE WITH SECTION 24-75-402 (2)(a) AND FOR
3 EACH FISCAL YEAR, THE ALTERNATIVE MAXIMUM RESERVE FOR THE LEGAL
4 SERVICES OFFSET FUND IS TWO HUNDRED FIFTY THOUSAND DOLLARS.

5 **SECTION 4.** In Colorado Revised Statutes, 40-10.1-304, **amend**
6 (1) introductory portion as follows:

7 **40-10.1-304. Revocation of permit for failure to pay fine.** (1) If
8 a carrier that holds a permit under this part 3 fails to pay a fine or civil
9 penalty imposed under this ~~article~~ ARTICLE 10.1 or a rule issued under this
10 ~~article~~ ARTICLE 10.1 within the time prescribed for payment, AND NOT
11 BEFORE THE DECISION IMPOSING THE FINE OR CIVIL PENALTY BECOMES A
12 FINAL DECISION BY THE COMMISSION, the ~~commission may~~ CARRIER'S
13 PERMIT IS REVOKED immediately. ~~revoke the carrier's permit and~~
14 ~~disqualify the carrier~~ ANY OF THE FOLLOWING ARE DISQUALIFIED from
15 applying for a permit for ~~any of the following for three years~~ THIRTY-SIX
16 MONTHS after the date the fine or civil penalty is due:

17 **SECTION 5.** In Colorado Revised Statutes, 40-10.1-401, **amend**
18 (3)(b) introductory portion and (3)(b)(I) as follows:

19 **40-10.1-401. Permit requirements.** (3) (b) If a towing carrier
20 violates this ~~article~~ ARTICLE 10.1, any other applicable provision of law,
21 or any rule or order of the commission issued under this ~~article~~ ARTICLE
22 10.1 and as a result is ordered by a court or by the commission to pay a
23 fine or civil penalty that the towing carrier subsequently fails to pay in
24 full within the time prescribed for payment, AND NOT BEFORE THE
25 DECISION IMPOSING THE FINE OR CIVIL PENALTY BECOMES A FINAL
26 DECISION BY THE COMMISSION, then:

27 (I) The ~~commission may~~ immediately revoke the towing carrier's

1 ~~operating authority~~ PERMIT IS REVOKED IMMEDIATELY; and

2 **SECTION 6.** In Colorado Revised Statutes, 40-10.1-508, **amend**
3 (1) introductory portion as follows:

4 **40-10.1-508. Revocation of permit for failure to pay fine.** (1) If
5 a mover that holds a permit under this section fails to pay a fine or civil
6 penalty imposed under this part 5 or a rule issued under this ~~article~~
7 ARTICLE 10.1 within the time prescribed for payment, AND NOT BEFORE
8 THE DECISION IMPOSING THE FINE OR CIVIL PENALTY BECOMES A FINAL
9 DECISION BY THE COMMISSION, ~~the commission may~~ PERMIT IS REVOKED
10 immediately. ~~revoke the mover's permit and disqualify the mover~~ ANY OF
11 THE FOLLOWING ARE DISQUALIFIED from applying for a permit for ~~any of~~
12 ~~the following for three years~~ THIRTY-SIX MONTHS after the date the fine
13 or civil penalty is due:

14 **SECTION 7. Act subject to petition - effective date -**
15 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
16 the expiration of the ninety-day period after final adjournment of the
17 general assembly (August 9, 2017, if adjournment sine die is on May 10,
18 2017); except that, if a referendum petition is filed pursuant to section 1
19 (3) of article V of the state constitution against this act or an item, section,
20 or part of this act within such period, then the act, item, section, or part
21 will not take effect unless approved by the people at the general election
22 to be held in November 2018 and, in such case, will take effect on the
23 date of the official declaration of the vote thereon by the governor.

24 (2) This act applies to violations committed and civil penalties
25 collected on or after the applicable effective date of this act.