

## CHAPTER 281

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**PUBLIC UTILITIES**

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## SENATE BILL 17-180

BY SENATOR(S) Cooke, Guzman, Martinez Humenik, Tate, Todd;  
also REPRESENTATIVE(S) Esgar, Rosenthal, Winter.

## AN ACT

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

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

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

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

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

**40-7-113. Civil penalties - fines.** (1) In addition to any other penalty otherwise authorized by law and except as otherwise provided in subsections (3) and (4) of this section, any person who violates article 10.1 or 10.5 of this ~~title~~ TITLE 40 or any rule promulgated by the commission pursuant to ~~such articles~~ ARTICLES 10.1 OR 10.5, which article or rule is applicable to the person, may be subject to fines as specified in the following paragraphs:

(g) A person who ~~intentionally~~ violates any provision of article 10.1 or 10.5 of this ~~title~~ TITLE 40 not enumerated in ~~paragraph (a), (b), or (c) of this subsection (1)~~ SUBSECTION (1)(a), (1)(b), OR (1)(e) OF THIS SECTION, any rule promulgated by the commission pursuant to this ~~title~~ TITLE 40, or any safety rule adopted by the department of public safety relating to motor carriers as defined in section 40-10.1-101 may be assessed a civil penalty of not more than one thousand one

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

hundred dollars; except that any person who violates a safety rule promulgated by the commission is subject to the civil penalties authorized pursuant to 49 CFR 386, subpart G, and associated appendices to part 386, as such THE subpart existed on ~~October 1, 2010~~ JANUARY 1, 2017.

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

(4) If a person ~~receives more than two civil penalty assessments for violation of~~ VIOLATES subsection (1) of this section THREE TIMES ~~within one year~~ TWENTY-FOUR MONTHS, the PERSON MAY BE ASSESSED A civil penalty ~~assessed~~ UP TO THREE TIMES THE AMOUNT SPECIFIED BY RULE FOR THE THIRD VIOLATION AND for each subsequent violation. ~~may be three times the amount specified by rule for the violation.~~

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

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

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

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

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

**40-10.1-304. Revocation of permit for failure to pay fine.** (1) If a carrier that

holds a permit under this part 3 fails to pay a fine or civil penalty imposed under this ~~article~~ ARTICLE 10.1 or a rule issued under this ~~article~~ ARTICLE 10.1 within the time prescribed for payment, AND NOT BEFORE THE DECISION IMPOSING THE FINE OR CIVIL PENALTY BECOMES A FINAL DECISION BY THE COMMISSION, ~~the commission may~~ CARRIER'S PERMIT IS REVOKED immediately. ~~revoke the carrier's permit and disqualify the carrier~~ ANY OF THE FOLLOWING ARE DISQUALIFIED from applying for a permit for ~~any of the following for three years~~ THIRTY-SIX MONTHS after the date the fine or civil penalty is due:

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

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

(I) ~~The commission may immediately revoke the~~ towing carrier's ~~operating authority~~ PERMIT IS REVOKED IMMEDIATELY; and

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

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

**SECTION 7. Act subject to petition - effective date - applicability.** (1) 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 9, 2017, if adjournment sine die is on May 10, 2017); 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 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

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

Approved: June 1, 2017