

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0957.01 Jason Gelender x4330

SENATE BILL 20-118

SENATE SPONSORSHIP

Hisey, Cooke, Crowder, Gardner, Hill, Holbert, Lundeen, Marble, Moreno, Priola, Rankin, Scott, Sonnenberg, Tate, Woodward

HOUSE SPONSORSHIP

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Senate Committees

Transportation & Energy
Finance
Appropriations

House Committees

State, Veterans, & Military Affairs
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE TRANSFER OF THE FUNCTION OF ISSUING PERMITS**
102 **FOR THE TRANSPORTATION OF HAZARDOUS MATERIALS BY**
103 **MOTOR VEHICLE FROM THE PUBLIC UTILITIES COMMISSION TO**
104 **THE DEPARTMENT OF TRANSPORTATION, AND, IN CONNECTION**
105 **THEREWITH, MAKING AN APPROPRIATION.**

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>.)

Effective January 1, 2021, the bill transfers the function of issuing permits for the transportation of hazardous materials by motor vehicle

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
June 1, 2020

SENATE
Amended 2nd Reading
May 28, 2020

from the public utilities commission to the department of transportation.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 42-20-201 as
3 follows:

4 **42-20-201. Hazardous materials transportation permit**
5 **required.** Except as otherwise provided in this part 2, no transportation
6 of hazardous materials by motor vehicle which requires placarding under
7 49 CFR part 172 or 173 shall take place in, to, from, or through this state
8 until the ~~public utilities commission~~ DEPARTMENT OF TRANSPORTATION
9 issues a permit, in accordance with the provisions of this part 2,
10 authorizing the applicant to operate or move upon the public roads of this
11 state a motor vehicle or a combination of motor vehicles which carries
12 hazardous materials. This part 2 ~~shall~~ DOES not apply to motor vehicles
13 owned by the federal government, motor vehicles when used to transport
14 to or from the farm or ranch site products used for agricultural
15 production, or farm machinery which is exempted from registration
16 requirements by section 42-3-103, unless such vehicles are used in
17 furtherance of any commercial business other than agriculture. This part
18 2 ~~shall apply~~ APPLIES to motor vehicles owned by the state or any political
19 subdivision thereof; except that such vehicles ~~shall be~~ ARE exempt from
20 the fees provided in section 42-20-202. The requirements of this part 2
21 ~~shall be~~ ARE in addition to, and not in substitution for, any other
22 provisions of law.

23 **SECTION 2.** In Colorado Revised Statutes, 42-20-202, **amend**
24 (1) and (2)(a) as follows:

25 **42-20-202. Transportation permit - application fee.**

1 (1) (a) Except as otherwise provided in this section, each person desiring
 2 to transport hazardous materials which require placarding under 49 CFR
 3 part 172 or 173 in, to, from, or through this state shall submit a permit
 4 application for an annual permit to the ~~public utilities commission~~ prior
 5 ~~to~~ DEPARTMENT OF TRANSPORTATION BEFORE beginning such
 6 transportation. Permit applications ~~shall~~ MUST be in a form designated by
 7 the ~~public utilities commission~~ DEPARTMENT, and the ~~public utilities~~
 8 ~~commission~~ DEPARTMENT shall maintain records of all such applications.

9 (b) Each annual permit ~~shall be~~ IS valid for one year following its
 10 issuance and shall be issued after the approval of the permit application
 11 by the ~~public utilities commission~~ DEPARTMENT OF TRANSPORTATION and
 12 upon the payment of a permit fee, which fee ~~shall~~ MUST be based on the
 13 number of motor vehicles the applicant operates within this state, as
 14 follows:

15	Number of	
16	Motor Vehicles	Permit Fee
17	1 - 5	\$ 10
18	6 - 10	25
19	11 - 50	125
20	51 - 100	200
21	101 - 300	350
22	over 300	400

23 (c) Single trip permits may be obtained at all port of entry weigh
 24 stations. and from the Colorado state patrol. Each person transporting
 25 ~~such~~ hazardous materials in, to, from, or through this state who has not
 26 obtained an annual permit from the ~~public utilities commission~~
 27 DEPARTMENT OF TRANSPORTATION shall apply at the closest possible port

1 of entry weigh station or to an officer or office of the Colorado
2 state patrol AT A DEPARTMENT OF TRANSPORTATION OFFICE for a single
3 trip permit. Each single trip permit ~~shall be~~ IS valid for a single
4 continuous business venture, but in no event shall the permit be valid for
5 more than seventy-two hours, unless extended by any enforcement
6 official for any reason the official deems advisable, including mechanical
7 difficulties and road and weather conditions. ~~The~~ A single trip permit
8 shall be issued upon the approval of the permit application and upon the
9 payment of a twenty-five-dollar permit fee.

10 (d) The ~~public utilities commission~~ DEPARTMENT OF
11 TRANSPORTATION shall provide the option to a company filing for a
12 permit under this subsection (1) to file an express consent waiver that
13 enables the company to designate a company representative to be a party
14 of interest for a violation of this section. The appearance of the company
15 representative in a court hearing without the operator when the operator
16 has signed such waiver shall not be deemed the practice of law in
17 violation of article 93 of title 13.

18 (2) No annual permit application shall be approved unless the
19 applicant:

20 (a) Supplies proof of having obtained liability insurance as
21 required by the United States department of transportation pursuant to 49
22 CFR 387. Proof of such liability insurance policy shall be filed with the
23 ~~public utilities commission~~ DEPARTMENT OF TRANSPORTATION. The
24 insurance carrier shall give thirty days' written notice for nonpayment of
25 premium and ninety days' notice for nonrenewal of policy to the ~~public~~
26 ~~utilities commission~~ DEPARTMENT before the cancellation of such policy.
27 At any time that the insurance policy lapses, the permit shall be

1 automatically revoked.

2 **SECTION 3.** In Colorado Revised Statutes, 42-20-203, **amend**
3 (1) as follows:

4 **42-20-203. Carrying of permit and shipping papers.** (1) Any
5 person transporting hazardous materials that require placarding under 49
6 CFR part 172 or 173 in this state shall carry a copy of the shipping papers
7 required in 49 CFR 172.200 and a copy of the hazardous materials
8 transportation permit issued by the ~~public utilities commission~~ ~~or by the~~
9 ~~Colorado state patrol~~ DEPARTMENT OF TRANSPORTATION OR, BEFORE
10 JANUARY 1, 2021, BY THE PUBLIC UTILITIES COMMISSION OR BY THE
11 COLORADO STATE PATROL at a port of entry weigh station in the
12 transporting motor vehicle while in this state; except that, if a peace
13 officer, as described in section 16-2.5-101, ~~C.R.S.~~, or any other
14 enforcement official ~~may determine~~ DETERMINES that the hazardous
15 materials transportation permit can be electronically verified at the time
16 of contact, a copy of the permit need not be carried by the person
17 transporting hazardous materials. The permit ~~shall be~~ IS open to
18 inspection or electronic verification by any enforcement official.

19 **SECTION 4.** In Colorado Revised Statutes, **amend** 42-20-205 as
20 follows:

21 **42-20-205. Permit suspension or revocation - rules.** In addition
22 to any other civil or criminal penalties, FOR VIOLATIONS OCCURRING
23 AFTER MARCH 16, 2020, the ~~public utilities commission~~ DEPARTMENT OF
24 TRANSPORTATION may suspend ~~the~~ A hazardous materials transportation
25 annual permit for a period not to exceed six months or may revoke ~~such~~
26 A permit for failure to comply with the terms and conditions of ~~such~~ THE
27 permit, for failure to pay a civil penalty assessed pursuant to section

1 42-20-204, or for continuing violations of the RULES AND regulations
2 promulgated pursuant to part 1, 2, or 3 of this ~~article~~ ARTICLE 20. The
3 permit may be suspended or revoked only for good cause shown after due
4 notice and an opportunity for a hearing as provided in article 4 of title 24
5 ~~C.R.S.~~, if requested by the permit holder. THE DEPARTMENT MAY
6 PROMULGATE RULES, SUBJECT TO THE REQUIREMENTS OF ARTICLE 4 OF
7 TITLE 24, TO ESTABLISH SPECIFIC PROCEDURES FOR SUSPENSION OR
8 REVOCATION OF PERMITS AND THE CONDUCT OF PERMIT SUSPENSION AND
9 REVOCATION HEARINGS.

10 **SECTION 5.** In Colorado Revised Statutes, 42-20-402, **repeal** (2)
11 as follows:

12 **42-20-402. Definitions.** As used in this part 4 and part 5 of this
13 article, unless the context otherwise requires:

14 (2) "Commission" means the public utilities commission.

15 **SECTION 6.** In Colorado Revised Statutes, 42-20-405, **amend**
16 (1) as follows:

17 **42-20-405. Violations - criminal penalties.** (1) Notwithstanding
18 the provisions of section 40-7-107, ~~C.R.S.~~, any person who violates any
19 provision of this part 4 or part 5 of this article **20** or rule or regulation
20 promulgated by the chief pursuant to this part 4 and part 5 of this article
21 **20** commits a class 2 misdemeanor and shall be punished as provided in
22 section 18-1.3-501. ~~C.R.S.~~ No conviction pursuant to this section shall
23 bar enforcement by the PUBLIC UTILITIES commission of any provision of
24 title 40 ~~C.R.S.~~, with respect to violations by persons subject to said title.

25 **SECTION 7.** In Colorado Revised Statutes, 42-20-406, **amend**
26 (1), (2), (3) introductory portion, and (3)(e) as follows:

27 **42-20-406. Violations - civil penalties - motor vehicles.** (1) Any

1 person who violates any provision of this part 4 or part 5 of this article 20
2 or a rule or regulation promulgated by the chief pursuant to this part 4 and
3 part 5 of this article 20, except for the violations enumerated in subsection
4 (3) of this section and section 42-20-505, shall be IS subject to a civil
5 penalty of not more than ten thousand dollars per day for each day during
6 which such THE violation occurs. The penalty shall be assessed by the
7 chief upon receipt of a complaint by any investigative personnel of the
8 commission or Colorado state patrol officer and after written notice and
9 an opportunity for a hearing pursuant to section 24-4-105. C.R.S.
10 Payment of a civil penalty under this section shall DOES not relieve any
11 person from liability pursuant to article 11 of title 25, part 3 of article 15
12 of title 25, or article 22 of title 29. C.R.S. Any person who is assessed a
13 penalty pursuant to this subsection (1) shall have HAS the right to appeal
14 the chief's decision by filing a notice of appeal with the court of appeals
15 as specified in section 24-4-106 (11). C.R.S.

16 (2) Any person who commits any of the acts enumerated in
17 subsection (3) of this section shall be IS subject to the civil penalty listed
18 in said subsection (3). Investigative personnel of the commission, and
19 Officers of the Colorado state patrol shall have the authority to issue civil
20 penalty assessments for the enumerated violations. At any time that a
21 person is cited for a violation enumerated in subsection (3) of this section,
22 the person in charge of or operating the motor vehicle involved shall be
23 given a notice in the form of a civil penalty assessment notice. Such THE
24 notice shall be tendered by the enforcement official OFFICER OF THE
25 COLORADO STATE PATROL and shall MUST contain the name and address
26 of such THE person, the license number of the motor vehicle involved, if
27 any, the number of such THE person's driver's license, the nature of the

1 violation, the amount of the penalty prescribed for such THE violation, the
2 date of the notice, a place for such THE person to execute a signed
3 acknowledgment of his or her receipt of the civil penalty assessment
4 notice, a place for such THE person to execute a signed acknowledgment
5 of liability for the cited violation, and such other information as may be
6 required by law to constitute such THE notice as a complaint to appear in
7 court should the prescribed penalty not be paid within ten days. Every
8 cited person shall execute the signed acknowledgment of his or her
9 receipt of the civil penalty assessment notice. The acknowledgment of
10 liability shall be executed at the time the cited person pays the prescribed
11 penalty. The person cited shall pay the civil penalty specified in
12 subsection (3) of this section for the violation involved at the office of the
13 department of revenue either in person or by postmarking such payment
14 within ten days of the citation. The department of revenue shall accept
15 late payment of any penalty assessment up to twenty days after such THE
16 payment becomes due. If the person cited does not pay the prescribed
17 penalty within ten days of the notice, the civil penalty assessment notice
18 shall constitute a complaint to appear in court unless payment for such
19 THE penalty assessment has been accepted by the department of revenue
20 as evidenced by receipt, and the person cited shall, within the time
21 specified in the civil penalty assessment notice, file an answer to this
22 complaint with the county court for the county in which the penalty
23 assessment was issued. The attorney general shall represent the state
24 agency that issued the civil penalty assessment notice COLORADO STATE
25 PATROL if so requested by the agency COLORADO STATE PATROL.

26 (3) The following penalties shall apply only to the transportation
27 of nuclear materials by motor vehicle and shall be assessed against

1 drivers, shippers, carriers, operators, brokers, and other persons, as
2 appropriate:

3 (e) Any person who fails to produce his or her driver's log book
4 on demand of any law enforcement official OR port of entry personnel or
5 investigative personnel of the commission in violation of 49 CFR 395.8
6 shall be assessed a civil penalty of two hundred fifty dollars.

7 **SECTION 8.** In Colorado Revised Statutes, **amend 42-20-501** as
8 follows:

9 **42-20-501. Nuclear materials transportation permit required**
10 **- application.** (1) No transportation of nuclear materials shall take place
11 in, to, from, or through this state until the ~~commission~~ DEPARTMENT OF
12 TRANSPORTATION issues a permit, in accordance with the provisions of
13 this section, which is not inconsistent with federal law, authorizing the
14 applicant to operate or move upon public roads of this state a motor
15 vehicle or combination of motor vehicles which carry nuclear materials.

16 (2) Each carrier desiring to transport nuclear materials shall
17 submit a permit application, in the form designated by the ~~commission~~
18 DEPARTMENT OF TRANSPORTATION, to the ~~commission~~ prior to
19 DEPARTMENT BEFORE beginning such transportation.

20 **SECTION 9.** In Colorado Revised Statutes, **42-20-505, amend**
21 (1) and (3) as follows:

22 **42-20-505. Penalties - permit system.** (1) ~~The investigative~~
23 ~~personnel of the commission,~~ A Colorado state patrol officer or a port of
24 entry officer, as defined in section 42-8-102 (3), may assess a civil
25 penalty of one thousand dollars against a carrier who transports nuclear
26 materials without first obtaining a nuclear materials transportation permit.

27 (3) The penalties in subsection (1) of this section shall be assessed

1 upon an action brought by the commission or the Colorado state patrol in
2 accordance with the procedure set forth in section 42-20-406.

3 **SECTION 10.** In Colorado Revised Statutes, **amend 42-20-506**
4 as follows:

5 **42-20-506. Permit suspension and revocation.** In addition to any
6 other civil or criminal penalties, the ~~commission~~ DEPARTMENT OF
7 TRANSPORTATION may suspend the nuclear materials transportation
8 permit of any carrier for a period not to exceed six months or revoke ~~such~~
9 THE permit for failure to comply with the permit terms, misrepresentation
10 of information in the permit application, failure to pay a civil penalty
11 assessed pursuant to section 42-20-406, or failure to comply with the
12 regulations promulgated pursuant to parts 4 and 5 of this article **20**. The
13 permit may be suspended or revoked only for good cause shown after due
14 notice and opportunity for a hearing pursuant to section 24-4-105, ~~C.R.S.~~,
15 if requested by the carrier.

16 **SECTION 11.** In Colorado Revised Statutes, **amend 42-20-511**
17 as follows:

18 **42-20-511. Nuclear materials transportation fund.** All ~~moneys~~
19 MONEY collected pursuant to parts 4 and 5 of this article **20** shall be
20 transmitted to the state treasurer, who ~~in addition to any excess moneys~~
21 transferred from the motor carrier fund pursuant to section 40-2-110.5
22 (9), ~~C.R.S.~~, shall credit the ~~same~~ MONEY to the nuclear materials
23 transportation fund, which fund is hereby created. The ~~moneys~~ MONEY in
24 the fund ~~shall be~~ IS subject to annual appropriation by the general
25 assembly for the direct and indirect costs of the administration of parts 4
26 and 5 of this article **20**.

27 **SECTION 12.** **Appropriation - adjustments to 2020 long bill.**

1 (1) To implement this act, appropriations made in the annual general
2 appropriation act for the 2020-21 state fiscal year to the department of
3 regulatory agencies for use by the public utilities commission are adjusted
4 as follows:

5 (a) The cash funds appropriation from the public utilities
6 commission motor carrier fund created in section 40-2-110.5 (6), C.R.S.,
7 for personal services is decreased by \$20,243 and the related FTE is
8 decreased by 0.5 FTE; and

9 (b) The cash funds appropriation from the public utilities
10 commission motor carrier fund created in section 40-2-110.5 (6), C.R.S.,
11 for operating expenses is decreased by \$675.

12 **SECTION 13. Act subject to petition - effective date.** This act
13 takes effect January 1, 2021; except that, if a referendum petition is filed
14 pursuant to section 1 (3) of article V of the state constitution against this
15 act or an item, section, or part of this act within the ninety-day period
16 after final adjournment of the general assembly, then the act, item,
17 section, or part will not take effect unless approved by the people at the
18 general election to be held in November 2020 and, in such case, will take
19 effect January 1, 2021, or on the date of the official declaration of the
20 vote thereon by the governor, whichever is later.