

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

PREAMENDED

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

LLS NO. 22-0063.02 Jery Payne x2157

HOUSE BILL 22-1314

HOUSE SPONSORSHIP

Ricks and Hooton,

SENATE SPONSORSHIP

Gonzales and Sonnenberg,

House Committees

Business Affairs & Labor
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE RIGHTS OF A PERSON WITH OWNERSHIP INTEREST IN**
102 **A VEHICLE THAT HAS BEEN TOWED FROM PRIVATE PROPERTY**
103 **WITHOUT THE PERSON'S CONSENT.**

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>.)

Current law requires a towing carrier (carrier) to notify law enforcement, within 30 minutes after towing an abandoned vehicle, of the carrier's name and the storage location and description of the vehicle. The bill clarifies that the carrier is deemed to have complied if:

- The carrier gave the location of the storage facility to law

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.

- enforcement when obtaining authorization for the tow; or
- The carrier made 2 or more attempts within the 30 minutes after the tow to notify a law enforcement agency but was unsuccessful for reasons beyond the control of the carrier.

When a carrier tows a vehicle without the owner's or lienholder's consent, current law requires the carrier to notify the department of revenue, the owner, and the lienholder of the tow between 2 and 10 days after the tow, thus imposing a 2-day waiting period before notification. The bill repeals this waiting period and instead requires notice within 10 days after the tow. The carrier is authorized to use a telephone to notify the owner or lienholder. Current law also denies the carrier daily storage fees if the carrier fails to reasonably notify the owner and lienholder. The bill forbids daily storage fees until the carrier has sent the required notice to the owner and lienholder.

The bill requires that carriers that are towing a vehicle from private property without the owner's, operator's, or lienholder's consent:

- Charge the same fees for tows made without the owner's consent as the carrier charges for tows made with the owner's consent. These fees must be filed with the public utilities commission (PUC) and posted at the carrier's storage location.
- Accept cash and major credit cards, as defined by rule of the PUC, and, upon request, disclose the accepted forms of payment;
- Not charge storage fees for a day on which the carrier did not store the vehicle;
- Before connecting to a vehicle, photographically document the vehicle's condition and the reason for the tow. Failure to produce documentation of the vehicle's condition or the reason for the tow creates a rebuttable presumption that any damages to the vehicle were caused by the carrier or that the tow was not authorized.
- Maintain an area at each storage facility with lighting adequate to inspect a vehicle for damage;
- Upon demand of the owner, retrieve the vehicle or the contents of the towed vehicle or allow the owner to retrieve the vehicle or the contents;
- Obtain authorization from the property owner, leaseholder, or common interest community within 24 hours before towing a vehicle from private property;
- Give 24 hours' written notice before removing a vehicle from a parking spot or the common areas of a condominium, cooperative, apartment, or mobile home park;
- Upon request, provide evidence of the carrier's insurance

- coverages;
- Have a sign at storage facilities that states the name, telephone number, and hours of operation of the carrier's business;
 - Upon request, provide an itemized bill showing each charge and the rate for each fee that the person has incurred;
 - Give a written notice of the ability to make a complaint to the PUC;
 - To perform a nonconsensual tow, other than for an abandoned motor vehicle, from private property normally used for parking, the property owner must have provided adequate signs communicating the parking regulations that subject a vehicle to being towed; and
 - Unless ordered by a peace officer, not tow a vehicle from private property because the rear license plate shows the vehicle registration is expired.

A carrier's mechanic's lien is abolished if the carrier tows a vehicle from private property without the owner's, operator's, or lienholder's consent.

If a carrier fails to comply with the provisions of the bill, the carrier may not charge or retain any fees or charges for the services performed with respect to the vehicle and must return any fees it collected with respect to the vehicle. It is an affirmative defense in any action to collect towing fees that the carrier failed to comply with these provisions. If a carrier damages a vehicle or violates these provisions in a manner that causes damages and refuses to reimburse the owner, operator, or lienholder, the owner or lienholder may recover attorney fees.

The carrier and an owner or lienholder may use mediation to resolve disputes involving nonconsensual tows. Any mediated agreement may be submitted to the office of tow hearings (office), which is created in the bill, and a court, both of which are authorized to enforce the agreement.

The office is created within the PUC to adjudicate disputes between carriers and owners or lienholders when a vehicle is towed from private property without the owner's or lienholder's consent. The office will employ hearing officers or use administrative law judges to govern proceedings and to hold hearings to determine whether a carrier violated the law or caused damages. The office may order carriers to reimburse owners or lienholders, and this reimbursement may include attorney fees. The final actions of the office are subject to judicial review in accordance with the "State Administrative Procedure Act".

Carriers are required to record certain information about each nonconsensual tow, retain the information in their records for 3 years, and produce the records within 48 hours upon request.

A carrier is prohibited from paying money or other valuable consideration to a landowner or business for the privilege of nonconsensually towing vehicles.

It is a deceptive trade practice to violate the provisions of the bill, and the attorney general is responsible for enforcement.

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

2 **SECTION 1.** In Colorado Revised Statutes, 42-4-2103, **amend**
3 (2), (3)(a), (3)(c)(I)(A), (3)(c)(I)(D), (3)(c)(II), and (4) introductory
4 portion; and **repeal** (4)(b) as follows:

5 **42-4-2103. Abandonment and nonconsensual towing of motor**
6 **vehicles - private property - rules.** (2) (a) (I) Any operator ~~having in his~~
7 ~~or her possession any~~ POSSESSING A motor vehicle that was abandoned on
8 private property shall notify, within thirty minutes, the department, the
9 sheriff, or the sheriff's designee, of the county in which the motor vehicle
10 is located or the chief of police, or the chief's designee, of the
11 municipality in which the motor vehicle is located. THE NOTICE MUST
12 INCLUDE:

13 (A) ~~as to~~ The name of the operator; ~~and~~

14 (B) The location of the ~~impound lot~~ STORAGE FACILITY where the
15 vehicle is located; and

16 (C) A description of the abandoned motor vehicle, including the
17 make, model, color, and year; the number, issuing state, and expiration
18 date of the license plate; and the vehicle identification number.

19 (II) AN OPERATOR IS DEEMED TO HAVE COMPLIED WITH
20 SUBSECTION (2)(a)(I) OF THIS SECTION IF:

21 (A) THE OPERATOR GAVE THE LOCATION OF THE STORAGE
22 FACILITY TO THE LAW ENFORCEMENT AGENCY WHEN OBTAINING
23 AUTHORIZATION FOR THE TOW; OR

1 (B) THE OPERATOR MADE TWO OR MORE ATTEMPTS, WITHIN THE
2 THIRTY MINUTES REQUIRED IN SUBSECTION (2)(a)(I) OF THIS SECTION, TO
3 NOTIFY THE RESPONSIBLE LAW ENFORCEMENT AGENCY BUT WAS
4 UNSUCCESSFUL FOR REASONS BEYOND THE CONTROL OF THE OPERATOR.

5 (b) Upon ~~such notification~~ RECEIVING THE NOTICE REQUIRED IN
6 SUBSECTION (2)(a) OF THIS SECTION, the law enforcement agency that
7 receives ~~such~~ THE notice shall:

8 (I) Assign the vehicle a tow report number immediately;

9 (II) ~~shall~~ Enter the vehicle and the fact that it has been towed in
10 the Colorado crime information center computer system; and

11 (III) ~~shall~~ Ascertain, if possible, whether ~~or not~~ the vehicle has
12 been reported stolen, and, if so, ~~reported, such~~ THE agency shall:

13 (A) Recover and secure the motor vehicle;

14 (B) ~~and~~ Notify its rightful owner; and

15 (C) Terminate the abandonment proceedings under this part 21.

16 (c) Upon the release of the vehicle to the owner or lienholder, the
17 operator shall notify the responsible law enforcement agent, who shall
18 adjust or delete the entry in the Colorado crime information center
19 computer system. The responsible law enforcement agency and operator
20 ~~shall~~ have the right to recover from the owner their reasonable fees for
21 recovering and securing the vehicle. Nothing in this section ~~shall be~~
22 ~~construed to authorize~~ AUTHORIZES fees for services that were not
23 provided or that were provided by another person or entity.

24 (3) (a) NOT MORE THAN TEN DAYS AFTER A MOTOR VEHICLE HAS
25 BEEN TOWED, an operator shall ~~no less than two days, but no more than~~
26 ~~ten days after a motor vehicle has been towed or abandoned,~~ report such
27 THE motor vehicle tow to the department by first-class or certified mail,

1 by personal delivery, or by internet communication. ~~which~~ THE report
2 ~~shall~~ MUST be on a form prescribed and supplied by the department.

3 (c) (I) (A) NOT MORE THAN TEN DAYS AFTER A MOTOR VEHICLE
4 HAS BEEN TOWED, an operator or its agent shall ~~no less than two days, but~~
5 ~~no more than ten days after a motor vehicle has been towed or abandoned,~~
6 determine who the owner is and ~~if~~ WHETHER there is a lienholder and
7 ~~send~~ NOTIFY THE OWNER AND ANY LIENHOLDER ~~BY~~ BY SENDING a notice
8 by certified mail, return receipt requested, to the address of the owner and
9 any lienholder as determined from records of the department or from the
10 national search performed by the department IN ACCORDANCE WITH
11 SUBSECTION (3)(c)(IV) OF THIS SECTION. AN OPERATOR SHOULD WAIT
12 TWENTY-FOUR HOURS AFTER THE TOW TO NOTIFY THE OWNER AND ANY
13 LIENHOLDER AND SEND THE NOTICE AS SOON AS REASONABLY PRACTICAL
14 AFTER THE TWENTY-FOUR HOURS. AN OPERATOR SHALL NOT CHARGE
15 MORE THAN SEVENTY-FIVE DOLLARS TO SEND THE NOTICE.

16 (D) The cost of complying with this ~~paragraph (c)~~ SUBSECTION
17 (3)(c) is a cost of towing. ~~except that the total of all costs of complying~~
18 ~~with this section shall not exceed one hundred fifty dollars.~~ The tow
19 operator shall send the notice to the owner and lienholder within five days
20 after receiving the information from the department IN ACCORDANCE WITH
21 SUBSECTION (3)(c)(I)(A) OF THIS SECTION.

22 (II) The operator ~~shall~~ IS not ~~be~~ entitled to recover any daily
23 storage fees from the day the vehicle is towed until the day the OPERATOR
24 SENDS THE owner and ANY lienholder ~~are notified, unless the operator~~
25 ~~reasonably attempts to notify the owner and lienholder by the date~~
26 ~~specified in subparagraph (I) of this paragraph (c).~~ Sending a notice by
27 certified mail, return receipt requested, to the owner and the lienholder as

1 ~~represented in department records shall be deemed a reasonable attempt~~
2 ~~to notify the owner and the lienholder. Failure to notify the owner and the~~
3 ~~lienholder due to the receipt of erroneous information from the~~
4 ~~department shall not cause the loss of such storage fees accrued from the~~
5 ~~date the vehicle is towed until the owner and the lienholder receive such~~
6 ~~notice~~ THE NOTICE REQUIRED IN SUBSECTION (3)(c)(I) OF THIS SECTION.

7 (4) Within three days after the receipt of the records set forth in
8 subsection (3)(c) of this section from the department, the operator shall
9 notify by certified mail the owner of record, including an out-of-state
10 owner of record. The operator shall make a reasonable effort to ascertain
11 the address of the owner of record. The notice must contain the following
12 information:

13 (b) ~~The claim of any lien under section 42-4-2105;~~

14 **SECTION 2.** In Colorado Revised Statutes, 42-4-2104, **amend**
15 (1)(a) and (4) as follows:

16 **42-4-2104. Appraisal of abandoned motor vehicles - sale.**

17 (1) (a) TO SELL A motor vehicles that are VEHICLE THAT WAS abandoned
18 on private property, ~~shall be appraised and sold by~~ the operator MUST
19 SELL THE MOTOR VEHICLE in a commercially reasonable manner at a
20 public or private sale held not less than thirty days nor more than sixty
21 days after the postmarked date the notice was mailed pursuant to section
22 42-4-2103 (4) or the date the operator receives notice that no record exists
23 for such vehicle. ~~Such sale shall be made~~ THE OPERATOR MUST MAKE THE
24 SALE to a licensed motor vehicle dealer or wholesaler, or wholesale motor
25 vehicle auction dealer, or through a classified newspaper advertisement
26 published in Colorado. THE APPRAISAL MUST BE PERFORMED BY AN
27 INDEPENDENT THIRD PERSON. For purposes of this section, a sale ~~shall not~~

1 ~~be considered~~ IS NOT commercially reasonable if:

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

6 (II) THE OPERATOR FAILS TO SET THE SALE PRICE AT THE TIME OF
7 SALE, LIST THE FAIR MARKET PRICE AT THE TIME OF SALE, OR REPORT THE
8 SALE; OR REPORT THE SALE PRICE TO THE DEPARTMENT WITHIN FIVE
9 BUSINESS DAYS AFTER THE SALE.

10 (4) Transferring the title of a motor vehicle to an operator to
11 satisfy a debt ~~covered by a lien created pursuant to this part 21~~ shall
12 INCURRED IN TOWING AN ABANDONED VEHICLE IS not ~~be~~ deemed to be the
13 sale of a motor vehicle.

14 **SECTION 3.** In Colorado Revised Statutes, 42-4-2105, **amend**
15 (1) and (3) as follows:

16 **42-4-2105. Liens upon towed motor vehicles.** (1) (a) ~~Whenever~~
17 ~~IN ACCORDANCE WITH THE ATTACHMENT SCHEDULE IN SUBSECTION (1)(b)~~
18 ~~OF THIS SECTION,~~ an operator who is registered with the department in
19 accordance with subsection (2) of this section recovers, removes, or stores
20 a motor vehicle upon instructions from the owner of record OR any other
21 legally authorized person in control of ~~such~~ THE motor vehicle, or from
22 the owner or lessee of real property upon which a motor vehicle is
23 illegally parked or ~~such~~ ABANDONED OR THE owner's or lessee's agent
24 authorized in writing, ~~such~~ THE operator ~~shall have~~ HAS a possessory lien,
25 subject to the provisions of section 42-4-2103 (3), upon ~~such~~ THE motor
26 vehicle ~~and its attached accessories, equipment, and personal property~~ for
27 all the costs and fees for recovering, towing, and storage as authorized in

1 section 42-4-2108. ~~Such~~ THE lien ~~shall be~~ IS a first and prior lien on the
2 motor vehicle, and ~~such lien shall be~~ IS satisfied before all other charges
3 against ~~such~~ THE motor vehicle. ~~This subsection (1) shall not apply to~~
4 ~~personal property if subsection (3) of this section applies to such personal~~
5 ~~property.~~

6 (b) THE LIEN GRANTED IN SUBSECTION (1)(a) OF THIS SECTION
7 ATTACHES TO THE MOTOR VEHICLE IN ACCORDANCE WITH THE FOLLOWING
8 SCHEDULE:

9 (I) IF THE OPERATOR RECOVERED, REMOVED, OR STORED THE
10 MOTOR VEHICLE UPON INSTRUCTIONS FROM THE OWNER OF RECORD OR
11 ANY OTHER LEGALLY AUTHORIZED PERSON IN CONTROL OF THE MOTOR
12 VEHICLE, THE LIEN ATTACHES TO THE MOTOR VEHICLE WHEN THE
13 OPERATOR TAKES POSSESSION OF THE MOTOR VEHICLE; OR

14 (II) IF THE OPERATOR RECOVERED, REMOVED, OR STORED THE
15 MOTOR VEHICLE UPON INSTRUCTIONS OF THE OWNER OR LESSEE OF REAL
16 PROPERTY UPON WHICH A MOTOR VEHICLE WAS ILLEGALLY PARKED OR
17 ABANDONED OR UPON THE OWNER'S OR LESSEE'S AGENT AUTHORIZED IN
18 WRITING, THE LIEN ATTACHES TO THE MOTOR VEHICLE THIRTY DAYS AFTER
19 THE POSTMARKED DATE THE NOTICE WAS MAILED IN ACCORDANCE WITH
20 SECTION 42-4-2103 (4) OR THE DATE THE OPERATOR RECEIVED NOTICE
21 THAT NO RECORD EXISTS FOR THE MOTOR VEHICLE.

22 (3) If the operator obtains personal property from an abandoned
23 vehicle that has been towed pursuant to this part 21 and if the serial or
24 identification number of such property has been visibly altered or
25 removed, the operator ~~shall not have a lien upon such property and~~ shall
26 destroy or discard such property within five days after disposing of ~~such~~
27 THE vehicle pursuant to sections 42-4-2104 and 42-4-2107.

1 **SECTION 4.** In Colorado Revised Statutes, **amend** 42-4-2106 as
2 follows:

3 **42-4-2106. Perfection of lien.** The lien provided for in section
4 42-4-2105 ~~shall be~~ IS perfected by taking physical possession of the motor
5 vehicle ~~and its attached accessories, equipment, or personal property~~ and
6 by sending to the department, within ten working days after the time
7 possession was taken, a notice containing the information required in the
8 report to be made under ~~the provisions of~~ section 42-4-2103. ~~In addition,~~
9 ~~such~~ THE LIEN IS NOT PERFECTED UNTIL THE LIEN ATTACHES IN
10 ACCORDANCE WITH THE SCHEDULE DESCRIBED IN SECTION 42-4-2105
11 (1)(b). THE report ~~shall~~ MUST contain a declaration by the operator that a
12 possessory lien is claimed for all past, present, and future charges, up to
13 the date of redemption, and that the lien is enforceable and may be
14 foreclosed pursuant to the provisions of this part 21.

15 **SECTION 5.** In Colorado Revised Statutes, **amend** 42-4-2107 as
16 follows:

17 **42-4-2107. Sale of abandoned vehicle.** (1) AN OPERATOR MAY
18 SELL any motor vehicle and its attached accessories and equipment or
19 personal property within or attached to ~~such~~ THE vehicle that are not
20 redeemed by the last-known owner of record or lienholder after ~~such~~
21 ~~owner or lienholder has been sent notice of such lien by the operator shall~~
22 ~~be sold in accordance with the provisions of section 42-4-2104~~ THE
23 NOTICE WAS SENT IN ACCORDANCE WITH SECTION 42-4-2104 (1).

24 (2) ~~Within five days after foreclosure of the lien pursuant to this~~
25 ~~section~~ AT LEAST FIVE DAYS BEFORE A VEHICLE IS SOLD IN ACCORDANCE
26 WITH SUBSECTION (1) OF THIS SECTION, the operator shall send a notice to
27 the law enforcement agency having jurisdiction over the operator. ~~Such~~

1 ~~notice shall~~ THE NOTICE MUST contain a list of personal property found
2 within the abandoned vehicle that has an intact serial or identification
3 number and ~~such~~ EACH serial or identification number. ~~Such notification~~
4 ~~shall be made~~ THE OPERATOR SHALL DELIVER THE NOTICE by certified
5 mail, facsimile machine, or personal delivery.

6 **SECTION 6.** In Colorado Revised Statutes, 42-4-2108, **amend**
7 (1), (2) introductory portion, and (2)(c) as follows:

8 **42-4-2108. Proceeds of sale.** (1) (a) If the sale of any motor
9 vehicle, personal property, and attached accessories or equipment under
10 the provisions of section 42-4-2104 produces an amount less than or
11 equal to the sum of all charges of the operator, ~~who has perfected his or~~
12 ~~her lien~~, then the operator ~~shall have~~ HAS a valid claim against the owner
13 for the full amount of ~~such~~ THE charges, less the amount received upon
14 the sale of such motor vehicle. AN OPERATOR DOES NOT HAVE A VALID
15 CLAIM IF THE OPERATOR HAS VIOLATED SECTION 40-10.1-405.

16 (b) Failure to register ~~such~~ A vehicle in accordance with this title
17 ~~shall constitute~~ TITLE 42 IS DEEMED a waiver of ~~such~~ THE owner's right to
18 be notified pursuant to this part 21. ~~for the purposes of foreclosure of the~~
19 ~~lien pursuant to section 42-4-2107.~~ Such Charges ~~shall be~~ SPECIFIED IN
20 SUBSECTION (1)(a) OF THIS SECTION ARE assessed ~~in the manner provided~~
21 ~~for in paragraph (a) of subsection (2)~~ IN ACCORDANCE WITH SUBSECTION
22 (2)(a) of this section.

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

27 (c) Any balance remaining after payment pursuant to ~~paragraph~~

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

19 **SECTION 7.** In Colorado Revised Statutes, 40-10.1-101, **amend**
20 (13); and **add** (1.5), (4.5), and (6.5) as follows:

21 **40-10.1-101. Definitions.** As used in this article 10.1, unless the
22 context otherwise requires:

23 (1.5) "AUTHORIZED OR INTERESTED PERSON" MEANS:

24 (a) THE VEHICLE OWNER, AUTHORIZED OPERATOR, OR AUTHORIZED
25 AGENT OF THE OWNER OF THE VEHICLE;

26 (b) THE LIENHOLDER OF THE VEHICLE OR AGENT OF THE
27 LIENHOLDER OF THE VEHICLE; OR

1 (c) IF THE OWNER SIGNS A RELEASE AUTHORIZING AN INSURANCE
2 COMPANY TO ACT ON BEHALF OF THE OWNER, THE INSURANCE COMPANY
3 OR AGENT OF THE INSURANCE COMPANY PROVIDING INSURANCE
4 COVERAGE ON THE VEHICLE.

5 (4.5) "COMMON PARKING AREA" MEANS ANY PART OF THE
6 FOLLOWING AREAS THAT ARE NORMALLY USED FOR PARKING, SUCH AS THE
7 SIDE OF A STREET OR PARKING SPACES, THAT AN OWNER DOES NOT HAVE
8 THE RIGHT TO EXCLUDE OTHER RESIDENTS OF THE FOLLOWING FROM USING
9 FOR PARKING:

10 (a) A CONDOMINIUM, AS DEFINED IN SECTION 38-33.3-103 (9);

11 (b) A COOPERATIVE, AS DEFINED IN SECTION 38-33.3-103 (10);

12 (c) A MULTIFAMILY BUILDING, WHICH IS ALSO KNOWN AS AN
13 APARTMENT COMPLEX, WITH SEPARATE LIVING QUARTERS THAT ARE
14 RENTED OR LEASED SEPARATELY; OR

15 (d) A MOBILE HOME PARK, AS DEFINED IN SECTION 38-12-201.5 (6).

16 (6.5) "DROP FEE" MEANS A FEE A TOWING OPERATOR CHARGES TO
17 UNHOOK A VEHICLE FROM A TOW TRUCK.

18 (13) "Nonconsensual towing", ~~or~~ "nonconsensual tow", "TOWED
19 NONCONSENSUALLY", "NONCONSENSUALLY TOW", OR "TOWED WITHOUT
20 CONSENT" means the transportation of a ~~motor~~ vehicle by tow truck FROM
21 PRIVATE PROPERTY if ~~such~~ THE transportation is performed without the
22 prior consent ~~or authorization~~ of:

23 (a) The owner ~~or~~ OF THE VEHICLE, AUTHORIZED operator OF THE
24 VEHICLE, OR AGENT OF THE OWNER of the ~~motor~~ vehicle;

25 (b) THE LIENHOLDER OF THE VEHICLE OR AGENT OF THE
26 LIENHOLDER, UNLESS THE VEHICLE IS BEING TOWED FOR THE PURPOSE OF
27 REPOSSESSION UNDER A LIEN AGREEMENT; OR

1 (c) IF THE OWNER SIGNS A RELEASE AUTHORIZING AN INSURANCE
2 COMPANY TO ACT ON BEHALF OF THE OWNER, THE INSURANCE COMPANY
3 OR AGENT OF THE INSURANCE COMPANY PROVIDING INSURANCE
4 COVERAGE ON THE VEHICLE.

5
6 **SECTION 8.** In Colorado Revised Statutes, 40-10.1-401, **amend**
7 (2) as follows:

8 **40-10.1-401. Permit requirements.** (2) (a) The commission may
9 deny an application OR REFUSE TO RENEW A PERMIT under this part 4 of
10 a person who has, within the immediately preceding five years, been
11 convicted of, or pled guilty or nolo contendere to, a felony OR A
12 TOWING-RELATED OFFENSE. The commission may also deny an
13 application under this part 4 or refuse to renew the permit of a towing
14 carrier based upon a determination that the towing carrier or any of its
15 owners, principals, officers, members, partners, or directors has not
16 satisfied a civil penalty arising out of any administrative or enforcement
17 action brought by the commission.

18 (b) THE COMMISSION MAY DENY AN APPLICATION OR REFUSE TO
19 RENEW A PERMIT OF A TOWING CARRIER UNDER THIS PART 4 BASED ON A
20 DETERMINATION THAT THERE IS GOOD CAUSE TO BELIEVE THE ISSUANCE
21 OF OR RENEWAL OF THE PERMIT IS NOT IN THE PUBLIC INTEREST. THE
22 DETERMINATION IS SUBJECT TO APPEAL IN ACCORDANCE WITH
23 COMMISSION RULES.

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

26 **40-10.1-403. Towing task force - creation - rules - repeal.**
27 (4) (d) (I) By December 1 of each year, the commission shall make a

1 report to the house of representatives transportation and local government
2 committee, the house of representatives business affairs and labor
3 committee, the senate business, labor, and technology committee, and the
4 senate transportation and energy committee, or any successor committees.

5 The report must:

6 (C) INCLUDE THE ANALYSIS REQUIRED IN SUBSECTION (5)(C) OF
7 THIS SECTION.

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

9 (a) To make comprehensive recommendations to the commission
10 about the maximum rates that may be charged for the recovery, towing,
11 and storage of a vehicle that has been towed without the owner's consent.

12 The task force shall make comprehensive recommendations to the
13 commission about the maximum rates after July 1, 2022, but no later than
14 ~~September 1, 2022~~ November 1, 2022.

15 (c) TO ANALYZE AND MAKE RECOMMENDATIONS TO THE
16 COMMISSION ABOUT NONCONSENSUAL TOWING RATES CHARGED TO THE
17 PUBLIC. IN ANALYZING NONCONSENSUAL RATES, THE TASK FORCE SHALL
18 TAKE INTO ACCOUNT CURRENT CONSENSUAL TOWING MARKET RATES AND
19 THEIR RELATIONSHIP TO NONCONSENSUAL TOWING RATES.

20 **SECTION 10.** In Colorado Revised Statutes, **add** 40-10.1-405,
21 40-10.1-406, 40-10.1-407, 40-10.1-408, and 40-10.1-409 as follows:

22 **40-10.1-405. Nonconsensual tows - rights of owners, operators,**
23 **and lienholders - rules. (1) Towing fees. (a) TOWING CARRIERS SHALL**
24 **PROMINENTLY DISPLAY AT THEIR PLACE OF BUSINESS AND ON ANY**
25 **WEBSITE OF THE TOWING CARRIER THE CURRENT MAXIMUM RATES**
26 **PERMITTED BY RULE OF THE COMMISSION FOR EACH TOW SERVICE**
27 **PROVIDED BY THE TOWING CARRIER. THE SIGN MUST INCLUDE THE**

1 FOLLOWING STATEMENT: "THE MAXIMUM PERMITTED RATE IS BASED UPON
2 RULES OF THE PUBLIC UTILITIES COMMISSION, AND IF THERE ARE
3 CONCERNS OR QUESTIONS ABOUT THESE RATES OR THE TOWING CARRIER,
4 THEN CALL THE PUBLIC UTILITIES COMMISSION CONSUMER AFFAIRS
5 HOTLINE AT 303-894-2070.

6 (b) (I) A TOWING CARRIER SHALL ACCEPT:

7 (A) CASH;

8 (B) MAJOR CREDIT CARDS; AND

9 (C) OTHER FORMS OF PAYMENT REQUIRED BY RULE OF THE
10 COMMISSION.

11 (II) THE COMMISSION SHALL PROMULGATE A RULE DEFINING WHAT
12 QUALIFIES AS A MAJOR CREDIT CARD FOR THE PURPOSES OF THIS
13 SUBSECTION (1)(b).

14 (c) A TOWING CARRIER SHALL NOT:

15 (I) CHARGE STORAGE FEES FOR ANY TWENTY-FOUR-HOUR PERIOD
16 DURING WHICH THE TOWING CARRIER DID NOT STORE THE VEHICLE, BUT
17 THE TOWING CARRIER MAY CHARGE A PRORATED FEE FOR ANY PART OF A
18 TWENTY-FOUR-HOUR PERIOD THE TOWING CARRIER STORED THE VEHICLE;
19 AND

20 (II) CHARGE OR RETAIN ANY FEES NOT IDENTIFIED IN THE RULES OF
21 THE COMMISSION FOR THE NONCONSENSUAL TOW OF A VEHICLE FROM
22 PRIVATE PROPERTY.

23 (2) **Towing carrier document vehicle's condition and reason**
24 **for tow - adequate illumination.** (a) BEFORE A TOWING CARRIER
25 CONNECTS A TOWING VEHICLE TO A VEHICLE WITHOUT CONSENT, THE
26 TOWING CARRIER SHALL DOCUMENT THE VEHICLE'S CONDITION AND THE
27 REASON FOR THE TOW BY:

1 (I) TAKING AT LEAST FOUR PHOTOGRAPHS OF THE VEHICLE, WITH
2 AT LEAST ONE PHOTOGRAPH TAKEN FROM THE FRONT, ONE PHOTOGRAPH
3 TAKEN FROM THE REAR, ONE PHOTOGRAPH TAKEN FROM THE DRIVER'S
4 SIDE, AND ONE PHOTOGRAPH TAKEN FROM THE PASSENGER'S SIDE. THESE
5 PHOTOGRAPHS MUST:

6 (A) SHOW THE ENTIRE VEHICLE FROM THE REQUIRED ANGLE;

7 (B) HAVE THE VEHICLE FILL AT LEAST THREE-FOURTHS OF THE
8 PHOTOGRAPH, MEASURED FROM SIDE TO SIDE; AND

9 (C) BE RENDERED IN A RESOLUTION OF AT LEAST TWO THOUSAND
10 PIXELS BY AT LEAST TWO THOUSAND PIXELS.

11 (II) TAKING A PHOTOGRAPH THAT SHOWS THE REASON FOR THE
12 VEHICLE BEING TOWED WITHOUT CONSENT. THE PHOTOGRAPH MUST:

13 (A) SHOW THE POSITION OF THE VEHICLE IN RELATION TO THE
14 REASON, INCLUDING ANY SIGN, THAT THE VEHICLE WAS TOWED; AND

15 (B) BE RENDERED IN A RESOLUTION OF AT LEAST TWO THOUSAND
16 PIXELS BY AT LEAST TWO THOUSAND PIXELS.

17 (b) UPON DEMAND BY AN AUTHORIZED OR INTERESTED PERSON,
18 THE TOWING CARRIER SHALL PROVIDE COPIES OF THE PHOTOGRAPHS
19 REQUIRED TO BE TAKEN PURSUANT TO SUBSECTION (2)(a)(I) OR (2)(a)(II)
20 OF THIS SECTION.

21 (c) (I) A REBUTTABLE PRESUMPTION THAT A TOWING CARRIER
22 DAMAGED A VEHICLE IS CREATED BY EVIDENCE THAT:

23 (A) THE TOWING CARRIER HAS FAILED TO PRODUCE PHOTOGRAPHS
24 OF THE VEHICLE'S CONDITION IN COMPLIANCE WITH SUBSECTION (2)(b) OF
25 THIS SECTION; AND

26 (B) A VEHICLE HAS SUFFERED DAMAGE.

27 (II) A TOWING CARRIER'S FAILURE TO PRODUCE A PHOTOGRAPH OF

1 THE REASON FOR THE TOW IN COMPLIANCE WITH SUBSECTION (2)(b) OF
2 THIS SECTION CREATES A REBUTTABLE PRESUMPTION THAT THE TOWING
3 CARRIER DID NOT HAVE AUTHORIZATION TO TOW A VEHICLE.

4 (d) DURING BUSINESS HOURS OR WHEN A VEHICLE IS BEING
5 RELEASED, A TOWING CARRIER SHALL MAINTAIN AN AREA AT EACH
6 STORAGE FACILITY WITH LIGHTING THAT IS ADEQUATE TO ALLOW A
7 PERSON TO INSPECT A VEHICLE FOR DAMAGE PRIOR TO ITS RELEASE FROM
8 STORAGE.

9 (3) **Authorization and notice required for tows from private**
10 **property.** (a) A TOWING CARRIER SHALL NOT NONCONSENSUALLY TOW
11 A VEHICLE FROM PRIVATE PROPERTY UNLESS:

12 (I) THE VEHICLE IS BEING REPOSSESSED BY A CREDITOR WITH A
13 LIEN OR SECURITY INTEREST IN THE VEHICLE;

14 (II) THE REMOVAL IS EXPRESSLY ORDERED OR AUTHORIZED BY A
15 COURT ORDER, AN ADMINISTRATIVE ORDER, OR A PEACE OFFICER OR BY
16 OPERATION OF LAW;

17 (III) THE VEHICLE BLOCKS A DRIVEWAY OR ROADWAY ENOUGH TO
18 EFFECTIVELY OBSTRUCT A PERSON'S ACCESS TO THE DRIVEWAY OR
19 ROADWAY; OR

20 (IV) THE TOWING CARRIER HAS RECEIVED PERMISSION TO TOW THE
21 VEHICLE, WITHIN THE TWENTY-FOUR HOURS IMMEDIATELY PRECEDING THE
22 TOW, FROM:

23 (A) THE OWNER OF OR LEASE HOLDER OF THE PRIVATE PROPERTY;

24 (B) A PERSON SUBJECT TO THE "COLORADO COMMON INTEREST
25 OWNERSHIP ACT", ARTICLE 33.3 OF TITLE 38, IF THE PRIVATE PROPERTY
26 IS LOCATED WITHIN THE BOUNDARIES OF THE PERSON'S AREA OF
27 OPERATION; OR

1 (C) AN AGENT OF A PERSON DESCRIBED IN SUBSECTION
2 (3)(a)(IV)(A) OR (3)(a)(IV)(B) OF THIS SECTION; EXCEPT THAT THE
3 TOWING CARRIER DOES NOT QUALIFY AS AN AGENT WITH AUTHORITY TO
4 GRANT PERMISSION UNDER THIS SUBSECTION (3)(a).

5 (b) (I) EXCEPT AS PROVIDED IN SUBSECTION (3)(b)(IV) OF THIS
6 SECTION, A TOWING CARRIER SHALL NOT NONCONSENSUALLY TOW A
7 VEHICLE FROM A PARKING SPACE OR COMMON PARKING AREA WITHOUT
8 THE TOWING CARRIER OR PROPERTY OWNER GIVING THE VEHICLE OWNER
9 OR OPERATOR TWENTY-FOUR HOURS' WRITTEN NOTICE, UNLESS:

10 (A) THE VEHICLE OWNER OR OPERATOR HAS RECEIVED TWO
11 PREVIOUS NOTICES FOR PARKING INAPPROPRIATELY IN THE SAME MANNER;

12 (B) THE VEHICLE IS BEING REPOSSESSED BY A CREDITOR WITH A
13 LIEN OR SECURITY INTEREST IN THE VEHICLE;

14 (C) THE REMOVAL IS EXPRESSLY AUTHORIZED BY COURT ORDER OR
15 OPERATION OF LAW; [REDACTED]

16 (D) THE VEHICLE BLOCKS A DRIVEWAY OR ROADWAY ENOUGH TO
17 EFFECTIVELY OBSTRUCT A PERSON'S ACCESS TO THE DRIVEWAY OR
18 ROADWAY;

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

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

27 (G) THE VEHICLE IS OCCUPYING WITHOUT PERMISSION OR

1 EFFECTIVELY OBSTRUCTING ACCESS TO OR FROM AN INDIVIDUALLY
2 DESIGNATED, RENTED, OR PURCHASED PARKING SPACE OF A RESIDENT; OR

3 (H) THE VEHICLE IS PARKED WITHOUT DISPLAYING VALID
4 AUTHORIZATION IN A PARKING LOT MARKED FOR THE EXCLUSIVE USE OF
5 RESIDENTS.

6 (II) THE TOWING CARRIER OR PROPERTY OWNER SHALL PROVIDE
7 THE NOTICE DESCRIBED IN SUBSECTION (3)(b)(I) OF THIS SECTION BY
8 PLACING A WRITTEN NOTICE ON THE WINDSHIELD OF THE VEHICLE AT
9 LEAST TWENTY-FOUR HOURS BEFORE TOWING THE VEHICLE.

10 (III) THE NOTICE MUST STATE CLEARLY:

11 (A) THAT THE VEHICLE WILL BE TOWED WITHOUT CONSENT IF THE
12 VEHICLE REMAINS PARKED INAPPROPRIATELY;

13 (B) A DESCRIPTION OF THE INAPPROPRIATE PARKING THAT HAS
14 CAUSED THE NOTICE TO BE GIVEN;

15 (C) THE TIME THE VEHICLE WILL BE TOWED IF IT IS NOT MOVED TO
16 APPROPRIATE PARKING; AND

17 (D) THAT CONTINUING TO PARK INAPPROPRIATELY IN THE SAME
18 MANNER MAY LEAD TO THE VEHICLE BEING TOWED WITHOUT NOTICE.

19 (IV) IF THE VEHICLE IS PARKED A THIRD OR SUBSEQUENT TIME IN
20 THE SAME INAPPROPRIATE MANNER THAT CAUSED IT TO RECEIVE PREVIOUS
21 NOTICES, THE TOWING CARRIER OR PROPERTY OWNER NEED NOT GIVE THE
22 NOTICE REQUIRED IN SUBSECTION (3)(b)(I) OF THIS SECTION BEFORE
23 TOWING THE VEHICLE.

24 (V) FOR PURPOSES OF THIS SUBSECTION (3)(b), A VEHICLE IS
25 PARKED INAPPROPRIATELY WHEN IT IS PARKED IN A MANNER THAT:

26 (A) VIOLATES THE PROCEDURES NECESSARY TO OBTAIN
27 AUTHORIZATION TO PARK IN THE LOT OR SPACE;

1 (B) FAILS TO COMPLY WITH THE PROPERTY OWNER'S SIGNS OR THE
2 AGREEMENTS OF THE TENANTS; OR

3 (C) VIOLATES A STATUTE, RULE, ORDINANCE, OR RESOLUTION OF
4 THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

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
16 (4) **Notice, disclosures, and signs.** (a) IN CONNECTION WITH A
17 NONCONSENSUAL TOW, THE TOWING CARRIER SHALL PROVIDE, UPON
18 REQUEST, EVIDENCE OF THE TOWING CARRIER'S COMMERCIAL LIABILITY
19 INSURANCE COVERAGE, INCLUDING CARGO LIABILITY COVERAGE, GARAGE
20 KEEPER'S LIABILITY COVERAGE, IF APPLICABLE, AND MOTOR VEHICLE
21 LIABILITY COVERAGE, TO AN AUTHORIZED OR INTERESTED PERSON.

22 (b) A TOWING CARRIER SHALL MAINTAIN A CLEARLY VISIBLE SIGN
23 AT THE ENTRANCE TO THE STORAGE FACILITY HOLDING A
24 NONCONSENSUALLY TOWED VEHICLE. THE SIGN MUST:

25 (I) STATE THE NAME OF THE BUSINESS, TELEPHONE NUMBER, AND
26 HOURS OF OPERATION;

27 (II) STATE: "A VEHICLE THAT IS NONCONSENSUALLY TOWED FROM

1 PRIVATE PROPERTY MAY BE RETRIEVED EVEN IF THE OWNER DOES NOT PAY
2 THE TOWING CARRIER'S FEES, BUT THE OWNER STILL OWES THE TOWING
3 CARRIER THOSE FEES."

4 (III) BE NO LESS THAN TWO SQUARE FEET IN SIZE;

5 (IV) HAVE LETTERING NOT LESS THAN TWO INCHES IN HEIGHT;

6 (V) HAVE LETTERING THAT CONTRASTS SHARPLY IN COLOR WITH
7 THE BACKGROUND ON WHICH THE LETTERS ARE PLACED; AND

8 (VI) BE PRINTED IN ENGLISH.

9 (c) UPON REQUEST, A TOWING CARRIER SHALL PROVIDE TO AN
10 AUTHORIZED OR INTERESTED PERSON AN ITEMIZED BILL SHOWING EACH
11 CHARGE AND THE RATE FOR EACH FEE THAT THE AUTHORIZED OR
12 INTERESTED PERSON HAS INCURRED AS A RESULT OF A NONCONSENSUAL
13 TOW.

14 (d) UPON REQUEST, A TOWING CARRIER SHALL DISCLOSE ACCEPTED
15 FORMS OF PAYMENT, INCLUDING THOSE REQUIRED TO BE ACCEPTED IN
16 ACCORDANCE WITH SUBSECTION (1)(b) OF THIS SECTION.

17 (e) IF A TOWING CARRIER HAS NONCONSENSUALLY TOWED A
18 VEHICLE FROM PRIVATE PROPERTY, THE TOWING CARRIER SHALL GIVE THE
19 AUTHORIZED OR INTERESTED PERSON THAT IS RETRIEVING THE VEHICLE A
20 WRITTEN NOTICE OF THE PERSON'S ABILITY TO MAKE A COMPLAINT TO THE
21 COMMISSION. THE NOTICE:

22 (I) MUST BE WRITTEN IN A CONSPICUOUS TYPE FACE AND FONT ON
23 BOTH THE RECEIPT AND BILL FOR THE TOW; AND

24 (II) MUST NOT BE IN A TYPE FACE OR FONT THAT IS SMALLER THAN
25 THE OTHER NUMBERS OR WORDS ON THE RECEIPT OR BILL, AS APPLICABLE.

26 (f) (I) A TOWING CARRIER SHALL NOT PERFORM A
27 NONCONSENSUAL TOW OF A VEHICLE, OTHER THAN AN ABANDONED

1 MOTOR VEHICLE AS DEFINED IN SECTION 42-4-2102 (1), FROM PRIVATE
2 PROPERTY NORMALLY USED FOR PARKING UNLESS:

3 (A) NOTICE OF THE PARKING REGULATIONS WAS PROVIDED TO THE
4 VEHICLE OPERATOR WHEN THE VEHICLE ENTERED THE PRIVATE PROPERTY
5 AND PARKED; AND

6 (B) NOTICE THAT ANY VEHICLE PARKED IN VIOLATION OF THE
7 REGULATIONS IS SUBJECT TO TOW AT THE VEHICLE OWNER'S EXPENSE WAS
8 PROVIDED TO THE VEHICLE OPERATOR WHEN THE VEHICLE ENTERED THE
9 PRIVATE PROPERTY AND PARKED.

10 (II) A PROPERTY OWNER WITH TENANTS SHALL PROVIDE THE
11 NOTICE DESCRIBED IN THIS SUBSECTION (4)(f) BY ISSUING EACH TENANT
12 A WRITTEN DOCUMENT CONTAINING ANY APPLICABLE PARKING
13 REGULATIONS BEFORE THE REGULATIONS ARE ADOPTED OR AMENDED OR
14 BEFORE THE PERSON AGREES TO BE A TENANT.

15 (III) A TOWING CARRIER THAT ENTERS INTO AN AGREEMENT WITH
16 A PROPERTY OWNER TO NONCONSENSUALLY TOW VEHICLES FROM THE
17 PROPERTY SHALL POST SIGNS THAT:

- 18 (A) ARE NO LESS THAN ONE SQUARE FOOT IN SIZE;
- 19 (B) HAVE LETTERING NOT LESS THAN ONE INCH IN HEIGHT;
- 20 (C) HAVE LETTERING THAT CONTRASTS WITH THE BACKGROUND
21 ON WHICH THE LETTERS ARE PLACED;
- 22 (D) STATE: "AUTHORIZED PARKING ONLY";
- 23 (E) INCLUDE THE NAME AND TELEPHONE NUMBER OF THE TOWING
24 CARRIER AUTHORIZED TO PERFORM TOWS FROM THE PRIVATE PROPERTY;
- 25 (F) ARE PRINTED IN ENGLISH;
- 26 (G) ARE PLACED AT THE ENTRANCE TO THE PRIVATE PROPERTY,
27 FACE OUTWARD TOWARD THE STREET, AND ARE VISIBLE PRIOR TO

1 ENTERING AND UPON ENTERING THE PRIVATE PROPERTY;

2 (H) ARE PLACED INSIDE THE AREA USED FOR PARKING, FACE
3 TOWARD THE PARKING SPACES, AND, IF THE PRIVATE PROPERTY IS NOT
4 PROVIDED FOR RESIDENTIAL PARKING AND HAS MORE THAN TEN
5 FREESTANDING LAMPPOSTS ON THE PROPERTY, ARE POSTED ON EACH
6 LAMPOST OR POSTED UPRIGHT NEAR EACH LAMPOST;

7 (I) ARE NOT OBSTRUCTED OR PLACED IN SUCH A MANNER THAT
8 PREVENTS VISIBILITY; AND

9 (J) ARE NOT PLACED HIGHER THAN EIGHT FEET OR LOWER THAN
10 THREE FEET FROM THE GROUND SURFACE CLOSEST TO THE SIGN'S
11 PLACEMENT.

12 (g) THE TOWING CARRIER SHALL RETAIN EVIDENCE, INCLUDING
13 PHOTOGRAPHS OF THE RELEVANT SIGNS, OF GIVING THE NOTICES AND
14 DISCLOSURES REQUIRED IN SUBSECTION (4)(f) OF THIS SECTION FOR THREE
15 YEARS AFTER THE DATE OF COMPLETION OF A NONCONSENSUAL TOW AND
16 PROVIDE THE EVIDENCE TO THE COMMISSION OR AN ENFORCEMENT
17 OFFICIAL UPON REQUEST.

18 (5) **No mechanic's liens on vehicle or contents.**

19 (a) NOTWITHSTANDING SECTION 38-20-105, A TOWING CARRIER THAT
20 NONCONSENSUALLY TOWS A VEHICLE DOES NOT HAVE A MECHANIC'S LIEN
21 ON THE CONTENTS OF THE VEHICLE TO COVER THE COST OF TOWING THE
22 VEHICLE.

23 (b) IF AN AUTHORIZED OR INTERESTED PERSON REQUESTS THAT A
24 TOWING CARRIER RETURN A VEHICLE OR THE CONTENTS OF A VEHICLE
25 THAT WAS TOWED WITHOUT CONSENT WITHIN THIRTY DAYS AFTER THE
26 POSTMARKED DATE THE NOTICE WAS MAILED IN ACCORDANCE WITH
27 SECTION 42-4-2103 (4) OR THE DATE THE OPERATOR RECEIVED NOTICE

1 THAT NO RECORD EXISTS FOR THE MOTOR VEHICLE, THE TOWING CARRIER
2 SHALL IMMEDIATELY RETRIEVE OR ALLOW THE AUTHORIZED OR
3 INTERESTED PERSON TO RETRIEVE THE VEHICLE OR ANY CONTENTS IN
4 ACCORDANCE WITH SUBSECTION (6)(a) OF THIS SECTION. THIS SUBSECTION
5 (5)(b) DOES NOT APPLY TO A VEHICLE OR THE CONTENTS OF A VEHICLE IF
6 THE VEHICLE OR THE CONTENTS OF THE VEHICLE ARE SUBJECT TO A HOLD
7 ORDER ISSUED BY A COURT, DISTRICT ATTORNEY, LAW ENFORCEMENT
8 AGENCY, OR PEACE OFFICER.

9 (c) FOR AN AUTHORIZED OR INTERESTED PERSON TO RETRIEVE A
10 VEHICLE WITHOUT PAYING THE TOWING CARRIER, THE AUTHORIZED OR
11 INTERESTED PERSON MUST SIGN A FORM AFFIRMING THAT THE
12 AUTHORIZED OR INTERESTED PERSON OWES THE TOWING CARRIER
13 PAYMENT FOR FEES THAT COMPLY WITH THIS ARTICLE 10.1, PART 18 OR 21
14 OF ARTICLE 4 OF TITLE 42, OR ARTICLE 20 OF TITLE 38. THE TOWING
15 CARRIER MAY USE THE FORM TO TAKE REASONABLE ACTIONS TO COLLECT
16 THE DEBT, INCLUDING INITIATING A COURT ACTION OR USING A
17 COLLECTION AGENCY. THE DEPARTMENT SHALL:

18 (I) CREATE THE FORM;

19 (II) GIVE THE FORM THE FOLLOWING TITLE: "TOWED VEHICLE
20 RELEASE NOTICE: RETRIEVAL WITH PAYMENT OWED"; AND

21 (III) PROVIDE THE FORM ON THE PUBLIC UTILITIES COMMISSION
22 WEBSITE FOR TOWING CARRIERS TO RETRIEVE AND USE.

23 (6) **Releasing the vehicle upon request.** (a) A TOWING CARRIER
24 SHALL RELEASE A NONCONSENTUALLY TOWED VEHICLE IN ACCORDANCE
25 WITH SUBSECTION (5)(b) OF THIS SECTION, REGARDLESS OF WHETHER THE
26 AUTHORIZED OR INTERESTED PERSON HAS PAID THE TOWING CARRIER.

27 (b) A TOWING CARRIER SHALL NOT ASSESS A DROP CHARGE TO

1 RELEASE THE VEHICLE AFTER THE VEHICLE IS HOOKED UP TO THE TOW
2 TRUCK BUT BEFORE THE VEHICLE IS REMOVED FROM THE PROPERTY.

3 (c) IF APPROACHED BY AN AUTHORIZED OR INTERESTED PERSON,
4 THE TOWING CARRIER SHALL NOTIFY THE AUTHORIZED OR INTERESTED
5 PERSON THAT THE TOWING CARRIER IS REQUIRED TO RELEASE THE VEHICLE
6 UPON REQUEST OF THE AUTHORIZED OR INTERESTED PERSON.

7 (d) UPON REQUEST BY THE AUTHORIZED OR INTERESTED PERSON,
8 THE TOWING CARRIER SHALL STOP ANY TOW IN PROGRESS BEFORE THE
9 VEHICLE IS REMOVED FROM PRIVATE PROPERTY.

10 (7) **No towing for expired registration.** UNLESS THE TOW IS
11 BASED ON AN ORDER GIVEN BY A PEACE OFFICER, A TOWING CARRIER
12 SHALL NOT TOW A VEHICLE FROM PRIVATE PROPERTY BECAUSE THE REAR
13 LICENSE PLATE OF THE VEHICLE OR THE RECORD OBTAINED USING THE
14 SYSTEM DESCRIBED IN SECTION 42-4-2103 (3)(c)(III) INDICATES THAT THE
15 VEHICLE'S REGISTRATION HAS EXPIRED.

16 (8) **Towing carrier responsibility.** FOR A NONCONSENSUAL TOW,
17 THE TOWING CARRIER IS RESPONSIBLE FOR THE SECURITY AND SAFETY OF
18 THE TOWED VEHICLE UNTIL IT IS RELEASED TO AN AUTHORIZED OR
19 INTERESTED PERSON.

20 (9) **Applicability.** THIS SECTION DOES NOT APPLY TO:

21 (a) A TOW ORDERED BY A PEACE OFFICER OR TECHNICIAN
22 DIRECTED BY A PEACE OFFICER IN THE COURSE AND SCOPE OF THE
23 OFFICER'S OR TECHNICIAN'S DUTIES; OR

24 (b) A TOW FROM A PARKING SPACE THAT SERVES A BUSINESS IF:

25 (I) THE PARKING SPACE IS NOT IN A COMMON PARKING AREA; AND

26 (II) THE PARKING SPACE IS ON COMMERCIAL REAL ESTATE, AS
27 DEFINED IN SECTION 38-22.5-102 (2).

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40-10.1-406. Failure to comply. (1) **No fees.** (a) IF A TOWING CARRIER FAILS TO COMPLY WITH THIS ARTICLE 10.1, ARTICLE 20 OF TITLE 38, OR PART 18 OR 21 OF ARTICLE 4 OF TITLE 42 OR ANY RULE PROMULGATED UNDER THIS ARTICLE 10.1 OR PART 18 OR 21 OF ARTICLE 4 OF TITLE 42, THE TOWING CARRIER:

(I) SHALL NOT CHARGE OR RETAIN ANY FEES OR CHARGES FOR THE SERVICES PERFORMED WITH RESPECT TO THE VEHICLE; AND

(II) SHALL RETURN TO THE AUTHORIZED OR INTERESTED PERSON ANY FEES IT COLLECTED WITH RESPECT TO THE VEHICLE.

(b) IT IS AN AFFIRMATIVE DEFENSE IN ANY ACTION TO COLLECT TOWING FEES THAT:

- (I) THE VEHICLE WAS TOWED NONCONSENSUALLY; AND
- (II) THE TOWING CARRIER FAILED TO COMPLY WITH SECTION 40-10.1-405.

(2) **Attorney fees.** AN AUTHORIZED OR INTERESTED PERSON SEEKING REIMBURSEMENT FOR DAMAGES MAY RECOVER FROM THE TOWING CARRIER REASONABLE ATTORNEY FEES IF:

- (a) THE VEHICLE WAS TOWED NONCONSENSUALLY;
- (b) A COURT HOLDS THAT:
 - (I) THE TOWING CARRIER FAILED TO COMPLY WITH THIS ARTICLE 10.1, ARTICLE 20 OF TITLE 38, OR PART 18 OR 21 OF ARTICLE 4 OF TITLE 42 OR ANY RULE PROMULGATED UNDER THIS ARTICLE 10.1 OR PART 18 OR 21 OF ARTICLE 4 OF TITLE 42, AND THIS FAILURE CAUSED DAMAGES, INCLUDING ECONOMIC DAMAGES, TO THE VEHICLE OWNER OR LIENHOLDER; OR
 - (II) THE TOWING CARRIER DAMAGED A VEHICLE WHILE

1 CONNECTING IT TO A TOWING VEHICLE, WHILE POSSESSING THE VEHICLE,
2 OR WHILE RETURNING THE VEHICLE TO AN AUTHORIZED OR INTERESTED
3 PERSON; AND

4 (c) THE AUTHORIZED OR INTERESTED PERSON DEMANDED
5 REIMBURSEMENT FOR THE SUFFERED DAMAGES AND THE TOWING CARRIER
6 REFUSED TO REIMBURSE THE AUTHORIZED OR INTERESTED PERSON FOR
7 THE DAMAGES.

8 (3) **Damages recovered for party in interest.** IN A COURT
9 ACTION ARISING FROM A NONCONSENSUAL TOW, ANY AUTHORIZED OR
10 INTERESTED PERSON MAY RECOVER THE DAMAGES SUFFERED BY ANOTHER
11 AUTHORIZED OR INTERESTED PERSON FROM A TOWING CARRIER IF THE
12 PERSON WHO RECOVERS THE DAMAGES REIMBURSES THE OTHER
13 AUTHORIZED OR INTERESTED PERSON FOR THE DAMAGES SUFFERED BY THE
14 AUTHORIZED OR INTERESTED PERSON. A COURT MAY ISSUE AN ORDER
15 IMPLEMENTING THIS SUBSECTION (3).

16 **40-10.1-407. Records.** (1) A TOWING CARRIER SHALL RECORD
17 THE FOLLOWING INFORMATION FOR EACH NONCONSENSUAL TOW:

18 (a) THE UNIQUE SERIAL NUMBER OF THE TOW RECORD OR INVOICE;

19 (b) THE NAME, ADDRESS, TOWING CARRIER PERMIT NUMBER, AND
20 TELEPHONE NUMBER OF THE TOWING CARRIER;

21 (c) THE ADDRESS AND TELEPHONE NUMBER OF THE STORAGE
22 FACILITY USED BY THE TOWING CARRIER;

23 (d) THE MAKE, MODEL, YEAR, COMPLETE VEHICLE IDENTIFICATION
24 NUMBER, AND LICENSE PLATE NUMBER, IF AVAILABLE, OF THE TOWED
25 VEHICLE;

26 (e) THE ORIGIN ADDRESS OF THE TOW, THE DESTINATION ADDRESS
27 OF THE TOW, AND THE ONE-WAY MILEAGE BETWEEN THE TWO ADDRESSES;

1 (f) THE PRINTED NAME, ADDRESS, TELEPHONE NUMBER, AND
2 SIGNATURE OF THE PERSON AUTHORIZING THE TOW;

3 (g) THE PRINTED NAME AND SIGNATURE OF THE TOW TRUCK
4 DRIVER;

5 (h) AN ITEMIZED INVOICE OF ALL TOWING CHARGES ASSESSED;

6 (i) THE SIGNATURE OF THE PERSON TO WHOM THE VEHICLE IS
7 RELEASED; EXCEPT THAT THE TOWING CARRIER MAY WRITE "REFUSED TO
8 SIGN" IF THE PERSON TO WHOM THE VEHICLE IS RELEASED REFUSES TO SIGN
9 THE RELEASE DOCUMENT; [REDACTED]

10 (j) THE DATE AND TIME OF ANY OF THE FOLLOWING, IF PERFORMED:

11 (I) HOOKING THE VEHICLE TO THE TOW TRUCK;

12 (II) UNHOOKING THE VEHICLE FROM THE TOW TRUCK;

13 (III) COMPLETING THE TOW;

14 (IV) NOTIFYING THE APPROPRIATE LAW ENFORCEMENT AGENCY;

15 (V) PLACING THE VEHICLE IN STORAGE; AND

16 (VI) RELEASING THE TOWED VEHICLE FROM STORAGE; AND

17 (k) ANY OTHER INFORMATION REQUIRED BY RULE OF THE
18 COMMISSION.

19 (2) A TOWING CARRIER SHALL RECORD THE INFORMATION
20 REQUIRED TO BE RECORDED BY SUBSECTION (1) OF THIS SECTION BEFORE
21 THE ACTION TO WHICH IT REFERS IS PERFORMED, UNLESS IMPRACTICABLE
22 DUE TO SAFETY CONCERNS. IF THE SAFETY CONCERNS DELAY RECORDING
23 THE INFORMATION REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE
24 TOWING CARRIER SHALL RECORD THE INFORMATION AS SOON AS
25 REASONABLY POSSIBLE.

26 (3) A TOWING CARRIER SHALL RETAIN THE INFORMATION
27 REQUIRED IN SUBSECTION (1) OF THIS SECTION FOR THREE YEARS AFTER

1 THE TOW COMMENCED.

2 (4) WITHIN FORTY-EIGHT HOURS AFTER A REQUEST, A TOWING
3 CARRIER SHALL PROVIDE THE INFORMATION REQUIRED TO BE RECORDED
4 BY SUBSECTION (1) OF THIS SECTION TO AN AUTHORIZED OR INTERESTED
5 PERSON.

6 **40-10.1-408. Kickbacks prohibited.** A TOWING CARRIER SHALL
7 NOT PAY MONEY OR OTHER VALUABLE CONSIDERATION FOR THE
8 PRIVILEGE OF NONCONSENSUALLY TOWING VEHICLES.

9 **40-10.1-409. Violators subject to penalties.** (1) A TOWING
10 CARRIER THAT VIOLATES THIS PART 4 IS SUBJECT TO THE PENALTIES
11 PROVIDED IN SECTION 40-10.1-114.

12 (2) A VIOLATION OF THIS PART 4 IS A DECEPTIVE TRADE PRACTICE
13 UNDER SECTION 6-1-105 (1)(ooo) AND IS SUBJECT TO ENFORCEMENT BY
14 THE ATTORNEY GENERAL'S OFFICE IN ADDITION TO THE ENFORCEMENT
15 DESCRIBED IN THIS SECTION.

16 **SECTION 11.** In Colorado Revised Statutes, **add 40-10.1-412** as
17 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 **SECTION 12.** In Colorado Revised Statutes, 6-1-105, **add**
24 (1)(ooo) as follows:

25 **6-1-105. Unfair or deceptive trade practices.** (1) A person
26 engages in a deceptive trade practice when, in the course of the person's
27 business, vocation, or occupation, the person:

1 (ooo) VIOLATES PART 4 OF ARTICLE 10.1 OF TITLE 40.

2 **SECTION 13.** In Colorado Revised Statutes, **amend** 38-20-105
3 as follows:

4 **38-20-105. Lien of common carrier.** (1) EXCEPT AS PROVIDED
5 IN SUBSECTION (2) OF THIS SECTION, every common carrier of goods or
6 passengers who, at the request of the owner of any personal goods,
7 carries, conveys, or transports the same from one place to another and
8 every other person who safely keeps or stores any personal property at the
9 request of the owner or person lawfully in possession ~~thereof shall have~~
10 OF THE PERSONAL PROPERTY HAS a lien upon ~~all such~~ THE personal
11 property for ~~his~~ reasonable charges for the transportation, storage, or
12 keeping ~~thereof~~ OF THE PERSONAL PROPERTY and for all reasonable and
13 proper advances made ~~thereon~~ by ~~him~~ THE COMMON CARRIER OR
14 WAREHOUSE, in accordance with the usage and custom of common
15 carriers and ~~warehousemen~~ WAREHOUSES.

16 (2) IN ACCORDANCE WITH SECTION 40-10.1-405 (5)(a), THIS
17 SECTION DOES NOT GRANT A TOWING CARRIER A LIEN ON [REDACTED] THE
18 CONTENTS OF A VEHICLE IF THE VEHICLE WAS TOWED NONCONSENSUALLY,
19 AS DEFINED IN SECTION 40-10.1-101 (13).

20 **SECTION 14. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly; except
23 that, if a referendum petition is filed pursuant to section 1 (3) of article V
24 of the state constitution against this act or an item, section, or part of this
25 act within such period, then the act, item, section, or part will not take
26 effect unless approved by the people at the general election to be held in

- 1 November 2022 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.