

CHAPTER 234

**PUBLIC UTILITIES**

**HOUSE BILL 95-1068**

BY REPRESENTATIVES Piffner, Foster, Anderson, Dean, Paschall, Schauer, and Schwarz;  
also SENATORS Schroeder, Mutzebaugh, Norton, and Wattenberg.

**AN ACT**

**CONCERNING DEREGULATION OF MOTOR CARRIERS OF PROPERTY IN ACCORDANCE WITH FEDERAL LAW, AND, IN CONNECTION THEREWITH, REQUIRING CARRIERS TO SURRENDER STATE OPERATING AUTHORITY PREEMPTED BY FEDERAL LAW, AND MAKING AN APPROPRIATION.**

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

**SECTION 1.** 39-22-304 (3), Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**39-22-304. Net income of corporation - repeal.** (3) There shall be subtracted from federal taxable income:

(I) (I) AN AMOUNT REFLECTING THE LOSS IN VALUE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR ANY INTRASTATE COMMON CARRIER OF PROPERTY, ISSUED BY THE PUBLIC UTILITIES COMMISSION PURSUANT TO ARTICLE 10 OF TITLE 40, C.R.S., OR OF A PERMIT FOR INTRASTATE CONTRACT CARRIAGE OF PROPERTY ISSUED BY THE PUBLIC UTILITIES COMMISSION PURSUANT TO ARTICLE 11 OF TITLE 40, C.R.S. THE AMOUNT OF SUCH DEDUCTION FOR ANY INCOME TAX YEAR SHALL NOT EXCEED ONE-FIFTH OF THE BOOK VALUE, AS OF JULY 1, 1994, OF SAID CERTIFICATE OR PERMIT. FOR PURPOSES OF THIS PARAGRAPH (I), "BOOK VALUE" MEANS THE COST OF THE CERTIFICATE OR PERMIT LESS ACCUMULATED DEPRECIATION OR AMORTIZATION.

(II) THIS PARAGRAPH (I) IS REPEALED, EFFECTIVE JANUARY 1, 2001.

**SECTION 2.** 40-16-101 (2) and (4), Colorado Revised Statutes, 1993 Repl. Vol., are amended, and the said 40-16-101 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

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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.*

**40-16-101. Definitions.** As used in this article, unless the context otherwise requires:

(2) ~~"Courier" means a person who picks up packages, parcels, letters, papers, or documents weighing five pounds or less and delivers them by use of a motor vehicle to another location within twenty-four hours.~~ "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF THIS STATE.

(2.5) "COMPENSATION" MEANS ANY MONEY, PROPERTY, SERVICE, OR THING OF VALUE CHARGED OR RECEIVED OR TO BE CHARGED OR RECEIVED WHETHER DIRECTLY OR INDIRECTLY.

(3.5) "MOTOR VEHICLE" MEANS ANY AUTOMOBILE, TRUCK, TRACTOR, BUS, OR OTHER SELF-PROPELLED VEHICLE OR ANY TRAILER DRAWN THEREBY EXCLUDING VEHICLES OPERATED UPON FIXED RAILS.

(4) "Motor vehicle carrier exempt from regulation as a public utility" means persons who offer services as ~~couriers~~ PROPERTY CARRIERS BY MOTOR VEHICLE or offer services using charter or scenic buses, luxury limousines, off-road scenic charters, and children's activity buses.

(6.5) "PROPERTY CARRIER BY MOTOR VEHICLE" MEANS ANY PERSON WHO TRANSPORTS THE PROPERTY OF OTHERS FOR COMPENSATION, IN INTRASTATE COMMERCE, UPON THE PUBLIC HIGHWAYS OF THIS STATE BY USE OF A MOTOR VEHICLE; EXCEPT THAT THE TERM DOES NOT INCLUDE A TOWING CARRIER AS DEFINED IN SECTION 40-13-101.

**SECTION 3.** 40-16-104 (1), Colorado Revised Statutes, 1993 Repl. Vol., is amended, and the said 40-16-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**40-16-104. Insurance requirements.** (1) Each motor vehicle carrier exempt from regulation as a public utility shall maintain a general liability insurance policy, or, if such carrier is a public entity, a certificate of self-insurance in lieu thereof, issued pursuant to section 42-7-501, C.R.S., at the option of the public entity. Such an insurance policy shall be issued by some insurance carrier or insurer authorized to do business in Colorado for each motor vehicle of such carrier, and such certificate of self-insurance shall be issued by the executive director of the department of revenue. For those motor vehicle carriers exempt from regulation as public utilities specified in paragraphs (a) to ~~(d)~~ (f) of this subsection (1), such liability insurance shall be in the following minimum amounts:

(a) For charter or scenic buses, a minimum amount of five million dollars combined single limit liability or in the case of public entities operating such buses, the maximum amount that may be recovered from a public entity under section 24-10-114 (1), C.R.S.;

(b) For luxury limousines, a minimum amount of one million dollars combined single limit liability;

(c) For off-road scenic charters, a minimum amount of one million dollars

combined single limit liability;

(d) For children's activity buses, a minimum amount of one million dollars combined single limit liability. If the vehicle being used has a capacity for thirty-two or more passengers, disclosure shall be made to the lessor of such vehicle that the liability limits are lower than those for charter or scenic buses pursuant to paragraph (a) of this subsection (1);

(e) FOR PROPERTY CARRIERS BY MOTOR VEHICLE THAT ARE NOT REQUIRED TO OBTAIN A HAZARDOUS MATERIAL PERMIT UNDER SECTION 43-6-201, C.R.S., AMOUNTS AND TYPES OF COVERAGE REQUIRED BY 49 C.F.R. PART 1043; EXCEPT THAT SUCH CARRIERS USING ONLY VEHICLES WEIGHING TEN THOUSAND POUNDS OR LESS GROSS VEHICLE WEIGHT RATING SHALL MAINTAIN INSURANCE IN THE AMOUNT OF AT LEAST THREE HUNDRED THOUSAND DOLLARS COMBINED SINGLE LIMIT LIABILITY;

(f) FOR PROPERTY CARRIERS BY MOTOR VEHICLE THAT ARE REQUIRED TO OBTAIN A HAZARDOUS MATERIAL PERMIT UNDER SECTION 43-6-201, C.R.S., AMOUNTS AND TYPES OF COVERAGE REQUIRED BY SECTION 43-6-202 (2) (a), C.R.S.

(1.5) PROPERTY CARRIERS BY MOTOR VEHICLE SHALL MAINTAIN, IN ADDITION TO THE INSURANCE SPECIFIED IN SUBSECTION (1) OF THIS SECTION, CARGO INSURANCE IN THE AMOUNTS AND IN THE FORM SPECIFIED BY RULE OF THE COMMISSION.

**SECTION 4.** Article 16 of title 40, Colorado Revised Statutes, 1993 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

**40-16-110. Legislative declaration - federal preemption - property carriers to surrender certificates and permits - issuance by ports of entry - repeal.**

(1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT STATE REGULATION OF THE PRICES, ROUTES, AND SERVICE OF INTRASTATE MOTOR CARRIERS OF PROPERTY WAS EXPRESSLY PREEMPTED, SUBJECT TO CERTAIN EXCEPTIONS, IN SECTION 601 (c) OF THE FEDERAL "AIRPORT IMPROVEMENT ACT OF 1994", 49 U.S.C. SEC. 11501 (h). THE LEGISLATIVE HISTORY ACCOMPANYING SAID FEDERAL ACT ACKNOWLEDGED THAT SUCH PREEMPTION WOULD EFFECTIVELY ELIMINATE THE ASSET VALUE OF THE OPERATING AUTHORITY OF THE AFFECTED CARRIERS.

(2) TO THE MAXIMUM EXTENT PERMISSIBLE UNDER THE TERMS OF SAID FEDERAL ACT, ALL LAWS OF THIS STATE ON THE FOLLOWING SUBJECTS AND ALL RULES ADOPTED THEREUNDER SHALL CONTINUE IN EFFECT; AND IT IS PRESUMED THAT NO INTERRUPTION IN THE FORCE AND EFFECT OF SAID LAWS AND RULES TOOK PLACE BETWEEN DECEMBER 31, 1994, AND THE EFFECTIVE DATE OF THIS ARTICLE:

- (a) RECEIPTS AND BILLS OF LADING;
- (b) LIABILITY FOR LOSS OF OR DAMAGE TO CARGO;
- (c) HANDLING OF COLLECT-ON-DELIVERY (C.O.D.) SHIPMENTS;
- (d) CARGO CREDIT RULES;

(e) CORPORATION LAW;

(f) LABOR LAWS, INCLUDING LEASE PROVISIONS FOR INDEPENDENT OWNER-OPERATORS OF MOTOR VEHICLES; AND

(g) ANTITRUST IMMUNITY FOR JOINT LINE RATES OR ROUTES, CLASSIFICATIONS, AND MILEAGE GUIDES.

(3) (a) ON OR BEFORE JANUARY 1, 1996, EVERY PROPERTY CARRIER HOLDING A CERTIFICATE OR PERMIT ISSUED BY THE PUBLIC UTILITIES COMMISSION UNDER ARTICLE 10 OR 11 OF THIS TITLE SHALL SURRENDER SUCH CERTIFICATE OR PERMIT TO THE COMMISSION.

(b) (I) UPON SURRENDER OF A CERTIFICATE OR PERMIT UNDER THIS SECTION, THE PUBLIC UTILITIES COMMISSION SHALL DETERMINE THE CURRENT STATUS OF THE SURRENDERING CARRIER WITH REGARD TO SAFETY AND INSURANCE REQUIREMENTS. IF THE CARRIER IS IN COMPLIANCE WITH SUCH REQUIREMENTS, THE COMMISSION SHALL FORTHWITH ISSUE TO THE CARRIER, WITHOUT CHARGE, A WRITTEN CERTIFICATE OF REGISTRATION AS A PROPERTY CARRIER BY MOTOR VEHICLE. THE NUMBER OF SUCH CERTIFICATE SHALL BE IDENTICAL TO, OR CLEARLY DERIVED FROM, THE NUMBER OF THE AUTHORITY FOR WHICH THE CERTIFICATE WAS SUBSTITUTED. IF A CARRIER SURRENDERS MORE THAN ONE AUTHORITY, THE NUMBER OF THE CERTIFICATE SHALL BE IDENTICAL TO OR CLEARLY DERIVED FROM THE NUMBER OF THE CARRIER'S LEAD OR PRIMARY AUTHORITY, AS DETERMINED BY THE COMMISSION. AFTER JANUARY 1, 1996, THE COMMISSION SHALL CANCEL ALL OPERATING AUTHORITY AND REGISTRATIONS NOT PREVIOUSLY SURRENDERED.

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JANUARY 2, 1996.

(4) (a) NO PERSON SHALL OPERATE AS A PROPERTY CARRIER BY MOTOR VEHICLE WITHOUT FIRST OBTAINING A CERTIFICATE OF REGISTRATION FROM THE COMMISSION; EXCEPT THAT, PRIOR TO JANUARY 1, 1996, A CARRIER SUBJECT TO SUBSECTION (3) OF THIS SECTION MAY TREAT A CERTIFICATE OR PERMIT NOT YET SURRENDERED AS THE EQUIVALENT OF SUCH CERTIFICATE OF REGISTRATION.

(b) THE COMMISSION SHALL ISSUE A CERTIFICATE OF REGISTRATION TO A PROPERTY CARRIER BY MOTOR VEHICLE UPON SUBMISSION OF A FILING FEE OF FIFTY DOLLARS BY THE CARRIER.

(5) (a) THE COMMISSION MAY, IN ITS DISCRETION, AUTHORIZE THE COLORADO PORTS OF ENTRY DIVISION IN THE DEPARTMENT OF REVENUE TO ISSUE TEMPORARY REGISTRATIONS TO PROPERTY CARRIERS BY MOTOR VEHICLE FOR THE SEASONAL OPERATION OF MOTOR VEHICLES FOR THE PURPOSE OF TRANSPORTING UNPROCESSED AGRICULTURAL PRODUCE TO MARKET OR TO PLACES OF STORAGE. THE DURATION OF SUCH TEMPORARY REGISTRATIONS SHALL BE NINETY CONSECUTIVE DAYS. AN APPLICANT SHALL PRESENT EVIDENCE OF INSURANCE TO THE PORT OF ENTRY AT THE TIME OF APPLICATION OR SIGN AN AFFIDAVIT ATTESTING TO THE FACT THAT THE PERSON MAKING APPLICATION IS INSURED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS ARTICLE. UPON PRESENTATION OF SUCH EVIDENCE AND PAYMENT OF A FEE OF TWENTY DOLLARS PER VEHICLE, THE PORT OF ENTRY SHALL ISSUE SAID TEMPORARY REGISTRATIONS AS DESIGNATED BY THE COMMISSION. THE COMMISSION

SHALL SUBSEQUENTLY VERIFY THE ACCURACY OF SAID AFFIDAVIT BY REQUIRING THAT PROPER PROOF OF LIABILITY INSURANCE BE FILED WITH THE COMMISSION AFTER THE ISSUANCE OF THE TEMPORARY REGISTRATION. AN APPLICANT'S FAILURE TO COMPLY WITH THIS SECTION SHALL BE GROUNDS FOR THE REFUSAL OF THE COMMISSION TO ISSUE ANY FURTHER TEMPORARY REGISTRATIONS TO THE APPLICANT UNLESS THE APPLICANT FURNISHES PROOF OF CURRENTLY EFFECTIVE INSURANCE IN THE AMOUNTS REQUIRED BY THIS ARTICLE AND IN A FORM SATISFACTORY TO THE COMMISSION.

(b) FEES COLLECTED PURSUANT TO THIS SUBSECTION (5) SHALL BE CREDITED TO THE PUBLIC UTILITIES COMMISSION MOTOR CARRIER FUND.

**SECTION 5.** 40-10-101 (4) (a), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-10-101. Definitions.** As used in this article, unless the context otherwise requires:

(4) (a) "Motor vehicle carrier" means every person, lessee, trustee, receiver, or trustee appointed by any court whatsoever owning, controlling, operating, or managing any motor vehicle used in serving the public in the business of the transportation of persons or property, including sludge and fly ash, but not including ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials; for compensation as a common carrier over any public highway between fixed points or over established routes or otherwise, whether such business or transportation is engaged in or transacted by contract or otherwise; EXCEPT THAT THE TERM "motor vehicle carrier" does not include a ridesharing arrangement, as defined in section 10-4-707.5 (2), C.R.S., OR a motor vehicle carrier exempt from regulation as a public utility, as defined in section 40-16-101 (4). ~~or a carrier of household goods, as defined in section 40-14-101; except that any such carrier of household goods shall pay the fee established by section 40-2-110.5.~~

**SECTION 6.** 40-10-103, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-10-103. Compliance.** No motor vehicle carrier shall operate any motor vehicle for the transportation of ~~either persons or property~~ for compensation on any public highway in this state except in accordance with the provisions of this article.

**SECTION 7.** 40-10-104, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

**40-10-104. Certificate required - exemptions.** (1) No motor vehicle carrier shall operate any motor vehicle for the transportation of ~~either persons or property; or both,~~ upon the public highways of this state in intrastate commerce without first having obtained from the commission a certificate declaring that the present or future public convenience and necessity requires or will require such operation. This subsection (1) shall not apply to hearses or ambulances or other emergency vehicles. ~~nor to motor vehicles especially constructed for the purposes of repairing and towing wrecked vehicles and not otherwise used for transporting property but shall apply to motor vehicles used for transporting sludge and fly ash in general service to the public.~~

~~(2) The commission may, at its discretion, issue a temporary certificate declaring that the present or future public convenience and necessity requires, or will require, the temporary or seasonal operation of a motor vehicle for the purpose of transporting unprocessed agricultural produce to market or place of storage during a period to be determined by the commission, but such period shall not be longer than ninety consecutive days in any one calendar year.~~

~~(3) This article shall not apply to motor vehicles designed and used for the nonemergency transportation of individuals with disabilities as defined in section 42-7-510 (2) (b), C.R.S. nor to motor vehicles transporting sand, gravel, rock, dirt, stone, insulrock, road surfacing materials used in the construction of roads and highways except such road surfacing materials as are transported in tank vehicles, houses or other buildings excluding manufactured housing, timber, rough lumber, logs, or wooden poles. For the purposes of this subsection (3), "manufactured housing" means housing which is in part or entirely manufactured in a factory. This type of housing is built in single or multiple sections on a chassis which enables it to be transported to its occupancy site or is built in single or multiple sections for assembly at the site, and includes mobile homes, modular homes, and panelized homes.~~

**SECTION 8.** 40-10-105 (2) (a), (2) (b), and (3), Colorado Revised Statutes, 1993 Repl. Vol., as amended, are amended to read:

**40-10-105. Rules for issuance of certificates - standing to protest - judicial review.** (2) (a) The granting of any certificate of public convenience and necessity to operate a motor vehicle for hire as a taxicab within and between counties with a population of sixty thousand or greater based on the federal census conducted in 1990 ~~or for the transportation of property~~ shall not be deemed to be an exclusive grant or monopoly, and the doctrine of regulated competition shall prevail.

(b) The commission has authority to grant more than one certificate of public convenience and necessity to operate motor vehicles as taxicabs within and between counties with a population of sixty thousand or greater based on the federal census conducted in 1990 ~~or for the transportation of property over the same route or a part thereof or within the same territory or a part thereof~~ if the commission finds that the present or future public convenience and necessity requires or will require such operation.

~~(3) A motor vehicle carrier seeking to file an intervention in opposition to the issuance of a certificate of public convenience and necessity for carriage of property by motor vehicle shall establish standing to file such intervention. Standing to intervene shall be established by submitting proof of the following with the initial pleading:~~

~~(a) That the motor vehicle carrier is duly authorized pursuant to a certificate of public convenience and necessity to operate a motor vehicle for the carriage of property over a route or for a territory which is also the subject of the application at issue; and~~

~~(b) That the motor vehicle carrier is providing or offering to provide, in whole or in part, the service proposed by application at issue.~~

**SECTION 9.** 40-10-108, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-10-108. Penalty for violations.** Any person who uses any public highway in this state for the transportation of passengers ~~or property~~ as a motor vehicle carrier without first obtaining a certificate of public convenience and necessity, or in violation of any of the terms thereof, or who fails or refuses to make any return or any report required by the commission, or who denies to the commission access to the books and records of such person, or who makes any false return ~~is guilty of~~ **COMMITTS** a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in section 40-10-113.

**SECTION 10.** 40-10-113, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-10-113. Penalty for violations.** Every motor vehicle carrier, and every officer, agent, or employee of any motor vehicle carrier, and every other person who violates or fails to comply with or who procures, aids, or abets in the violating of any provisions of this article, or who fails to obey, observe, or comply with any order, decision, rule, or regulation of the commission, or who procures, aids, or abets any person in such failure to obey or observe such order, decision, rule, or regulation commits a class 2 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S. ~~The investigative personnel of the commission have all the powers conferred by law upon peace officers to make arrests and to serve warrants and other process in any county or city and county of this state.~~

**SECTION 11.** 40-10-116, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-10-116. Transportation of schoolchildren.** (1) Nothing in this article shall be construed as prohibiting the following:

(a) ~~Intermittent transportation of farm products to market or supplies to the farm by any person chiefly engaged in farming; or~~

(b) Transportation of children to and from school, school-related activities, or school-sanctioned activities.

**SECTION 12.** 40-10-117, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-10-117. Rates - limitations.** It is unlawful for any motor vehicle carrier to carry or advertise that it will carry any ~~goods or~~ persons at rates different from those it has on file with the commission for such carriage.

**SECTION 13.** 40-10-119, Colorado Revised Statutes, 1993 Repl. Vol., is repealed as follows:

**40-10-119. Authority to commingle freight.** ~~A motor vehicle carrier which owns, operates, or exercises operating rights, whether interstate or intrastate, or both, under a certificate as a common carrier, and which also owns, operates, or exercises~~

~~operating rights under a permit as a contract carrier by motor vehicle shall have the right to utilize the same equipment for transporting property at the same time under the authorities granted by both the certificate and the permit, but whenever the permit and certificate authorize duplicating transportation rights, the carrier shall perform such transportation under the authority granted by the certificate.~~

**SECTION 14.** 40-11-101 (2), (3), and (7), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

**40-11-101. Definitions.** As used in this article, unless the context otherwise requires:

(2) "Compensation" means money or property of value charged or received, or to be charged or received, whether directly or indirectly, as compensation for the service rendered of transporting over any of the public highways of Colorado in motor vehicles by a contract carrier by motor vehicle any person. ~~property, article, or thing.~~

(3) "Contract carrier by motor vehicle" means every corporation, person, firm, association of persons, lessee, or trustee or any receiver or trustee appointed by any court, other than motor vehicle carriers as defined by section 40-10-101 (4) (a), owning, controlling, operating, or managing any motor vehicle in the business of transporting persons ~~or the property of others or of transporting sludge and fly ash to and from disposal sites;~~ for compensation or hire, over any public highway of this state between fixed points or over established routes or otherwise, by special contract or otherwise; EXCEPT THAT THE TERM "contract carrier by motor vehicle" does not include a ridesharing arrangement, as defined in section 10-4-707.5 (2), C.R.S., ~~a carrier of household goods, as defined in section 40-14-101;~~ or a motor vehicle carrier exempt from regulation as a public utility, as defined in section 40-16-101 (4).

(7) ~~"Property" includes sludge and fly ash but does not include ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials.~~

**SECTION 15.** 40-11-102, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

**40-11-102. Compliance required - exceptions.** (1) No person shall operate any motor vehicle for the transportation of persons ~~or property~~ for compensation on or over any public highway in this state, except in accordance with the provisions of this article or of article 10 of this title.

(2) Nothing in this article shall apply to any motor vehicle carrier as defined by section 40-10-101 (4) (a), nor to a private individual who carries a neighbor or a friend on a trip, ~~nor to motor vehicles especially constructed for towing, wrecking, and repairing and not otherwise used in transporting property;~~ nor to hearses or ambulances or other emergency vehicles, ~~nor to motor vehicles transporting sand, gravel, rock, dirt, stone, insulrock, road surfacing materials used in the construction of roads and highways except such road surfacing materials as are transported in tank vehicles, houses or other buildings excluding manufactured housing as defined in section 40-10-104 (3), timber, rough lumber, logs, or wooden poles;~~ nor to motor vehicles designed and used for the nonemergency transportation of individuals with disabilities as defined in section 42-7-510 (2) (b), C.R.S. ~~but this article shall apply~~



~~to motor vehicles used for transporting sludge and fly ash.~~

**SECTION 16.** 40-11-103 (1), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-11-103. Obtain permit from commission.** (1) It is unlawful for any contract carrier by motor vehicle to engage in or transact the business of transporting passengers ~~freight, merchandise, or other property~~ over the public highways of the state of Colorado in intrastate commerce without first obtaining a permit therefor from the public utilities commission of the state of Colorado. It is declared that the business of contract carriers by motor vehicle is affected with a public interest and that the safety and welfare of the public traveling upon such highways, the preservation and maintenance of such highways, and the proper regulation of motor vehicle common carriers using such highways require the regulation of contract carriers by motor vehicle to the extent provided in this article, for which purposes the commission is vested with the authority to issue a permit to a contract carrier by motor vehicle and may attach to such permit and to the exercise of the rights and privileges granted such terms and conditions as are reasonable.

**SECTION 17.** 40-11-105 (2), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-11-105. Commission to make rules - prescribe rates.** (2) Every contract carrier is forbidden, by discrimination or unfair competition, to destroy or impair the service or business of any motor vehicle common carrier OF PERSONS or the integrity of the state's regulation of any such service or business; and to that end, the commission is vested with power and it is its duty to prescribe minimum rates, fares, and charges to be collected by contract carriers OF PERSONS when competing with duly authorized motor vehicle common carriers OF PERSONS, which rates, fares, and charges shall not be less than the rates prescribed for motor vehicle common carriers OF PERSONS for substantially the same or similar service.

**SECTION 18.** 40-11-107, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-11-107. Violation - penalty.** Any person who uses any public highway of this state for the transportation of passengers ~~or property~~ as a contract carrier by motor vehicle without first obtaining a permit therefor, as provided, or in violation of any of the terms of such permit, or who fails to make any report required by the commission, or who denies the commission access to the books and records of such person or makes a false report ~~is guilty of~~ COMMITS a misdemeanor and, upon conviction thereof, shall be punished as provided in section 40-11-111.

**SECTION 19.** 40-11-114, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-11-114. Carriers exempted.** Nothing in this article shall be construed as prohibiting the transportation of ~~farm produce to market or supplies to the farm or to the vicinity of the farm by any person chiefly engaged in farming or the transportation~~ of children to and from school.

**SECTION 20.** 9-1.3-102 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**9-1.3-102. Control standards - definitions - permits.** (2) For the purposes of this article:

(a) "MANUFACTURED HOUSING" MEANS HOUSING WHICH IS IN PART OR ENTIRELY MANUFACTURED IN A FACTORY. THIS TYPE OF HOUSING IS BUILT IN SINGLE OR MULTIPLE SECTIONS ON A CHASSIS WHICH ENABLES IT TO BE TRANSPORTED TO ITS OCCUPANCY SITE OR IS BUILT IN SINGLE OR MULTIPLE SECTIONS FOR ASSEMBLY AT THE SITE, AND INCLUDES MODULAR HOMES AND PANELIZED HOMES;

(b) "RENOVATION" INCLUDES ANY ADDITION, REPLACEMENT, OR ALTERATION TO AN EXISTING RESIDENTIAL STRUCTURE OR TO A FACILITY FOR HUMAN USE WITHIN AN OFFICE, COMMERCIAL, OR INDUSTRIAL BUILDING, WHERE PLUMBING FIXTURES AND FITTINGS ARE INSTALLED AS PART OF THE RENOVATION. LIMITED RENOVATION MAY NOT BE THE BASIS FOR A COMPREHENSIVE OR BROADER CHANGE IN PLUMBING FIXTURES;

(c) "Residential structures" includes, but is not limited to, one- and two-family residences, townhouses, condominiums, apartment buildings, hotels and motels, manufactured housing, as defined in section 40-10-104 (3), C.R.S., and mobile homes defined as any wheeled vehicle, exceeding either eight feet in width or thirty-two feet in length, excluding towing gear and bumpers, without motive power, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which may be drawn over the public highways by a motor vehicle. ~~For the purposes of this article "renovation" includes any addition, replacement, or alteration to an existing residential structure or to a facility for human use within an office, commercial, or industrial building, where plumbing fixtures and fittings are installed as part of the renovation. Limited renovation may not be the basis for a comprehensive or broader change in plumbing fixtures.~~

**SECTION 21.** 40-1-102 (3), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-1-102. Definitions.** As used in articles 1 to 7 of this title, unless the context otherwise requires:

(3) "Common carrier" means every person directly or indirectly affording a means of transportation, or any service or facility in connection therewith, within this state by railroad, motor vehicle, aircraft, or other vehicle whatever by indiscriminately accepting and carrying for compensation passengers or property, ~~including sludge and fly ash, but not including ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials,~~ between fixed points or over established routes or otherwise and includes lessees, trustees, or receivers thereof, whether appointed by a court or otherwise; except that "common carrier" does not include a ridesharing arrangement, as defined in section 10-4-707.5 (2), C.R.S., ~~a carrier of household goods, as defined in section 40-14-101,~~ or a motor vehicle carrier exempt from regulation as a public utility, as defined in section 40-16-101 (4).

**SECTION 22.** 40-1-103 (3), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-1-103. Public utility defined.** (3) For the purposes of articles 1 to 7 of this title, ~~persons hauling ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials, except sludge or fly ash; operators of amusement rides, as defined in section 40-10-101 (3), carriers of household goods, as defined in section 40-14-101;~~ and motor vehicle carriers exempt from regulation as public utilities, as defined in section 40-16-101 (4), are not considered to be public utilities.

**SECTION 23.** 40-7-112 (1), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-7-112. Carriers subject to civil penalties.** (1) Any person who operates a motor vehicle carrier as defined in section 40-10-101 (4) (a), a contract carrier by motor vehicle as defined in section 40-11-101 (3), a towing carrier as defined in section 40-13-101 (3), ~~a carrier of household goods as defined in section 40-14-101 (2),~~ and those motor vehicle carriers exempt from regulation as public utilities as defined in section 40-16-101 (1) to (5), AND INTERSTATE CARRIERS REQUIRED TO REGISTER UNDER SECTION 40-10-120 OR 40-11-115 shall be subject to civil penalties as provided in this section and sections 40-7-113 to 40-7-116, which shall be paid and credited to the general fund, in addition to any other sanctions which may be imposed pursuant to law.

**SECTION 24.** The introductory portion to 40-7-113 (1) and 40-7-113 (1) (f), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

**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 any provision of article 10, 11, 13, ~~14,~~ or 16 of this title or any rule or regulation promulgated by the commission pursuant to such articles, which provision or rule or regulation is applicable to such person, may be subject to fines as specified in the following paragraphs:

(f) Any person who operates a charter or scenic bus as defined in section 40-16-101 (1), ~~a courier~~ PROPERTY CARRIER BY MOTOR VEHICLE as defined in section 40-16-101 (6.5), a luxury limousine as defined in section 40-16-101 (3), or an off-road scenic charter as defined in section 40-16-101 (5) without having first registered with the commission as required by section 40-16-103 may be assessed a civil penalty of not more than four hundred dollars.

**SECTION 25.** 40-7-116, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-7-116. Enforcement of civil penalties against carriers.** Investigative personnel of the commission AND PERSONNEL OF THE PORTS OF ENTRY AND THE COLORADO STATE PATROL shall have the authority to issue civil penalty assessments for the violations enumerated in sections 40-7-113 and 40-7-114. When a person is cited for such violation, the person operating the motor vehicle involved shall be given notice of such violation in the form of a civil penalty assessment notice. Such

notice shall be tendered by the enforcement official, either in person or by registered CERTIFIED mail, and shall contain: The name and address of such person; ~~the license plate number of the motor vehicle involved, if any; the driver's license number of such person;~~ the nature of the violation; the ~~range of~~ MAXIMUM penalty amounts prescribed for such violation; the date of the notice; a place for such person to execute a signed acknowledgment of receipt of the civil penalty assessment notice; a place for such person to execute a signed acknowledgment of liability for the cited violation; and such other information as may be required by law to constitute notice of a complaint to appear for hearing if the prescribed penalty is not paid within ten days. Every cited person shall execute the signed acknowledgment of receipt of the civil penalty assessment notice. The acknowledgment of liability shall be executed at the time the cited person pays the prescribed penalty. The person cited shall pay the civil penalty specified for the violation involved at the office of the commission, either in person or by depositing such payment postpaid in the United States mail within ten days of the issuance of the citation. If the person cited does not pay the prescribed penalty within ten days of the issuance of the notice, the civil penalty assessment notice shall constitute a complaint to appear before the commission. ~~at the time, on the date, and at the place specified, to set the alleged violation~~ THE PERSON CITED SHALL CONTACT THE COMMISSION ON OR BEFORE THE TIME AND DATE SPECIFIED IN THE NOTICE TO SET THE COMPLAINT for a hearing on the merits in accordance with section 40-6-109. IF THE PERSON CITED FAILS TO CONTACT THE COMMISSION ON OR BEFORE THE TIME AND DATE SPECIFIED, THE COMMISSION SHALL SET THE COMPLAINT FOR HEARING. At such hearing, the commission shall have the burden of demonstrating a violation by a preponderance of the evidence.

**SECTION 26.** 42-7-510 (1), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

**42-7-510. Insurance or bond required.** (1) Every owner of a truck which is subject to the registration fee imposed pursuant to section 42-3-134 (13) (b), (13) (c), or (15) and which is not subject to regulation by the public utilities commission under article 10, 11, ~~or 13, OR 16~~ of title 40, C.R.S., ~~and every owner of a motor vehicle used for transporting sand, gravel, rock, dirt, stone, insulrock, road surfacing materials used in the construction of roads and highways except such road surfacing materials as are transported in tank vehicles, houses or other buildings excluding manufactured housing, as defined in section 40-10-104 (3), C.R.S., timber, rough lumber, logs, or wooden poles~~ before operating or permitting the operation of such vehicle upon any public highway in this state shall have in each such vehicle a motor vehicle liability insurance policy or a certificate evidencing such policy issued by an insurance carrier or insurer authorized to do business in the state of Colorado, or a copy of a valid certificate of self-insurance issued pursuant to section 10-4-716, C.R.S., or a surety bond issued by a company authorized to do a surety business in the state of Colorado in the sum of fifty thousand dollars for damages to property of others; the sum of one hundred thousand dollars for damages for or on account of bodily injury or death of one person as a result of any one accident; and, subject to such limit as to one person, the sum of three hundred thousand dollars for or on account of bodily injury to or death of all persons as a result of any one accident.

**SECTION 27.** 40-2-110.5 (1), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-2-110.5. Annual fees - motor carriers.** (1) Every motor vehicle carrier which has been issued a certificate pursuant to section 40-10-104, every contract carrier by motor vehicle which has been issued a permit pursuant to section 40-11-103, ~~carriers of household goods,~~ and motor vehicle carriers exempt from regulation as public utilities shall pay an annual identification fee of five dollars to the commission for each motor vehicle said carrier owns, controls, operates, or manages. Said fees shall be valid for the period of ~~February 1~~ JANUARY 1 through ~~January 31~~ DECEMBER 31 of the following year and shall be valid only for those specific vehicles for which the fee has been paid. ~~Moneys derived from fees collected from carriers of household goods pursuant to this subsection (1) shall be exempt from any limitations imposed by section 43-4-201 (3) (a) (II), C.R.S.~~

**SECTION 28. Repeal.** Articles 14 and 16.5 of title 40, Colorado Revised Statutes, 1993 Repl. Vol., as amended, are repealed.

**SECTION 29. Appropriation - adjustment to 1994 long bill.** For the implementation of this act, the annual general appropriation act for the fiscal year beginning July 1, 1994, shall be adjusted by decreasing the FTE authorization to the department of regulatory agencies, public utilities commission, by 1.1 FTE. To accommodate the one-time transition costs associated with the transfer of employees whose duties are no longer required under this act to fill existing vacant positions in accordance with applicable personnel rules, the dollar amount appropriated from the motor carrier cash fund is reduced by only twenty-eight thousand five hundred fifty-nine dollars (\$28,559).

**SECTION 30. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 31, 1995