

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0063.02 Jery Payne x2157

HOUSE BILL 22-1314

HOUSE SPONSORSHIP

Ricks and Hooton,

SENATE SPONSORSHIP

Gonzales,

House Committees
Business Affairs & Labor

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)(II), and (4) introductory portion; and
4 **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 TELEPHONE AND BY
8 SENDING a notice by certified mail, return receipt requested, to the address
9 of the owner and any lienholder as determined from records of the
10 department or from the national search performed by the department IN
11 ACCORDANCE WITH SUBSECTION (3)(c)(IV) OF THIS SECTION.

12 (II) The operator ~~shall~~ IS not ~~be~~ entitled to recover any daily
13 storage fees from the day the vehicle is towed until the day the OPERATOR
14 SENDS THE owner and ANY lienholder ~~are notified, unless the operator~~
15 ~~reasonably attempts to notify the owner and lienholder by the date~~
16 ~~specified in subparagraph (I) of this paragraph (c). Sending a notice by~~
17 ~~certified mail, return receipt requested, to the owner and the lienholder as~~
18 ~~represented in department records shall be deemed a reasonable attempt~~
19 ~~to notify the owner and the lienholder. Failure to notify the owner and the~~
20 ~~lienholder due to the receipt of erroneous information from the~~
21 ~~department shall not cause the loss of such storage fees accrued from the~~
22 ~~date the vehicle is towed until the owner and the lienholder receive such~~
23 ~~notice~~ THE NOTICE REQUIRED IN SUBSECTION (3)(c)(I) OF THIS SECTION.

24 (4) Within three days after the receipt of the records set forth in
25 subsection (3)(c) of this section from the department, the operator shall
26 notify BY TELEPHONE AND by certified mail the owner of record, including
27 an out-of-state owner of record. The operator shall make a reasonable

1 effort to ascertain the address of the owner of record. The notice must
2 contain the following information:

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

4 **SECTION 2.** In Colorado Revised Statutes, 42-4-2104, **amend**
5 (4) as follows:

6 **42-4-2104. Appraisal of abandoned motor vehicles - sale.**

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

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

13 **42-4-2105. Liens upon towed motor vehicles.** (1) Whenever an
14 operator who is registered with the department in accordance with
15 subsection (2) of this section recovers, removes, or stores a motor vehicle
16 upon instructions from the owner of record OR any other legally
17 authorized person in control of ~~such~~ THE motor vehicle, ~~or from the~~
18 ~~owner or lessee of real property upon which a motor vehicle is illegally~~
19 ~~parked or such owner's or lessee's agent authorized in writing, such~~ THE
20 operator ~~shall have~~ HAS a possessory lien, subject to the provisions of
21 section 42-4-2103 (3), upon ~~such~~ THE motor vehicle ~~and its attached~~
22 ~~accessories, equipment, and personal property~~ for all the costs and fees
23 for recovering, towing, and storage as authorized in section 42-4-2108.
24 ~~Such~~ THE lien ~~shall be~~ IS a first and prior lien on the motor vehicle, and
25 ~~such lien shall be~~ IS satisfied before all other charges against ~~such~~ THE
26 motor vehicle. This subsection (1) shall not apply to personal property if
27 subsection (3) of this section applies to such personal property.

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

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

9 **42-4-2106. Perfection of lien.** The lien provided for in section
10 42-4-2105 ~~shall be~~ IS perfected by taking physical possession of the motor
11 vehicle ~~and its attached accessories, equipment, or personal property~~ and
12 by sending to the department, within ten working days after the time
13 possession was taken, a notice containing the information required in the
14 report to be made under ~~the provisions of~~ section 42-4-2103. ~~In addition,~~
15 ~~such~~ THE report ~~shall~~ MUST contain a declaration by the operator that a
16 possessory lien is claimed for all past, present, and future charges, up to
17 the date of redemption, and that the lien is enforceable and may be
18 foreclosed pursuant to the provisions of this part 21.

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

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

1 (2) ~~Within five days after foreclosure of the lien pursuant to this~~
2 ~~section~~ AT LEAST FIVE DAYS BEFORE A VEHICLE IS SOLD IN ACCORDANCE
3 WITH SUBSECTION (1) OF THIS SECTION, the operator shall send a notice to
4 the law enforcement agency having jurisdiction over the operator. ~~Such~~
5 ~~notice shall~~ THE NOTICE MUST contain a list of personal property found
6 within the abandoned vehicle that has an intact serial or identification
7 number and ~~such~~ EACH serial or identification number. ~~Such notification~~
8 ~~shall be made~~ THE OPERATOR SHALL DELIVER THE NOTICE by certified
9 mail, facsimile machine, or personal delivery.

10 **SECTION 6.** In Colorado Revised Statutes, 42-4-2108, **amend**
11 (1) as follows:

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

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

27 **SECTION 7.** In Colorado Revised Statutes, 40-10.1-101, **amend**

1 (13); and **add** (1.5), (4.5), (6.5), and (13.5) as follows:

2 **40-10.1-101. Definitions.** As used in this article 10.1, unless the
3 context otherwise requires:

4 (1.5) "AUTHORIZED OR INTERESTED PERSON" MEANS:

5 (a) THE VEHICLE OWNER, AUTHORIZED OPERATOR, OR AUTHORIZED
6 AGENT OF THE OWNER OF THE VEHICLE;

7 (b) THE LIENHOLDER OF THE VEHICLE OR AGENT OF THE
8 LIENHOLDER OF THE VEHICLE; OR

9 (c) IF THE OWNER SIGNS A RELEASE AUTHORIZING AN INSURANCE
10 COMPANY TO ACT ON BEHALF OF THE OWNER, THE INSURANCE COMPANY
11 OR AGENT OF THE INSURANCE COMPANY PROVIDING INSURANCE
12 COVERAGE ON THE VEHICLE.

13 (4.5) "COMMON PARKING AREA" MEANS ANY PART OF THE
14 FOLLOWING AREAS THAT ARE NORMALLY USED FOR PARKING, SUCH AS THE
15 SIDE OF A STREET OR PARKING SPACES, THAT AN OWNER DOES NOT HAVE
16 THE RIGHT TO EXCLUDE OTHER RESIDENTS OF THE FOLLOWING FROM USING
17 FOR PARKING:

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

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

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

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

24 (6.5) "DROP FEE" MEANS A FEE A TOWING OPERATOR CHARGES TO
25 UNHOOK A VEHICLE FROM A TOW TRUCK.

26 (13) "Nonconsensual towing", ~~or~~ "nonconsensual tow", "TOWED
27 NONCONSENSUALLY", "NONCONSENSUALLY TOW", OR "TOWED WITHOUT

1 CONSENT" means the transportation of a ~~motor~~ vehicle by tow truck FROM
2 PRIVATE PROPERTY if ~~such~~ THE transportation is performed without the
3 prior consent ~~or authorization~~ of:

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

6 (b) THE LIENHOLDER OF THE VEHICLE OR AGENT OF THE
7 LIENHOLDER, UNLESS THE VEHICLE IS BEING TOWED FOR THE PURPOSE OF
8 REPOSSESSION UNDER A LIEN AGREEMENT; OR

9 (c) IF THE OWNER SIGNS A RELEASE AUTHORIZING AN INSURANCE
10 COMPANY TO ACT ON BEHALF OF THE OWNER, THE INSURANCE COMPANY
11 OR AGENT OF THE INSURANCE COMPANY PROVIDING INSURANCE
12 COVERAGE ON THE VEHICLE.

13 (13.5) "OFFICE" MEANS THE OFFICE OF TOW HEARINGS CREATED IN
14 SECTION 40-10.1-407.

15 **SECTION 8.** In Colorado Revised Statutes, **add** 40-10.1-405,
16 40-10.1-406, 40-10.1-407, 40-10.1-408, 40-10.1-409, 40-10.1-410, and
17 40-10.1-411 as follows:

18 **40-10.1-405. Nonconsensual tows - rights of owners, operators,**
19 **and lienholders - rules. (1) Towing fees. (a) (I) FOR A VEHICLE TOWED**
20 **WITHOUT CONSENT, A TOWING CARRIER SHALL NOT CHARGE THE**
21 **AUTHORIZED OR INTERESTED PERSON RATES THAT EXCEED THE RATES**
22 **THAT THE TOWING CARRIER CHARGES, INCLUDING ANY DISCOUNTS, FOR A**
23 **VEHICLE TOWED WITH THE OWNER'S CONSENT. THESE RATES INCLUDE THE**
24 **BASE RATE FOR TOWING THE VEHICLE, MILEAGE CHARGES, FUEL**
25 **SURCHARGES, STORAGE CHARGES, AND RELEASE CHARGES.**

26 (II) THIS SUBSECTION (1)(a) DOES NOT APPLY TO AN ACTION
27 REQUIRED TO BE PERFORMED UNDER PART 18 OR 21 OF ARTICLE 4 OF TITLE

1 42 FOR WHICH, WHEN A VEHICLE IS TOWED WITH THE OWNER'S CONSENT,
2 THE OWNER IS NOT CHARGED.

3 (b) A TOWING CARRIER SHALL ANNUALLY FILE WITH THE
4 COMMISSION A SCHEDULE OF RATES THAT THE TOWING CARRIER CHARGES
5 FOR EACH SERVICE PROVIDED FOR VEHICLES TOWED WITH THE OWNER'S
6 CONSENT AND VEHICLES TOWED WITHOUT CONSENT. THE TOWING CARRIER
7 SHALL POST AT A CONSPICUOUSLY VISIBLE SPACE WHERE PAYMENTS ARE
8 MADE THE RATES REQUIRED TO BE FILED WITH THE COMMISSION ON A SIGN
9 THAT HAS LETTERS:

10 (I) AT LEAST ONE AND ONE-HALF INCHES IN HEIGHT AND AT LEAST
11 ONE INCH IN WIDTH; AND

12 (II) THAT CONTRAST WITH THE BACKGROUND ON WHICH THE
13 LETTERS ARE PLACED.

14 (c) (I) A TOWING CARRIER SHALL ACCEPT:

15 (A) CASH;

16 (B) MAJOR CREDIT CARDS; AND

17 (C) OTHER FORMS OF PAYMENT REQUIRED BY RULE OF THE
18 COMMISSION.

19 (II) THE COMMISSION SHALL PROMULGATE A RULE DEFINING WHAT
20 QUALIFIES AS A MAJOR CREDIT CARD FOR THE PURPOSES OF THIS
21 SUBSECTION (1)(c).

22 (d) A TOWING CARRIER SHALL NOT:

23 (I) CHARGE STORAGE FEES FOR ANY TWENTY-FOUR-HOUR PERIOD
24 DURING WHICH THE TOWING CARRIER DID NOT STORE THE VEHICLE; AND

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

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

6 (I) TAKING AT LEAST FOUR PHOTOGRAPHS OF THE VEHICLE, WITH
7 AT LEAST ONE PHOTOGRAPH TAKEN FROM THE FRONT, ONE PHOTOGRAPH
8 TAKEN FROM THE REAR, ONE PHOTOGRAPH TAKEN FROM THE DRIVER'S
9 SIDE, AND ONE PHOTOGRAPH TAKEN FROM THE PASSENGER'S SIDE. THESE
10 PHOTOGRAPHS MUST:

- 11 (A) SHOW THE ENTIRE VEHICLE FROM THE REQUIRED ANGLE;
- 12 (B) HAVE THE VEHICLE FILL AT LEAST THREE-FOURTHS OF THE
13 PHOTOGRAPH, MEASURED FROM SIDE TO SIDE; AND
- 14 (C) BE RENDERED IN A RESOLUTION OF AT LEAST TWO THOUSAND
15 PIXELS BY AT LEAST TWO THOUSAND PIXELS.

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

- 18 (A) SHOW THE POSITION OF THE VEHICLE IN RELATION TO THE
19 REASON, INCLUDING ANY SIGN, THAT THE VEHICLE WAS TOWED; AND
- 20 (B) BE RENDERED IN A RESOLUTION OF AT LEAST TWO THOUSAND
21 PIXELS BY AT LEAST TWO THOUSAND PIXELS.

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

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

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

4 (B) A VEHICLE HAS SUFFERED DAMAGE.

5 (II) A TOWING CARRIER'S FAILURE TO PRODUCE A PHOTOGRAPH OF
6 THE REASON FOR THE TOW IN COMPLIANCE WITH SUBSECTION (2)(b) OF
7 THIS SECTION CREATES A REBUTTABLE PRESUMPTION THAT THE TOWING
8 CARRIER DID NOT HAVE AUTHORIZATION TO TOW A VEHICLE.

9 (d) DURING BUSINESS HOURS OR WHEN A VEHICLE IS BEING
10 RELEASED, A TOWING CARRIER SHALL MAINTAIN AN AREA AT EACH
11 STORAGE FACILITY WITH LIGHTING THAT IS ADEQUATE TO ALLOW A
12 PERSON TO INSPECT A VEHICLE FOR DAMAGE PRIOR TO ITS RELEASE FROM
13 STORAGE.

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

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

19 (II) THE REMOVAL IS EXPRESSLY AUTHORIZED BY COURT ORDER OR
20 OPERATION OF LAW;

21 (III) THE VEHICLE BLOCKS A DRIVEWAY OR ROADWAY ENOUGH TO
22 EFFECTIVELY OBSTRUCT A PERSON'S ACCESS TO THE DRIVEWAY OR
23 ROADWAY; OR

24 (IV) THE TOWING CARRIER HAS RECEIVED PERMISSION TO TOW THE
25 VEHICLE, WITHIN THE TWENTY-FOUR HOURS IMMEDIATELY PRECEDING THE
26 TOW, FROM:

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

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

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

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

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

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

18 (C) THE REMOVAL IS EXPRESSLY AUTHORIZED BY COURT ORDER OR
19 OPERATION OF LAW; OR

20 (D) THE VEHICLE BLOCKS A DRIVEWAY OR ROADWAY ENOUGH TO
21 EFFECTIVELY OBSTRUCT A PERSON'S ACCESS TO THE DRIVEWAY OR
22 ROADWAY.

23 (II) THE TOWING CARRIER OR PROPERTY OWNER SHALL PROVIDE
24 THE NOTICE DESCRIBED IN SUBSECTION (3)(b)(I) OF THIS SECTION BY:

25 (A) TELEPHONE; OR

26 (B) PLACING A WRITTEN NOTICE ON THE WINDSHIELD OF THE
27 VEHICLE AT LEAST TWENTY-FOUR HOURS BEFORE TOWING THE VEHICLE.

1 (III) THE NOTICE MUST STATE CLEARLY:
2 (A) THAT THE VEHICLE WILL BE TOWED WITHOUT CONSENT IF THE
3 VEHICLE REMAINS PARKED INAPPROPRIATELY;
4 (B) A DESCRIPTION OF THE INAPPROPRIATE PARKING THAT HAS
5 CAUSED THE NOTICE TO BE GIVEN;
6 (C) THE TIME THE VEHICLE WILL BE TOWED IF IT IS NOT MOVED TO
7 APPROPRIATE PARKING; AND
8 (D) THAT CONTINUING TO PARK INAPPROPRIATELY IN THE SAME
9 MANNER MAY LEAD TO THE VEHICLE BEING TOWED WITHOUT NOTICE.
10 (IV) IF THE VEHICLE IS PARKED A THIRD OR SUBSEQUENT TIME IN
11 THE SAME INAPPROPRIATE MANNER THAT CAUSED IT TO RECEIVE PREVIOUS
12 NOTICES, THE TOWING CARRIER OR PROPERTY OWNER NEED NOT GIVE THE
13 NOTICE REQUIRED IN SUBSECTION (3)(b)(I) OF THIS SECTION BEFORE
14 TOWING THE VEHICLE.
15 (V) FOR PURPOSES OF THIS SUBSECTION (3)(b), A VEHICLE IS
16 PARKED INAPPROPRIATELY WHEN IT IS PARKED IN A MANNER THAT:
17 (A) VIOLATES THE PROCEDURES NECESSARY TO OBTAIN
18 AUTHORIZATION TO PARK IN THE LOT OR SPACE;
19 (B) FAILS TO COMPLY WITH THE PROPERTY OWNER'S SIGNS OR THE
20 AGREEMENTS OF THE TENANTS; OR
21 (C) VIOLATES A STATUTE, RULE, ORDINANCE, OR RESOLUTION OF
22 THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.
23 (c) AN AUTHORIZED OR INTERESTED PERSON MAY SEEK TO
24 RECOVER DAMAGES, INCLUDING ECONOMIC DAMAGES, CAUSED BY THE
25 TOWING CARRIER FROM THE TOWING CARRIER IN ACCORDANCE WITH
26 PROCEDURES SET FORTH IN SECTION 40-10.1-407 IF THE VEHICLE HAS BEEN
27 TOWED FROM PRIVATE PROPERTY IN VIOLATION OF THIS SUBSECTION (3).

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

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

10 (I) STATE THE NAME OF THE BUSINESS, TELEPHONE NUMBER, AND
11 HOURS OF OPERATION;

12 (II) STATE: "A VEHICLE THAT IS NONCONSENSUALLY TOWED FROM
13 PRIVATE PROPERTY MAY BE RETRIEVED EVEN IF THE OWNER DOES NOT PAY
14 THE TOWING CARRIER'S FEES, BUT THE OWNER STILL OWES THE TOWING
15 CARRIER THOSE FEES."

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

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

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

20 (VI) BE PRINTED IN ENGLISH AND SPANISH.

21 (c) UPON REQUEST, A TOWING CARRIER SHALL PROVIDE TO AN
22 AUTHORIZED OR INTERESTED PERSON AN ITEMIZED BILL SHOWING EACH
23 CHARGE AND THE RATE FOR EACH FEE THAT THE AUTHORIZED OR
24 INTERESTED PERSON HAS INCURRED AS A RESULT OF A NONCONSENSUAL
25 TOW.

26 (d) UPON REQUEST, A TOWING CARRIER SHALL DISCLOSE ACCEPTED
27 FORMS OF PAYMENT, INCLUDING THOSE REQUIRED TO BE ACCEPTED IN

1 ACCORDANCE WITH SUBSECTION (1)(c) OF THIS SECTION.

2 (e) IF A TOWING CARRIER HAS NONCONSENSUALLY TOWED A
3 VEHICLE FROM PRIVATE PROPERTY, THE TOWING CARRIER SHALL GIVE THE
4 AUTHORIZED OR INTERESTED PERSON THAT IS RETRIEVING THE VEHICLE A
5 WRITTEN NOTICE OF THE PERSON'S ABILITY TO MAKE A COMPLAINT TO THE
6 COMMISSION. THE NOTICE:

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

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

11 (f) (I) A TOWING CARRIER SHALL NOT PERFORM A
12 NONCONSENSUAL TOW OF A VEHICLE, OTHER THAN AN ABANDONED
13 MOTOR VEHICLE AS DEFINED IN SECTION 42-4-2102 (1), FROM PRIVATE
14 PROPERTY NORMALLY USED FOR PARKING UNLESS:

15 (A) NOTICE OF THE PARKING REGULATIONS WAS PROVIDED TO THE
16 VEHICLE OPERATOR WHEN THE VEHICLE ENTERED THE PRIVATE PROPERTY
17 AND PARKED; AND

18 (B) NOTICE THAT ANY VEHICLE PARKED IN VIOLATION OF THE
19 REGULATIONS IS SUBJECT TO TOW AT THE VEHICLE OWNER'S EXPENSE WAS
20 PROVIDED TO THE VEHICLE OPERATOR WHEN THE VEHICLE ENTERED THE
21 PRIVATE PROPERTY AND PARKED.

22 (II) A PROPERTY OWNER WITH TENANTS SHALL PROVIDE THE
23 NOTICE DESCRIBED IN THIS SUBSECTION (4)(f) BY ISSUING EACH TENANT
24 A WRITTEN DOCUMENT CONTAINING ANY APPLICABLE PARKING
25 REGULATIONS BEFORE THE REGULATIONS ARE ADOPTED OR AMENDED OR
26 BEFORE THE PERSON AGREES TO BE A TENANT AND BY POSTING SIGNS
27 THAT:

- 1 (A) ARE NO LESS THAN ONE SQUARE FOOT IN SIZE;
- 2 (B) HAVE LETTERING NOT LESS THAN ONE INCH IN HEIGHT;
- 3 (C) HAVE LETTERING THAT CONTRASTS WITH THE BACKGROUND
- 4 ON WHICH THE LETTERS ARE PLACED;
- 5 (D) STATE: "AUTHORIZED PARKING ONLY";
- 6 (E) INCLUDE THE NAME AND TELEPHONE NUMBER OF THE TOWING
- 7 CARRIER AUTHORIZED TO PERFORM TOWS FROM THE PRIVATE PROPERTY;
- 8 (F) ARE PRINTED IN ENGLISH AND SPANISH;
- 9 (G) ARE PLACED AT THE ENTRANCE TO THE PRIVATE PROPERTY,
- 10 FACE OUTWARD TOWARD THE STREET, AND ARE VISIBLE PRIOR TO
- 11 ENTERING AND UPON ENTERING THE PRIVATE PROPERTY;
- 12 (H) ARE PLACED INSIDE THE AREA USED FOR PARKING, FACE
- 13 TOWARD THE PARKING SPACES, AND, IF THE PRIVATE PROPERTY IS NOT
- 14 PROVIDED FOR RESIDENTIAL PARKING AND HAS MORE THAN TEN
- 15 FREESTANDING LAMPPOSTS ON THE PROPERTY, ARE POSTED ON EACH
- 16 LAMPPOST OR POSTED UPRIGHT NEAR EACH LAMPPOST;
- 17 (I) ARE NOT OBSTRUCTED OR PLACED IN SUCH A MANNER THAT
- 18 PREVENTS VISIBILITY; AND
- 19 (J) ARE NOT PLACED HIGHER THAN EIGHT FEET OR LOWER THAN
- 20 THREE FEET FROM THE GROUND SURFACE CLOSEST TO THE SIGN'S
- 21 PLACEMENT.
- 22 (g) THE TOWING CARRIER SHALL RETAIN EVIDENCE, INCLUDING
- 23 PHOTOGRAPHS OF THE RELEVANT SIGNS, OF GIVING THE NOTICES AND
- 24 DISCLOSURES REQUIRED IN SUBSECTION (4)(f) OF THIS SECTION FOR THREE
- 25 YEARS AFTER THE DATE OF COMPLETION OF A NONCONSENSUAL TOW AND
- 26 PROVIDE THE EVIDENCE TO THE COMMISSION OR AN ENFORCEMENT
- 27 OFFICIAL UPON REQUEST.

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

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

6 (b) IF AN AUTHORIZED OR INTERESTED PERSON REQUESTS THAT A
7 TOWING CARRIER RETURN A VEHICLE OR THE CONTENTS OF A VEHICLE
8 THAT WAS TOWED WITHOUT CONSENT, THE TOWING CARRIER SHALL
9 IMMEDIATELY RETRIEVE OR ALLOW THE AUTHORIZED OR INTERESTED
10 PERSON TO RETRIEVE THE VEHICLE OR ANY CONTENTS IN ACCORDANCE
11 WITH SUBSECTION (6)(a) OF THIS SECTION. THIS SUBSECTION (5)(b) DOES
12 NOT APPLY TO A VEHICLE OR THE CONTENTS OF A VEHICLE IF THE VEHICLE
13 OR THE CONTENTS OF THE VEHICLE ARE SUBJECT TO A HOLD ORDER ISSUED
14 BY A COURT, DISTRICT ATTORNEY, LAW ENFORCEMENT AGENCY, OR PEACE
15 OFFICER.

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

20 (b) A TOWING CARRIER MAY ASSESS A DROP CHARGE TO RELEASE
21 THE VEHICLE AFTER THE VEHICLE IS HOOKED UP TO THE TOW TRUCK BUT
22 BEFORE THE VEHICLE IS REMOVED FROM THE PROPERTY.

23 (c) IF APPROACHED BY AN AUTHORIZED OR INTERESTED PERSON,
24 THE TOWING CARRIER SHALL NOTIFY THE AUTHORIZED OR INTERESTED
25 PERSON:

26 (I) THAT THE TOWING CARRIER IS REQUIRED TO RELEASE THE
27 VEHICLE IF THE AUTHORIZED OR INTERESTED PERSON PAYS A DROP

1 CHARGE; AND

2 (II) OF THE ACCEPTABLE FORMS OF PAYMENT, INCLUDING THOSE
3 REQUIRED IN SUBSECTION (1)(c) OF THIS SECTION.

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

7 (7) **No towing for expired registration.** UNLESS THE TOW IS
8 BASED ON AN ORDER GIVEN BY A PEACE OFFICER, A TOWING CARRIER
9 SHALL NOT TOW A VEHICLE FROM PRIVATE PROPERTY BECAUSE THE REAR
10 LICENSE PLATE OF THE VEHICLE INDICATES THAT THE VEHICLE'S
11 REGISTRATION HAS EXPIRED.

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

16 **40-10.1-406. Mediation - when permitted - court actions.**

17 (1) (a) IN ANY CONTROVERSY BETWEEN A TOWING CARRIER AND AN
18 AUTHORIZED OR INTERESTED PERSON ARISING OUT OF A NONCONSENSUAL
19 TOW, THE CONTROVERSY MAY BE SUBMITTED TO MEDIATION BY EITHER
20 PARTY BEFORE FILING A LAWSUIT OR INITIATING PROCEEDINGS WITH THE
21 OFFICE.

22 (b) EITHER PARTY TO THE MEDIATION MAY TERMINATE THE
23 MEDIATION PROCESS AT ANY TIME WITHOUT PREJUDICE.

24 (c) UPON AGREEMENT OF THE PARTIES TO A MEDIATED
25 SETTLEMENT, THE CONTROVERSY IS SUBJECT TO SUBSECTION (2) OF THIS
26 SECTION.

27 (2) (a) A MEDIATED SETTLEMENT AGREEMENT, IF ONE IS REACHED,

1 MAY BE PRESENTED TO A COURT, A HEARING OFFICER, OR AN
2 ADMINISTRATIVE LAW JUDGE AS A STIPULATION.

3 (b) IF EITHER PARTY SUBSEQUENTLY VIOLATES THE STIPULATION,
4 THE OTHER PARTY MAY APPLY IMMEDIATELY TO A COURT OR THE OFFICE
5 FOR RELIEF. THE COURT OR THE OFFICE MAY ISSUE ORDERS ENFORCING
6 THE STIPULATIONS.

7 **40-10.1-407. Office of tow hearings - rules.** (1) THE OFFICE OF
8 TOW HEARINGS IS HEREBY CREATED WITHIN THE COMMISSION, THE HEAD
9 OF WHICH IS THE DIRECTOR OF THE OFFICE. THE DIRECTOR SHALL EMPLOY
10 HEARING OFFICERS OR USE ADMINISTRATIVE LAW JUDGES TO ADJUDICATE
11 DISPUTES BETWEEN TOWING CARRIERS AND AUTHORIZED OR INTERESTED
12 PERSONS IN CONNECTION WITH NONCONSENSUALLY TOWED VEHICLES.

13 (2) (a) AN AUTHORIZED OR INTERESTED PERSON WHO SUFFERS
14 DAMAGES FROM A NONCONSENSUAL TOW MAY INSTITUTE PROCEEDINGS BY
15 FILING A COMPLAINT WITH THE OFFICE AND NOTIFYING THE TOWING
16 CARRIER IN WRITING OF THE COMPLAINT, INCLUDING THE CONTENTS OF
17 THE COMPLAINT. AN AUTHORIZED OR INTERESTED PERSON MUST FILE THE
18 COMPLAINT WITHIN NINETY DAYS AFTER THE LATER OF:

19 (I) THE DATE THE VEHICLE IS TOWED;

20 (II) THE DATE THE VEHICLE IS RETURNED TO THE AUTHORIZED OR
21 INTERESTED PERSON; OR

22 (III) THE DATE THE CONTROVERSY IS SETTLED THROUGH
23 MEDIATION PURSUANT TO SECTION 40-10.1-406.

24 (b) THE COMPLAINT NEED ONLY LIST THE ALLEGED VIOLATION AND
25 A SHORT SUMMARY OF THE ALLEGED FACTS THAT SUPPORT FINDING A
26 VIOLATION.

27 (3) THE OFFICE SHALL CONDUCT PROCEEDINGS AUTHORIZED BY

1 THIS SECTION IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24.

2 (4) (a) HEARING OFFICERS EMPLOYED BY THE DIRECTOR OF THE
3 OFFICE AND ADMINISTRATIVE LAW JUDGES USED BY THE DIRECTOR OF THE
4 OFFICE ARE AUTHORIZED TO HOLD HEARINGS TO DETERMINE WHETHER:

5 (I) A TOWING CARRIER HAS FAILED TO COMPLY WITH THIS ARTICLE
6 10.1, ARTICLE 20 OF TITLE 38, OR PART 18 OR 21 OF ARTICLE 4 OF TITLE 42
7 OR ANY RULE PROMULGATED UNDER THIS ARTICLE 10.1 OR PART 18 OR 21
8 OF ARTICLE 4 OF TITLE 42;

9 (II) A FAILURE DESCRIBED IN SUBSECTION (4)(a)(I) OF THIS
10 SECTION CAUSED DAMAGES TO THE VEHICLE OWNER OR LIENHOLDER; OR

11 (III) A TOWING CARRIER DAMAGED A VEHICLE WHILE CONNECTING
12 A TOWING VEHICLE TO THE VEHICLE, POSSESSING THE VEHICLE, OR
13 RETURNING THE VEHICLE TO THE AUTHORIZED OR INTERESTED PERSON.

14 (b) IF A HEARING OFFICER OR AN ADMINISTRATIVE LAW JUDGE
15 DETERMINES UNDER SUBSECTION (4)(a) OF THIS SECTION THAT THE
16 AUTHORIZED OR INTERESTED PERSON IS ENTITLED TO AN AWARD OF
17 DAMAGES, THE HEARING OFFICER OR ADMINISTRATIVE LAW JUDGE MAY
18 ISSUE AN ORDER REQUIRING THE TOWING CARRIER TO REIMBURSE THE
19 AUTHORIZED OR INTERESTED PERSON FOR THE DAMAGES, INCLUDING
20 ATTORNEY FEES IF AUTHORIZED PURSUANT TO SECTION 40-10.1-408 (2).
21 THE HEARING OFFICER OR ADMINISTRATIVE LAW JUDGE MAY MAKE THE
22 DETERMINATION BASED ON STIPULATIONS.

23 (5) A FINAL ACTION OF A HEARING OFFICER OR ADMINISTRATIVE
24 LAW JUDGE IS SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH
25 SECTION 24-4-106.

26 (6) THE COMMISSION MAY PROMULGATE RULES TO GOVERN THE
27 PROCEEDINGS AUTHORIZED BY THIS SECTION.

1 **40-10.1-408. Failure to comply. (1) No fees.** (a) IF A TOWING
2 CARRIER FAILS TO COMPLY WITH SECTION 40-10.1-405, THE TOWING
3 CARRIER:

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

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

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

10 (I) THE VEHICLE WAS TOWED NONCONSENSUALLY; AND

11 (II) THE TOWING CARRIER FAILED TO COMPLY WITH SECTION
12 40-10.1-405.

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

16 (a) THE VEHICLE WAS TOWED NONCONSENSUALLY;

17 (b) A COURT, ADMINISTRATIVE LAW JUDGE, OR HEARING OFFICER
18 HOLDS THAT:

19 (I) THE TOWING CARRIER FAILED TO COMPLY WITH THIS ARTICLE
20 10.1, ARTICLE 20 OF TITLE 38, OR PART 18 OR 21 OF ARTICLE 4 OF TITLE 42
21 OR ANY RULE PROMULGATED UNDER THIS ARTICLE 10.1 OR PART 18 OR 21
22 OF ARTICLE 4 OF TITLE 42, AND THIS FAILURE CAUSED DAMAGES,
23 INCLUDING ECONOMIC DAMAGES, TO THE VEHICLE OWNER OR
24 LIENHOLDER; OR

25 (II) THE TOWING CARRIER DAMAGED A VEHICLE WHILE
26 CONNECTING IT TO A TOWING VEHICLE, WHILE POSSESSING THE VEHICLE,
27 OR WHILE RETURNING THE VEHICLE TO AN AUTHORIZED OR INTERESTED

1 PERSON; AND

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

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

15 **40-10.1-409. Records.** (1) A TOWING CARRIER SHALL RECORD
16 THE FOLLOWING INFORMATION FOR EACH NONCONSENSUAL TOW:

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

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

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

22 (d) THE MAKE, MODEL, YEAR, COMPLETE VEHICLE IDENTIFICATION
23 NUMBER, AND LICENSE PLATE NUMBER OF THE TOWED VEHICLE;

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

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

1 (g) THE PRINTED NAME AND SIGNATURE OF THE TOW TRUCK
2 DRIVER;

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

4 (i) THE SIGNATURE OF THE PERSON TO WHOM THE VEHICLE IS
5 RELEASED; EXCEPT THAT THE TOWING CARRIER MAY WRITE "REFUSED TO
6 SIGN" IF THE PERSON TO WHOM THE VEHICLE IS RELEASED REFUSES TO SIGN
7 THE RELEASE DOCUMENT; AND

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

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

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

11 (III) COMPLETING THE TOW;

12 (IV) NOTIFYING THE APPROPRIATE LAW ENFORCEMENT AGENCY;

13 (V) PLACING THE VEHICLE IN STORAGE; AND

14 (VI) RELEASING THE TOWED VEHICLE FROM STORAGE.

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

22 (3) A TOWING CARRIER SHALL RETAIN THE INFORMATION
23 REQUIRED IN SUBSECTION (1) OF THIS SECTION FOR THREE YEARS AFTER
24 THE TOW COMMENCED.

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

1 PERSON.

2 **40-10.1-410. Kickbacks prohibited.** A TOWING CARRIER SHALL
3 NOT PAY MONEY OR OTHER VALUABLE CONSIDERATION TO A LANDOWNER
4 OR BUSINESS FOR THE PRIVILEGE OF NONCONSENSUALLY TOWING
5 VEHICLES.

6 **40-10.1-411. Violators subject to penalties.** (1) A TOWING
7 CARRIER THAT VIOLATES THIS PART 4 IS SUBJECT TO THE PENALTIES
8 PROVIDED IN SECTION 40-10.1-114.

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

13 **SECTION 9.** In Colorado Revised Statutes, 6-1-105, **add**
14 (1)(ooo) as follows:

15 **6-1-105. Unfair or deceptive trade practices.** (1) A person
16 engages in a deceptive trade practice when, in the course of the person's
17 business, vocation, or occupation, the person:

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

19 **SECTION 10.** In Colorado Revised Statutes, **amend** 38-20-105
20 as follows:

21 **38-20-105. Lien of common carrier.** (1) EXCEPT AS PROVIDED
22 IN SUBSECTION (2) OF THIS SECTION, every common carrier of goods or
23 passengers who, at the request of the owner of any personal goods,
24 carries, conveys, or transports the same from one place to another and
25 every other person who safely keeps or stores any personal property at the
26 request of the owner or person lawfully in possession thereof shall have
27 OF THE PERSONAL PROPERTY HAS a lien upon ~~all such~~ THE personal

1 property for ~~his~~ reasonable charges for the transportation, storage, or
2 keeping ~~thereof~~ OF THE PERSONAL PROPERTY and for all reasonable and
3 proper advances made ~~thereon~~ by ~~him~~ THE COMMON CARRIER OR
4 WAREHOUSE, in accordance with the usage and custom of common
5 carriers and ~~warehousemen~~ WAREHOUSES.

6 (2) IN ACCORDANCE WITH SECTION 40-10.1-405 (5)(a), THIS
7 SECTION DOES NOT GRANT A TOWING CARRIER A LIEN ON A VEHICLE OR
8 THE CONTENTS OF A VEHICLE IF THE VEHICLE WAS TOWED
9 NONCONSENSUALLY, AS DEFINED IN SECTION 40-10.1-101 (13).

10 **SECTION 11. Act subject to petition - effective date.** This act
11 takes effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly; except
13 that, if a referendum petition is filed pursuant to section 1 (3) of article V
14 of the state constitution against this act or an item, section, or part of this
15 act within such period, then the act, item, section, or part will not take
16 effect unless approved by the people at the general election to be held in
17 November 2022 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.