

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 20-0957.01 Jason Gelender x4330

**SENATE BILL 20-118**

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**SENATE SPONSORSHIP**

**Hisey,**

**HOUSE SPONSORSHIP**

**Gray and Valdez D.,**

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**Senate Committees**

Transportation & Energy  
Finance  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

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

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

SENATE  
Amended 2nd Reading  
May 28, 2020

from the public utilities commission to the department of transportation.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 automatically revoked.

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

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

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

20 **42-20-205. Permit suspension or revocation - rules.** In addition  
21 to any other civil or criminal penalties, FOR VIOLATIONS OCCURRING  
22 AFTER MARCH 16, 2020, the ~~public utilities commission~~ DEPARTMENT OF  
23 TRANSPORTATION may suspend ~~the~~ A hazardous materials transportation  
24 annual permit for a period not to exceed six months or may revoke ~~such~~  
25 A permit for failure to comply with the terms and conditions of ~~such~~ THE  
26 permit, for failure to pay a civil penalty assessed pursuant to section  
27 42-20-204, or for continuing violations of the RULES AND regulations

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

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

11 **42-20-402. Definitions.** As used in this part 4 and part 5 of this  
12 **article, unless the context otherwise requires:**

13 **(2) "Commission" means the public utilities commission.**

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

16 **42-20-405. Violations - criminal penalties.** (1) Notwithstanding  
17 **the provisions of section 40-7-107, C.R.S., any person who violates any**  
18 **provision of this part 4 or part 5 of this article 20 or rule or regulation**  
19 **promulgated by the chief pursuant to this part 4 and part 5 of this article**  
20 **20 commits a class 2 misdemeanor and shall be punished as provided in**  
21 **section 18-1.3-501. C.R.S. No conviction pursuant to this section shall**  
22 **bar enforcement by the PUBLIC UTILITIES commission of any provision of**  
23 **title 40 C.R.S., with respect to violations by persons subject to said title.**

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

26 **42-20-406. Violations - civil penalties - motor vehicles.** (1) Any  
27 **person who violates any provision of this part 4 or part 5 of this article 20**

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

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

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

25 (3) The following penalties shall apply only to the transportation  
26 of nuclear materials by motor vehicle and shall be assessed against  
27 drivers, shippers, carriers, operators, brokers, and other persons, as



1 appropriate:

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

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

8 **42-20-501. Nuclear materials transportation permit required**  
9 **- application.** (1) No transportation of nuclear materials shall take place  
10 in, to, from, or through this state until the ~~commission~~ DEPARTMENT OF  
11 TRANSPORTATION issues a permit, in accordance with the provisions of  
12 this section, which is not inconsistent with federal law, authorizing the  
13 applicant to operate or move upon public roads of this state a motor  
14 vehicle or combination of motor vehicles which carry nuclear materials.

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

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

21 **42-20-505. Penalties - permit system.** (1) ~~The investigative~~  
22 ~~personnel of the commission,~~ A Colorado state patrol officer or a port of  
23 entry officer, as defined in section 42-8-102 (3), may assess a civil  
24 penalty of one thousand dollars against a carrier who transports nuclear  
25 materials without first obtaining a nuclear materials transportation permit.

26 (3) The penalties in subsection (1) of this section shall be assessed  
27 upon an action brought by the ~~commission~~ or the Colorado state patrol in

1 accordance with the procedure set forth in section 42-20-406.

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

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

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

17 **42-20-511. Nuclear materials transportation fund.** All ~~moneys~~  
18 MONEY collected pursuant to parts 4 and 5 of this article 20 shall be  
19 transmitted to the state treasurer, who in addition to any excess ~~moneys~~  
20 transferred from the motor carrier fund pursuant to section 40-2-110.5  
21 (9), ~~C.R.S.~~, shall credit the ~~same~~ MONEY to the nuclear materials  
22 transportation fund, which fund is hereby created. The ~~moneys~~ MONEY in  
23 the fund ~~shall be~~ IS subject to annual appropriation by the general  
24 assembly for the direct and indirect costs of the administration of parts 4  
25 and 5 of this article 20.

26 **SECTION 12. Appropriation - adjustments to 2020 long bill.**  
27 (1) To implement this act, appropriations made in the annual general

1 appropriation act for the 2020-21 state fiscal year to the department of  
2 regulatory agencies for use by the public utilities commission are adjusted  
3 as follows:

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

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

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