A BILL FOR AN ACT

CONCERNING THE RIGHTS OF A PERSON WITH OWNERSHIP INTEREST IN A VEHICLE THAT HAS BEEN TOWED FROM PRIVATE PROPERTY 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 enforcement.

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.

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

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

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

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

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

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

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

(A) THE OPERATOR GAVE THE LOCATION OF THE STORAGE FACILITY TO THE LAW ENFORCEMENT AGENCY WHEN OBTAINING AUTHORIZATION FOR THE TOW; OR
(B) The operator made two or more attempts, within the thirty minutes required in subsection (2)(a)(I) of this section, to notify the responsible law enforcement agency but was unsuccessful for reasons beyond the control of the operator.

(b) Upon such notification receiving the notice required in subsection (2)(a) of this section, the law enforcement agency that receives such the notice shall:

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

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

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

(A) Recover and secure the motor vehicle;

(B) and Notify its rightful owner; and

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

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

(3) (a) Not more than ten days after a motor vehicle has been towed, an operator shall no less than two days, but no more than ten days after a motor vehicle has been towed or abandoned, report such the motor vehicle tow to the department by first-class or certified mail,
by personal delivery, or by internet communication. which The report
shall MUST be on a form prescribed and supplied by the department.

(c) (I) (A) NOT MORE THAN TEN DAYS AFTER A MOTOR VEHICLE
has been towed, an operator or its agent shall no less than two days, but
no more than ten days after a motor vehicle has been towed or abandoned;
determine who the owner is and WHETHER there is a lienholder and
send NOTIFY THE OWNER AND ANY LIENHOLDER BY TELEPHONE AND BY
SENDING a notice by certified mail, return receipt requested, to the address
of the owner and any lienholder as determined from records of the
department or from the national search performed by the department IN
ACCORDANCE WITH SUBSECTION (3)(c)(IV) OF THIS SECTION.

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

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

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

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

42-4-2104. Appraisal of abandoned motor vehicles - sale.
(4) Transferring the title of a motor vehicle to an operator to satisfy a debt covered by a lien created pursuant to this part 21 shall INCURRED IN TOWING AN ABANDONED VEHICLE IS not be deemed to be the sale of a motor vehicle.

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

42-4-2105. Liens upon towed motor vehicles. (1) Whenever an operator who is registered with the department in accordance with subsection (2) of this section recovers, removes, or stores a motor vehicle upon instructions from the owner of record OR any other legally authorized person in control of such THE motor vehicle, or from the owner or lessee of real property upon which a motor vehicle is illegally parked or such owner's or lessee's agent authorized in writing, such THE operator shall have HAS a possessory lien, subject to the provisions of section 42-4-2103 (3), upon such THE motor vehicle and its attached accessories, equipment, and personal property for all the costs and fees for recovering, towing, and storage as authorized in section 42-4-2108. Such THE lien shall be IS a first and prior lien on the motor vehicle, and such lien shall be IS satisfied before all other charges against such THE motor vehicle. This subsection (1) shall not apply to personal property if subsection (3) of this section applies to such personal property.
(3) If the operator obtains personal property from an abandoned vehicle that has been towed pursuant to this part 21 and if the serial or identification number of such property has been visibly altered or removed, the operator shall not have a lien upon such property and shall destroy or discard such property within five days after disposing of the vehicle pursuant to sections 42-4-2104 and 42-4-2107.

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

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

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

42-4-2107. Sale of abandoned vehicle. (1) An operator may sell any motor vehicle and its attached accessories and equipment or personal property within or attached to the vehicle that are not redeemed by the last-known owner of record or lienholder after such owner or lienholder has been sent notice of such lien by the operator shall be sold in accordance with the provisions of section 42-4-2104 the notice was sent in accordance with section 42-4-2104 (1).
(2) Within five days after foreclosure of the lien pursuant to this section AT LEAST FIVE DAYS BEFORE A VEHICLE IS SOLD IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION, the operator shall send a notice to the law enforcement agency having jurisdiction over the operator. Such notice shall THE NOTICE MUST contain a list of personal property found within the abandoned vehicle that has an intact serial or identification number and such EACH serial or identification number. Such notification shall be made THE OPERATOR SHALL DELIVER THE NOTICE by certified mail, facsimile machine, or personal delivery.

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

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

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

SECTION 7. In Colorado Revised Statutes, 40-10.1-101, amend
(13); and add (1.5), (4.5), (6.5), and (13.5) as follows:

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

(1.5) "AUTHORIZED OR INTERESTED PERSON" MEANS:

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

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

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

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

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

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

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

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

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

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

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

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

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

(13.5) "Office" means the office of Tow Hearings created in Section 40-10.1-407.


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

(II) THIS SUBSECTION (1)(a) DOES NOT APPLY TO AN ACTION REQUIRED TO BE PERFORMED UNDER PART 18 OR 21 OF ARTICLE 4 OF TITLE...
42 for which, when a vehicle is towed with the owner's consent, the owner is not charged.

(b) A towing carrier shall annually file with the Commission a schedule of rates that the towing carrier charges for each service provided for vehicles towed with the owner's consent and vehicles towed without consent. The towing carrier shall post at a conspicuously visible space where payments are made the rates required to be filed with the Commission on a sign that has letters:

(I) at least one and one-half inches in height and at least one inch in width; and

(II) that contrast with the background on which the letters are placed.

(c) (I) A towing carrier shall accept:

(A) Cash;

(B) Major credit cards; and

(C) Other forms of payment required by rule of the Commission.

(II) The Commission shall promulgate a rule defining what qualifies as a major credit card for the purposes of this subsection (1)(c).

(d) A towing carrier shall not:

(I) Charge storage fees for any twenty-four-hour period during which the towing carrier did not store the vehicle; and

(II) Charge or retain any fees not identified in the rules of the Commission for the nonconsensual tow of a vehicle from private property.
(2) **Towing carrier document vehicle's condition and reason for tow - adequate illumination.** (a) **Before a towing carrier connects a towing vehicle to a vehicle without consent,** the towing carrier shall document the vehicle's condition and the reason for the tow by:

(I) **Taking at least four photographs of the vehicle,** with at least one photograph taken from the front, one photograph taken from the rear, one photograph taken from the driver's side, and one photograph taken from the passenger's side. These photographs must:

(A) **Show the entire vehicle from the required angle;**

(B) **Have the vehicle fill at least three-fourths of the photograph, measured from side to side; and**

(C) **Be rendered in a resolution of at least two thousand pixels by at least two thousand pixels.**

(II) **Taking a photograph that shows the reason for the vehicle being towed without consent.** The photograph must:

(A) **Show the position of the vehicle in relation to the reason,** including any sign, that the vehicle was towed; and

(B) **Be rendered in a resolution of at least two thousand pixels by at least two thousand pixels.**

(b) **Upon demand by an authorized or interested person,** the towing carrier shall provide copies of the photographs required to be taken pursuant to subsection (2)(a)(I) or (2)(a)(II) of this section.

(c) (I) **A rebuttable presumption** that a towing carrier damaged a vehicle is created by evidence that:
(A) The towing carrier has failed to produce photographs of the vehicle's condition in compliance with subsection (2)(b) of this section; and

(B) A vehicle has suffered damage.

(II) A towing carrier's failure to produce a photograph of the reason for the tow in compliance with subsection (2)(b) of this section creates a rebuttable presumption that the towing carrier did not have authorization to tow a vehicle.

(d) During business hours or when a vehicle is being released, a towing carrier shall maintain an area at each storage facility with lighting that is adequate to allow a person to inspect a vehicle for damage prior to its release from storage.

(3) Authorization and notice required for tows from private property. (a) A towing carrier shall not nonconsensually tow a vehicle from private property unless:

(I) The vehicle is being repossessed by a creditor with a lien or security interest in the vehicle;

(II) The removal is expressly authorized by court order or operation of law;

(III) The vehicle blocks a driveway or roadway enough to effectively obstruct a person's access to the driveway or roadway; or

(IV) The towing carrier has received permission to tow the vehicle, within the twenty-four hours immediately preceding the tow, from:

(A) The owner of or lease holder of the private property;
(B) A person subject to the "Colorado Common Interest Ownership Act", article 33.3 of title 38, if the private property is located within the boundaries of the person's area of operation; or

(C) An agent of a person described in subsection (3)(a)(IV)(A) or (3)(a)(IV)(B) of this section; except that the towing carrier does not qualify as an agent with authority to grant permission under this subsection (3)(a).

(b) (I) Except as provided in subsection (3)(b)(III) of this section, a towing carrier shall not nonconsensually tow a vehicle from a parking space or common parking area without the towing carrier or property owner giving the vehicle owner or operator twenty-four hours' written notice, unless:

(A) The vehicle owner or operator has received two previous notices for parking inappropriately in the same manner;

(B) The vehicle is being repossessed by a creditor with a lien or security interest in the vehicle;

(C) The removal is expressly authorized by court order or operation of law; or

(D) The vehicle blocks a driveway or roadway enough to effectively obstruct a person's access to the driveway or roadway.

(II) The towing carrier or property owner shall provide the notice described in subsection (3)(b)(I) of this section by:

(A) Telephone; or

(B) Placing a written notice on the windshield of the vehicle at least twenty-four hours before towing the vehicle.
(III) The notice must state clearly:

(A) That the vehicle will be towed without consent if the vehicle remains parked inappropriately;

(B) A description of the inappropriate parking that has caused the notice to be given;

(C) The time the vehicle will be towed if it is not moved to appropriate parking; and

(D) That continuing to park inappropriately in the same manner may lead to the vehicle being towed without notice.

(IV) If the vehicle is parked a third or subsequent time in the same inappropriate manner that caused it to receive previous notices, the towing carrier or property owner need not give the notice required in subsection (3)(b)(I) of this section before towing the vehicle.

(V) For purposes of this subsection (3)(b), a vehicle is parked inappropriately when it is parked in a manner that:

(A) Violates the procedures necessary to obtain authorization to park in the lot or space;

(B) Fails to comply with the property owner's signs or the agreements of the tenants; or

(C) Violates a statute, rule, ordinance, or resolution of the state or a political subdivision of the state.

(c) An authorized or interested person may seek to recover damages, including economic damages, caused by the towing carrier from the towing carrier in accordance with procedures set forth in section 40-10.1-407 if the vehicle has been towed from private property in violation of this subsection (3).
(4) **Notice, disclosures, and signs.**

(a) IN CONNECTION WITH A NONCONSENSUAL TOW, THE TOWING CARRIER SHALL PROVIDE, UPON REQUEST, EVIDENCE OF THE TOWING CARRIER'S COMMERCIAL LIABILITY INSURANCE COVERAGE, INCLUDING CARGO LIABILITY COVERAGE, GARAGE KEEPER'S LIABILITY COVERAGE, IF APPLICABLE, AND MOTOR VEHICLE LIABILITY COVERAGE, TO AN AUTHORIZED OR INTERESTED PERSON.

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

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

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

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

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

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

(VI) BE PRINTED IN ENGLISH AND SPANISH.

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

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

(e) If a towing carrier has nonconsensually towed a vehicle from private property, the towing carrier shall give the authorized or interested person that is retrieving the vehicle a written notice of the person’s ability to make a complaint to the commission. The notice:

(I) Must be written in a conspicuous type face and font on both the receipt and bill for the tow; and

(II) Must not be in a type face or font that is smaller than the other numbers or words on the receipt or bill, as applicable.

(f) (I) A towing carrier shall not perform a nonconsensual tow of a vehicle, other than an abandoned motor vehicle as defined in section 42-4-2102 (1), from private property normally used for parking unless:

(A) Notice of the parking regulations was provided to the vehicle operator when the vehicle entered the private property and parked; and

(B) Notice that any vehicle parked in violation of the regulations is subject to tow at the vehicle owner’s expense was provided to the vehicle operator when the vehicle entered the private property and parked.

(II) A property owner with tenants shall provide the notice described in this subsection (4)(f) by issuing each tenant a written document containing any applicable parking regulations before the regulations are adopted or amended or before the person agrees to be a tenant and by posting signs that:
(A) Are no less than one square foot in size;

(B) Have lettering not less than one inch in height;

(C) Have lettering that contrasts with the background on which the letters are placed;

(D) State: "Authorized Parking Only";

(E) Include the name and telephone number of the towing carrier authorized to perform tows from the private property;

(F) Are printed in English and Spanish;

(G) Are placed at the entrance to the private property, face outward toward the street, and are visible prior to entering and upon entering the private property;

(H) Are placed inside the area used for parking, face toward the parking spaces, and, if the private property is not provided for residential parking and has more than ten freestanding lampposts on the property, are posted on each lamppost or posted upright near each lamppost;

(I) Are not obstructed or placed in such a manner that prevents visibility; and

(J) Are not placed higher than eight feet or lower than three feet from the ground surface closest to the sign's placement.

(g) The towing carrier shall retain evidence, including photographs of the relevant signs, of giving the notices and disclosures required in subsection (4)(f) of this section for three years after the date of completion of a nonconsensual tow and provide the evidence to the commission or an enforcement official upon request.
(5) No mechanic's liens on vehicle or contents.

(a) NOTWITHSTANDING SECTION 38-20-105, a towing carrier that
nonconsentually tows a vehicle does not have a mechanic's lien
on the vehicle or the contents of the vehicle to cover the cost
of towing the vehicle.

(b) If an authorized or interested person requests that a
towing carrier return a vehicle or the contents of a vehicle
that was towed without consent, the towing carrier shall
immediately retrieve or allow the authorized or interested
person to retrieve the vehicle or any contents in accordance
with subsection (6)(a) of this section. This subsection (5)(b) does
not apply to a vehicle or the contents of a vehicle if the vehicle
or the contents of the vehicle are subject to a hold order issued
by a court, district attorney, law enforcement agency, or peace
officer.

(6) Releasing the vehicle upon request. (a) A towing carrier
shall release a nonconsentually towed vehicle in accordance
with subsection (5)(b) of this section, regardless of whether the
authorized or interested person has paid the towing carrier.

(b) A towing carrier may assess a drop charge to release
the vehicle after the vehicle is hooked up to the tow truck but
before the vehicle is removed from the property.

(c) If approached by an authorized or interested person,
the towing carrier shall notify the authorized or interested
person:

(l) That the towing carrier is required to release the
vehicle if the authorized or interested person pays a drop
CHARGE; AND

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

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

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

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

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

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

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

(2)(a) A MEDIATED SETTLEMENT AGREEMENT, IF ONE IS REACHED,
MAY BE PRESENTED TO A COURT, A HEARING OFFICER, OR AN ADMINISTRATIVE LAW JUDGE AS A STIPULATION.

(b) If either party subsequently violates the stipulation, the other party may apply immediately to a court or the office for relief. The court or the office may issue orders enforcing the stipulations.

40-10.1-407. Office of tow hearings - rules. (1) The office of tow hearings is hereby created within the commission, the head of which is the director of the office. The director shall employ hearing officers or use administrative law judges to adjudicate disputes between towing carriers and authorized or interested persons in connection with nonconsensually towed vehicles.

(2) (a) An authorized or interested person who suffers damages from a nonconsensual tow may institute proceedings by filing a complaint with the office and notifying the towing carrier in writing of the complaint, including the contents of the complaint. An authorized or interested person must file the complaint within ninety days after the later of:

(I) The date the vehicle is towed;

(II) The date the vehicle is returned to the authorized or interested person; or

(III) The date the controversy is settled through mediation pursuant to section 40-10.1-406.

(b) The complaint need only list the alleged violation and a short summary of the alleged facts that support finding a violation.

(3) The office shall conduct proceedings authorized by
(4) (a) Hearing officers employed by the director of the Office and administrative law judges used by the director of the Office are authorized to hold hearings to determine whether:

(I) A towing carrier has failed to comply with this Article 10.1, Article 20 of Title 38, or Part 18 or 21 of Article 4 of Title 42 or any rule promulgated under this Article 10.1 or Part 18 or 21 of Article 4 of Title 42;

(II) A failure described in subsection (4)(a)(I) of this section caused damages to the vehicle owner or lienholder; or

(III) A towing carrier damaged a vehicle while connecting a towing vehicle to the vehicle, possessing the vehicle, or returning the vehicle to the authorized or interested person.

(b) If a hearing officer or an administrative law judge determines under subsection (4)(a) of this section that the authorized or interested person is entitled to an award of damages, the hearing officer or administrative law judge may issue an order requiring the towing carrier to reimburse the authorized or interested person for the damages, including attorney fees if authorized pursuant to Section 40-10.1-408 (2).

The hearing officer or administrative law judge may make the determination based on stipulations.

(5) A final action of a hearing officer or administrative law judge is subject to judicial review in accordance with Section 24-4-106.

(6) The commission may promulgate rules to govern the proceedings authorized by this section.
40-10.1-408. Failure to comply. (1) No fees. (a) If a towing carrier fails to comply with section 40-10.1-405, the towing carrier:

(I) Shall not charge or retain any fees or charges for the services performed with respect to the vehicle; and

(II) Shall return to the authorized or interested person any fees it collected with respect to the vehicle.

(b) It is an affirmative defense in any action to collect towing fees that:

(I) The vehicle was towed nonconsensually; and

(II) The towing carrier failed to comply with section 40-10.1-405.

(2) Attorney fees. An authorized or interested person seeking reimbursement for damages may recover from the towing carrier reasonable attorney fees if:

(a) The vehicle was towed nonconsensually;

(b) A court, administrative law judge, or hearing officer holds that:

(I) The towing carrier failed to comply with this article 10.1, article 20 of title 38, or part 18 or 21 of article 4 of title 42 or any rule promulgated under this article 10.1 or part 18 or 21 of article 4 of title 42, and this failure caused damages, including economic damages, to the vehicle owner or lienholder; or

(II) The towing carrier damaged a vehicle while connecting it to a towing vehicle, while possessing the vehicle, or while returning the vehicle to an authorized or interested
PERSON; AND

(c) The authorized or interested person demanded reimbursement for the suffered damages and the towing carrier refused to reimburse the authorized or interested person for the damages.

(3) **Damages recovered for party in interest.** In a court action or administrative proceeding arising from a nonconsensual tow, any authorized or interested person may recover the damages suffered by another authorized or interested person if the person who recovers the damages reimburses the other authorized or interested person for the damages suffered by the authorized or interested person. A court, administrative law judge, or hearing officer may issue an order implementing this subsection (3).

40-10.1-409. Records. (1) A towing carrier shall record the following information for each nonconsensual tow:

(a) The unique serial number of the tow record or invoice;

(b) The name, address, towing carrier permit number, and telephone number of the towing carrier;

(c) The address and telephone number of the storage facility used by the towing carrier;

(d) The make, model, year, complete vehicle identification number, and license plate number of the towed vehicle;

(e) The origin address of the tow, the destination address of the tow, and the one-way mileage between the two addresses;

(f) The printed name, address, telephone number, and signature of the person authorizing the tow;
(g) THE PRINTED NAME AND SIGNATURE OF THE TOW TRUCK DRIVER;

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

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

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

(I) HOOKING THE VEHICLE TO THE TOW TRUCK;

(II) UNHOOKING THE VEHICLE FROM THE TOW TRUCK;

(III) COMPLETING THE TOW;

(IV) NOTIFYING THE APPROPRIATE LAW ENFORCEMENT AGENCY;

(V) PLACING THE VEHICLE IN STORAGE; AND

(VI) RELEASING THE TOWED VEHICLE FROM STORAGE.

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

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

(4) WITHIN FORTY-EIGHT HOURS AFTER A REQUEST, A TOWING CARRIER SHALL PROVIDE THE INFORMATION REQUIRED TO BE RECORDED BY SUBSECTION (1) OF THIS SECTION TO AN AUTHORIZED OR INTERESTED
40-10.1-410. **Kickbacks prohibited.** A TOWING CARRIER SHALL NOT PAY MONEY OR OTHER VALUABLE CONSIDERATION TO A LANDOWNER OR BUSINESS FOR THE PRIVILEGE OF NONCONSENSUALLY TOWING VEHICLES.

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

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

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

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

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

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

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

(2) In accordance with section 40-10.1-405 (5)(a), this section does not grant a towing carrier a lien on a vehicle or the contents of a vehicle if the vehicle was towed nonconsensually, as defined in section 40-10.1-101 (13).

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