

## CHAPTER 267

---

**PUBLIC UTILITIES**

---

**SENATE BILL 93-19**

BY SENATORS Hopper, Feeley, Gallagher, Mares, Mutzebaugh, and Traylor;  
also REPRESENTATIVES George, Acquafresca, and Prinster.

**AN ACT**

**CONCERNING THE REGULATION OF PASSENGER TRAMWAYS, AND, IN CONNECTION THEREWITH,  
CONTINUING THE PASSENGER TRAMWAY SAFETY BOARD.**

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

**SECTION 1.** 13-4-102 (2), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**13-4-102. Jurisdiction.** (2) The court of appeals shall have initial jurisdiction to:

(ff) REVIEW FINAL ACTIONS AND ORDERS APPROPRIATE FOR JUDICIAL REVIEW OF THE COLORADO PASSENGER TRAMWAY SAFETY BOARD, AS PROVIDED IN SECTION 25-5-708, C.R.S.

**SECTION 2.** 24-34-104 (22) (b) (I) and (30) (b), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (22) (b) The following boards and agencies in the division of registrations shall terminate on July 1, 1993:

(I) ~~The passenger tramway safety board, created by part 7 of article 5 of title 25, C.R.S.;~~

(30) (b) The following ~~board~~ BOARDS in the division of registrations shall terminate July 1, 2001:

(I) The state board of veterinary medicine created by article 64 of title 12, C.R.S.;

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(II) THE PASSENGER TRAMWAY SAFETY BOARD, CREATED BY PART 7 OF ARTICLE 5 OF TITLE 25, C.R.S.

**SECTION 3.** 25-5-701, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-5-701. Legislative declaration.** In order to assist in safeguarding life, health, property, and the welfare of this state, it is the policy of the state of Colorado to establish a board empowered to prevent unnecessary mechanical hazards in the operation of ~~ski tows, lifts, and~~ PASSENGER tramways and to assure that reasonable design and construction are used for, that accepted safety devices and sufficient personnel are provided for, and that periodic inspections and adjustments are made which are deemed essential to the safe operation of, ~~ski tows, ski lifts, and~~ passenger tramways.

**SECTION 4.** 25-5-702 (1), (3), and (4), Colorado Revised Statutes, 1989 Repl. Vol., are amended, and the said 25-5-702 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**25-5-702. Definitions.** As used in this part 7, unless the context otherwise requires:

(1) ~~"Administrator" means the executive director of the department of regulatory agencies.~~ "AREA OPERATOR" MEANS A PERSON WHO OWNS, MANAGES, OR DIRECTS THE OPERATION AND MAINTENANCE OF A PASSENGER TRAMWAY. "AREA OPERATOR" MAY APPLY TO THE STATE OR ANY POLITICAL SUBDIVISION OR INSTRUMENTALITY THEREOF.

(1.7) "COMMERCIAL RECREATIONAL AREA" MEANS AN ENTITY USING PASSENGER TRAMWAYS TO PROVIDE RECREATIONAL OPPORTUNITIES TO THE PUBLIC FOR A FEE.

(3) ~~"Operator" means a person who owns, manages, or directs the operation of a passenger tramway. "Operator" may apply to the state or any political subdivision or instrumentality thereof.~~ "LICENSE" MEANS THE FORMAL, LEGAL, WRITTEN PERMISSION OF THE BOARD TO OPERATE A PASSENGER TRAMWAY.

(4) "Passenger tramway" means a device used to transport passengers uphill on skis, or in cars on tracks, or suspended in the air by the use of steel cables, chains, or belts, or by ropes, and usually supported by trestles or towers with one or more spans. "Passenger tramway" includes, BUT IS NOT LIMITED TO, the following devices:

(a) ~~Two-car aerial passenger tramway, a device used to transport passengers in two open or enclosed cars attached to, and suspended from, a moving wire rope or attached to a moving wire rope and supported on a standing wire rope, or similar devices;~~ FIXED-GRIP LIFTS. "FIXED-GRIP LIFT" MEANS AN AERIAL LIFT ON WHICH CARRIERS REMAIN ATTACHED TO A HAUL ROPE. THE TRAMWAY SYSTEM MAY BE EITHER CONTINUOUSLY OR INTERMITTENTLY CIRCULATING, AND MAY BE EITHER MONOCABLE OR BICABLE.

(b) ~~Multi-car aerial passenger tramway, a device used to transport passengers in~~

~~several open or enclosed cars attached to, and suspended from, a moving wire rope or attached to a moving wire rope and supported on a standing wire rope, or similar devices;~~ DETACHABLE-GRIP LIFTS. "DETACHABLE-LIFT GRIP" MEANS AN AERIAL LIFT ON WHICH CARRIERS ALTERNATELY ATTACH TO AND DETACH FROM A MOVING HAUL ROPE. THE TRAMWAY SYSTEM MAY BE MONOCABLE OR BICABLE.

(c) FUNICULARS. "Funicular" MEANS a device in which a passenger car running on steel or wooden tracks is attached to and ~~pulled~~ PROPELLED by a steel cable, ~~or~~ AND ANY similar devices.

(d) CHAIR LIFTS. "Chair lift" MEANS a type of transportation on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain, or link belt supported by trestles or towers with one or more spans, ~~or~~ AND ANY similar devices.

(e) SURFACE LIFTS. "SURFACE LIFT" MEANS A J-bar, T-bar, or platter pull ~~so-called~~ and ANY similar types of devices or means of transportation which pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans.

(f) ROPE TOWS. "Rope tow" MEANS a type of transportation which pulls the skier riding on skis as the skier grasps the rope manually, ~~or~~ AND ANY similar devices.

(g) PORTABLE AERIAL TRAMWAY DEVICES. "PORTABLE AERIAL TRAMWAY DEVICE" MEANS ANY DEVICE DESIGNED FOR TEMPORARY USE AND OPERATION, WITHOUT PERMANENT FOUNDATIONS, IN CHANGING OR VARIABLE LOCATIONS, WITH A CAPACITY OF LESS THAN FIVE PERSONS, WHICH TRANSPORTS EQUIPMENT OR PERSONNEL, AND IS NOT USED OR INTENDED TO BE USED BY THE GENERAL PUBLIC.

(h) PORTABLE TRAMWAY DEVICES. "PORTABLE TRAMWAY DEVICE" MEANS ANY DEVICE DESIGNED TO BE USED AND OPERATED AS A ROPE TOW OR SURFACE LIFT WITHOUT PERMANENT FOUNDATIONS AND INTENDED FOR TEMPORARY USE IN CHANGING OR VARIABLE LOCATIONS, WHEN USED WITHIN THE BOUNDARY OF A RECOGNIZED SKI AREA.

(i) PRIVATE RESIDENCE TRAMWAYS. "PRIVATE RESIDENCE TRAMWAY" MEANS A DEVICE INSTALLED AT A PRIVATE RESIDENCE OR INSTALLED IN MULTIPLE DWELLINGS AS A MEANS OF ACCESS TO A PRIVATE RESIDENCE IN SUCH MULTIPLE DWELLING BUILDINGS, SO LONG AS THE TRAMWAY IS SO INSTALLED THAT IT IS NOT ACCESSIBLE TO THE GENERAL PUBLIC OR TO OTHER OCCUPANTS OF THE BUILDING.

(j) REVERSIBLE AERIAL TRAMWAYS. "REVERSIBLE AERIAL TRAMWAY" MEANS A DEVICE ON WHICH PASSENGERS ARE TRANSPORTED IN CABLE-SUPPORTED CARRIERS AND ARE NOT IN CONTACT WITH THE GROUND OR SNOW SURFACE, AND IN WHICH THE CARRIERS RECIPROCATATE BETWEEN TERMINALS.

(4.5) "PROGRAM ADMINISTRATOR" MEANS THE PERSON WHO MANAGES THE BOARD'S OFFICES ON A DAY-TO-DAY BASIS AND WORKS WITH THE SUPERVISORY TRAMWAY ENGINEER AND THE BOARD IN IMPLEMENTING THE POLICIES, DECISIONS, AND ORDERS OF THE BOARD.

(6) "STAFF" MEANS THE PROGRAM ADMINISTRATOR, THE SUPERVISORY TRAMWAY ENGINEER, AND THEIR CLERICAL STAFF.

(7) "SUPERVISORY TRAMWAY ENGINEER" MEANS THE TRAMWAY ENGINEER WHO WORKS WITH THE PROGRAM ADMINISTRATOR AND THE BOARD IN IMPLEMENTING THE POLICIES, DECISIONS, AND ORDERS OF THE BOARD.

**SECTION 5.** 25-5-703, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-5-703. Passenger tramway safety board - composition - termination.**

(1) There is hereby created a passenger tramway safety board of six appointive members and one member designated by the United States forest service. The appointive members shall be appointed by the governor from persons representing the following interests: Two members to represent the industry OR AREA OPERATORS; two members to represent the public at large; and two members familiar with or experienced in the tramway industry who may represent the passenger tramway manufacturing or design industry. No person shall be so appointed or designated except those who, by reason of knowledge or experience, shall be deemed to be qualified. Such knowledge or experience shall be either from active involvement in the design, manufacture, or operation of passenger tramways or as a result of extensive involvement in related activities. The governor, in making such appointments, shall consider recommendations made to him by the membership of the particular interest from which the appointments are to be made.

(2) EACH OF THE APPOINTED MEMBERS SHALL BE APPOINTED FOR A TERM OF FOUR YEARS AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIED AND NO BOARD MEMBER SHALL SERVE MORE THAN TWO CONSECUTIVE FOUR-YEAR TERMS. A FORMER BOARD MEMBER MAY BE REAPPOINTED TO THE BOARD AFTER HAVING VACATED THE BOARD FOR ONE FOUR-YEAR TERM. VACANCIES ON THE BOARD, FOR EITHER AN UNEXPIRED TERM OR FOR A NEW TERM, SHALL BE FILLED THROUGH PROMPT APPOINTMENT BY THE GOVERNOR. THE MEMBER OF THE BOARD DESIGNATED BY THE UNITED STATES FOREST SERVICE SHALL SERVE FOR SUCH PERIOD AS SUCH FEDERAL AGENCY SHALL DETERMINE AND SHALL SERVE WITHOUT COMPENSATION OR REIMBURSEMENT OF EXPENSES.

(3) THE GOVERNOR MAY REMOVE ANY MEMBER OF THE BOARD FOR MISCONDUCT, INCOMPETENCE, OR NEGLIGENCE OF DUTY.

(4) BOARD MEMBERS APPOINTED BY THE GOVERNOR SHALL HAVE BEEN RESIDENTS OF THIS STATE FOR AT LEAST THREE YEARS.

(5) NO MEMBER OF THE BOARD WHO HAS ANY FORM OF CONFLICT OF INTEREST OR THE POTENTIAL THEREOF SHALL PARTICIPATE IN CONSIDERATION OF THE DELIBERATIONS ON MATTERS TO WHICH SUCH CONFLICT MAY RELATE; SUCH CONFLICTS MAY INCLUDE, BUT ARE NOT LIMITED TO, A MEMBER OF THE BOARD HAVING ACTED IN ANY CONSULTING RELATIONSHIP OR BEING DIRECTLY OR INDIRECTLY INVOLVED IN THE OPERATION OF THE TRAMWAY IN QUESTION.

(6) A MAJORITY OF THE BOARD SHALL CONSTITUTE A QUORUM. WHEN NECESSARY, THE BOARD MAY CONDUCT BUSINESS TELEPHONICALLY DURING A PUBLIC MEETING

FOR PURPOSES OF OBTAINING A QUORUM, FACILITATING THE PARTICIPATION OF MEMBERS IN REMOTE LOCATIONS, OR BOTH.

(7) THE PROVISIONS OF SECTION 24-34-104, C.R.S., CONCERNING THE TERMINATION SCHEDULE FOR REGULATORY BODIES OF THE STATE UNLESS EXTENDED AS PROVIDED IN THAT SECTION, ARE APPLICABLE TO THE PASSENGER TRAMWAY SAFETY BOARD CREATED BY THIS SECTION.

**SECTION 6.** 25-5-703.5, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is repealed as follows:

**25-5-703.5. Board subject to termination - repeal of article.** ~~(1) The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state unless extended as provided in that section, are applicable to the passenger tramway safety board created by section 25-5-703.~~

~~(2) This article is repealed, effective July 1, 1993.~~

**SECTION 7.** 25-5-704, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-5-704. Powers and duties of the board.** ~~Each of the appointed members shall be appointed for a term of four years and until his successor is appointed and qualified; except that the additional member appointed to take office on July 1, 1977, shall be appointed for a one-year term and until his successor is appointed and qualified. Board members shall be appointed for a four-year term of service, and no board member shall serve more than two consecutive four-year terms. A board member may be reappointed to the board after having vacated the board for one four-year term. Vacancies in the board, for either an unexpired term or for a new term, shall be filled through prompt appointment by the governor. The member of the board designated by the United States forest service shall serve for such period as such federal agency shall determine and shall serve without compensation or reimbursement of expenses.~~ (1) THE BOARD HAS THE FOLLOWING POWERS AND DUTIES IN ADDITION TO THOSE OTHERWISE DESCRIBED BY THIS PART 7:

(a) TO PROMULGATE, AMEND, AND REPEAL SUCH RULES AND REGULATIONS AS MAY BE NECESSARY AND PROPER TO CARRY OUT THE PROVISIONS OF THIS ARTICLE. IN ADOPTING SUCH RULES AND REGULATIONS THE BOARD MAY USE AS GENERAL GUIDELINES THE STANDARDS CONTAINED IN THE "AMERICAN NATIONAL STANDARD FOR PASSENGER TRAMWAYS - AERIAL TRAMWAYS AND LIFTS, SURFACE LIFTS, AND TOWS - SAFETY REQUIREMENTS", AS ADOPTED BY THE AMERICAN NATIONAL STANDARDS INSTITUTE, INCORPORATED, AS AMENDED FROM TIME TO TIME. SUCH RULES AND REGULATIONS SHALL NOT BE DISCRIMINATORY IN THEIR APPLICATION TO AREA OPERATORS, AND PROCEDURES OF THE BOARD WITH RESPECT THERETO SHALL BE AS PROVIDED IN SECTION 24-4-103, C.R.S., WITH RESPECT TO RULE-MAKING.

(b) TO INVESTIGATE MATTERS RELATING TO THE EXERCISE AND PERFORMANCE OF THE POWERS AND DUTIES OF THE BOARD;

(c) TO RECEIVE COMPLAINTS CONCERNING VIOLATIONS OF THIS PART 7;

(d) TO CONDUCT MEETINGS, HOLD HEARINGS, AND TAKE EVIDENCE IN ALL MATTERS RELATING TO THE EXERCISE AND PERFORMANCE OF THE POWERS AND DUTIES OF THE BOARD, SUBPOENA WITNESSES, ADMINISTER OATHS, AND COMPEL THE TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, AND RECORDS RELEVANT TO THE SUBJECT INQUIRY. THE PROGRAM ADMINISTRATOR MAY ISSUE SUBPOENAS ON BEHALF OF THE BOARD AT THE BOARD'S DIRECTION. IF ANY PERSON REFUSES TO OBEY ANY SUBPOENA SO ISSUED, THE BOARD MAY PETITION THE DISTRICT COURT, SETTING FORTH THE FACTS, AND THEREUPON THE COURT IN A PROPER CASE SHALL ISSUE ITS SUBPOENA. THE BOARD MAY APPOINT AN ADMINISTRATIVE LAW JUDGE PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO TAKE EVIDENCE AND TO MAKE FINDINGS AND REPORT THEM TO THE BOARD. THE BOARD MAY ELECT TO HEAR THE MATTER ITSELF WITH THE ASSISTANCE OF AN ADMINISTRATIVE LAW JUDGE, WHO SHALL RULE ON THE EVIDENCE AND OTHERWISE CONDUCT THE HEARING IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

(e) TO DISCIPLINE AREA OPERATORS IN ACCORDANCE WITH THIS PART 7;

(f) TO APPROVE AND RENEW LICENSES IN ACCORDANCE WITH THIS PART 7;

(g) TO ELECT OFFICERS;

(h) TO ESTABLISH STANDING OR TEMPORARY TECHNICAL AND SAFETY COMMITTEES COMPOSED OF PERSONS WITH EXPERTISE IN TRAMWAY-RELATED FIELDS TO REVIEW, AS THE BOARD DEEMS NECESSARY, THE DESIGN, CONSTRUCTION, MAINTENANCE, AND OPERATION OF PASSENGER TRAMWAYS AND TO MAKE RECOMMENDATIONS TO THE BOARD CONCERNING THEIR FINDINGS. COMMITTEES ESTABLISHED PURSUANT TO THIS PARAGRAPH (h) SHALL MEET AS DEEMED NECESSARY BY THE BOARD OR THE SUPERVISORY TRAMWAY ENGINEER.

(i) TO COLLECT FEES, ESTABLISHED PURSUANT TO SECTION 24-34-105, C.R.S., FOR ANY APPLICATION FOR A NEW CONSTRUCTION OR MAJOR MODIFICATION, FOR ANY APPLICATION FOR LICENSING OR SUPPLEMENTAL APPLICATION, AND FOR INSPECTIONS AND ACCIDENT INVESTIGATIONS;

(j) TO CAUSE THE PROSECUTION AND ENJOINER OF ALL PERSONS VIOLATING SUCH PROVISIONS AND TO INCUR THE NECESSARY EXPENSES THEREOF;

(k) TO DELEGATE DUTIES TO THE PROGRAM ADMINISTRATOR;

(l) TO KEEP RECORDS OF ITS PROCEEDINGS AND OF ALL APPLICATIONS.

**SECTION 8.** 25-5-705 to 25-5-719, Colorado Revised Statutes, 1989 Repl. Vol., as amended, are REPEALED AND REENACTED, WITH AMENDMENTS, to read:

**25-5-705. Responsibilities of area operators.** THE PRIMARY RESPONSIBILITY FOR DESIGN, CONSTRUCTION, MAINTENANCE, OPERATION, AND INSPECTION RESTS WITH THE AREA OPERATORS OF PASSENGER TRAMWAY DEVICES.

**25-5-706. Disciplinary action - administrative sanctions - grounds.**

(1) DISCIPLINARY ACTION OF THE BOARD PURSUANT TO THIS SECTION SHALL BE TAKEN IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

(2) DISCIPLINARY ACTION OF THE BOARD MAY BE IMPOSED AS AN ALTERNATIVE TO OR IN CONJUNCTION WITH THE ISSUANCE OF ORDERS OR THE PURSUIT OF OTHER REMEDIES PROVIDED BY SECTION 25-5-707 OR 25-5-716, AND MAY CONSIST OF ANY OF THE FOLLOWING:

(a) DENIAL, SUSPENSION, REVOCATION, OR REFUSAL TO RENEW THE LICENSE OF ANY PASSENGER TRAMWAY. THE BOARD MAY SUMMARILY SUSPEND A LICENSE PURSUANT TO THE AUTHORITY GRANTED BY THIS PART 7 OR ARTICLE 4 OF TITLE 24, C.R.S.

(b) ISSUANCE OF A LETTER OF ADMONITION TO AN AREA OPERATOR, WHICH MAY BE ISSUED BASED ON ANY OF THE DISCIPLINARY GROUNDS SPECIFIED IN THIS PART 7 WITHOUT THE NECESSITY OF A HEARING AS MIGHT OTHERWISE BE REQUIRED UNDER SECTION 25-5-708. THE LETTER OF ADMONITION SHALL BE SENT TO THE AREA OPERATOR BY CERTIFIED MAIL AND SHALL ADVISE THE AREA OPERATOR THAT THE AREA OPERATOR MAY, WITHIN TWENTY DAYS AFTER RECEIPT OF THE LETTER, MAKE A WRITTEN REQUEST TO THE BOARD TO INSTITUTE FORMAL DISCIPLINARY PROCEEDINGS IN ACCORDANCE WITH SECTION 25-5-708 TO FORMALLY ADJUDICATE THE CONDUCT UPON WHICH THE LETTER WAS BASED.

(c) ASSESSMENT OF A FINE, NOT TO EXCEED TEN THOUSAND DOLLARS PER ACT OR OMISSION OR, IN THE CASE OF ACTS OR OMISSIONS FOUND TO BE WILLFUL, FIFTY THOUSAND DOLLARS PER ACT OR OMISSION, AGAINST ANY AREA OPERATOR;

(d) IMPOSITION OF REASONABLE CONDITIONS UPON THE CONTINUED LICENSING OF A PASSENGER TRAMWAY OR UPON THE SUSPENSION OF FURTHER DISCIPLINARY ACTION AGAINST AN AREA OPERATOR.

(3) THE BOARD MAY TAKE DISCIPLINARY ACTION FOR ANY OF THE FOLLOWING ACTS OR OMISSIONS:

(a) ANY VIOLATION OF THE PROVISIONS OF THIS PART 7 OR OF ANY RULE OR REGULATION OF THE BOARD PROMULGATED PURSUANT TO SECTION 25-5-704 WHEN THE ACT OR OMISSION UPON WHICH THE VIOLATION IS BASED WAS KNOWN TO, OR REASONABLY SHOULD HAVE BEEN KNOWN TO, THE AREA OPERATOR;

(b) VIOLATION OF ANY ORDER OF THE BOARD ISSUED PURSUANT TO PROVISIONS OF THIS PART 7;

(c) FAILURE TO REPORT ANY INCIDENT OR ACCIDENT TO THE BOARD AS REQUIRED BY ANY PROVISION OF THIS PART 7 OR ANY RULE OR REGULATION OF THE BOARD PROMULGATED PURSUANT TO SECTION 25-5-704 WHEN THE INCIDENT OR ACCIDENT WAS KNOWN TO, OR REASONABLY SHOULD HAVE BEEN KNOWN TO, THE AREA OPERATOR;

(d) WILLFUL OR WANTON MISCONDUCT IN THE OPERATION OR MAINTENANCE OF A PASSENGER TRAMWAY;

(e) OPERATION OF A PASSENGER TRAMWAY WHILE A CONDITION EXISTS IN THE DESIGN, CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE PASSENGER TRAMWAY WHICH ENDANGERS THE PUBLIC HEALTH, SAFETY, OR WELFARE, WHICH CONDITION WAS KNOWN OR REASONABLY SHOULD HAVE BEEN KNOWN BY THE AREA OPERATOR.

**25-5-707. Orders - enforcement.** (1) IF, AFTER INVESTIGATION, THE BOARD FINDS THAT A VIOLATION OF ANY OF ITS RULES OR REGULATIONS EXISTS OR THAT THERE IS A CONDITION IN PASSENGER TRAMWAY DESIGN, CONSTRUCTION, OPERATION, OR MAINTENANCE ENDANGERING THE SAFETY OF THE PUBLIC, IT SHALL FORTHWITH ISSUE ITS WRITTEN ORDER SETTING FORTH ITS FINDINGS AND THE CORRECTIVE ACTION TO BE TAKEN AND FIXING A REASONABLE TIME FOR COMPLIANCE THEREWITH. SUCH ORDER SHALL BE SERVED UPON THE AREA OPERATOR INVOLVED IN ACCORDANCE WITH THE COLORADO RULES OF CIVIL PROCEDURE OR THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., AND SHALL BECOME FINAL UNLESS THE AREA OPERATOR APPLIES TO THE BOARD FOR A HEARING IN THE MANNER PROVIDED IN SECTION 24-4-105, C.R.S.

(2) IF ANY AREA OPERATOR FAILS TO COMPLY WITH A LAWFUL ORDER OF THE BOARD ISSUED UNDER THIS SECTION WITHIN THE TIME FIXED THEREBY, THE BOARD MAY TAKE FURTHER ACTION AS PERMITTED BY SECTIONS 25-5-706 AND 25-5-716 AND MAY COMMENCE AN ACTION SEEKING INJUNCTIVE RELIEF IN THE DISTRICT COURT OF THE JUDICIAL DISTRICT IN WHICH THE RELEVANT PASSENGER TRAMWAY IS LOCATED.

(3) ANY PERSON WHO VIOLATES AN ORDER ISSUED PURSUANT TO THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN FIVE THOUSAND DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION OCCURS.

(4) ANY AREA OPERATOR WHO OPERATES A PASSENGER TRAMWAY WHICH HAS NOT BEEN LICENSED BY THE BOARD OR THE LICENSE OF WHICH HAS BEEN SUSPENDED, OR WHO FAILS TO COMPLY WITH AN ORDER ISSUED UNDER THIS SECTION OR SECTION 25-5-716, COMMITS A CLASS 3 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S. FINES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE GENERAL FUND OF THE STATE.

**25-5-708. Disciplinary proceedings.** (1) THE BOARD MAY INVESTIGATE ALL MATTERS WHICH PRESENT GROUNDS FOR DISCIPLINARY ACTION AS SPECIFIED IN THIS PART 7.

(2) DISCIPLINARY HEARINGS SHALL BE CONDUCTED BY THE BOARD OR BY AN ADMINISTRATIVE LAW JUDGE IN ACCORDANCE WITH SECTION 25-5-704 (1) (d).

(3) ANY PERSON AGGRIEVED BY A FINAL ACTION OR ORDER OF THE BOARD MAY APPEAL SUCH ACTION TO THE COLORADO COURT OF APPEALS IN ACCORDANCE WITH SECTION 24-4-106 (11), C.R.S.

**25-5-709. Passenger tramway licensing required.** (1) THE STATE, THROUGH THE BOARD, SHALL LICENSE ALL PASSENGER TRAMWAYS, UNLESS SPECIFICALLY EXEMPTED BY LAW, ESTABLISH REASONABLE STANDARDS OF DESIGN AND OPERATIONAL PRACTICES, AND CAUSE TO BE MADE SUCH INSPECTIONS AS MAY BE NECESSARY IN CARRYING OUT THE PROVISIONS OF THIS SECTION.

(2) A PASSENGER TRAMWAY SHALL NOT BE OPERATED IN THIS STATE UNLESS IT HAS BEEN LICENSED BY THE BOARD. NO NEW PASSENGER TRAMWAY SHALL BE INITIALLY LICENSED IN THIS STATE UNLESS ITS DESIGN AND CONSTRUCTION HAVE BEEN CERTIFIED TO THIS STATE AS COMPLYING WITH THE RULES AND REGULATIONS OF THE BOARD PROMULGATED PURSUANT TO SECTION 25-5-704. SUCH CERTIFICATION SHALL BE MADE BY A QUALIFIED TRAMWAY DESIGN ENGINEER OR A QUALIFIED TRAMWAY CONSTRUCTION ENGINEER, WHICHEVER THE CASE REQUIRES.

(3) ANY NEW CONSTRUCTION OF A PRIVATE RESIDENCE TRAMWAY OR ANY MODIFICATION OF AN EXISTING INSTALLATION SHALL NOT BE COMMENCED UNTIL AN APPLICATION TO BEGIN CONSTRUCTION OR MAJOR MODIFICATION HAS BEEN SUBMITTED TO AND APPROVED BY THE BOARD. THE BOARD SHALL HAVE THE AUTHORITY TO PROMULGATE RULES AND REGULATIONS REGARDING CONSTRUCTION AND MODIFICATION OF PRIVATE RESIDENCE TRAMWAYS AS SET FORTH IN SECTION 25-5-704. ANNUAL LICENSING OF PRIVATE RESIDENCE TRAMWAYS IS NOT REQUIRED.

(4) THE BOARD SHALL HAVE NO JURISDICTION OVER A PORTABLE AERIAL TRAMWAY DEVICE.

(5) THE BOARD SHALL HAVE NO JURISDICTION OVER A PORTABLE TRAMWAY DEVICE WHEN USED OUTSIDE THE BOUNDARY OF A RECOGNIZED COMMERCIAL RECREATIONAL AREA.

**25-5-710. Application for new construction or major modification.** ANY NEW CONSTRUCTION OF A PASSENGER TRAMWAY OR ANY MAJOR MODIFICATION TO AN EXISTING INSTALLATION SHALL NOT BE INITIATED UNLESS AN APPLICATION FOR SUCH CONSTRUCTION OR MAJOR MODIFICATION HAS BEEN MADE TO THE BOARD AND A PERMIT THEREFOR HAS BEEN ISSUED BY THE BOARD.

**25-5-711. Application for licensing.** EACH YEAR, EVERY AREA OPERATOR OF A PASSENGER TRAMWAY SHALL APPLY TO THE BOARD, IN SUCH FORM AS THE BOARD SHALL DESIGNATE, FOR LICENSING OF THE PASSENGER TRAMWAYS WHICH SUCH AREA OPERATOR OWNS OR MANAGES OR THE OPERATION OF WHICH SUCH AREA OPERATOR DIRECTS. THE APPLICATION SHALL CONTAIN SUCH INFORMATION AS THE BOARD MAY REASONABLY REQUIRE IN ORDER FOR IT TO DETERMINE WHETHER THE PASSENGER TRAMWAY SOUGHT TO BE LICENSED BY SUCH AREA OPERATOR COMPLIES WITH THE INTENT OF THIS PART 7 AS SPECIFIED IN SECTION 25-5-701 AND THE RULES AND REGULATIONS PROMULGATED BY THE BOARD PURSUANT TO SECTION 25-5-704.

**25-5-712. Licensing of passenger tramways.** (1) THE BOARD SHALL ISSUE TO THE APPLYING AREA OPERATOR WITHOUT DELAY LICENSING CERTIFICATES FOR EACH PASSENGER TRAMWAY OWNED, MANAGED, OR THE OPERATION OF WHICH IS DIRECTED BY SUCH AREA OPERATOR WHEN THE BOARD IS SATISFIED:

(a) THAT THE FACTS STATED IN THE APPLICATION ARE SUFFICIENT TO ENABLE THE BOARD TO FULFILL ITS DUTIES UNDER THIS PART 7; AND

(b) THAT EACH SUCH PASSENGER TRAMWAY SOUGHT TO BE LICENSED HAS BEEN INSPECTED BY AN INSPECTOR DESIGNATED BY THE BOARD ACCORDING TO PROCEDURES ESTABLISHED BY THE BOARD AND THAT SUCH INSPECTION DISCLOSED NO UNREASONABLE SAFETY HAZARD AND NO VIOLATIONS OF THE PROVISIONS OF THIS

PART 7 OR THE RULES AND REGULATIONS OF THE BOARD PROMULGATED PURSUANT TO SECTION 25-5-704.

(2) IN ORDER TO SATISFY ITSELF THAT THE CONDITIONS DESCRIBED IN SUBSECTION (1) OF THIS SECTION HAVE BEEN FULFILLED, THE BOARD MAY CAUSE TO BE MADE SUCH INSPECTIONS DESCRIBED IN SECTION 25-5-715 AS IT MAY REASONABLY DEEM NECESSARY.

(3) WHEN AN AREA OPERATOR INSTALLS A PASSENGER TRAMWAY SUBSEQUENT TO ANNUAL LICENSING DATES ESTABLISHED BY THE BOARD, SUCH AREA OPERATOR SHALL FILE A SUPPLEMENTAL APPLICATION FOR LICENSING OF SUCH PASSENGER TRAMWAY. UPON THE RECEIPT OF SUCH SUPPLEMENTAL APPLICATION, THE BOARD SHALL PROCEED IMMEDIATELY TO INITIATE PROCEEDINGS LEADING TO THE LICENSING OR REJECTION OF LICENSING OF SUCH PASSENGER TRAMWAY PURSUANT TO THE PROVISIONS OF THIS PART 7.

(4) LICENSES SHALL EXPIRE ON DATES ESTABLISHED BY THE BOARD.

(5) EACH AREA OPERATOR SHALL CAUSE THE LICENSING CERTIFICATE, OR A COPY THEREOF, FOR EACH PASSENGER TRAMWAY THUS LICENSED TO BE DISPLAYED PROMINENTLY AT THE PLACE WHERE PASSENGERS ARE LOADED THEREON.

**25-5-713. Licensing and certification fees.** THE APPLICATION FOR NEW CONSTRUCTION OR MAJOR MODIFICATION AND THE APPLICATION FOR LICENSING OR ANY SUPPLEMENTAL APPLICATION SHALL BE ACCOMPANIED BY A FEE ESTABLISHED PURSUANT TO SECTION 24-34-105, C.R.S.

**25-5-714. Disposition of fees.** ALL FEES COLLECTED BY THE BOARD UNDER THE PROVISIONS OF THIS PART 7 SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME PURSUANT TO SECTION 24-34-105, C.R.S., AND THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS PURSUANT TO SAID SECTION FOR EXPENDITURES OF THE BOARD INCURRED IN THE PERFORMANCE OF ITS DUTIES UNDER THIS PART 7, WHICH EXPENDITURES SHALL BE MADE FROM SUCH APPROPRIATIONS UPON VOUCHERS AND WARRANTS DRAWN PURSUANT TO LAW.

**25-5-715. Inspections and investigations - costs - reports.** (1) THE BOARD MAY CAUSE TO BE MADE SUCH INSPECTION OF THE DESIGN, CONSTRUCTION, OPERATION, AND MAINTENANCE OF PASSENGER TRAMWAYS AS THE BOARD MAY REASONABLY REQUIRE.

(2) SUCH INSPECTIONS SHALL INCLUDE, AT A MINIMUM, TWO INSPECTIONS PER YEAR OR PER TWO THOUSAND HOURS OF OPERATION, WHICHEVER OCCURS FIRST, OF EACH PASSENGER TRAMWAY, ONE OF WHICH INSPECTIONS SHALL BE DURING THE HIGH USE SEASON AND SHALL BE UNANNOUNCED, AND SHALL BE CARRIED OUT UNDER CONTRACT BY INDEPENDENT CONTRACTORS SELECTED BY THE BOARD OR BY THE SUPERVISORY TRAMWAY ENGINEER. ADDITIONAL INSPECTIONS MAY BE REQUIRED BY THE BOARD IF THE AREA OPERATOR DOES NOT, IN THE OPINION OF THE BOARD, MAKE REASONABLE EFFORTS TO CORRECT ANY DEFICIENCIES IDENTIFIED IN ANY PRIOR INSPECTION OR IF THE BOARD OTHERWISE DEEMS SUCH ADDITIONAL INSPECTIONS NECESSARY. THE BOARD SHALL PROVIDE IN ITS RULES AND REGULATIONS THAT NO FACILITY SHALL BE SHUT DOWN FOR THE PURPOSES OF A REGULAR INSPECTION DURING

NORMAL OPERATING HOURS UNLESS SUFFICIENT DAYLIGHT IS NOT AVAILABLE FOR THE INSPECTION.

(3) THE BOARD MAY EMPLOY INDEPENDENT CONTRACTORS TO MAKE SUCH INSPECTIONS FOR REASONABLE FEES PLUS EXPENSES. THE EXPENSES INCURRED BY THE BOARD IN CONNECTION WITH THE CONDUCT OF INSPECTIONS PROVIDED FOR IN THIS PART 7 SHALL BE PAID IN THE FIRST INSTANCE BY THE BOARD, BUT EACH AREA OPERATOR OF THE PASSENGER TRAMWAY WHICH WAS THE SUBJECT OF SUCH INSPECTION SHALL, UPON NOTIFICATION BY THE BOARD OF THE AMOUNT DUE, REIMBURSE THE BOARD FOR ANY CHARGES MADE BY SUCH PERSONNEL FOR SUCH SERVICES AND FOR THE ACTUAL EXPENSES OF EACH INSPECTION.

(4) THE BOARD MAY CAUSE AN INVESTIGATION TO BE MADE IN RESPONSE TO AN ACCIDENT OR INCIDENT INVOLVING A PASSENGER TRAMWAY, AS THE BOARD MAY REASONABLY REQUIRE. THE BOARD MAY EMPLOY INDEPENDENT CONTRACTORS TO MAKE SUCH INVESTIGATIONS FOR REASONABLE FEES PLUS EXPENSES. THE EXPENSES INCURRED BY THE BOARD IN CONNECTION WITH THE CONDUCT OF INVESTIGATIONS PROVIDED FOR IN THIS PART 7 SHALL BE PAID IN THE FIRST INSTANCE BY THE BOARD, AND THEREAFTER ONE OR MORE AREA OPERATORS MAY BE BILLED FOR WORK PERFORMED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(5) IF, AS THE RESULT OF AN INSPECTION, IT IS FOUND THAT A VIOLATION OF THE BOARD'S RULES AND REGULATIONS EXISTS, OR A CONDITION IN PASSENGER TRAMWAY DESIGN, CONSTRUCTION, OPERATION, OR MAINTENANCE EXISTS, ENDANGERING THE SAFETY OF THE PUBLIC, AN IMMEDIATE REPORT SHALL BE MADE TO THE BOARD FOR APPROPRIATE INVESTIGATION AND ORDER.

**25-5-716. Emergency shutdown.** WHEN FACTS ARE PRESENTED TENDING TO SHOW THAT AN UNREASONABLE HAZARD EXISTS IN THE CONTINUED OPERATION OF A PASSENGER TRAMWAY, AFTER SUCH VERIFICATION OF SAID FACTS AS IS PRACTICAL UNDER THE CIRCUMSTANCES AND CONSISTENT WITH THE PUBLIC SAFETY, THE BOARD, ANY MEMBER THEREOF, OR THE SUPERVISORY TRAMWAY ENGINEER MAY, BY AN EMERGENCY ORDER, REQUIRE THE AREA OPERATOR OF SAID TRAMWAY FORTHWITH TO CEASE USING THE SAME FOR THE TRANSPORTATION OF PASSENGERS. SUCH EMERGENCY ORDER SHALL BE IN WRITING AND SIGNED BY A MEMBER OF THE BOARD OR THE SUPERVISORY TRAMWAY ENGINEER, AND NOTICE THEREOF MAY BE SERVED BY THE SUPERVISORY TRAMWAY ENGINEER, ANY MEMBER OF THE BOARD, OR AS PROVIDED BY THE COLORADO RULES OF CIVIL PROCEDURE OR THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S. SUCH SERVICE SHALL BE MADE UPON THE AREA OPERATOR OR THE AREA OPERATOR'S AGENT IMMEDIATELY IN CONTROL OF SAID TRAMWAY. SUCH EMERGENCY SHUTDOWN SHALL BE EFFECTIVE FOR A PERIOD NOT TO EXCEED SEVENTY-TWO HOURS FROM THE TIME OF SERVICE. THE BOARD SHALL CONDUCT AN INVESTIGATION INTO THE FACTS OF THE CASE AND SHALL TAKE SUCH ACTION UNDER THIS PART 7 AS MAY BE APPROPRIATE.

**25-5-717. Provisions in lieu of others.** THE PROVISIONS FOR REGULATION, REGISTRATION, AND LICENSING OF PASSENGER TRAMWAYS AND THE AREA OPERATORS THEREOF UNDER THIS PART 7 SHALL BE IN LIEU OF ALL OTHER REGULATIONS OR REGISTRATION, OR LICENSING REQUIREMENTS, AND PASSENGER TRAMWAYS SHALL NOT BE CONSTRUED TO BE COMMON CARRIERS WITHIN THE MEANING OF THE LAWS OF THIS STATE.

**25-5-718. Governmental immunity - limitations on liability.** THE BOARD, ANY MEMBER OF THE BOARD, ANY PERSON ON THE STAFF OF THE BOARD, ANY TECHNICAL ADVISOR APPOINTED BY THE BOARD, ANY MEMBER OF AN ADVISORY COMMITTEE APPOINTED BY THE BOARD, AND ANY INDEPENDENT CONTRACTOR HIRED TO PERFORM OR ACTING AS A STATE TRAMWAY INSPECTOR ON BEHALF OF THE BOARD WITH WHOM THE BOARD CONTRACTS FOR ASSISTANCE SHALL BE PROVIDED ALL PROTECTIONS OF GOVERNMENTAL IMMUNITY PROVIDED TO PUBLIC EMPLOYEES BY ARTICLE 10 OF TITLE 24, C.R.S., INCLUDING BUT NOT LIMITED TO THE PAYMENT OF JUDGMENTS AND SETTLEMENTS, THE PROVISION OF LEGAL DEFENSE, AND THE PAYMENT OF COSTS INCURRED IN COURT ACTIONS. THESE PROTECTIONS SHALL BE PROVIDED TO THE BOARD, BOARD MEMBERS, STAFF, TECHNICAL ADVISORS, COMMITTEE MEMBERS, AND INDEPENDENT CONTRACTORS HIRED TO PERFORM OR ACTING AS A STATE TRAMWAY INSPECTOR ON BEHALF OF THE BOARD ONLY WITH REGARD TO ACTIONS BROUGHT BECAUSE OF ACTS OR OMISSIONS COMMITTED BY SUCH PERSONS IN THE COURSE OF OFFICIAL BOARD DUTIES.

**25-5-719. Independent contractors - no general immunity.** THE PROVISIONS OF SECTION 25-5-718 SHALL BE CONSTRUED AS A SPECIFIC EXCEPTION TO THE GENERAL EXCLUSION OF INDEPENDENT CONTRACTORS HIRED TO PERFORM OR ACTING AS A STATE TRAMWAY INSPECTOR ON BEHALF OF THE BOARD FROM THE PROTECTIONS OF GOVERNMENTAL IMMUNITY PROVIDED IN ARTICLE 10 OF TITLE 24, C.R.S.

**SECTION 9.** Part 7 of article 5 of title 25, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**25-5-720. Confidentiality of reports and other materials.** (1) REPORTS OF INVESTIGATIONS CONDUCTED BY AN AREA OPERATOR OR BY A PRIVATE CONTRACTOR ON AN AREA OPERATOR'S BEHALF AND FILED WITH THE BOARD OR THE BOARD'S STAFF SHALL BE PRESUMED TO BE PRIVILEGED INFORMATION EXEMPT FROM PUBLIC INSPECTION UNDER SECTION 24-72-204 (3) (a) (IV), C.R.S., EXCEPT AS MAY BE ORDERED BY A COURT OF COMPETENT JURISDICTION.

(2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1) OF THIS SECTION, ALL INFORMATION IN THE POSSESSION OF THE BOARD'S STAFF AND ALL FINAL REPORTS TO THE BOARD SHALL BE OPEN TO PUBLIC INSPECTION IN ACCORDANCE WITH PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.

**25-5-721. Repeal of part.** (1) THIS PART 7 IS REPEALED, EFFECTIVE JULY 1, 2001.

(2) PRIOR TO SUCH REPEAL, THE PASSENGER TRAMWAY SAFETY BOARD SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

**SECTION 10. Effective date.** This act shall take effect July 1, 1993.

**SECTION 11. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 1993