

CHAPTER 268

PUBLIC UTILITIES

SENATE BILL 98-200

BY SENATOR Schroeder;
also REPRESENTATIVES Grampsas and Salaz.

AN ACT

CONCERNING STRENGTHENING THE OPERATIONAL LIMITATIONS APPLIED TO PERSONS OFFERING LUXURY LIMOUSINE TRANSPORTATION SERVICES FOR HIRE.

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

SECTION 1. 40-16-101 (1), (3), (4), and (5), Colorado Revised Statutes, are amended, and the said 40-16-101 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

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

(1) ~~"Charter or scenic bus" means a motor vehicle for the transport of people with a minimum capacity of thirty-two passengers which is hired to provide services for a person or group of persons travelling from one location to another for a common purpose. A charter or scenic bus does not provide regular route service from one location to another.~~ "CHARTER BASIS" MEANS ON THE BASIS OF A CONTRACT FOR TRANSPORTATION WHEREBY A PERSON AGREES TO PROVIDE EXCLUSIVE USE OF A MOTOR VEHICLE TO A SINGLE CHARTERING PARTY FOR A SPECIFIC PERIOD OF TIME DURING WHICH THE CHARTERING PARTY SHALL HAVE THE EXCLUSIVE RIGHT TO DIRECT THE OPERATION OF THE VEHICLE, INCLUDING, BUT NOT LIMITED TO, SELECTION OF THE ORIGIN, DESTINATION, ROUTE, AND INTERMEDIATE STOPS.

(1.2) "CHARTERING PARTY" MEANS A PERSON OR GROUP OF PERSONS WHO SHARE A PERSONAL OR PROFESSIONAL RELATIONSHIP WHEREBY ALL SUCH PERSONS ARE MEMBERS OF THE SAME AFFILIATED GROUP, INCLUDING, WITHOUT LIMITATION, A FAMILY, BUSINESS, RELIGIOUS GROUP, SOCIAL ORGANIZATION, OR PROFESSIONAL ORGANIZATION. "CHARTERING PARTY" DOES NOT INCLUDE GROUPS OF UNRELATED PERSONS BROUGHT TOGETHER BY A CARRIER, TRANSPORTATION BROKER, OR OTHER

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

THIRD PARTY.

(1.3) "CHARTER OR SCENIC BUS" MEANS A MOTOR VEHICLE FOR THE TRANSPORT OF PEOPLE, ON A CHARTER BASIS, WITH A MINIMUM CAPACITY OF THIRTY-TWO PASSENGERS THAT IS HIRED TO PROVIDE SERVICES FOR A PERSON OR GROUP OF PERSONS TRAVELING FROM ONE LOCATION TO ANOTHER FOR A COMMON PURPOSE. A CHARTER OR SCENIC BUS DOES NOT PROVIDE REGULAR ROUTE SERVICE FROM ONE LOCATION TO ANOTHER.

(1.7) "COMMERCIAL LOCATION" MEANS A PLACE WHERE GOODS OR SERVICES ARE BOUGHT, SOLD, OR EXCHANGED.

(3) (a) "Luxury limousine" means a CHAUFFEUR-DRIVEN, luxury ~~motor-driven passenger automobile~~ MOTOR VEHICLE WITH A REAR SEATING CAPACITY OF THREE OR MORE, for hire on a PREARRANGED, charter basis to transport passengers ~~which~~ IN LUXURY LIMOUSINE SERVICE, THAT:

(I) IS NOT IDENTIFIED BY EXTERIOR SIGNS OR GRAPHICS OTHER THAN LICENSE PLATES;

(II) IS NOT EQUIPPED WITH A TAXICAB METER OR OTHER DEVICE FOR MEASURING TIME OR MILEAGE OTHER THAN A FACTORY-INSTALLED ODOMETER;

(III) Offers luxury features ~~which~~ THAT shall include, but need not be limited to, television, telephone, and beverages ~~If the commission questions whether a specific vehicle is a luxury limousine, it may determine if such vehicle is a luxury limousine when application is made for vehicle identification as required by section 40-2-110.5. "Luxury limousine" does not include a taxicab.~~ AS SPECIFIED BY RULES OF THE COMMISSION; AND

(IV) IN ADDITION, QUALIFIES FOR INCLUSION IN ONE OF THE FOLLOWING CATEGORIES:

(A) STRETCHED LIMOUSINE, WHICH IS A MOTOR VEHICLE, ORIGINALLY DESIGNED AS A LUXURY MOTOR-DRIVEN PASSENGER VEHICLE, WHOSE WHEELBASE HAS BEEN LENGTHENED BEYOND THE MANUFACTURER'S ORIGINAL SPECIFICATIONS, WHETHER AT THE MANUFACTURER'S FACTORY OR OTHERWISE, AND THAT MEETS APPLICABLE STANDARDS OF THE FEDERAL DEPARTMENT OF TRANSPORTATION.

(B) EXECUTIVE SEDAN, WHICH IS A FULL-SIZE, FOUR-DOOR, LUXURY SEDAN OR SPORTS UTILITY VEHICLE WITH A SEATING CAPACITY OF AT LEAST FIVE, NOT INCLUDING THE DRIVER, THAT HAS NOT BEEN ALTERED FROM THE MANUFACTURER'S ORIGINAL SPECIFICATIONS.

(C) EXECUTIVE VAN, WHICH IS A VAN WITH A REAR SEATING CAPACITY OF SEVEN OR MORE THAT MAY BE OF STANDARD MANUFACTURER'S SPECIFICATIONS, BUT MAY HAVE BEEN ALTERED FROM THE MANUFACTURER'S ORIGINAL SPECIFICATIONS, AND THAT MEETS APPLICABLE STANDARDS OF THE FEDERAL DEPARTMENT OF TRANSPORTATION.

(D) LUXURY VEHICLE, WHICH IS A LUXURY MOTOR VEHICLE WITH A SEATING

CAPACITY OF NO MORE THAN FIVE, NOT INCLUDING THE DRIVER, THAT EITHER HAS A NATIONAL AUTOMOBILE DEALERS' ASSOCIATION (NADA) "BLUE BOOK" RETAIL VALUE EXCEEDING FIFTY THOUSAND DOLLARS AT THE TIME OF REGISTRATION OR HAS A MANUFACTURER'S SUGGESTED RETAIL PRICE EXCEEDING FIFTY THOUSAND DOLLARS AND WAS PURCHASED NEW DURING THE CURRENT MODEL YEAR BY A LUXURY LIMOUSINE REGISTRANT.

(E) DISCRETIONARY VEHICLE, WHICH IS ANY OTHER LUXURY MOTOR VEHICLE THAT, IN THE COMMISSION'S DISCRETION, QUALIFIES AS A LUXURY LIMOUSINE.

(b) AN APPLICANT FOR A LUXURY VEHICLE REGISTRATION PURSUANT TO SUB-SUBPARAGRAPH (D) OF SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL SUPPLY PROOF OF THE VALUE OF THE VEHICLE IN THE FORM OF EITHER:

(I) REFERENCE TO THE MOST RECENT AVAILABLE EDITION OF THE NADA "BLUE BOOK", WHERE APPLICABLE; OR

(II) A SALES RECEIPT AND AFFIDAVIT CONFIRMING THE ACTUAL PRICE OF THE VEHICLE, WHERE APPLICABLE. THE FIFTY-THOUSAND-DOLLAR THRESHOLD VALUE SET FORTH IN SAID SUB-SUBPARAGRAPH (D) SHALL BE ADJUSTED ANNUALLY, ON JULY 1 OF EACH YEAR, BASED UPON THE CONSUMER PRICE INDEX FOR THE DENVER-BOULDER-GREELEY AREA AS PUBLISHED BY THE FEDERAL BUREAU OF LABOR STATISTICS.

(c) "LUXURY LIMOUSINE" DOES NOT INCLUDE A TAXICAB.

(d) IF THE COMMISSION QUESTIONS WHETHER A SPECIFIC VEHICLE IS A LUXURY LIMOUSINE, IT MAY DETERMINE IF SUCH VEHICLE IS A LUXURY LIMOUSINE WHEN APPLICATION IS MADE FOR VEHICLE IDENTIFICATION AS REQUIRED BY SECTION 40-2-110.5.

(3.3) "LUXURY LIMOUSINE SERVICE" MEANS A SPECIALIZED, LUXURIOUS TRANSPORTATION SERVICE PROVIDED ON A PREARRANGED, CHARTER BASIS. "LUXURY LIMOUSINE SERVICE" DOES NOT INCLUDE TAXICAB SERVICE OR ANY SERVICE PROVIDED BETWEEN FIXED POINTS OVER REGULAR ROUTES AT REGULAR INTERVALS.

(4) "Motor vehicle carrier exempt from regulation as a public utility" means persons who offer services as property carriers by motor vehicle or WHO offer ~~services using~~ charter or scenic buses, luxury limousines, off-road scenic charters, and children's activity ~~buses~~ BUS SERVICES.

(5) "Off-road scenic charter" means a motor-driven passenger vehicle for the transport of passengers, ON A CHARTER BASIS, to scenic points within Colorado, a portion of which will be travel off paved roads. "Off-road scenic charter" does not include the transport of passengers to commercial locations. An off-road scenic charter provides services ~~which~~ THAT originate and terminate at the same location.

(6.3) "PREARRANGED", IN REFERENCE TO A TRANSPORTATION SERVICE, MEANS THAT THE TRANSPORTATION HAS BEEN ARRANGED OR RESERVED BY MAIL, TELEPHONE, TELEFACSIMILE, OR COMPUTER BEFORE THE CARRIER BEGINS TO RENDER

THE TRANSPORTATION SERVICE OR ANY SERVICE ANCILLARY TO THE TRANSPORTATION, SUCH AS LOADING OF BAGGAGE.

SECTION 2. Article 16 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

40-16-102.5. Luxury limousines - operational requirements. LUXURY LIMOUSINE SERVICE SHALL BE PROVIDED ON A PREARRANGED BASIS ONLY. A LUXURY LIMOUSINE COMPANY SHALL, AT ALL TIMES WHEN PROVIDING SERVICE, CARRY IN EACH VEHICLE A MANIFEST OR CHARTER ORDER CONTAINING THE NAME AND PICKUP ADDRESS OF THE PASSENGERS WHO HAVE ARRANGED FOR USE OF THE VEHICLE. SUCH MANIFEST OR CHARTER ORDER SHALL BE MADE AVAILABLE IMMEDIATELY UPON REQUEST TO ANY AUTHORIZED REPRESENTATIVE OF THE COMMISSION, A LAW ENFORCEMENT AGENCY, OR AN AIRPORT AUTHORITY. THE FACT THAT A LUXURY LIMOUSINE OPERATOR STATIONS EQUIPMENT AT AN AIRPORT, IN FRONT OF OR ACROSS THE STREET FROM A HOTEL OR MOTEL, OR WITHIN ONE HUNDRED FEET OF A RECOGNIZED TAXICAB STAND WITHOUT A COMPLETED CHARTER ORDER IN THE VEHICLE SHALL CONSTITUTE PRIMA FACIE EVIDENCE THAT THE OPERATOR IS OPERATING AN ILLEGAL TAXICAB SERVICE.

40-16-103.5. Luxury limousines - previously registered vehicles. ALL VEHICLES REGISTERED AS LUXURY LIMOUSINES ON OR BEFORE JUNE 30, 1998, SHALL MAINTAIN THEIR REGISTRATION STATUS SO LONG AS THE LUXURY LIMOUSINE PERMIT UNDER WHICH THEY WERE ORIGINALLY REGISTERED REMAINS CONTINUOUSLY ACTIVE AND IS NOT REVOKED.

40-16-103.6. Enforcement. (1) IN ADDITION TO TAKING ANY OTHER ACTION AUTHORIZED BY LAW, THE COMMISSION MAY REVOKE THE LUXURY LIMOUSINE REGISTRATION OF ANY PERSON WHO FAILS OR REFUSES TO OPERATE A LUXURY LIMOUSINE SERVICE IN ACCORDANCE WITH THIS ARTICLE AND ALL APPLICABLE RULES OF THE COMMISSION ADOPTED IN FURTHERANCE OF THIS ARTICLE.

(2) A PERSON WHOSE LUXURY LIMOUSINE REGISTRATION HAS BEEN REVOKED FOR CAUSE MORE THAN TWICE SHALL NOT BE ELIGIBLE FOR REREGISTRATION FOR AT LEAST TWO YEARS AFTER THE DATE OF THE THIRD SUCH REVOCATION. IN THE CASE OF AN ENTITY OTHER THAN AN INDIVIDUAL, SUCH TWO-YEAR PERIOD OF INELIGIBILITY SHALL ALSO APPLY TO ALL PRINCIPALS, OFFICERS, AND DIRECTORS OF THE ENTITY, WHETHER OR NOT ANY SUCH PRINCIPAL, OFFICER, OR DIRECTOR APPLIES INDIVIDUALLY OR AS A PRINCIPAL, OFFICER, OR DIRECTOR OF THE SAME OR A DIFFERENT ENTITY. AS USED IN THIS SUBSECTION (2), A REVOCATION "FOR CAUSE" DOES NOT INCLUDE A REVOCATION FOR FAILURE TO CARRY THE REQUIRED INSURANCE UNLESS IT IS SHOWN THAT THE PERSON KNOWINGLY OPERATED WITHOUT INSURANCE.

(3) ANY PERSON MAY FILE A FORMAL COMPLAINT WITH THE COMMISSION AGAINST THE HOLDER OF A LUXURY LIMOUSINE REGISTRATION FOR VIOLATIONS OF THIS ARTICLE OR RULES ADOPTED IN FURTHERANCE OF THIS ARTICLE. SUCH A COMPLAINT SHALL BE HEARD AND DETERMINED AS PROVIDED IN ARTICLE 6 OF THIS TITLE, AND, UPON PROOF OF SUCH VIOLATION, THE COMMISSION MAY ISSUE A CEASE AND DESIST ORDER, SUSPEND OR REVOKE THE REGISTRATION OF THE VIOLATOR, OR ASSESS CIVIL PENALTIES AS PROVIDED IN ARTICLE 7 OF THIS TITLE.

(4) ANY PERSON INJURED BY A VIOLATION OF THIS ARTICLE, OF ANY OTHER APPLICABLE STATUTE, OR OF A RULE, ORDER, DECISION, DECREE, DIRECTION, OR REQUIREMENT OF THE COMMISSION MAY APPLY TO ANY COURT OF COMPETENT JURISDICTION FOR RELIEF, WHICH MAY INCLUDE DAMAGES, INJUNCTIVE RELIEF, AND ANY OTHER APPROPRIATE REMEDY OR LEGAL PROCESS.

SECTION 3. 40-16-104 (1) (b), Colorado Revised Statutes, is amended to read:

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

(b) For luxury limousines:

(I) A minimum amount of one million dollars combined single limit liability FOR VEHICLES WITH A PASSENGER CAPACITY OF FOURTEEN OR LESS;

(II) A MINIMUM AMOUNT OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS COMBINED SINGLE LIMIT LIABILITY FOR VEHICLES WITH A PASSENGER CAPACITY OF MORE THAN FOURTEEN AND LESS THAN THIRTY-TWO; AND

(III) A MINIMUM AMOUNT OF FIVE MILLION DOLLARS COMBINED SINGLE LIMIT LIABILITY FOR VEHICLES WITH A PASSENGER CAPACITY OF THIRTY-TWO OR MORE.

SECTION 4. 12-47-901 (1) (h) (II), Colorado Revised Statutes, is amended to read:

12-47-901. Unlawful acts - exceptions. (1) Except as provided in section 18-13-122, C.R.S., it is unlawful for any person:

(h) (II) Notwithstanding subparagraph (I) of this paragraph (h), it shall not be unlawful for a person who is at least twenty-one years of age to consume malt, vinous, or spirituous liquors while such person is a passenger aboard a luxury limousine, as defined in section 40-16-101 (3), C.R.S., or a charter or scenic bus, as defined in section 40-16-101 (1.3), C.R.S. Nothing in this subparagraph (II) shall be construed to authorize an owner or operator of a luxury limousine or charter or scenic bus to sell or distribute malt, vinous, or spirituous liquors without obtaining a public transportation system license pursuant to section ~~12-47-122~~ 12-47-419.

SECTION 5. 40-7-112 (1), Colorado Revised Statutes, is amended to read:

40-7-112. Carriers subject to civil penalties. (1) Any person who operates a motor vehicle carrier as defined in section 40-10-101 (4) (a), a contract carrier by motor vehicle as defined in section 40-11-101 (3), a towing carrier as defined in

section 40-13-101 (3), those motor vehicle carriers exempt from regulation as public utilities as defined in section 40-16-101, ~~(4) to (5)~~; and interstate carriers required to register under section 40-10-120 or 40-11-115 shall be subject to civil penalties as provided in this section and sections 40-7-113 to 40-7-116, which shall be paid and credited to the general fund, in addition to any other sanctions which may be imposed pursuant to law.

SECTION 6. 40-7-113 (1) (f), Colorado Revised Statutes, is amended to read:

40-7-113. Civil penalties - fines. (1) In addition to any other penalty otherwise authorized by law and except as otherwise provided in subsections (3) and (4) of this section, any person who violates any provision of article 10, 11, 13, or 16 of this title or any rule or regulation promulgated by the commission pursuant to such articles, which provision or rule or regulation is applicable to such person, may be subject to fines as specified in the following paragraphs:

(f) Any person who operates a charter or scenic bus as defined in section 40-16-101 ~~(4)~~ (1.3), a property carrier by motor vehicle as defined in section 40-16-101 (6.5), a luxury limousine as defined in section 40-16-101 (3), or an off-road scenic charter as defined in section 40-16-101 (5) without having first registered with the commission as required by section 40-16-103 may be assessed a civil penalty of not more than four hundred dollars.

SECTION 7. Effective date. This act shall take effect July 1, 1998.

SECTION 8. 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 1, 1998