

CHAPTER 165

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 99-1024

BY REPRESENTATIVE Swenson;
also SENATORS Arnold and Weddig.**AN ACT**

CONCERNING THE REGULATION OF TOWING CARRIERS THAT TOW ABANDONED VEHICLES FROM PRIVATE PROPERTY.

*Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** 40-13-109, Colorado Revised Statutes, is amended to read:

40-13-109. Suspension or revocation of permit - procedure. The commission, at any time, upon complaint by any interested party, or upon its own motion, by order duly entered, after hearing upon notice to the holder of any permit issued under this article, when it has been established to the satisfaction of the commission that such holder has violated any of the provisions hereof or any of the terms and conditions of such permit, or has exceeded the authority granted by such permit, or has violated or refused to observe any of the proper orders, rules, or regulations of the commission, OR HAS VIOLATED ANY OF THE PROVISIONS SET FORTH IN PART 18 OF ARTICLE 4 OF TITLE 42, C.R.S., may revoke, suspend, alter, or amend any such permit. The holder of such permit shall have all the rights of hearing, review, and appeal as to such order or ruling of the commission as are provided by law. No appeal from or review of any order or ruling of the commission shall be construed so as to supersede or suspend such order or ruling, except upon order of a proper court obtained for such purpose.

SECTION 2. 42-4-1805 (2), (3) (b) (III), and (4) and the introductory portion to 42-4-1805 (5), Colorado Revised Statutes, are amended to read:

42-4-1805. Abandonment of motor vehicles - private tow. (2) Any operator having in his or her possession any abandoned motor vehicle from a private tow shall immediately notify 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 as to the name of

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

the operator and the location of the impound lot where the vehicle is located and 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. Upon such notification, the law enforcement agency SHALL ASSIGN THE VEHICLE A CASE NUMBER AND shall ascertain, if possible, whether or not the vehicle has been reported stolen and, if so reported, such agency shall recover and secure the motor vehicle and notify its rightful owner and terminate the abandonment proceedings under this part 18. The responsible law enforcement agency shall have the right to recover from the owner its reasonable costs to recover and secure the vehicle.

(3) (b) The report shall contain the following information:

(III) 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, OR ANY OTHER INDICIA OF THE MOTOR VEHICLE'S STATE OF ORIGIN, and the vehicle identification number and a list of the names and addresses of any known drivers.

(4) Upon its receipt of such report, the department shall search its records, THE RECORDS OF THE ISSUING STATE IF THE VEHICLE IS NOT REGISTERED IN COLORADO, or make other inquires to ascertain, if possible, the last-known owner of record of the abandoned motor vehicle and any lienholder as those persons are represented in department records. In the event the vehicle is determined by the department not to be registered in the state of Colorado, the report required by this section shall state that no Colorado title record exists regarding the vehicle. Within ten working days of such receipt, the department shall complete its search and shall transmit such report, together with all relevant information thereon, to the operator.

(5) Within five working days of the receipt of such report from the department, the operator shall notify by certified mail or by personal delivery to the owner of record and any lienholder, INCLUDING AN OUT-OF-STATE OWNER OF RECORD AND LIENHOLDER. THE OPERATOR SHALL MAKE ALL REASONABLE EFFORTS TO ASCERTAIN THE ADDRESS OF THE OWNER OF RECORD AND WHETHER THERE ARE ANY LIENHOLDERS ON THE VEHICLE. The operator shall send a copy of the notice by certified mail or by personal delivery to the responsible law enforcement agency in which the abandoned motor vehicle is located. Such notice shall contain the following information:

SECTION 3. 42-4-1806 (2), Colorado Revised Statutes, is amended to read:

42-4-1806. Appraisal of abandoned motor vehicles - sale. (2) (a) Private tow abandoned motor vehicles or motor vehicles abandoned in an impound lot subsequent to a private tow shall be appraised and sold by the operator in a commercially reasonable manner at a public or private sale held not less than thirty days nor more than sixty days after the date the notice required by section 42-4-1805 (5) was mailed. SUCH SALE SHALL BE MADE THROUGH A MOTOR VEHICLE DEALER OR WHOLESALER, OR WHOLESALER, OR WHOLESALER MOTOR VEHICLE AUCTION DEALER LICENSED IN ACCORDANCE WITH SECTION 12-6-108, C.R.S., OR THROUGH A CLASSIFIED NEWSPAPER ADVERTISEMENT PUBLISHED IN AT LEAST ONE LEGAL NEWSPAPER IN COLORADO; EXCEPT THAT THIS REQUIREMENT FOR SUCH SALE SHALL NOT APPLY TO THE SALE OF A VEHICLE PURSUANT TO SUBSECTION (3) OF THIS SECTION. FOR

PURPOSES OF THIS SUBSECTION (2), A SALE SHALL NOT BE CONSIDERED COMMERCIALY REASONABLE IF THE VEHICLE IS SOLD TO AN OFFICER OR PARTNER OF THE OPERATOR THAT HAS POSSESSION OF THE VEHICLE OR TO ANY OTHER PERSON WITH A PROPRIETARY INTEREST IN SUCH OPERATOR.

(b) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (2), NO OPERATOR SHALL SELL A MOTOR VEHICLE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IF THE OWNER OF RECORD NOTIFIES THE OPERATOR OF THE OWNER'S INTENT TO CLAIM THE VEHICLE BY CERTIFIED MAIL OR IN PERSON WITHIN THIRTY CALENDAR DAYS FROM THE DATE THE NOTICE REQUIRED BY SECTION 42-4-1805 (5) WAS MAILED.

(c) AN OPERATOR WHO RECEIVES NOTIFICATION FROM AN OWNER PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) MAY PROCEED WITH THE SALE OF SUCH VEHICLE IF:

(I) SUCH NOTIFICATION CONTAINS THE OWNER'S WRITTEN CONSENT FOR THE OPERATOR TO SELL THE VEHICLE; OR

(II) THE OWNER WHO MADE SUCH NOTIFICATION FAILS TO REDEEM THE VEHICLE WITHIN THIRTY CALENDAR DAYS FROM THE DATE THE NOTICE REQUIRED BY SECTION 42-4-1805 (5) WAS MAILED.

(d) NOTHING IN THIS SECTION SHALL PROHIBIT AN OPERATOR FROM SELLING A MOTOR VEHICLE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IN THE EVENT THE OPERATOR RECEIVES NO NOTIFICATION DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (2).

(e) NOTHING IN THIS SECTION SHALL REQUIRE THAT AN OPERATOR MUST BE A LICENSED DEALER PURSUANT TO ARTICLE 6 OF TITLE 12, C.R.S., FOR PURPOSES OF SELLING A MOTOR VEHICLE PURSUANT TO THIS PART 18.

SECTION 4. 42-4-1807, Colorado Revised Statutes, is amended to read:

42-4-1807. 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 thereof or any other legally authorized person in control of such motor vehicle, from the owner or lessee of real property upon which a motor vehicle is illegally parked or the owner's or lessee's agent authorized in writing, or from any duly authorized law enforcement agency or peace officer who has determined that such motor vehicle is an abandoned motor vehicle, such operator shall have a possessory lien upon such motor vehicle and its attached accessories or equipment for all costs of recovery, towing, and storage as authorized in section 42-4-1810 (2) (a). Such lien shall be a first and prior lien on the motor vehicle, and such lien shall be satisfied before all other charges against such motor vehicle.

(2) (a) NO OPERATOR SHALL HAVE A POSSESSORY LIEN UPON A MOTOR VEHICLE DESCRIBED IN SUBSECTION (1) OF THIS SECTION UNLESS SAID OPERATOR IS REGISTERED WITH THE DEPARTMENT. SUCH REGISTRATION SHALL INCLUDE THE FOLLOWING INFORMATION:

(I) THE LOCATION OF THE OPERATOR'S TOW BUSINESS;

(II) THE HOURS OF OPERATION OF THE OPERATOR'S TOW BUSINESS;

(III) THE LOCATION OF THE IMPOUND LOT WHERE VEHICLES MAY BE CLAIMED BY THE OWNER OF RECORD; AND

(IV) ANY INFORMATION RELATING TO A VIOLATION OF ANY PROVISION CONTAINED IN THIS PART 18 OR OF ANY OTHER STATE LAW OR RULE RELATING TO THE OPERATION, THEFT, OR TRANSFER OF MOTOR VEHICLES.

(b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY CANCEL THE REGISTRATION OF ANY OPERATOR IF THE EXECUTIVE DIRECTOR FINDS, AFTER AFFORDING THE OPERATOR DUE NOTICE AND AN OPPORTUNITY TO BE HEARD, THAT THE OPERATOR HAS VIOLATED ANY OF THE PROVISIONS SET FORTH IN THIS PART 18.

SECTION 5. 42-4-1810 (2) (a), Colorado Revised Statutes, is amended to read:

42-4-1810. Proceeds of sale. (2) (a) The proceeds shall first satisfy the operator's charges as follows: The OPERATOR'S REASONABLE AND DOCUMENTED COSTS ARISING FROM THE SALE OF THE MOTOR VEHICLE PURSUANT TO SECTION 42-4-1806 (2) (a) AND THE cost of towing the abandoned motor vehicle with a maximum charge of fifty dollars; ~~the mileage for tows of greater than twenty-five miles one way, to be computed at the rate of one dollar per mile for each mile in excess of twenty-five miles one way; and the storage of the abandoned motor vehicle to be charged at the rate of four dollars per day for a maximum of sixty days~~ THAT IS SPECIFIED IN RULES PROMULGATED BY THE PUBLIC UTILITIES COMMISSION THAT GOVERN NONCONSENSUAL TOWS BY TOWING CARRIERS. In the case of an abandoned motor vehicle weighing in excess of ten thousand pounds, the provisions of this paragraph (a) shall not apply and the operator's charges shall be determined by negotiated agreement between the operator and the responsible law enforcement agency.

SECTION 6. Effective date. This act shall take effect July 1, 2000.

SECTION 7. 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: May 7, 1999