

CHAPTER 103

TRANSPORTATION

SENATE BILL 02-011

BY SENATOR(S) Teck;
also REPRESENTATIVE(S) Larson, Borodkin, Hoppe, Mace, Miller, Romanoff, Smith, Stafford, Stengel, Webster, and Williams
S.

AN ACT**CONCERNING THE REGULATION OF MOTOR CARRIER SAFETY.**

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

SECTION 1. 42-4-235 (2), Colorado Revised Statutes, is amended to read:

42-4-235. Minimum standards for commercial vehicles. (2) (a) No person shall operate a commercial vehicle, as defined in subsection (1) of this section, on any public highway of this state unless such vehicle is in compliance with the rules ~~and regulations~~ adopted by the department pursuant to subsection (4) of this section. ANY PERSON WHO VIOLATES SUCH RULES, INCLUDING INTRASTATE MOTOR CARRIERS, SHALL BE SUBJECT TO THE CIVIL PENALTIES AUTHORIZED PURSUANT TO 49 CFR, PART 386, SUBPART G, AS SUCH SUBPART EXISTED ON OCTOBER 1, 2001. PERSONS WHO UTILIZE AN INDEPENDENT CONTRACTOR SHALL NOT BE LIABLE FOR PENALTIES IMPOSED ON THE INDEPENDENT CONTRACTOR FOR EQUIPMENT, ACTS, AND OMISSIONS WITHIN THE INDEPENDENT CONTRACTOR'S CONTROL OR SUPERVISION. ALL CIVIL PENALTIES COLLECTED PURSUANT TO THIS ARTICLE BY A STATE AGENCY OR BY A COURT SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE HIGHWAY USERS TAX FUND CREATED IN SECTION 43-4-201, C.R.S.

(b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (2):

(I) INTRASTATE MOTOR CARRIERS SHALL NOT BE SUBJECT TO ANY PROVISIONS IN 49 CFR, PART 386, SUBPART G THAT RELATE THE AMOUNT OF A PENALTY TO A VIOLATOR'S ABILITY TO PAY, AND SUCH PENALTIES SHALL BE BASED UPON THE NATURE AND GRAVITY OF THE VIOLATION, THE DEGREE OF CULPABILITY, AND SUCH OTHER MATTERS AS JUSTICE AND PUBLIC SAFETY MAY REQUIRE;

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) WHEN DETERMINING THE ASSESSMENT OF A CIVIL PENALTY FOR SAFETY VIOLATIONS, THE PERIOD OF A MOTOR CARRIER'S SAFETY COMPLIANCE HISTORY THAT A COMPLIANCE REVIEW OFFICER MAY CONSIDER SHALL NOT EXCEED THREE YEARS; AND

(III) THE INTRASTATE OPERATION OF IMPLEMENTS OF HUSBANDRY SHALL NOT BE SUBJECT TO THE CIVIL PENALTIES PROVIDED IN 49 CFR, PART 386, SUBPART G. NOTHING IN THIS SUBSECTION (2) SHALL BE CONSTRUED TO REPEAL, PREEMPT, OR NEGATE ANY EXISTING REGULATORY EXEMPTION FOR AGRICULTURAL OPERATIONS, INTRASTATE FARM VEHICLE DRIVERS, INTRASTATE VEHICLES OR COMBINATIONS OF VEHICLES WITH A GROSS VEHICLE WEIGHT RATING OF NOT MORE THAN TWENTY-SIX THOUSAND POUNDS THAT DO NOT REQUIRE A COMMERCIAL DRIVER'S LICENSE TO OPERATE, OR ANY SUCCESSOR OR ANALOGOUS AGRICULTURAL EXEMPTIONS, WHETHER BASED ON FEDERAL OR STATE LAW.

(c) THE COLORADO STATE PATROL SHALL HAVE EXCLUSIVE ENFORCEMENT AUTHORITY TO CONDUCT SAFETY COMPLIANCE REVIEWS, AS DEFINED IN 49 CFR 385.3, AS SUCH SECTION EXISTED ON OCTOBER 1, 2001, AND TO IMPOSE CIVIL PENALTIES PURSUANT TO SUCH REVIEWS. NOTHING IN THIS PARAGRAPH (c) SHALL EXPAND OR LIMIT THE ABILITY OF LOCAL GOVERNMENTS TO CONDUCT ROADSIDE SAFETY INSPECTIONS.

SECTION 2. 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: April 18, 2002