

CHAPTER 153

MOTOR VEHICLES AND TRAFFIC REGULATION

SENATE BILL 02-132

BY SENATOR(S) Nichol;
also REPRESENTATIVE(S) Larson, Hefley, Hodge, Mace, Rippey, Stafford, Webster, Weddig, and Williams S.

AN ACT

CONCERNING THE REFORMATION OF THE REGULATION OF PERSONS WHO TOW ABANDONED MOTOR VEHICLES, AND, IN CONNECTION THEREWITH, RECODIFYING THE LAWS REGULATING TOWING ABANDONED VEHICLES.

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

SECTION 1. Part 18 of article 4 of title 42, Colorado Revised Statutes, is amended, WITH THE RELOCATION OF PROVISIONS, to read:

PART 18
VEHICLES ABANDONED ON PUBLIC PROPERTY

42-4-1801. Legislative declaration. The general assembly hereby declares that the purpose of this part 18 is to provide procedures for the removal, storage, and disposal of ~~abandoned and illegally parked~~ motor vehicles THAT ARE ABANDONED ON PUBLIC PROPERTY.

42-4-1802. Definitions. As used in this part 18, unless the context otherwise requires:

(1) "Abandoned motor vehicle" means:

~~(a) Any motor vehicle left unattended on private property for a period of twenty-four hours or longer or for such other period as may be established by local ordinance without the consent of the owner or lessee of such property or the owner's or lessee's legally authorized agent;~~

~~(b)~~ (a) Any motor vehicle left unattended on public property, including any portion of a highway right-of-way, outside the limits of any incorporated town or city for a

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

period of ~~twenty-four~~ FORTY-EIGHT hours or longer; ~~unless the owner or driver has conspicuously affixed thereto a dated notice indicating the intention to return or has otherwise notified the appropriate law enforcement agency of the intention to remove the same within seventy-two hours;~~

~~(e)~~ (b) Any motor vehicle left unattended on public property, including any portion of a highway right-of-way, within the limits of any incorporated town or city for a period longer than any limit prescribed by any local ordinance concerning the abandonment of motor vehicles or, if there is no such ordinance, for a period of ~~seventy-two~~ FORTY-EIGHT hours or longer; OR

~~(d)~~ (c) Any motor vehicle stored in an impound lot at the request of ~~its owner or the owner's agent or~~ a law enforcement agency and not removed from the impound lot ~~according to the agreement with the owner or agent or~~ within seventy-two hours ~~of~~ AFTER the time the law enforcement agency notifies the owner or agent that the vehicle is available for release upon payment of any applicable charges or fees. ~~If a law enforcement agency requested the storage, the provisions governing public tows of this part 18 apply as of the time of abandonment, and such law enforcement agency shall be deemed the responsible law enforcement agency. Otherwise, the private tow provisions of this part 18 apply as of the time of abandonment.~~

~~(1.5)~~ (2) "Agency employee" means any employee of the department of transportation or other municipal, county, or city and county agency responsible for highway safety and maintenance.

~~(1.7)~~ (3) "Auto parts recycler" means any person that purchases motor vehicles for the purpose of dismantling and selling the components thereof and that complies with all federal, state, and local regulations.

~~(2)~~ (4) "Appraisal" means a bona fide estimate of reasonable market value made by any motor vehicle dealer licensed in this state or by any employee of the Colorado state patrol or of any sheriff's or police department whose appointment for such purpose has been reported by the head of the appointing agency to the executive director of the department.

~~(3)~~ (5) "Disabled motor vehicle" means any motor vehicle ~~which~~ THAT is stopped or parked, either attended or unattended, upon a public right-of-way and ~~which~~ THAT is, due to any mechanical failure or any inoperability because of a collision, a fire, or any other such injury, temporarily inoperable under its own power.

~~(4)~~ (6) "Impound lot" means a parcel of real property ~~which~~ THAT is owned or leased by a government or operator at which motor vehicles are stored under appropriate protection.

~~(5)~~ (7) "Operator" means a person or a firm licensed by the public utilities commission as a towing carrier. For purposes of this part 18, "Operator" includes auto parts recyclers ~~except that nothing in this part 18 shall authorize the public utilities commission to issue or require a license to operate as an auto parts recycler~~ THAT TOW VEHICLES FOR REMUNERATION.

~~(6)~~ "Private property" means any real property which is not public property.

~~(7) "Private tow" means any tow of an abandoned motor vehicle not requested by a law enforcement agency.~~

(8) "Public property" means any real property having its title, ownership, use, or possession held by the federal government; this state; or any county, municipality, as defined in section 31-1-101 (6), C.R.S., or other governmental entity of this state.

~~(9) "Public tow" means any tow of an abandoned motor vehicle requested by a law enforcement agency.~~

~~(10)~~ (9) "Responsible law enforcement agency" means

~~(a) In the case of a public tow, the law enforcement agency authorizing the original tow of an abandoned motor vehicle, whether or not the vehicle is towed to another law enforcement agency's jurisdiction.~~

~~(b) In the case of a private tow, the law enforcement agency having jurisdiction over the private property where the motor vehicle becomes abandoned.~~

42-4-1803. Abandonment of motor vehicles - public property. (1) No person shall abandon any motor vehicle upon public property. Any sheriff, undersheriff, deputy sheriff, police officer, marshal, Colorado state patrol officer, or an agent of the Colorado bureau of investigation who finds a motor vehicle ~~which~~ THAT such officer has reasonable grounds to believe has been abandoned shall require such motor vehicle to be removed or cause the same to be removed and placed in storage in any impound lot designated or maintained by the law enforcement agency employing such officer.

(2) Whenever any sheriff, undersheriff, deputy sheriff, police officer, marshal, Colorado state patrol officer, agent of the Colorado bureau of investigation, or an agency employee finds a motor vehicle, vehicle, cargo, or debris, attended or unattended, standing upon any portion of a highway right-of-way in such a manner as to constitute an obstruction to traffic or proper highway maintenance, such officer or agency employee is authorized to cause the motor vehicle, vehicle, cargo, or debris to be moved to eliminate any such obstruction; and neither the officer, the agency employee, nor anyone acting under the direction of such officer or employee shall be liable for any damage to such motor vehicle, vehicle, cargo, or debris occasioned by such removal. The removal process is intended to clear the obstruction, but such activity should create as little damage as possible to the vehicle, or cargo, or both. No agency employee shall cause any motor vehicle to be moved unless such employee has obtained approval from a local law enforcement agency of a municipality, county, or city and county, the Colorado bureau of investigation, or the Colorado state patrol.

42-4-1804. Report of abandoned motor vehicles - owner's opportunity to request hearing. (1) (a) Upon having an abandoned motor vehicle towed, the responsible law enforcement agency shall ascertain, if possible, whether or not the motor 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 AND THE TOWING CARRIER shall have the right to recover from the owner ~~its~~ THEIR reasonable costs ~~to recover and secure~~ AND FEES FOR RECOVERING AND

SECURING the motor 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.

(b) As soon as possible, but in no event later than ~~three~~ TEN working days after having an abandoned motor vehicle towed, the responsible law enforcement agency shall report the same to the department by first-class or certified mail, ~~or~~ by personal delivery, ~~which~~ OR BY INTERNET COMMUNICATION. THE report shall be on a form prescribed and supplied by the department.

(c) The report shall contain the following information:

(I) The fact of possession, including the date possession was taken, the location of storage of the abandoned motor vehicle and the location from which it was towed, the identity of the responsible law enforcement agency, and the business address, telephone number, and name and signature of a representative from the responsible law enforcement agency;

(II) If applicable, the identity of the operator possessing the abandoned motor vehicle, together with the operator's business address and telephone number and the carrier number assigned by the public utilities commission; and

(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, and the vehicle identification number. ~~and a list of the names and addresses of any known drivers.~~

(2) Upon its receipt of such report, the department shall search its records or make other inquiries to ascertain, if possible, the last-known owner of record for 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~~ AFTER such receipt, the department shall complete its search and shall transmit such report, together with all relevant information thereon, to the responsible law enforcement agency.

(3) The responsible law enforcement agency, upon its receipt of the report required under subsection (2) of this section, shall determine, from all available information and after reasonable inquiry, whether or not the abandoned motor 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 motor vehicle.

(4) The responsible law enforcement agency, within ~~five~~ TEN working days ~~of~~ AFTER the receipt of the report from the department required in subsection (2) of this section, shall notify by certified mail the owner of record, if ascertained, and any lienholder, if ascertained, of the fact of such report and the claim ~~if any,~~ of a ANY lien under section ~~42-4-1807~~ 42-4-1806 and shall send a copy of such notice to the operator. The notice shall contain information that the identified motor vehicle has

been reported abandoned to the department, the location of the motor vehicle and the location from which it was towed, and that, unless claimed within thirty calendar days ~~from~~ AFTER the date the notice was sent as determined from the postmark on the notice, the motor vehicle is subject to sale. Such notice shall also inform the owner of record of the opportunity to request a hearing concerning the legality of the towing of the abandoned motor vehicle, and the responsible law enforcement agency to contact for that purpose. Such request shall be made in writing to the responsible law enforcement agency within ten days ~~of the postmarked date of sending such~~ AFTER THE notice WAS SENT, AS DETERMINED BY THE POSTMARK. Such hearing, if requested, shall be conducted pursuant to the provisions of section 24-4-105, C.R.S., if the responsible law enforcement agency is the Colorado state patrol. If a local political subdivision is the responsible law enforcement agency, such hearing shall be conducted pursuant to local hearing procedures. ~~In the event~~ IF it is determined at the hearing that the motor vehicle was illegally towed UPON REQUEST FROM A LAW ENFORCEMENT AGENCY, all towing charges and storage fees assessed against the vehicle shall be ~~forgiven~~ PAID BY SUCH LAW ENFORCEMENT AGENCY.

(5) The department shall maintain department-approved notice forms satisfying the requirements of subsection (4) of this section and shall make them available for use by local law enforcement agencies.

(6) (a) AN OPERATOR OR ITS AGENT SHALL, WITHIN TEN WORKING DAYS AFTER A MOTOR VEHICLE HAS BEEN TOWED, DETERMINE IF THERE IS AN OWNER AND A LIENHOLDER REPRESENTED IN DEPARTMENT RECORDS AND SEND A NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE ADDRESS OF THE OWNER AND THE LIENHOLDER. THE COST OF COMPLYING WITH THIS PARAGRAPH (a) SHALL BE CONSIDERED A COST OF TOWING; EXCEPT THAT THE TOTAL OF SUCH COSTS SHALL NOT EXCEED THE LESSER OF ONE HUNDRED DOLLARS OR TEN TIMES THE COST OF NOTIFYING THE OWNER AND LIENHOLDER BY CERTIFIED MAIL. SUCH NOTICE SHALL CONTAIN THE FOLLOWING INFORMATION:

(I) THE FACT OF POSSESSION, INCLUDING THE DATE POSSESSION WAS TAKEN, THE LOCATION OF STORAGE OF THE MOTOR VEHICLE, AND THE LOCATION FROM WHICH IT WAS TOWED;

(II) THE IDENTITY OF THE OPERATOR POSSESSING THE ABANDONED MOTOR VEHICLE, TOGETHER WITH THE OPERATOR'S BUSINESS ADDRESS AND TELEPHONE NUMBER AND THE CARRIER NUMBER ASSIGNED BY THE PUBLIC UTILITIES COMMISSION; AND

(III) A DESCRIPTION OF THE MOTOR VEHICLE, INCLUDING THE MAKE, MODEL, COLOR, AND YEAR AND THE NUMBER, ISSUING STATE, AND EXPIRATION DATE OF THE LICENSE PLATE, OR ANY OTHER INDICIA OF THE MOTOR VEHICLE'S STATE OF ORIGIN.

(b) THE OPERATOR SHALL NOT BE ENTITLED TO RECOVER ANY DAILY STORAGE FEES FROM THE DAY THE VEHICLE IS TOWED UNTIL THE DAY THE OWNER AND LIENHOLDER ARE NOTIFIED, UNLESS THE OPERATOR REASONABLY ATTEMPTS TO NOTIFY THE OWNER AND LIENHOLDER BY THE DATE SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (6). 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.

42-4-1805. [Formerly 42-4-1806] Appraisal of abandoned motor vehicles - sale. (1) ~~Public tow~~ Abandoned motor vehicles or motor vehicles abandoned in an impound lot subsequent to a TOW FROM public tow PROPERTY shall be appraised and sold by the responsible law enforcement agency 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 42-4-1804 (4) was mailed; EXCEPT THAT, IF SUCH MOTOR VEHICLE MEETS THE DEFINITION OF A COLLECTOR'S ITEM AS DEFINED IN SECTION 42-12-101 (2), THE LAW ENFORCEMENT AGENCY SHALL NOT SELL SUCH MOTOR VEHICLE FOR AT LEAST NINETY DAYS AFTER SUCH DATE.

~~(3)~~ (2) If the appraised value of an abandoned motor vehicle sold pursuant to this section is two hundred dollars or less, the sale shall be made only for the purpose of junking, scrapping, or dismantling such motor vehicle, and the purchaser thereof shall not, under any circumstances, be entitled to a Colorado certificate of title. The ~~operator or~~ responsible law enforcement agency making the sale shall cause to be executed and delivered a bill of sale, together with a copy of the report described in section 42-4-1804, ~~pertaining to public tow abandoned motor vehicles, or section 42-4-1805, pertaining to private tow abandoned motor vehicles,~~ to the person purchasing such motor vehicle. The bill of sale shall state that the purchaser acquires no right to a certificate of title for such vehicle. The ~~operator or~~ responsible law enforcement agency making the sale shall promptly submit a report of sale, with a copy of the bill of sale, to the department and shall deliver a copy of such report of sale to the purchaser of the motor vehicle. Upon receipt of any report of sale with supporting documents on any sale made pursuant to this subsection ~~(3)~~ (2), the department shall purge the records for such vehicle as provided in section ~~42-4-1811~~ ~~(1)(b)~~ 42-4-1810 (1) (b) and shall not issue a new certificate of title for such vehicle. Any certificate of title issued in violation of this subsection ~~(3)~~ (2) shall be void.

~~(4)~~ (3) If the appraised value of an abandoned motor vehicle sold pursuant to this section is more than two hundred dollars, the sale may be made for any intended use by the purchaser thereof. The ~~operator or~~ responsible law enforcement agency making the sale shall cause to be executed and delivered a bill of sale, together with a copy of the report described in section 42-4-1804, ~~pertaining to public tow abandoned motor vehicles, or section 42-4-1805, pertaining to private tow abandoned motor vehicles,~~ and an application for a Colorado certificate of title signed by a legally authorized representative of the ~~operator or~~ responsible law enforcement agency conducting the sale, to the person purchasing such motor vehicle. The purchaser of the abandoned motor vehicle shall be entitled to a Colorado certificate of title upon application and proof of compliance with the applicable provisions of the "Certificate of Title Act", part 1 of article 6 of this title. ~~and regulations of the department.~~

42-4-1806. [Formerly 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, SUBJECT TO THE PROVISIONS OF SECTION 42-4-1804 (6), upon such motor vehicle and its attached accessories or equipment for all costs of recovery FEES FOR RECOVERING, towing, and storage as authorized in section 42-4-1810(2)(a) SECTION 42-4-1809 (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~~ AN ADMINISTRATIVE LAW JUDGE 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.

42-4-1807. [Formerly 42-4-1808] Perfection of lien. The lien provided for in section ~~42-4-1807~~ 42-4-1806 shall be perfected by taking physical possession of the motor vehicle and its attached accessories or equipment and by sending to the department within ~~three~~ TEN working days ~~of~~ AFTER the time possession was taken a notice containing the information required in the report to be made under the provisions of section 42-4-1804. ~~or section 42-4-1805.~~ In addition, such report shall 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 18.

42-4-1808. [Formerly 42-4-1809] Foreclosure of lien. Any motor vehicle and its attached accessories and equipment ~~subject to the possessory lien provided for in section 42-4-1807 and~~ OR PERSONAL PROPERTY WITHIN OR ATTACHED TO SUCH 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 OR RESPONSIBLE LAW ENFORCEMENT AGENCY shall be sold in accordance with the provisions of section ~~42-4-1806~~ 42-4-1805.

42-4-1809. [Formerly 42-4-1810] Proceeds of sale. (1) If the sale of any motor vehicle, PERSONAL PROPERTY, and its attached accessories or equipment under

the provisions of section ~~42-4-1806~~ 42-4-1805 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 a valid claim against the owner ~~of record~~ for the full amount of such charges, less the amount received upon the sale of such motor vehicle. FAILURE TO REGISTER SUCH VEHICLE IN ACCORDANCE WITH THIS TITLE SHALL CONSTITUTE A WAIVER OF SUCH OWNER'S RIGHT TO BE NOTIFIED PURSUANT TO THIS PART 18 FOR THE PURPOSES OF FORECLOSURE OF THE LIEN PURSUANT TO SECTION 42-4-1808. Such charges shall be assessed in the manner provided for in paragraph (a) of subsection (2) of this section.

(2) If the sale of any motor vehicle and its attached accessories or equipment under the provisions of section ~~42-4-1806~~ 42-4-1805 produces an amount greater than the sum of all charges of the operator who has perfected his or her lien:

(a) The proceeds shall first satisfy the ~~operator's charges as follows: The operator's reasonable and documented costs~~ FEE arising from the sale of the motor vehicle pursuant to section ~~42-4-1806 (2) (a)~~ and the cost AND FEES of towing AND STORING the abandoned motor vehicle with a maximum charge 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.~~

(b) Any balance ~~then~~ remaining AFTER PAYMENT PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) shall be paid to the responsible law enforcement agency to satisfy the cost of mailing notices, having an appraisal made, advertising and selling the motor vehicle, and any other costs of the responsible law enforcement agency including administrative costs, taxes, fines, and penalties due.

(c) Any balance ~~then~~ remaining AFTER PAYMENT PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) shall be forwarded to the department, and the department may recover from such balance any taxes, fees, and penalties due and payable to it with respect to such motor vehicle.

(d) Any balance ~~then~~ remaining AFTER PAYMENT PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (2) shall be paid by the department: First, to any lienholder of record as the lienholder's interest may appear upon the records of the department; second, to any owner of record as the owner's interest may so appear; and then to any person submitting proof of such person's interest in such motor vehicle upon the application of such lienholder, owner, or person. If such payments are not requested and made within one hundred twenty days ~~of~~ AFTER the sale of the abandoned motor vehicle, the balance shall be transmitted to the state treasurer, who shall credit the same to the highway users tax fund.

(3) The provisions of paragraphs (a) and (b) of subsection (2) of this section shall not apply to a responsible law enforcement agency operating under a towing contract.

42-4-1810. [Formerly 42-4-1811] Transfer and purge of certificates of title.

(1) Whenever any motor vehicle is abandoned and removed and sold in accordance with the procedures set forth in this part 18, the department shall transfer the

certificate of title or issue a new certificate of title or shall purge such certificate of title in either of the following cases:

(a) Upon a person's submission to the department of the necessary documents indicating the abandonment, removal, and subsequent sale or transfer of a motor vehicle, the department shall transfer the certificate of title or issue a new certificate of title for such abandoned motor vehicle.

(b) Upon a person's submission of documents indicating the abandonment, removal, and subsequent wrecking or dismantling of a motor vehicle, including all sales of abandoned motor vehicles with an appraised value under two hundred dollars ~~which~~ THAT are conducted pursuant to section ~~42-4-1806 (3)~~ 42-4-1805 (2), the department shall purge the records for such abandoned motor vehicle.

42-4-1811. [Formerly 42-4-1812] Penalty. Unless otherwise specified in this part 18, any person who knowingly violates any of the provisions of this part 18 commits a class 2 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

42-4-1812. [Formerly 42-4-1813] Exemptions. (1) Nothing in this part 18 shall be construed to include or apply to the driver of any disabled motor vehicle who temporarily leaves such vehicle on the paved or improved and main-traveled portion of a highway, subject, when applicable, to the emergency lighting requirements set forth in section 42-4-230.

(2) Nothing in this part 18 shall be construed to include or apply to authorized emergency motor vehicles while such vehicles are actually and directly engaged in, coming from, or going to an emergency.

42-4-1813. [Formerly 42-4-1814] Local regulations. (1) The state or any county, municipality as defined in section 31-1-101 (6), C.R.S., or other governmental entity of the state may execute a contract or contracts for the removal, storage, or disposal of abandoned motor vehicles within the area of its authority to effectuate the provisions of this part 18.

(2) The provisions of this part 18 may be superseded by ordinance or resolution of a municipality, as defined in section 31-1-101 (6), C.R.S., or any county ~~which~~ THAT sets forth procedures for the removal, storage, and disposal of abandoned or illegally parked motor vehicles ON PUBLIC PROPERTY.

42-4-1814. [Formerly 42-4-1815] Violation of motor vehicle registration or inspection laws - separate statutory provision. Owners of motor vehicles impounded by the Colorado state patrol for violation of motor vehicle registration or inspection laws shall receive notice and the opportunity for a hearing pursuant to the provisions of section 42-13-106. If such a motor vehicle is found to be abandoned in accordance with the provisions of said section 42-13-106, the notice and hearing provisions to owners of motor vehicles under other sections of this part 18 shall be deemed to have been met for purposes of proper disposition of the motor vehicle under the terms of this part 18. Nevertheless, the notice and hearing provisions of the other sections of this part 18 as to lienholders ARE APPLICABLE AND shall not be deemed to have been met by the provisions of section 42-13-106 or this section.

SECTION 2. Article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

PART 21
VEHICLES ABANDONED ON PRIVATE PROPERTY

42-4-2101. Legislative declaration. THE GENERAL ASSEMBLY HEREBY DECLARES THAT THE PURPOSE OF THIS PART 21 IS TO PROVIDE PROCEDURES FOR THE REMOVAL, STORAGE, AND DISPOSAL OF MOTOR VEHICLES THAT ARE ABANDONED ON PRIVATE PROPERTY.

42-4-2102. Definitions. AS USED IN THIS PART 21, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ABANDONED MOTOR VEHICLE" MEANS:

(a) ANY MOTOR VEHICLE LEFT UNATTENDED ON PRIVATE PROPERTY FOR A PERIOD OF TWENTY-FOUR HOURS OR LONGER OR FOR SUCH OTHER PERIOD AS MAY BE ESTABLISHED BY LOCAL ORDINANCE WITHOUT THE CONSENT OF THE OWNER OR LESSEE OF SUCH PROPERTY OR THE OWNER'S OR LESSEE'S LEGALLY AUTHORIZED AGENT;

(b) ANY MOTOR VEHICLE STORED IN AN IMPOUND LOT AT THE REQUEST OF ITS OWNER OR THE OWNER'S AGENT AND NOT REMOVED FROM THE IMPOUND LOT ACCORDING TO THE AGREEMENT WITH THE OWNER OR AGENT; OR

(c) ANY MOTOR VEHICLE THAT IS LEFT ON PRIVATE PROPERTY WITHOUT THE PROPERTY OWNER'S CONSENT, TOWED AT THE REQUEST OF THE PROPERTY OWNER, AND NOT REMOVED FROM THE IMPOUND LOT BY THE VEHICLE OWNER WITHIN FORTY-EIGHT HOURS.

(2) "APPRAISAL" MEANS A BONA FIDE ESTIMATE OF REASONABLE MARKET VALUE MADE BY ANY MOTOR VEHICLE DEALER LICENSED IN THIS STATE OR BY ANY EMPLOYEE OF THE COLORADO STATE PATROL OR OF ANY SHERIFF'S OR POLICE DEPARTMENT WHOSE APPOINTMENT FOR SUCH PURPOSE HAS BEEN REPORTED BY THE HEAD OF THE APPOINTING AGENCY TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT.

(3) "AUTO PARTS RECYCLER" MEANS ANY PERSON THAT PURCHASES MOTOR VEHICLES FOR THE PURPOSE OF DISMANTLING AND SELLING THE COMPONENTS THEREOF AND THAT COMPLIES WITH ALL FEDERAL, STATE, AND LOCAL REGULATIONS.

(4) "IMPOUND LOT" MEANS A PARCEL OF REAL PROPERTY THAT IS OWNED OR LEASED BY AN OPERATOR AT WHICH MOTOR VEHICLES ARE STORED UNDER APPROPRIATE PROTECTION.

(5) "OPERATOR" MEANS A PERSON OR A FIRM LICENSED BY THE PUBLIC UTILITIES COMMISSION AS A TOWING CARRIER. FOR PURPOSES OF THIS PART 21, "OPERATOR" INCLUDES AUTO PARTS RECYCLERS THAT TOW VEHICLES FOR REMUNERATION.

(6) "PRIVATE PROPERTY" MEANS ANY REAL PROPERTY THAT IS NOT PUBLIC PROPERTY.

(7) "PUBLIC PROPERTY" MEANS ANY REAL PROPERTY HAVING ITS TITLE, OWNERSHIP, USE, OR POSSESSION HELD BY THE FEDERAL GOVERNMENT; THIS STATE; OR ANY COUNTY, MUNICIPALITY, AS DEFINED IN SECTION 31-1-101 (6), C.R.S., OR OTHER GOVERNMENTAL ENTITY OF THIS STATE.

(8) "RESPONSIBLE LAW ENFORCEMENT AGENCY" MEANS THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION OVER THE PRIVATE PROPERTY WHERE THE MOTOR VEHICLE BECOMES ABANDONED.

42-4-2103. [Formerly 42-4-1805] Abandonment of motor vehicles - private property. (1) No person shall abandon any motor vehicle upon private property other than his or her own. Any owner or lessee, or the owner or lessee's agent authorized in writing, may have an abandoned motor vehicle removed from his or her property by having it towed and impounded by an operator.

(2) Any operator having in his or her possession any ~~abandoned~~ motor vehicle ~~from a private tow~~ THAT WAS ABANDONED ON PRIVATE PROPERTY shall ~~immediately~~ 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 as to the name of 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 THAT RECEIVES SUCH NOTICE shall assign the vehicle a ~~case~~ TOW REPORT number IMMEDIATELY, SHALL ENTER THE VEHICLE AND THE FACT THAT IT HAS BEEN TOWED IN THE COLORADO CRIME INFORMATION CENTER COMPUTER SYSTEM, 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~~ 21. 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 ~~its~~ THEIR reasonable ~~costs to recover and secure~~ 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) Any operator shall, ~~as soon as possible, but in no event later than five~~ TEN working days after a motor vehicle has been towed OR ABANDONED, ~~comply with the provisions of subparagraph (f) of paragraph (c) of this subsection (3) and report that a~~ SUCH motor vehicle ~~has been towed~~ TOW to the department by first-class or certified mail, ~~or~~ by personal delivery, OR BY INTERNET COMMUNICATION, which report shall be on a form prescribed and supplied by the department.

(b) The report shall contain the following information:

(I) The fact of possession, including the date possession was taken, the location of storage of the abandoned motor vehicle and the location from which it was towed, THE TOW REPORT NUMBER, and the identity of the law enforcement agency determining that the vehicle was not reported stolen;

(II) The identity of the operator possessing the abandoned motor vehicle, together with the operator's business address and telephone number and the carrier number assigned by the public utilities commission; and

(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.~~

(c) (I) An operator or its agent shall, within ~~five~~ TEN working days after a motor vehicle has been towed OR ABANDONED, determine if there is an owner and a lienholder represented in department records and ~~notify~~ SEND A NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE ADDRESS OF the owner and the lienholder ~~by certified mail or by personal delivery~~ of IN DEPARTMENT RECORDS. SUCH NOTICE SHALL INCLUDE the information required by the report set forth in paragraph (b) of this subsection (3). The cost of complying with the provisions of this paragraph (c) shall be considered a cost of towing; except that the total of such costs shall not exceed the lesser of ~~fifty~~ ONE HUNDRED dollars or ten times the cost of notifying the owner and lienholder by certified mail.

(II) The operator shall not be entitled to recover any daily storage fees from the day the vehicle is towed until the day the owner and lienholder are notified, unless the operator ~~notifies~~ REASONABLY ATTEMPTS TO NOTIFY the owner and lienholder ~~within five days pursuant to~~ 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.

(III) The department shall implement an electronic system whereby an operator registered under section ~~42-4-1807 (2)~~ 42-4-1806 (2) or the agent of such operator shall have access to CORRECT information relating to any owner and lienholder of a vehicle towed by the operator as represented in the department records. The department shall ensure that the information available to an operator or its agent is CORRECT AND IS limited solely to that information necessary to contact the owner and lienholder of such vehicle.

~~(4) (Deleted by amendment, L. 2000, p. 303, § 2, effective August 2, 2000.)~~

~~(5)~~ (4) Within ~~five~~ TEN working days after the receipt of such report from the department, the operator shall notify by certified mail ~~or by personal delivery~~ the owner of record including an out-of-state owner of record. The operator shall make ~~all~~ A reasonable ~~efforts~~ EFFORT to ascertain the address of the owner of record. ~~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:

- (a) That the identified motor vehicle has been reported abandoned to the department;
- (b) The claim ~~if any~~, of a ANY lien under section ~~42-4-1807~~ 42-4-2105;
- (c) The location of the motor vehicle and the location from which it was towed; and
- (d) That, unless claimed within thirty calendar days ~~from~~ AFTER the date the notice was sent, as determined from the postmark on the notice, motor vehicle is subject to sale.

~~(6)~~(5) The department shall maintain department-approved notice forms satisfying the requirements of subsection ~~(5)~~ (4) of this section and shall make them available for use by operators and local law enforcement agencies.

42-4-2104. [Formerly 42-4-1806 (2)] Appraisal of abandoned motor vehicles - sale. ~~(2)~~ (1) (a) ~~Private tow abandoned Motor vehicles or motor vehicles abandoned in an impound lot subsequent to a private tow~~ THAT ARE ABANDONED ON PRIVATE PROPERTY 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 POSTMARKED date the notice ~~required by section 42-4-1805~~ ~~(5)~~ was mailed pursuant to section 42-4-2103 (4) OR THE DATE THE OPERATOR RECEIVES NOTICE THAT NO RECORD EXISTS FOR SUCH VEHICLE; EXCEPT THAT, IF SUCH MOTOR VEHICLE MEETS THE DEFINITION OF A COLLECTOR'S ITEM AS DEFINED IN SECTION 42-12-101 (2), AN OPERATOR OR ITS AGENT SHALL NOT SELL SUCH MOTOR VEHICLE FOR AT LEAST NINETY DAYS AFTER SUCH DATE. Such sale shall be made through a motor vehicle dealer or wholesaler, or wholesale 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)~~ SECTION, a sale shall not be considered commercially reasonable if the VEHICLE'S APPRAISAL VALUE IS MORE THAN TWO HUNDRED DOLLARS AND SUCH 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:~~

- ~~(1) Such notification contains the owner's written consent for the operator to sell~~

~~the vehicle; or~~

~~(H) 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) (b) 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 21.~~

(2) IF THE APPRAISED VALUE OF AN ABANDONED MOTOR VEHICLE SOLD PURSUANT TO THIS SECTION IS TWO HUNDRED DOLLARS OR LESS, THE SALE SHALL BE MADE ONLY FOR THE PURPOSE OF JUNKING, SCRAPPING, OR DISMANTLING SUCH MOTOR VEHICLE, AND THE PURCHASER THEREOF SHALL NOT, UNDER ANY CIRCUMSTANCES, BE ENTITLED TO A COLORADO CERTIFICATE OF TITLE. THE OPERATOR MAKING THE SALE SHALL CAUSE TO BE EXECUTED AND DELIVERED A BILL OF SALE, TOGETHER WITH A COPY OF THE REPORT DESCRIBED IN SECTION 42-4-2103, TO THE PERSON PURCHASING SUCH MOTOR VEHICLE. THE BILL OF SALE SHALL STATE THAT THE PURCHASER ACQUIRES NO RIGHT TO A CERTIFICATE OF TITLE FOR SUCH VEHICLE. THE OPERATOR MAKING THE SALE SHALL PROMPTLY SUBMIT A REPORT OF SALE, WITH A COPY OF THE BILL OF SALE, TO THE DEPARTMENT AND SHALL DELIVER A COPY OF SUCH REPORT OF SALE TO THE PURCHASER OF THE MOTOR VEHICLE. UPON RECEIPT OF ANY REPORT OF SALE WITH SUPPORTING DOCUMENTS ON ANY SALE MADE PURSUANT TO THIS SUBSECTION (2), THE DEPARTMENT SHALL PURGE THE RECORDS FOR SUCH VEHICLE AS PROVIDED IN SECTION 42-4-2109 (1) (b) AND SHALL NOT ISSUE A NEW CERTIFICATE OF TITLE FOR SUCH VEHICLE. ANY CERTIFICATE OF TITLE ISSUED IN VIOLATION OF THIS SUBSECTION (2) SHALL BE VOID.

(3) IF THE APPRAISED VALUE OF AN ABANDONED MOTOR VEHICLE SOLD PURSUANT TO THIS SECTION IS MORE THAN TWO HUNDRED DOLLARS, THE SALE MAY BE MADE FOR ANY INTENDED USE BY THE PURCHASER THEREOF. THE OPERATOR MAKING THE SALE SHALL CAUSE TO BE EXECUTED AND DELIVERED A BILL OF SALE, TOGETHER WITH A COPY OF THE REPORT DESCRIBED IN SECTION 42-4-2103, AND AN APPLICATION FOR A COLORADO CERTIFICATE OF TITLE SIGNED BY A LEGALLY AUTHORIZED REPRESENTATIVE OF THE OPERATOR CONDUCTING THE SALE, TO THE PERSON PURCHASING SUCH MOTOR VEHICLE. THE PURCHASER OF THE ABANDONED MOTOR VEHICLE SHALL BE ENTITLED TO A COLORADO CERTIFICATE OF TITLE UPON APPLICATION AND PROOF OF COMPLIANCE WITH THE APPLICABLE PROVISIONS OF THE "CERTIFICATE OF TITLE ACT", PART 1 OF ARTICLE 6 OF THIS TITLE; EXCEPT THAT, IF SUCH VEHICLE IS LESS THAN FIVE YEARS OLD, INCLUDING THE CURRENT YEAR MODELS, AND IF THE DEPARTMENT DOES NOT PROVIDE THE NAME OF AN OWNER OF RECORD TO THE OPERATOR, THE BUYER SHALL APPLY FOR A BONDED TITLE AND THE DEPARTMENT SHALL ISSUE SUCH BONDED TITLE UPON THE APPLICANT MEETING THE QUALIFICATIONS FOR SUCH TITLE PURSUANT TO RULES PROMULGATED BY THE DEPARTMENT.

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, ANY OTHER LEGALLY AUTHORIZED PERSON IN CONTROL OF SUCH 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 OPERATOR SHALL HAVE A POSSESSORY LIEN, SUBJECT TO THE PROVISIONS OF SECTION 42-4-2103 (3), UPON SUCH 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 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. THIS SUBSECTION (1) SHALL NOT APPLY TO PERSONAL PROPERTY IF SUBSECTION (3) OF THIS SECTION APPLIES TO SUCH PERSONAL PROPERTY.

(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 21 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 AN ADMINISTRATIVE LAW JUDGE 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 21.

(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 SUCH VEHICLE PURSUANT TO SECTIONS 42-4-2104 AND 42-4-2107.

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 REPORT SHALL 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.

42-4-2107. Foreclosure of lien. (1) ANY MOTOR VEHICLE AND ITS ATTACHED ACCESSORIES AND EQUIPMENT OR PERSONAL PROPERTY WITHIN OR ATTACHED TO SUCH 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.

(2) WITHIN FIVE DAYS AFTER FORECLOSURE OF THE LIEN PURSUANT TO THIS SECTION, THE OPERATOR SHALL SEND A NOTICE TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION OVER THE OPERATOR. SUCH NOTICE SHALL CONTAIN A LIST OF PERSONAL PROPERTY FOUND WITHIN THE ABANDONED VEHICLE THAT HAS AN INTACT SERIAL OR IDENTIFICATION NUMBER AND SUCH SERIAL OR IDENTIFICATION NUMBER. SUCH NOTIFICATION SHALL BE MADE BY CERTIFIED MAIL, FACSIMILE MACHINE, OR PERSONAL DELIVERY.

42-4-2108. Proceeds of sale. (1) 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 A VALID CLAIM AGAINST THE OWNER FOR THE FULL AMOUNT OF SUCH CHARGES, LESS THE AMOUNT RECEIVED UPON THE SALE OF SUCH MOTOR VEHICLE. FAILURE TO REGISTER SUCH VEHICLE IN ACCORDANCE WITH THIS TITLE SHALL CONSTITUTE A WAIVER OF SUCH 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 ASSESSED IN THE MANNER PROVIDED FOR IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

(2) IF THE SALE OF ANY MOTOR VEHICLE AND ITS ATTACHED ACCESSORIES OR EQUIPMENT UNDER THE PROVISIONS OF SECTION 42-4-2104 PRODUCES AN AMOUNT GREATER THAN THE SUM OF ALL CHARGES OF THE OPERATOR WHO HAS PERFECTED HIS OR HER LIEN:

(a) THE PROCEEDS SHALL FIRST SATISFY THE OPERATOR'S REASONABLE COSTS AND FEES ARISING FROM THE SALE OF THE MOTOR VEHICLE PURSUANT TO SECTION 42-4-2104 AND THE COST AND FEES OF TOWING AND STORING THE ABANDONED MOTOR VEHICLE WITH A MAXIMUM CHARGE THAT IS SPECIFIED IN RULES PROMULGATED BY THE PUBLIC UTILITIES COMMISSION THAT GOVERN NONCONSENSUAL TOWS BY TOWING CARRIERS.

(b) ANY BALANCE REMAINING AFTER PAYMENT PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL BE FORWARDED TO THE DEPARTMENT, AND THE DEPARTMENT MAY RECOVER FROM SUCH BALANCE ANY TAXES, FEES, AND PENALTIES DUE AND PAYABLE TO IT WITH RESPECT TO SUCH MOTOR VEHICLE.

(c) ANY BALANCE REMAINING AFTER PAYMENT PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) SHALL BE PAID BY THE DEPARTMENT: FIRST, TO ANY LIENHOLDER OF RECORD AS THE LIENHOLDER'S INTEREST MAY APPEAR UPON THE RECORDS OF THE DEPARTMENT; SECOND, TO ANY OWNER OF RECORD AS THE OWNER'S INTEREST MAY SO APPEAR; AND THEN TO ANY PERSON SUBMITTING PROOF OF SUCH

PERSON'S INTEREST IN SUCH MOTOR VEHICLE UPON THE APPLICATION OF SUCH LIENHOLDER, OWNER, OR PERSON. IF SUCH PAYMENTS ARE NOT REQUESTED AND MADE WITHIN ONE HUNDRED TWENTY DAYS AFTER THE SALE OF THE ABANDONED MOTOR VEHICLE, THE BALANCE SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE HIGHWAY USERS TAX FUND.

42-4-2109. Transfer and purge of certificates of title. (1) WHENEVER ANY MOTOR VEHICLE IS ABANDONED AND REMOVED AND SOLD IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN THIS PART 21, THE DEPARTMENT SHALL TRANSFER THE CERTIFICATE OF TITLE OR ISSUE A NEW CERTIFICATE OF TITLE OR SHALL PURGE SUCH CERTIFICATE OF TITLE IN EITHER OF THE FOLLOWING CASES:

(a) UPON A PERSON'S SUBMISSION TO THE DEPARTMENT OF THE NECESSARY DOCUMENTS INDICATING THE ABANDONMENT, REMOVAL, AND SUBSEQUENT SALE OR TRANSFER OF A MOTOR VEHICLE WITH AN APPRAISED VALUE EQUAL TO OR GREATER THAN TWO HUNDRED DOLLARS, THE DEPARTMENT SHALL TRANSFER THE CERTIFICATE OF TITLE OR ISSUE A NEW CERTIFICATE OF TITLE FOR SUCH ABANDONED MOTOR VEHICLE.

(b) UPON A PERSON'S SUBMISSION OF DOCUMENTS INDICATING THE ABANDONMENT, REMOVAL, AND SUBSEQUENT WRECKING OR DISMANTLING OF A MOTOR VEHICLE, INCLUDING ALL SALES OF ABANDONED MOTOR VEHICLES WITH AN APPRAISED VALUE UNDER TWO HUNDRED DOLLARS THAT ARE CONDUCTED PURSUANT TO SECTION 42-4-2104 (2), THE DEPARTMENT SHALL PURGE THE RECORDS FOR SUCH ABANDONED MOTOR VEHICLE.

42-4-2110. Penalty. UNLESS OTHERWISE SPECIFIED IN THIS PART 21, ANY PERSON WHO KNOWINGLY VIOLATES ANY OF THE PROVISIONS OF THIS PART 21 COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

SECTION 3. 12-6-102 (17) (h), Colorado Revised Statutes, is amended to read:

12-6-102. Definitions. As used in this part 1, unless the context otherwise requires:

(17) "Used motor vehicle dealer" means any person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, leases, or offers an interest in used motor vehicles, or attempts to negotiate a sale, exchange, or lease of used and new motor vehicles or who is engaged wholly or in part in the business of selling used motor vehicles, whether or not such motor vehicles are owned by such person. The sale of three or more used motor vehicles or the offering for sale of more than three used motor vehicles at the same address or telephone number in any one calendar year shall be prima facie evidence that a person is engaged in the business of selling used motor vehicles. "Used motor vehicle dealer" includes any owner of real property who allows more than three used motor vehicles to be offered for sale on such property during one calendar year unless said property is leased to a licensed used motor vehicle dealer. "Used motor vehicle dealer" does not include:

(h) An operator, as defined in section ~~42-4-1802 (5)~~ 42-4-2102 (6), C.R.S., who

sells a motor vehicle pursuant to section ~~42-4-1806 (2)~~ 42-4-2104, C.R.S.

SECTION 4. 40-13-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

40-13-103. Towing carrier permits required - exemptions. (3) THE COMMISSION MAY REVOKE OR DENY A TOWING CARRIER PERMIT IF SUCH CARRIER HAS, WITHIN FIVE YEARS, BEEN CONVICTED OF, OR PLEADED GUILTY OR NOLO CONTENDERE TO, A FELONY AS DEFINED BY TITLE 18, C.R.S.

SECTION 5. 42-4-101, Colorado Revised Statutes, is amended to read:

42-4-101. Short title. Parts 1 to 3, ~~and~~ 5 to 19, AND 21 of this article, part 1 of article 2 of this title, and part 5 of article 5 of title 43, C.R.S., shall be known and may be cited as the "Uniform Safety Code of 1935".

SECTION 6. 42-13-106 (6), Colorado Revised Statutes, is amended to read:

42-13-106. Impounded vehicles - notice - hearing. (6) If the court determines that the impoundment was invalid, the Colorado state patrol shall be responsible only for the costs incurred in the towing and storage of the motor vehicle. If the court determines that the impoundment was valid and if the owner does not comply with the appropriate statute within ~~thirty~~ TEN days ~~of~~ AFTER the court's decision and refuses to remove the motor vehicle by means other than under its own power on a public highway, the Colorado state patrol shall have reasonable grounds to believe that the motor vehicle has been abandoned, and the provisions of part 18 OR 21 of article 4 of this title shall apply; except that any notice or hearing requirements of said part 18 OR 21 of article 4 of this title as to owners of motor vehicles shall be deemed to have been met by the notice and hearing provisions of this section. Nevertheless, the notice and hearing requirements of said part 18 OR 21 of article 4 of this title as to lienholders, other than section ~~42-4-1815~~ 42-4-1814, shall not be deemed to have been met by the notice and hearing provisions of this section.

SECTION 7. 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 OR 21 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 8. Effective date - applicability. This act shall take effect July 1, 2002, and shall apply to acts committed on or after said date.

SECTION 9. 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 24, 2002