

CHAPTER 239

PUBLIC UTILITIES

SENATE BILL 06-094

BY SENATOR(S) Spence;
also REPRESENTATIVE(S) Lindstrom.

AN ACT

CONCERNING THE REGULATION OF MOTOR CARRIERS BY THE PUBLIC UTILITIES COMMISSION.

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

SECTION 1. Title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 10.5
Unified Carrier Registration System**

40-10.5-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO.

(2) "UNIFIED CARRIER REGISTRATION SYSTEM" MEANS THE UNIFIED CARRIER REGISTRATION SYSTEM AUTHORIZED BY SECTION 4305 OF THE FEDERAL "UNIFIED CARRIER REGISTRATION ACT OF 2005", 49 U.S.C. SEC. 14504a, AS AMENDED.

40-10.5-102. Registration required - rules of commission. (1) ON AND AFTER THE REPEAL OF SECTIONS 40-10-120 AND 40-11-115, A MOTOR CARRIER, MOTOR PRIVATE CARRIER, BROKER, FREIGHT FORWARDER, LEASING COMPANY, OR OTHER PERSON REQUIRED TO REGISTER WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION UNDER THE UNIFIED CARRIER REGISTRATION SYSTEM:

(a) SHALL NOT ENGAGE IN, OR CONTRACT FOR, ANY INTERSTATE TRANSPORTATION OF PERSONS OR PROPERTY ON ANY PUBLIC HIGHWAY IN THIS STATE WITHOUT FIRST

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

SO REGISTERING; AND

(b) SHALL COMPLY WITH ALL APPLICABLE RULES OF THE COMMISSION.

(2) FOR PURPOSES OF CARRYING OUT THE PROVISIONS OF THIS ARTICLE AND RELEVANT FEDERAL STATUTES AND RULES, THE COMMISSION:

(a) SHALL PARTICIPATE IN THE UNIFORM CARRIER REGISTRATION SYSTEM;

(b) IS VESTED WITH THE LEGAL AUTHORITY TO ADMINISTER THE UNIFIED CARRIER REGISTRATION AGREEMENT FOR THE STATE OF COLORADO; AND

(c) HAS THE POWER TO PROMULGATE SUCH RULES AS ARE NECESSARY FOR THE PROPER ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE. SUCH RULES MAY INCLUDE, WITHOUT LIMITATION, RULES ESTABLISHING REGISTRATION FEES AND OTHER FEES SUFFICIENT TO COVER THE DIRECT AND INDIRECT COSTS OF ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE. ALL FEES COLLECTED UNDER THIS ARTICLE SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE PUBLIC UTILITIES COMMISSION MOTOR CARRIER FUND, CREATED IN SECTION 40-2-110.5.

SECTION 2. 40-10-120, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

40-10-120. Registration of interstate carriers - repeal. (7) (a) THE GENERAL ASSEMBLY INTENDS THAT THIS SECTION SHALL CEASE TO BE EFFECTIVE UPON THE REPEAL OF 49 U.S.C. SEC. 14504, AND THAT THEREAFTER, REGISTRATION OF INTERSTATE CARRIERS SHALL BE ACCOMPLISHED PURSUANT TO ARTICLE 10.5 OF THIS TITLE. THE COMMISSION, UPON RECEIVING NOTICE OF THE REPEAL OF 49 U.S.C. SEC. 14504, SHALL FORWARD SUCH NOTICE TO THE REVISOR OF STATUTES.

(b) THIS SECTION IS REPEALED, EFFECTIVE 12:01 A.M. THE DAY AFTER THE REVISOR OF STATUTES RECEIVES NOTICE FROM THE COMMISSION AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (7).

SECTION 3. 40-11-115, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

40-11-115. Registration of interstate carriers - repeal. (7) (a) THE GENERAL ASSEMBLY INTENDS THAT THIS SECTION SHALL CEASE TO BE EFFECTIVE UPON THE REPEAL OF 49 U.S.C. SEC. 14504, AND THAT THEREAFTER, REGISTRATION OF INTERSTATE CARRIERS SHALL BE ACCOMPLISHED PURSUANT TO ARTICLE 10.5 OF THIS TITLE. THE COMMISSION, UPON RECEIVING NOTICE OF THE REPEAL OF 49 U.S.C. SEC. 14504, SHALL FORWARD SUCH NOTICE TO THE REVISOR OF STATUTES.

(b) THIS SECTION IS REPEALED, EFFECTIVE 12:01 A.M. THE DAY AFTER THE REVISOR OF STATUTES RECEIVES NOTICE FROM THE COMMISSION AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (7).

SECTION 4. 40-2-110.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

40-2-110.5. Annual fees - motor carriers. (9) (a) FOR THE 2006-07 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER, IF THE AMOUNT OF UNCOMMITTED RESERVES IN THE MOTOR CARRIER FUND AT THE CONCLUSION OF ANY GIVEN FISCAL YEAR EXCEEDS TEN PERCENT OF THE FUND'S EXPENDITURES DURING THAT FISCAL YEAR, THE AMOUNT OF THE EXCESS THAT IS ATTRIBUTABLE TO REVENUES RECEIVED FROM ANY MOTOR CARRIER, MOTOR PRIVATE CARRIER, BROKER, FREIGHT FORWARDER, LEASING COMPANY, OR ANY OTHER PERSON REQUIRED TO REGISTER WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION UNDER THE UNIFIED CARRIER REGISTRATION SYSTEM AS AUTHORIZED BY FEDERAL LAW AND AS PROVIDED FOR IN SECTION 40-10.5-102 SHALL BE TRANSFERRED TO THE HAZARDOUS MATERIALS SAFETY FUND CREATED IN SECTION 42-20-107, C.R.S., AND THE NUCLEAR MATERIALS TRANSPORTATION FUND CREATED IN SECTION 42-20-511, C.R.S., PROPORTIONAL TO THE EXISTING BALANCES OF THOSE FUNDS.

(b) THE DISTRIBUTION REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (9) IS IN LIEU OF, AND SHALL SUPERSEDE, ANY PROVISION TO THE CONTRARY IN SECTION 24-75-402, C.R.S.

SECTION 5. 42-20-107 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-20-107. Hazardous materials safety fund. (1) There is hereby created in the state treasury the hazardous materials safety fund, which shall consist of:

(g) ANY EXCESS MONEYS CREDITED TO THE FUND IN ACCORDANCE WITH SECTION 40-2-110.5 (9), C.R.S.

SECTION 6. 42-20-511, Colorado Revised Statutes, is amended to read:

42-20-511. Nuclear materials transportation fund. All moneys collected pursuant to parts 4 and 5 of this article shall be transmitted to the state treasurer, who, IN ADDITION TO ANY EXCESS MONEYS TRANSFERRED FROM THE MOTOR CARRIER FUND PURSUANT TO SECTION 40-2-110.5 (9), C.R.S., shall credit the same to the nuclear materials transportation fund, which fund is hereby created. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the administration of parts 4 and 5 of this article.

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

40-7-112. Carriers subject to civil penalties. (1) A person who operates AS 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); a mover as defined in section 40-14-102 (9); a motor vehicle carrier exempt from regulation as a public utility as defined in section 40-16-101; ~~and~~ interstate carriers required to register under section 40-10-120 or 40-11-115; OR A MOTOR CARRIER, MOTOR PRIVATE CARRIER, BROKER, FREIGHT FORWARDER, LEASING COMPANY, OR OTHER PERSON REQUIRED TO REGISTER UNDER SECTION 40-10.5-102 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 that may be imposed pursuant to law.

SECTION 8. The introductory portion to 40-7-113 (1) and 40-7-113 (1) (e) and (1) (g), Colorado Revised Statutes, are amended, and the said 40-7-113 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, 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~~, 10, 10.5, 11, 13, 14, or 16 of this title or any rule promulgated by the commission pursuant to such articles, which provision or rule is applicable to such person, may be subject to fines as specified in the following paragraphs:

(e) Any person subject to section 40-2-110.5 who operates a motor vehicle ~~carrier~~ without having paid the annual identification fee for any motor vehicle so operated as required by section 40-2-110.5 may be assessed a civil penalty of not more than four hundred dollars.

(g) Any person who operates a motor vehicle as defined in section 40-10-101 (3) or 40-11-101 (4) who intentionally violates any provision of articles 10, 11, 13, 14, and 16 of this title not enumerated in paragraphs (a) to ~~(f)~~ (f.5) of this subsection (1), any rule promulgated by the commission pursuant to this title, or any safety rule adopted by the department of public safety relating to towing carriers may be assessed a civil penalty of not more than one thousand one hundred dollars. Any person who violates any safety rule promulgated by the commission shall be subject to the civil penalties authorized pursuant to 49 CFR 386, subpart G, as such subpart existed on October 1, 2001.

(h) ANY PERSON WHO INTENTIONALLY VIOLATES ANY PROVISION OF ARTICLE 10.5 OF THIS TITLE NOT ENUMERATED IN PARAGRAPHS (a) TO (g) OF THIS SUBSECTION (1) OR ANY RULE PROMULGATED BY THE COMMISSION PURSUANT TO THIS TITLE SHALL BE ASSESSED A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND ONE HUNDRED DOLLARS.

SECTION 9. 40-14-106 (1), (2), and (4), Colorado Revised Statutes, are amended to read:

40-14-106. Revocation of mover registration - rules. (1) The commission shall revoke the mover registration of any person not complying with the insurance ~~and safety~~ requirements of this article ~~until such person attains such compliance.~~ ~~In addition, the commission shall revoke the mover registration of any person~~ OR who fails to maintain with the commission the name and address of the agent of such person upon whom any process, notice, or demand required or permitted by law to be served upon the person may be served UNTIL SUCH PERSON ATTAINS SUCH COMPLIANCE. SUCH REVOKED MOVER REGISTRATION SHALL BE REINSTATED WITHIN A TIME PERIOD, AND IN ACCORDANCE WITH SUCH RULES, AS MAY BE ESTABLISHED BY THE COMMISSION.

(2) In addition to taking any other action authorized by law, the commission may revoke the mover registration of any person who fails or refuses to operate in accordance with this article, ~~and all~~ AN ORDER OF THE COMMISSION, OR ANY applicable rules of the commission adopted in furtherance of this article. The revocation of a registration pursuant to this section shall conform to the provisions

and procedures specified in article 4 of title 24, C.R.S.

(4) Any person may file a formal complaint with the commission against the holder of a mover registration for violations of this article or rules adopted in furtherance of this article. Such complaint shall be heard and determined as provided in article 6 of this title, and, upon proof of such violation, the commission may do any one or combination of the following: Issue a cease and desist order, suspend or revoke the mover registration of the violator, or assess civil penalties as provided in article 7 of this title. IN ASSESSING CIVIL PENALTIES UNDER THIS SUBSECTION (4), THE COMMISSION SHALL NOT BE CONSTRAINED BY THE PROCEDURAL REQUIREMENTS OF SECTION 40-7-116.

SECTION 10. 40-16-103, Colorado Revised Statutes, is amended to read:

40-16-103. Registration requirements. No person may offer services pursuant to this article ~~unless he is~~ WITHOUT FIRST HAVING registered with the ~~public utilities commission of this state.~~ Such registration shall include the name and address of the registrant and proof of insurance as required by section 40-16-104. ~~The public utilities commission shall revoke the registration of any person not complying with the insurance and safety requirements of this article until the person attains such compliance. In addition, the public utilities commission shall revoke the registration of any person who fails to maintain with the public utilities commission the name and address of the agent of such person upon whom any process, notice, or demand required or permitted by law to be served upon the person may be served.~~

SECTION 11. 40-16-103.6, Colorado Revised Statutes, is amended to read:

40-16-103.6. Enforcement - revocation of registration - rules. (1) THE COMMISSION SHALL REVOKE THE REGISTRATION OF ANY PERSON NOT COMPLYING WITH THE INSURANCE REQUIREMENTS OF THIS ARTICLE OR WHO FAILS TO MAINTAIN WITH THE COMMISSION THE NAME AND ADDRESS OF THE AGENT OF SUCH PERSON UPON WHOM ANY PROCESS, NOTICE, OR DEMAND REQUIRED OR PERMITTED BY LAW TO BE SERVED UPON THE PERSON MAY BE SERVED UNTIL SUCH PERSON ATTAINS SUCH COMPLIANCE. SUCH REVOKED REGISTRATION SHALL BE REINSTATED WITHIN A TIME PERIOD, AND IN ACCORDANCE WITH SUCH RULES, AS MAY BE ESTABLISHED BY THE COMMISSION.

~~(1)~~ (2) In addition to taking any other action authorized by law, the commission may revoke the registration of any person who fails or refuses to operate as a motor vehicle carrier exempt from regulation as a public utility in accordance with this article, ~~and all~~ AN ORDER OF THE COMMISSION, OR ANY applicable rules of the commission adopted in furtherance of this article.

~~(2)~~ (3) A person whose 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)~~ (3), 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)~~ (4) Any person may file a formal complaint with the commission against the holder of a 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. IN ASSESSING CIVIL PENALTIES UNDER THIS SUBSECTION (4), THE COMMISSION SHALL NOT BE CONSTRAINED BY THE PROCEDURAL REQUIREMENTS OF SECTION 40-7-116.

~~(4)~~ (5) 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. The commission, whenever it is of the opinion that any motor vehicle carrier exempt from regulation as a public utility is doing anything, or is permitting anything to be done, contrary to or in violation of law or a rule, order, decision, decree, direction, or requirement of the commission, may apply to a court of competent jurisdiction for relief, which may include injunctive relief and any other appropriate remedy or legal process.

SECTION 12. 40-10-112, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

40-10-112. Commission may revoke certificate or impose civil penalty.

(3) ANY PERSON MAY FILE A COMPLAINT PURSUANT TO SECTION 40-6-108 AGAINST A MOTOR VEHICLE CARRIER FOR A VIOLATION OF THIS TITLE OR A RULE ADOPTED IN FURTHERANCE OF THIS TITLE. THE COMPLAINANT MAY REQUEST ANY RELIEF THAT THE COMMISSION, IN ITS AUTHORITY, MAY GRANT, INCLUDING, BUT NOT LIMITED TO, AN ORDER TO CEASE AND DESIST, SUSPENSION OR REVOCATION OF THE MOTOR VEHICLE CARRIER'S CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, OR ASSESSMENT OF CIVIL PENALTIES. AFTER HEARING UPON NOTICE OF THE COMPLAINT TO THE MOTOR VEHICLE CARRIER, AND UPON PROOF OF VIOLATION, THE COMMISSION MAY ISSUE AN ORDER TO CEASE AND DESIST, SUSPEND OR REVOKE THE MOTOR CARRIER'S CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, ASSESS CIVIL PENALTIES AS PROVIDED IN ARTICLE 7 OF THIS TITLE, OR TAKE ANY OTHER ACTION WITHIN ITS AUTHORITY. IN ASSESSING CIVIL PENALTIES UNDER THIS SUBSECTION (3), THE COMMISSION SHALL NOT BE CONSTRAINED BY THE PROCEDURAL REQUIREMENTS OF SECTION 40-7-116.

SECTION 13. 40-11-110, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

40-11-110. Commission may take action against permit or impose civil penalty.

(3) ANY PERSON MAY FILE A COMPLAINT PURSUANT TO SECTION 40-6-108 AGAINST A CONTRACT CARRIER BY MOTOR VEHICLE FOR A VIOLATION OF THIS TITLE OR A RULE ADOPTED IN FURTHERANCE OF THIS TITLE. THE COMPLAINANT MAY REQUEST ANY RELIEF THAT THE COMMISSION, IN ITS AUTHORITY, MAY GRANT, INCLUDING, BUT NOT LIMITED TO, AN ORDER TO CEASE AND DESIST, SUSPENSION OR REVOCATION OF THE CARRIER'S PERMIT, OR ASSESSMENT OF CIVIL PENALTIES. AFTER

HEARING UPON NOTICE OF THE COMPLAINT TO THE CARRIER, AND UPON PROOF OF VIOLATION, THE COMMISSION MAY ISSUE AN ORDER TO CEASE AND DESIST, SUSPEND OR REVOKE THE CARRIER'S PERMIT, ASSESS CIVIL PENALTIES AS PROVIDED IN ARTICLE 7 OF THIS TITLE, OR TAKE ANY OTHER ACTION WITHIN ITS AUTHORITY. IN ASSESSING CIVIL PENALTIES UNDER THIS SUBSECTION (3), THE COMMISSION SHALL NOT BE CONSTRAINED BY THE PROCEDURAL REQUIREMENTS OF SECTION 40-7-116.

SECTION 14. 40-13-109, Colorado Revised Statutes, is amended to read:

40-13-109. Suspension or revocation of permit - procedure. (1) 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.

(2) ANY PERSON MAY FILE A FORMAL COMPLAINT WITH THE COMMISSION AGAINST A TOWING CARRIER FOR A VIOLATION OF THIS ARTICLE OR A RULE 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 PERMIT OF THE VIOLATOR, OR ASSESS CIVIL PENALTIES AS PROVIDED IN ARTICLE 7 OF THIS TITLE. IN ASSESSING CIVIL PENALTIES UNDER THIS SUBSECTION (2), THE COMMISSION SHALL NOT BE CONSTRAINED BY THE PROCEDURAL REQUIREMENTS OF SECTION 40-7-116.

SECTION 15. 40-7-116, Colorado Revised Statutes, is amended to read:

40-7-116. Enforcement of civil penalties against carriers. (1) Investigative personnel of the commission and personnel of the ports of entry and the Colorado state patrol shall have the authority to issue civil penalty assessments for the violations enumerated in sections 40-7-113 and 40-7-114. When a person is cited for such violation, the person operating the motor vehicle involved shall be given notice of such violation in the form of a civil penalty assessment notice. Such notice shall be tendered by the enforcement official, either in person or by certified mail, OR BY PERSONAL SERVICE BY ANY PERSON AUTHORIZED TO SERVE PROCESS UNDER RULE 4(d) OF THE COLORADO RULES OF CIVIL PROCEDURE, and shall contain: The name and address of ~~such person; the nature of the violation;~~ THE PERSON CITED FOR THE VIOLATION; A CITATION TO THE SPECIFIC STATUTE OR RULE ALLEGED TO HAVE BEEN VIOLATED; A BRIEF DESCRIPTION OF THE ALLEGED VIOLATION; THE DATE AND APPROXIMATE LOCATION OF THE ALLEGED VIOLATION; the maximum penalty amounts prescribed for ~~such~~ THE violation; the date of the notice; a place for such person to execute a signed acknowledgment of receipt of the civil penalty

assessment notice; a place for such person to execute a signed acknowledgment of liability for the ~~cited~~ violation; and such other information as may be required by law to constitute notice of a complaint to appear for hearing if the prescribed penalty is not paid within ten days. Every cited person shall execute the signed acknowledgment of receipt of the civil penalty assessment notice. The acknowledgment of liability shall be executed at the time the ~~cited~~ person CITED pays the prescribed penalty. The person cited shall pay the civil penalty specified for the violation involved at the office of the commission, either in person or by depositing such payment postpaid in the United States mail within ten days of the issuance of the citation. If the person cited does not pay the prescribed penalty within ten days ~~of~~ AFTER the issuance of the notice, the civil penalty assessment notice shall constitute a complaint to appear before the commission. The person cited shall contact the commission on or before the time and date specified in the notice to set the complaint for a hearing on the merits in accordance with section 40-6-109. If the person cited fails to contact the commission on or before the time and date specified, the commission shall set the complaint for hearing. At such hearing, the commission shall have the burden of demonstrating a violation by a preponderance of the evidence.

(2) A CIVIL PENALTY ASSESSMENT NOTICE SHALL NOT BE CONSIDERED DEFECTIVE SO AS TO PROVIDE CAUSE FOR DISMISSAL SOLELY BECAUSE OF A DEFECT IN THE CONTENT OF SUCH CIVIL PENALTY ASSESSMENT NOTICE. ANY DEFECT IN THE CONTENT OF A CIVIL PENALTY ASSESSMENT NOTICE ISSUED AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION MAY BE CURED BY A MOTION TO AMEND THE SAME FILED WITH THE COMMISSION PRIOR TO HEARING ON THE MERITS. NO SUCH AMENDMENT SHALL BE PERMITTED IF SUBSTANTIAL RIGHTS OF THE PERSON CITED ARE PREJUDICED.

SECTION 16. 40-10-104 (1), Colorado Revised Statutes, is amended to read:

40-10-104. Certificate required - exemptions. (1) No ~~motor vehicle carrier~~ PERSON shall OPERATE OR OFFER TO operate ~~any~~ AS A motor vehicle CARRIER for the transportation of ~~persons~~ PASSENGERS upon the public highways of this state in intrastate commerce without first having obtained from the commission a certificate declaring that the present or future public convenience and necessity requires or will require such operation; EXCEPT THAT this subsection (1) shall not apply to hearses, ~~or~~ ambulances, or other emergency vehicles.

SECTION 17. 40-11-103 (1), Colorado Revised Statutes, is amended to read:

40-11-103. Obtain permit from commission. (1) ~~It is unlawful for any~~ NO PERSON SHALL OPERATE OR OFFER TO OPERATE AS A contract carrier by motor vehicle ~~to engage in or transact the business of transporting~~ FOR THE TRANSPORTATION OF passengers over the public highways of the state of Colorado in intrastate commerce without first obtaining a permit therefor from the ~~public utilities~~ commission. ~~of the state of Colorado.~~ It is declared that the business of contract carriers by motor vehicle is affected with a public interest and that the safety and welfare of the public traveling upon such highways, the preservation and maintenance of such highways, and the proper regulation of motor vehicle common carriers using such highways require the regulation of contract carriers by motor vehicle to the extent provided in this article, for which purposes the commission is

vested with the authority to issue a permit to a contract carrier by motor vehicle and may attach to such permit and to the exercise of the rights and privileges granted such terms and conditions as are reasonable.

SECTION 18. 40-13-103 (1), Colorado Revised Statutes, is amended to read:

40-13-103. Towing carrier permits required - exemptions. (1) No person ~~coming within the definition of a towing carrier~~ shall operate OR OFFER TO OPERATE AS a towing ~~vehicle~~ CARRIER on the public ways of this state without first having obtained a permit therefor from the ~~public utilities~~ commission unless such person is exempt from ~~the provisions of~~ this article under subsection (2) of this section.

SECTION 19. 40-16-101 (4), Colorado Revised Statutes, is amended, and the said 40-16-101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

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

(2.7) "FIRE CREW TRANSPORT" MEANS A MOTOR VEHICLE FOR THE TRANSPORT OF PEOPLE ENGAGED IN FIGHTING WILD FIRES.

(4) ~~"Motor vehicle carrier exempt from regulation as a public utility" means persons who offer services as~~ A property ~~carriers~~ CARRIER by motor vehicle or A PERSON who ~~offer~~ OFFERS SERVICES BY charter or scenic ~~buses~~ BUS, FIRE CREW TRANSPORT, luxury ~~limousines~~ LIMOUSINE, off-road scenic ~~charters, and~~ CHARTER, OR children's activity bus. ~~services.~~

SECTION 20. 40-10-110, Colorado Revised Statutes, is amended to read:

40-10-110. Carrier's liability insurance policy - filing. Every motor vehicle carrier shall file with the commission a liability insurance policy issued by some insurance carrier or insurer, authorized to do business in the state of Colorado, or a surety bond issued by some company authorized to do a surety business in the state of Colorado, in such sum, for such protection, and in such form as the commission, by its rules and regulations, may deem necessary to adequately safeguard the public interest. SUCH POLICY OR BOND SHALL BE KEPT CONTINUOUSLY EFFECTIVE DURING THE LIFE OF A CERTIFICATE, AND THE COMMISSION SHALL REQUIRE EVIDENCE OF CONTINUED VALIDITY AS IT DEEMS NECESSARY.

SECTION 21. 40-11-109, Colorado Revised Statutes, is amended to read:

40-11-109. Liability insurance or surety bond required. Every contract carrier by motor vehicle shall file with the commission a liability insurance policy issued by some insurance carrier or insurer authorized to do business in the state of Colorado or a surety bond issued by a company authorized to do a surety business in the state of Colorado, in such sum, for such protection, and in such form as the commission, by its rules and regulations, may deem necessary to adequately safeguard the public interest. SUCH POLICY OR BOND SHALL BE KEPT CONTINUOUSLY EFFECTIVE DURING THE LIFE OF A PERMIT, AND THE COMMISSION SHALL REQUIRE EVIDENCE OF CONTINUED VALIDITY AS IT DEEMS NECESSARY.

SECTION 22. 40-14-104 (1), (2), and (3), Colorado Revised Statutes, are amended to read:

40-14-104. Insurance and surety bond requirements - rules. (1) Each mover shall maintain motor vehicle liability and general liability insurance, a surety bond, or a certificate of self-insurance issued pursuant to section 42-7-501, C.R.S. The insurance policy shall be issued by an insurance carrier or insurer authorized to do business in Colorado for each motor vehicle of such carrier. The surety bond shall be issued by a company authorized to issue such bond. The liability insurance or surety bond shall be in ~~the amounts and in the form~~ SUCH FORM AND AMOUNT as specified by rule of the commission.

(2) A mover shall maintain, in addition to the insurance specified in subsection (1) of this section, cargo insurance in ~~the amounts and in the form~~ SUCH FORM AND AMOUNT AS specified by rule of the commission.

(3) Each mover shall maintain with the commission adequate written documentation that such carrier maintains motor vehicle liability and general liability insurance or a surety bond or a certificate of self-insurance in accordance with this section. SUCH INSURANCE POLICY OR SURETY BOND SHALL BE KEPT CONTINUOUSLY EFFECTIVE DURING THE LIFE OF A REGISTRATION, AND THE COMMISSION SHALL REQUIRE SUCH EVIDENCE OF CONTINUED VALIDITY AS IT DEEMS NECESSARY. No termination of such insurance policy or surety bond shall be valid unless the insurer or surety has notified BOTH the holder of the policy OR BOND and the commission at least thirty days prior to such termination.

SECTION 23. 40-16-104 (2), Colorado Revised Statutes, is amended to read:

40-16-104. Insurance requirements. (2) Each motor vehicle carrier exempt from regulation as a public utility shall maintain with the public utilities commission of this state adequate written documentation that the carrier maintains a motor vehicle liability insurance policy, a surety bond, or a certificate of self-insurance, in accordance with this section. SUCH INSURANCE POLICY OR SURETY BOND SHALL BE KEPT CONTINUOUSLY EFFECTIVE DURING THE LIFE OF A REGISTRATION, AND THE COMMISSION SHALL REQUIRE SUCH EVIDENCE OF CONTINUED VALIDITY AS IT DEEMS NECESSARY. No termination of an insurance policy or surety bond shall be valid unless the insurer or surety company has notified BOTH the holder of the policy OR BOND and the commission at least thirty days prior to such termination.

SECTION 24. Repeal. 40-2-110.5 (6.5), Colorado Revised Statutes, is repealed as follows:

~~**40-2-110.5. Annual fees - motor carriers.** (6.5) Notwithstanding any provision of this section to the contrary, on March 5, 2003, the state treasurer shall deduct one million three hundred thousand dollars from the public utilities commission motor carrier fund and transfer such sum to the general fund.~~

SECTION 25. Repeal. 40-16-110 (3) (a) and (4) (a), Colorado Revised Statutes, are repealed as follows:

40-16-110. Legislative declaration - federal preemption - property carriers

~~to surrender certificates and permits - issuance by ports of entry. (3) (a) On or before January 1, 1996, every property carrier holding a certificate or permit issued by the public utilities commission under article 10 or 11 of this title shall surrender such certificate or permit to the commission.~~

~~(4) (a) No person shall operate as a property carrier by motor vehicle without first obtaining a certificate of registration from the commission; except that, prior to January 1, 1996, a carrier subject to subsection (3) of this section may treat a certificate or permit not yet surrendered as the equivalent of such certificate of registration.~~

SECTION 26. 40-3-103, Colorado Revised Statutes, is amended to read:

40-3-103. Utilities to file rate schedules - rules. Under such rules and regulations as the commission may prescribe, every public utility shall file with the commission, within such time and in such form as the commission may designate, and shall print and keep open to public inspection, schedules showing all rates, tolls, rentals, charges, and classifications collected or enforced, or to be collected and enforced, together with all rules, regulations, contracts, privileges, and facilities which in any manner affect or relate to rates, tolls, rentals, classifications, or service; except that the commission may not prescribe by rule or regulation the lease rate that is charged to a driver of a motor vehicle by a common or contract carrier. Changes in such lease rates shall not be subject to the notice provision of section ~~40-3-102~~ 40-3-104.

SECTION 27. 40-14-101 (2), Colorado Revised Statutes, is amended to read:

40-14-101. Legislative declaration - subject to control of the commission.
(2) A mover shall not be construed to be a public utility under this title. Except as provided for in this article, a mover shall not be subject to regulation under this title, except as otherwise provided in sections 40-7-112 through ~~40-7-114~~ TO 40-7-116.

SECTION 28. 40-13-101 (3), Colorado Revised Statutes, is amended to read:

40-13-101. Definitions. As used in this article, unless the context otherwise requires:

(3) "Towing carrier" means a person whose primary function or one of whose primary functions consists of:

(a) Commercially offering services on the public ways of the state whereby motor vehicles are towed or otherwise moved by use of a ~~truck or other vehicle designed for or adapted to that purpose and providing storage for~~ TOWING VEHICLE; AND

(b) IF PROVIDED, THE STORING OF such towed motor vehicles.

SECTION 29. 40-13-102 (1), Colorado Revised Statutes, is amended to read:

40-13-102. Control of towing carriers. (1) All towing carriers are declared to be affected with a public interest and subject to regulation to the extent provided in this article AND IN SECTIONS 40-7-112 TO 40-7-116.

SECTION 30. 40-13-107 (2), Colorado Revised Statutes, is amended to read:

40-13-107. Commission to make rules and prescribe rates. (2) The commission may prescribe minimum and maximum rates and charges to be collected by ~~nonconsensual~~ towing carriers for the NONCONSENSUAL towing of motor vehicles for compensation and for the storage of such vehicles. In setting the rates and charges pursuant to this subsection (2), the commission may require ~~nonconsensual~~ towing carriers PERFORMING NONCONSENSUAL TOWS to submit financial statements or other financial information to determine the costs associated with the performance of nonconsensual towing AND ANY MOTOR VEHICLE STORAGE INCIDENT THERETO.

SECTION 31. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 9, 2006, if adjournment sine die is on May 10, 2006); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 25, 2006