

CHAPTER 330

PUBLIC UTILITIES

HOUSE BILL 07-1065

BY REPRESENTATIVE(S) Pommer, Borodkin, Green, Kerr J., McFadyen, Rose, Carroll T., Frangas, Labuda, Madden, and Cerbo;
also SENATOR(S) Williams, Isgar, Spence, Takis, Groff, Romer, Schwartz, Shaffer, Tapia, Tupa, and Windels.

AN ACT

CONCERNING A REQUIREMENT THAT CERTAIN MOTOR VEHICLE CARRIERS THAT TRANSPORT PASSENGERS OBTAIN CRIMINAL HISTORY RECORD CHECKS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Article 16 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

40-16-104.5. Criminal history record check - passenger transport drivers - rules. (1) AN INDIVIDUAL WHO WISHES TO BECOME EMPLOYED BY OR WHO CONTRACTS WITH A PERSON WHO OFFERS SERVICES BY CHARTER OR SCENIC BUS, FIRE CREW TRANSPORT, LUXURY LIMOUSINE, OFF-ROAD SCENIC CHARTER, OR CHILDREN'S ACTIVITY BUS TO DRIVE A MOTOR VEHICLE CONNECTION WITH THE SERVICE SHALL SUBMIT A SET OF HIS OR HER FINGERPRINTS TO THE COMMISSION. THE COMMISSION SHALL FORWARD THE FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. UPON RECEIPT OF FINGERPRINTS AND PAYMENT FOR THE COSTS, THE COLORADO BUREAU OF INVESTIGATION SHALL CONDUCT A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. THE COMMISSION SHALL BE THE AUTHORIZED AGENCY TO RECEIVE INFORMATION REGARDING THE RESULT OF A NATIONAL CRIMINAL HISTORY RECORD CHECK. THE INDIVIDUAL WHOSE FINGERPRINTS ARE CHECKED PURSUANT TO THIS SUBSECTION (1) SHALL BEAR THE ACTUAL COSTS OF THE STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

(2) AN INDIVIDUAL WHO, PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, DRIVES

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

A MOTOR VEHICLE AS PART OF HIS OR HER EMPLOYMENT OR CONTRACT WITH A PERSON WHO OFFERS SERVICES BY CHARTER OR SCENIC BUS, FIRE CREW TRANSPORT, LUXURY LIMOUSINE, OFF-ROAD SCENIC CHARTER, OR CHILDREN'S ACTIVITY BUS SHALL COMPLY WITH THE FINGERPRINTING REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

(3) AN INDIVIDUAL WHOSE FINGERPRINTS ARE CHECKED PURSUANT TO SUBSECTION (1) OR (2) OF THIS SECTION MAY, PENDING THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK, DRIVE A MOTOR VEHICLE IN CONNECTION WITH HIS OR HER EMPLOYMENT OR CONTRACT WITH A SERVICE DESCRIBED IN SUBSECTION (1) OF THIS SECTION FOR UP TO SIXTY DAYS AFTER THE COMMISSION FORWARDS THE FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION OR UNTIL THE COMMISSION RECEIVES THE RESULTS OF THE CHECK, WHICHEVER OCCURS FIRST. UPON THE COMMISSION'S RECEIPT OF THE RESULTS, THE INDIVIDUAL MAY RESUME DRIVING A MOTOR VEHICLE FOR THE SERVICE, SO LONG AS THE DRIVING DOES NOT VIOLATE APPLICABLE LAW AND DOES NOT OCCUR WHILE THE INDIVIDUAL HAS A CRIMINAL CONVICTION ON HIS OR HER RECORD THAT DISQUALIFIES AND PROHIBITS HIM OR HER FROM DRIVING A MOTOR VEHICLE FOR THE SERVICE PURSUANT TO SUBSECTION (4) OF THIS SECTION.

(4) AN INDIVIDUAL WHOSE CRIMINAL HISTORY RECORD IS CHECKED PURSUANT TO THIS SECTION SHALL BE DISQUALIFIED AND PROHIBITED FROM DRIVING A MOTOR VEHICLE FOR A SERVICE DESCRIBED IN SUBSECTION (1) OF THIS SECTION IF THE CRIMINAL HISTORY RECORD CHECK REFLECTS THAT:

(a) WITHIN THE TEN-YEAR PERIOD PRECEDING THE DATE THE CRIMINAL HISTORY RECORD CHECK IS COMPLETED, THE INDIVIDUAL WAS:

(I) CONVICTED IN THIS STATE OF A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2), C.R.S.; OR

(II) CONVICTED OF A COMPARABLE OFFENSE IN ANY OTHER STATE OR IN THE UNITED STATES; OR

(b) WITHIN THE TWO YEARS PRECEDING THE DATE THE CRIMINAL HISTORY RECORD CHECK IS COMPLETED, THE INDIVIDUAL WAS:

(I) CONVICTED IN THIS STATE OF DRIVING UNDER THE INFLUENCE, AS DEFINED IN SECTION 42-4-1301 (1) (f), C.R.S.; DRIVING WITH EXCESSIVE ALCOHOLIC CONTENT, AS DESCRIBED IN SECTION 42-4-1301 (2) (a), C.R.S.; DRIVING WHILE ABILITY IMPAIRED, AS DEFINED IN SECTION 42-4-1301 (1) (g), C.R.S.; OR DRIVING WHILE AN HABITUAL USER OF A CONTROLLED SUBSTANCE, AS DESCRIBED IN SECTION 42-4-1301 (1) (c), C.R.S.; OR

(II) CONVICTED OF A COMPARABLE OFFENSE IN ANY OTHER STATE OR IN THE UNITED STATES.

(5) THE COMMISSION SHALL, CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION, PROMULGATE RULES CONCERNING THE EMPLOYMENT OF, CONTRACTING WITH, AND RETENTION OF AN INDIVIDUAL WHOSE CRIMINAL HISTORY RECORD IS CHECKED PURSUANT TO THIS SECTION.

(6) AN INDIVIDUAL OR ENTITY WHO VIOLATES ANY PROVISION OF THIS SECTION SHALL BE SUBJECT TO THE PENALTIES DESCRIBED IN SECTION 40-16-107.

SECTION 2. 40-16-107 (1) and (2), Colorado Revised Statutes, are amended to read:

40-16-107. Violations - penalties. (1) (a) Any motor vehicle carrier exempt from regulation as a public utility who operates a motor vehicle for its business in violation of any provision of this article is guilty of a class 2 misdemeanor.

(b) ANY INDIVIDUAL WHO IS EMPLOYED BY OR WHO CONTRACTS WITH A MOTOR VEHICLE CARRIER EXEMPT FROM REGULATION AS A PUBLIC UTILITY AND WHO OPERATES A MOTOR VEHICLE FOR THE CARRIER'S BUSINESS IN VIOLATION OF ANY PROVISION OF SECTION 40-16-104.5 IS GUILTY OF A CLASS 2 MISDEMEANOR.

(2) (a) Each day in which a motor vehicle carrier exempt from regulation as a public utility operates a motor vehicle for its business in violation of any provision of this article shall constitute a separate offense.

(b) EACH DAY IN WHICH AN INDIVIDUAL WHO IS EMPLOYED BY OR WHO CONTRACTS WITH A MOTOR VEHICLE CARRIER EXEMPT FROM REGULATION AS A PUBLIC UTILITY OPERATES A MOTOR VEHICLE FOR THE CARRIER'S BUSINESS IN VIOLATION OF ANY PROVISION OF SECTION 40-16-104.5 SHALL CONSTITUTE A SEPARATE OFFENSE.

SECTION 3. Article 10 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

40-10-105.5. Criminal history record check - taxicab drivers - rules. (1) AN INDIVIDUAL WHO WISHES TO BECOME EMPLOYED OR WHO CONTRACTS TO DRIVE A TAXICAB FOR A HOLDER OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY THAT CONTAINS AUTHORITY TO OPERATE AS A TAXICAB SHALL SUBMIT A SET OF HIS OR HER FINGERPRINTS TO THE COMMISSION. THE COMMISSION SHALL FORWARD THE FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. UPON RECEIPT OF FINGERPRINTS AND PAYMENT FOR THE COSTS, THE COLORADO BUREAU OF INVESTIGATION SHALL CONDUCT A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. THE COMMISSION SHALL BE THE AUTHORIZED AGENCY TO RECEIVE INFORMATION REGARDING THE RESULT OF A NATIONAL CRIMINAL HISTORY RECORD CHECK. THE INDIVIDUAL WHOSE FINGERPRINTS ARE CHECKED PURSUANT TO THIS SUBSECTION (1) SHALL BEAR THE ACTUAL COSTS OF THE STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

(2) AN INDIVIDUAL WHO, PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, DRIVES A TAXICAB AS PART OF HIS OR HER EMPLOYMENT OR CONTRACT WITH A HOLDER OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY THAT CONTAINS AUTHORITY TO OPERATE AS A TAXICAB SHALL COMPLY WITH THE FINGERPRINTING REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

(3) AN INDIVIDUAL WHOSE FINGERPRINTS ARE CHECKED PURSUANT TO SUBSECTION (1) OR (2) OF THIS SECTION MAY, PENDING THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK, DRIVE A TAXICAB IN CONNECTION WITH HIS OR HER EMPLOYMENT OR CONTRACT WITH A HOLDER OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY DESCRIBED IN SUBSECTION (1) OF THIS SECTION FOR UP TO SIXTY DAYS AFTER THE COMMISSION FORWARDS THE FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION OR UNTIL THE COMMISSION RECEIVES THE RESULTS OF THE CHECK, WHICHEVER OCCURS FIRST. UPON THE COMMISSION'S RECEIPT OF THE RESULTS, THE INDIVIDUAL MAY RESUME DRIVING A TAXICAB FOR THE HOLDER OF THE CERTIFICATE, SO LONG AS THE DRIVING DOES NOT VIOLATE APPLICABLE LAW AND DOES NOT OCCUR WHILE THE INDIVIDUAL HAS A CRIMINAL CONVICTION ON HIS OR HER RECORD THAT DISQUALIFIES AND PROHIBITS HIM OR HER FROM DRIVING A TAXICAB PURSUANT TO SUBSECTION (4) OF THIS SECTION.

(4) AN INDIVIDUAL WHOSE CRIMINAL HISTORY RECORD IS CHECKED PURSUANT TO THIS SECTION SHALL BE DISQUALIFIED AND PROHIBITED FROM DRIVING A TAXICAB FOR A HOLDER OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY THAT CONTAINS AUTHORITY TO OPERATE AS A TAXICAB IF THE CRIMINAL HISTORY RECORD CHECK REFLECTS THAT:

(a) WITHIN THE TEN-YEAR PERIOD PRECEDING THE DATE THE CRIMINAL HISTORY RECORD CHECK IS COMPLETED, THE INDIVIDUAL WAS:

(I) CONVICTED IN THIS STATE OF A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2), C.R.S.; OR

(II) CONVICTED OF A COMPARABLE OFFENSE IN ANY OTHER STATE OR IN THE UNITED STATES; OR

(b) WITHIN THE TWO YEARS PRECEDING THE DATE THE CRIMINAL HISTORY RECORD CHECK IS COMPLETED, THE INDIVIDUAL WAS:

(I) CONVICTED IN THIS STATE OF DRIVING UNDER THE INFLUENCE, AS DEFINED IN SECTION 42-4-1301 (1) (f), C.R.S.; DRIVING WITH EXCESSIVE ALCOHOLIC CONTENT, AS DESCRIBED IN SECTION 42-4-1301 (2) (a), C.R.S.; DRIVING WHILE ABILITY IMPAIRED, AS DEFINED IN SECTION 42-4-1301 (1) (g), C.R.S.; OR DRIVING WHILE AN HABITUAL USER OF A CONTROLLED SUBSTANCE, AS DESCRIBED IN SECTION 42-4-1301 (1) (c), C.R.S.; OR

(II) CONVICTED OF A COMPARABLE OFFENSE IN ANY OTHER STATE OR IN THE UNITED STATES.

(5) THE COMMISSION SHALL, CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION, PROMULGATE RULES CONCERNING THE EMPLOYMENT OF, CONTRACTING WITH, AND RETENTION OF AN INDIVIDUAL WHOSE CRIMINAL HISTORY RECORD IS CHECKED PURSUANT TO THIS SECTION.

(6) AN INDIVIDUAL OR ENTITY WHO VIOLATES ANY PROVISION OF THIS SECTION SHALL BE SUBJECT TO THE PENALTIES DESCRIBED IN SECTION 40-10-113.

SECTION 4. Appropriation. (1) In addition to any other appropriation, there

is hereby appropriated, out of any moneys in the public utilities commission motor carrier fund created in section 40-2-110.5 (6), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for allocation to the executive director's office, for legal services, for the fiscal year beginning July 1, 2007, the sum of four thousand three hundred thirty-seven dollars (\$4,337), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the public utilities commission motor carrier fund created in section 40-2-110.5 (6), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for allocation to the public utilities commission, for regulation of motor vehicle carriers, for the fiscal year beginning July 1, 2007, the sum of forty-eight thousand one hundred ninety-three dollars (\$48,193) and 1.3 FTE, or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated to the department of regulatory agencies, for allocation to the public utilities commission, for the fiscal year beginning July 1, 2007, the sum of one hundred ninety-seven thousand five hundred dollars (\$197,500), or so much thereof as may be necessary, for pass through to the department of public safety, to perform criminal history checks on motor vehicle carriers related to the implementation of this act. Said sum shall be from application processing fees collected by the public utilities commission.

(4) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2007, the sum of four thousand three hundred thirty-seven dollars (\$4,337), or so much thereof as may be necessary, for the provision of legal services to the department of regulatory agencies related to the implementation of this act. Said sum shall be from cash funds exempt received from the department of regulatory agencies, executive director's office, out of the appropriation made in subsection (1) of this section.

(5) In addition to any other appropriation, there is hereby appropriated, to the department of public safety, for allocation to the Colorado bureau of investigation, for processing of fingerprint-based criminal history checks for motor vehicle carriers, for the fiscal year beginning July 1, 2007, the sum of eighty-two thousand nine hundred fifteen dollars (\$82,915) and 0.9 FTE, or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from cash funds exempt received from the department of regulatory agencies, public utilities commission, out of the appropriation made in subsection (3) of this section.

(6) In addition to any other appropriation, there is hereby appropriated to the department of public safety, for the fiscal year beginning July 1, 2007, the sum of one hundred ten thousand dollars (\$110,000), or so much thereof as may be necessary, for pass through to the federal bureau of investigation for fingerprint-based national criminal history checks for motor vehicle carriers related to the implementation of this act. Said sum shall be from cash funds exempt received from the department of regulatory agencies, public utilities commission, out of the appropriation made in subsection (3) of this section.

SECTION 5. 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 30, 2007