

CHAPTER 125

PUBLIC UTILITIES

HOUSE BILL 10-1167

BY REPRESENTATIVE(S) Peniston, Vaad, Primavera, Casso;
also SENATOR(S) Kopp.

AN ACT

CONCERNING THE REGULATION OF INTRASTATE MOTOR CARRIERS OF PROPERTY FOR HIRE, AND, IN CONNECTION THEREWITH, CONFORMING STATE LAW IN RESPONSE TO FEDERAL PREEMPTION AND GRANTING PORTS OF ENTRY ADDITIONAL AUTHORITY TO ENFORCE INSURANCE AND SAFETY PROVISIONS.

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

SECTION 1. 40-2-116 (1), Colorado Revised Statutes, is amended to read:

40-2-116. Motor carriers - motor vehicle carriers exempt from regulation as public utilities - safety regulations. (1) The commission ~~has the duty to~~ SHALL establish, for motor carriers subject to article 10 or 11 of this title, reasonable requirements to promote safety of operation and, to that end, to prescribe qualifications and maximum hours of service of employees and minimum standards of equipment and ~~for the~~ EQUIPMENT operation. ~~thereof.~~ With the exception of movers ~~and property carriers~~ operating vehicles with a manufacturer's gross vehicle weight rating or gross combination rating of twenty-six thousand one pounds or more, the commission ~~also has the duty to~~ SHALL establish such requirements for every mover, as defined in section 40-14-102, and for every motor vehicle carrier exempt from regulation as a public utility, as defined in section 40-16-101.

SECTION 2. 40-7-113 (1) (f), Colorado Revised Statutes, is amended 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, 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:

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

(f) Any person who operates a charter or scenic bus as defined in section 40-16-101, ~~(1.3)~~; a children's activity bus as defined in section 40-16-101, ~~(1.5)~~; ~~a property carrier by motor vehicle as defined in section 40-16-101 (6.5)~~; a luxury limousine as defined in section 40-16-101, ~~(3)~~; or an off-road scenic charter as defined in section 40-16-101 ~~(5)~~ without having first registered with the commission as required by section 40-16-103 may be assessed a civil penalty of not more than one thousand one hundred dollars.

SECTION 3. Repeal. 40-14-103 (5), Colorado Revised Statutes, is repealed as follows:

~~**40-14-103. Requirements for issuance of a mover registration.** (5) Every person who has registered pursuant to this section who also registers as a property carrier by motor vehicle pursuant to section 40-16-103 shall be exempt from the filing fee required by section 40-16-110 (4) (b).~~

SECTION 4. 40-16-101 (4) and (6.5), Colorado Revised Statutes, are amended to read:

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

(4) "Motor vehicle carrier exempt from regulation as a public utility" means a ~~property carrier by motor vehicle or~~ a person who offers services by charter or scenic bus, fire crew transport, luxury limousine, off-road scenic charter, or children's activity bus.

~~(6.5) "Property carrier by motor vehicle" means a person who transports the property of others for compensation, in intrastate commerce, upon the public highways of this state by use of a motor vehicle; except that the term does not include a towing carrier as defined in section 40-13-101 or a mover as defined in section 40-14-102.~~

SECTION 5. Repeal. 40-16-104 (1.5), Colorado Revised Statutes, is repealed as follows:

~~**40-16-104. Insurance requirements.** (1.5) Property carriers by motor vehicle shall maintain, in addition to the insurance specified in subsection (1) of this section, cargo insurance in the amounts and in the form specified by rule of the commission.~~

SECTION 6. 40-16-105, Colorado Revised Statutes, is amended to read:

40-16-105. Safety requirements. (1) Motor vehicle carriers exempt from regulation as public utilities ~~except property carriers operating vehicles with a manufacturer's gross vehicle weight rating or gross combination rating of twenty-six thousand one pounds or more;~~ shall comply with safety rules adopted by the ~~public utilities~~ commission pursuant to section 40-2-116. The commission shall have the primary responsibility for enforcement, inspection of vehicles, and supervision of drivers under this subsection (1). Nothing in this subsection (1) shall be construed

to diminish the authority of the department of public safety, any peace officer, or any other agent of government to enforce the laws of this state.

~~(2) Property carriers operating vehicles with a manufacturer's gross vehicle weight rating or gross combination rating of twenty-six thousand one pounds or more shall comply with safety rules adopted by the department of public safety pursuant to section 24-33.5-203 (1) (b), C.R.S. The department of public safety shall have the primary responsibility for enforcement, inspection of vehicles, and supervision of drivers under this subsection (2). Nothing in this subsection (2) shall be construed to diminish the authority of the public utilities commission, any peace officer, or any other agent of government to enforce the laws of this state.~~

SECTION 7. Repeal. 40-16-110 (4) (b), (5), and (6), Colorado Revised Statutes, are repealed as follows:

40-16-110. Legislative declaration - federal preemption. (4) (b) The commission shall issue a certificate of registration to a property carrier by motor vehicle upon submission of a filing fee of fifty dollars by the carrier.

~~(5) (a) The commission may, in its discretion, authorize the Colorado motor carrier services division in the department of revenue to issue temporary registrations to property carriers by motor vehicle for the seasonal operation of motor vehicles for the purpose of transporting unprocessed agricultural produce to market or to places of storage. The duration of such temporary registrations shall be ninety consecutive days. An applicant shall present evidence of insurance to the port of entry at the time of application or sign an affidavit attesting to the fact that the person making application is insured in accordance with the requirements of this article. Upon presentation of such evidence and payment of a fee of twenty dollars per vehicle, the port of entry shall issue said temporary registrations as designated by the commission. The commission shall subsequently verify the accuracy of said affidavit by requiring that proper proof of liability insurance be filed with the commission after the issuance of the temporary registration. An applicant's failure to comply with this section shall be grounds for the refusal of the commission to issue any further temporary registrations to the applicant unless the applicant furnishes proof of currently effective insurance in the amounts required by this article and in a form satisfactory to the commission.~~

~~(b) Fees collected pursuant to this subsection (5) shall be credited to the public utilities commission motor carrier fund.~~

~~(6) Notwithstanding the amount specified for any fee in this section, the commission by rule or as otherwise provided by law may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the commission by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section 24-75-402 (4), C.R.S.~~

SECTION 8. 42-7-510 (1), Colorado Revised Statutes, is amended to read:

42-7-510. Insurance or bond required. (1) Every owner of a truck that is

subject to the registration fee imposed pursuant to section 42-3-305 (5) (b) or (7) or 42-3-306 (5) (b) or (7) and that is not subject to ~~regulation by the public utilities commission under~~ article 10, 11, 13, ~~or~~ 14, OR 16 of title 40, C.R.S., before operating or permitting the operation of such vehicle upon any public highway in this state, shall have in each such vehicle a motor vehicle liability ~~insurance~~ policy or a certificate evidencing such policy issued by an insurance carrier or insurer authorized to do business in Colorado, or a copy of a valid certificate of self-insurance issued pursuant to section 10-4-624, C.R.S., or a surety bond issued by a company authorized to do a surety business in Colorado in the sum of fifty thousand dollars for damages to property of others; the sum of one hundred thousand dollars for damages for or on account of bodily injury or death of one person as a result of any one accident; and, subject to such limit as to one person, the sum of three hundred thousand dollars for or on account of bodily injury to or death of all persons as a result of any one accident.

SECTION 9. 42-8-104 (2), Colorado Revised Statutes, is amended to read:

42-8-104. Powers and duties. (2) The personnel of a port of entry weigh station, during the time that they are actually engaged in performing their duties as such and while acting under proper orders or regulations issued by the executive director of the department of revenue, shall have and exercise all the powers invested in peace officers in connection with the enforcement of the provisions of this article, articles 2 and 20 of this title, part 5 of article 4 of this title, and sections 42-3-107 (17), 42-4-225 (1.5), ~~and~~ 42-4-235, AND 42-4-1409; except that they shall not have the power to serve civil writs and process and, in the exercise of their duties, such personnel shall have the authority to restrain and detain persons or vehicles and may impound any vehicle until any tax or license fee imposed by law is paid or until compliance is had with any tax or regulatory law or regulation issued thereunder.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 15, 2010