

CHAPTER 127

PUBLIC UTILITIES

HOUSE BILL 11-1198

BY REPRESENTATIVE(S) Kerr J.;
also SENATOR(S) Schwartz.

AN ACT

CONCERNING A REORGANIZATION OF THE STATUTES GOVERNING MOTOR CARRIERS, AND, IN CONNECTION THEREWITH, CONSOLIDATING THE FORMER ARTICLES 10, 11, 13, 14, AND 16 OF TITLE 40, COLORADO REVISED STATUTES, INTO A SINGLE ARTICLE AND MAKING SUBSTANTIVE AND NONSUBSTANTIVE AMENDMENTS TO PROVISIONS GRANTING REGULATORY AUTHORITY TO 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 10.1
Motor Carriers**PART 1**
GENERAL PROVISIONS

40-10.1-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADVERTISE" MEANS TO ADVISE, ANNOUNCE, GIVE NOTICE OF, PUBLISH, OR CALL ATTENTION TO BY USE OF ANY ORAL, WRITTEN, OR GRAPHIC STATEMENT MADE IN A NEWSPAPER OR OTHER PUBLICATION, ON RADIO, TELEVISION, OR ANY ELECTRONIC MEDIUM, OR CONTAINED IN ANY NOTICE, HANDBILL, SIGN, INCLUDING SIGNAGE ON A VEHICLE, FLYER, CATALOG, OR LETTER, OR PRINTED ON OR CONTAINED IN ANY TAG OR LABEL ATTACHED TO OR ACCOMPANYING ANY ARTICLE OF PERSONAL PROPERTY.

(2) "CERTIFICATE" MEANS THE CERTIFICATE OF PUBLIC CONVENIENCE AND

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

NECESSITY ISSUED TO A COMMON CARRIER UNDER PART 2 OF THIS ARTICLE.

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

(4) "COMMON CARRIER" MEANS A COMMON CARRIER AS DEFINED IN SECTION 40-1-102; EXCEPT THAT THE TERM DOES NOT INCLUDE A CONTRACT CARRIER AS DEFINED IN THIS SECTION OR A MOTOR CARRIER OF PASSENGERS UNDER PART 3 OF THIS ARTICLE.

(5) "COMPENSATION" MEANS ANY MONEY, PROPERTY, SERVICE, OR THING OF VALUE CHARGED OR RECEIVED OR TO BE CHARGED OR RECEIVED, WHETHER DIRECTLY OR INDIRECTLY.

(6) "CONTRACT CARRIER" MEANS EVERY PERSON, OTHER THAN A COMMON CARRIER OR A MOTOR CARRIER OF PASSENGERS UNDER PART 3 OF THIS ARTICLE, WHO, BY SPECIAL CONTRACT, DIRECTLY OR INDIRECTLY AFFORDS A MEANS OF PASSENGER TRANSPORTATION OVER ANY PUBLIC HIGHWAY OF THIS STATE.

(7) "FIXED POINTS" AND "ESTABLISHED ROUTE" MEAN POINTS OR A ROUTE BETWEEN OR OVER WHICH ANY COMMON CARRIER USUALLY OR ORDINARILY OPERATES OR HOLDS OUT TO OPERATE ANY MOTOR VEHICLE, EVEN THOUGH THERE MAY BE DEPARTURES FROM SUCH POINTS OR ROUTE, WHETHER SUCH DEPARTURES ARE PERIODIC OR IRREGULAR.

(8) "HOUSEHOLD GOODS" MEANS THE PERSONAL EFFECTS AND PROPERTY USED OR TO BE USED IN A DWELLING, WHEN A PART OF THE EQUIPMENT OR SUPPLY OF SUCH DWELLING, AND SIMILAR PROPERTY IF THE TRANSPORTATION OF SUCH EFFECTS AND PROPERTY IS:

(a) ARRANGED AND PAID FOR BY THE HOUSEHOLDER; EXCEPT THAT "HOUSEHOLD GOODS" DOES NOT INCLUDE PROPERTY MOVING FROM A FACTORY OR STORE, OTHER THAN PROPERTY THAT THE HOUSEHOLDER HAS PURCHASED WITH INTENT TO USE IN HIS OR HER DWELLING AND THAT IS TRANSPORTED AT THE REQUEST OF, AND THE TRANSPORTATION CHARGES ARE PAID TO THE MOVER BY, THE HOUSEHOLDER; OR

(b) ARRANGED AND PAID FOR BY ANOTHER PARTY.

(9) "INTRASTATE COMMERCE" MEANS TRANSPORTATION FOR COMPENSATION BY MOTOR VEHICLES OVER THE PUBLIC HIGHWAYS BETWEEN POINTS IN THIS STATE.

(10) "MOTOR CARRIER" MEANS ANY PERSON OWNING, CONTROLLING, OPERATING, OR MANAGING ANY MOTOR VEHICLE THAT PROVIDES TRANSPORTATION IN INTRASTATE COMMERCE PURSUANT TO THIS ARTICLE.

(11) "MOTOR VEHICLE" MEANS ANY AUTOMOBILE, TRUCK, TRACTOR, MOTOR BUS, OR OTHER SELF-PROPELLED VEHICLE OR ANY TRAILER DRAWN THEREBY.

(12) "MOVER" MEANS A MOTOR CARRIER THAT PROVIDES THE TRANSPORTATION OR SHIPMENT OF HOUSEHOLD GOODS.

(13) "NONCONSENSUAL TOWING" OR "NONCONSENSUAL TOW" MEANS THE TRANSPORTATION OF A MOTOR VEHICLE BY TOW TRUCK IF SUCH TRANSPORTATION IS PERFORMED WITHOUT THE PRIOR CONSENT OR AUTHORIZATION OF THE OWNER OR OPERATOR OF THE MOTOR VEHICLE.

(14) "PERMIT" MEANS THE PERMIT ISSUED TO A CONTRACT CARRIER UNDER PART 2 OF THIS ARTICLE OR TO A MOTOR CARRIER UNDER PART 3, 4, OR 5 OF THIS ARTICLE.

(15) "PERSON" MEANS ANY INDIVIDUAL, FIRM, PARTNERSHIP, CORPORATION, COMPANY, ASSOCIATION, JOINT STOCK ASSOCIATION, OR OTHER LEGAL ENTITY AND ANY PERSON ACTING AS OR IN THE CAPACITY OF LESSEE, TRUSTEE, OR RECEIVER THEREOF, WHETHER APPOINTED BY A COURT OR OTHERWISE.

(16) "PUBLIC HIGHWAY" MEANS EVERY STREET, ROAD, OR HIGHWAY IN THIS STATE OVER WHICH THE PUBLIC GENERALLY HAS A RIGHT TO TRAVEL.

(17) "SHIPPER" MEANS A PERSON WHO USES THE SERVICES OF A MOVER TO TRANSPORT OR SHIP HOUSEHOLD GOODS.

(18) "TAXICAB" MEANS A MOTOR VEHICLE WITH A SEATING CAPACITY OF EIGHT OR LESS, INCLUDING THE DRIVER, OPERATED IN TAXICAB SERVICE.

(19) "TAXICAB SERVICE" MEANS PASSENGER TRANSPORTATION IN A TAXICAB ON A CALL-AND-DEMAND BASIS, WITH THE FIRST PASSENGER THEREIN HAVING EXCLUSIVE USE OF THE TAXICAB UNLESS SUCH PASSENGER AGREES TO MULTIPLE LOADING.

(20) "TOWING CARRIER" MEANS A MOTOR CARRIER THAT:

(a) PROVIDES, AS ONE OF ITS PRIMARY FUNCTIONS, THE TOWING OF MOTOR VEHICLES BY USE OF A TOW TRUCK; AND

(b) MAY ALSO PROVIDE STORAGE OF TOWED VEHICLES.

(21) "TOW TRUCK" MEANS A MOTOR VEHICLE SPECIALLY DESIGNED OR EQUIPPED FOR TRANSPORTING ANOTHER MOTOR VEHICLE BY MEANS OF WINCHES, CABLES, PULLEYS, OR OTHER EQUIPMENT FOR TOWING, PULLING, OR LIFTING SUCH OTHER MOTOR VEHICLE FROM ONE PLACE TO ANOTHER.

40-10.1-102. Powers of the commission. (1) THE COMMISSION HAS THE POWER TO AND SHALL ADMINISTER AND ENFORCE THIS ARTICLE, INCLUDING THE RIGHT TO INSPECT THE MOTOR VEHICLES, FACILITIES, AND RECORDS AND DOCUMENTS, REGARDLESS OF THE FORMAT, OF THE MOTOR CARRIERS AND PERSONS INVOLVED.

(2) THE COLORADO STATE PATROL AND THE PORTS OF ENTRY SECTION OF THE DEPARTMENT OF REVENUE HAVE THE POWER TO MONITOR AND ENFORCE COMPLIANCE WITH THE CERTIFICATE AND PERMIT REQUIREMENTS OF THIS ARTICLE AND ARTICLE 10.5 OF THIS TITLE.

40-10.1-103. Subject to control by commission. (1) ALL COMMON CARRIERS AND CONTRACT CARRIERS ARE DECLARED TO BE PUBLIC UTILITIES WITHIN THE

MEANING OF ARTICLES 1 TO 7 OF THIS TITLE AND ARE DECLARED TO BE AFFECTED WITH A PUBLIC INTEREST AND SUBJECT TO THIS ARTICLE AND ARTICLES 1 TO 7 OF THIS TITLE, INCLUDING THE REGULATION OF ALL RATES AND CHARGES PERTAINING TO PUBLIC UTILITIES, SO FAR AS APPLICABLE, AND OTHER LAWS OF THIS STATE NOT IN CONFLICT THEREWITH.

(2) EXCEPT AS PROVIDED IN SUBSECTION (1) OF THIS SECTION, MOTOR CARRIERS ARE NOT PUBLIC UTILITIES UNDER THIS TITLE, BUT ARE DECLARED TO BE AFFECTED WITH A PUBLIC INTEREST AND ARE SUBJECT TO REGULATION TO THE EXTENT PROVIDED IN THIS ARTICLE, IN SECTION 40-2-110.5, IN ARTICLE 6 OF THIS TITLE, AND IN ARTICLE 7 OF THIS TITLE EXCEPT SECTIONS 40-7-113.5, 40-7-116.5, AND 40-7-117. THE TERM "PUBLIC UTILITY", WHEN USED IN ARTICLES 6 AND 7 OF THIS TITLE, INCLUDES ALL MOTOR CARRIERS.

40-10.1-104. Compliance. A PERSON SHALL NOT OPERATE OR OFFER TO OPERATE AS A MOTOR CARRIER IN THIS STATE EXCEPT IN ACCORDANCE WITH THIS ARTICLE.

40-10.1-105. Transportation not subject to regulation. (1) THE FOLLOWING TYPES OF TRANSPORTATION ARE NOT SUBJECT TO REGULATION UNDER THIS ARTICLE:

(a) A RIDESHARING ARRANGEMENT, AS DEFINED IN SECTION 39-22-509 (1) (a) (II), C.R.S.;

(b) THE TRANSPORTATION OF CHILDREN TO AND FROM SCHOOL, SCHOOL-RELATED ACTIVITIES, AND SCHOOL-SANCTIONED ACTIVITIES TO THE EXTENT THAT SUCH TRANSPORTATION IS PROVIDED BY A SCHOOL OR SCHOOL DISTRICT OR THE SCHOOL OR SCHOOL DISTRICT'S TRANSPORTATION CONTRACTORS;

(c) A PRIVATE INDIVIDUAL WHO TRANSPORTS A NEIGHBOR OR FRIEND ON A TRIP;

(d) TRANSPORTATION BY HEARSEs, AMBULANCES, OR OTHER EMERGENCY VEHICLES;

(e) TRANSPORTATION BY MOTOR VEHICLES DESIGNED AND USED FOR THE NONEMERGENCY TRANSPORTATION OF INDIVIDUALS WITH DISABILITIES AS DEFINED IN SECTION 42-7-510 (2) (b), C.R.S.;

(f) AN AMUSEMENT RIDE CONSISTING OF A TOWED VEHICLE THAT IS INCAPABLE OF OPERATING UNDER ITS OWN POWER, THE PRINCIPAL PURPOSE OF WHICH IS TO CARRY INDIVIDUALS OVER SHORT DISTANCES FOR THEIR ENJOYMENT AND BY WHICH THE PROVISION OF A TRANSPORTATION SERVICE IS ONLY INCIDENTAL;

(g) PEOPLE SERVICE TRANSPORTATION AND VOLUNTEER TRANSPORTATION PURSUANT TO ARTICLE 1.1 OF THIS TITLE;

(h) TRANSPORTATION BY VEHICLES OPERATED UPON FIXED RAILS;

(i) TRANSPORTATION OF PROPERTY, EXCEPT TRANSPORTATION PROVIDED BY A TOWING CARRIER OR A MOVER;

(j) TRANSPORTATION PERFORMED BY THE FEDERAL GOVERNMENT, A STATE, OR ANY AGENCY OR POLITICAL SUBDIVISION OF EITHER, WHETHER THROUGH AN INTERGOVERNMENTAL AGREEMENT, CONTRACTUAL ARRANGEMENT, OR OTHERWISE; AND

(k) TRANSPORTATION OF REPOSSESSED PROPERTY BY A SECURED CREDITOR OR ASSIGNEE, OR BY A REPOSSESSOR ON BEHALF OF A SECURED CREDITOR OR ASSIGNEE, WHEN REPOSSESSING PURSUANT TO SECTION 4-9-629, C.R.S.

40-10.1-106. Commission to make rules and prescribe rates. (1) THE COMMISSION HAS THE AUTHORITY AND DUTY TO PRESCRIBE SUCH REASONABLE RULES COVERING THE OPERATIONS OF MOTOR CARRIERS AS MAY BE NECESSARY FOR THE EFFECTIVE ADMINISTRATION OF THIS ARTICLE, INCLUDING RULES ON THE FOLLOWING SUBJECTS:

(a) ENSURING PUBLIC SAFETY, FINANCIAL RESPONSIBILITY, CONSUMER PROTECTION, SERVICE QUALITY, AND THE PROVISION OF SERVICES TO THE PUBLIC;

(b) THE CIRCUMSTANCES UNDER WHICH A TOWING CARRIER MAY PERFORM A NONCONSENSUAL TOW OF A MOTOR VEHICLE, THE RESPONSIBILITIES AND FACILITIES OF THE TOWING CARRIER FOR THE CARE OR STORAGE OF THE MOTOR VEHICLE AND ITS CONTENTS, AND THE MINIMUM AND MAXIMUM RATES AND CHARGES TO BE COLLECTED BY THE TOWING CARRIER FOR THE NONCONSENSUAL TOWING AND STORAGE OF THE MOTOR VEHICLE. IN SETTING THE RATES AND CHARGES PURSUANT TO THIS SECTION, THE COMMISSION MAY REQUIRE 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.

(c) THE ADMINISTRATION OF THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS REQUIRED BY SECTION 40-10.1-110.

40-10.1-107. Financial responsibility - filing. (1) EACH MOTOR CARRIER SHALL MAINTAIN AND FILE WITH THE COMMISSION EVIDENCE OF FINANCIAL RESPONSIBILITY IN SUCH SUM, FOR SUCH PROTECTION, AND IN SUCH FORM AS THE COMMISSION MAY BY RULE REQUIRE AS THE COMMISSION DEEMS NECESSARY TO ADEQUATELY SAFEGUARD THE PUBLIC INTEREST.

(2) THE FINANCIAL RESPONSIBILITY REQUIRED BY SUBSECTION (1) OF THIS SECTION MUST BE IN THE FORM OF A LIABILITY INSURANCE POLICY ISSUED BY AN INSURANCE CARRIER OR INSURER AUTHORIZED TO DO BUSINESS IN THIS STATE, OR A SURETY BOND ISSUED BY A COMPANY AUTHORIZED TO DO BUSINESS IN THIS STATE, OR PROOF OF SELF-INSURANCE.

(3) AN INSURANCE POLICY, SURETY BOND, OR SELF-INSURANCE PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL BE KEPT CONTINUOUSLY EFFECTIVE DURING THE LIFE OF A CERTIFICATE OR PERMIT AND THE COMMISSION SHALL REQUIRE SUCH EVIDENCE OF CONTINUED VALIDITY AS THE COMMISSION DEEMS NECESSARY.

(4) NO TERMINATION OF AN INSURANCE POLICY OR SURETY BOND IS VALID UNLESS THE INSURER OR SURETY HAS NOTIFIED BOTH THE HOLDER OF THE POLICY OR

BOND AND THE COMMISSION AT LEAST THIRTY DAYS BEFORE THE EFFECTIVE DATE OF THE TERMINATION.

40-10.1-108. Commission to make safety rules. (1) THE COMMISSION HAS THE AUTHORITY AND DUTY TO ESTABLISH, FOR MOTOR CARRIERS SUBJECT TO PARTS 2 AND 3 OF THIS ARTICLE, REASONABLE RULES TO PROMOTE SAFETY OF OPERATION.

(2) FOR THE PURPOSE OF CARRYING OUT THIS SECTION PERTAINING TO SAFETY, THE COMMISSION MAY OBTAIN THE ASSISTANCE OF ANY AGENCY OF THE UNITED STATES OR OF THIS STATE HAVING SPECIAL KNOWLEDGE OF ANY MATTER NECESSARY TO PROMOTE THE SAFETY OF OPERATION AND EQUIPMENT OF MOTOR VEHICLES. IN ADOPTING SUCH RULES, THE COMMISSION SHALL USE AS GENERAL GUIDELINES THE STANDARDS CONTAINED IN THE CURRENT RULES AND REGULATIONS OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION RELATING TO SAFETY REGULATIONS, QUALIFICATIONS OF DRIVERS, DRIVING OF MOTOR VEHICLES, PARTS AND ACCESSORIES, RECORDING AND REPORTING OF ACCIDENTS, HOURS OF SERVICE OF DRIVERS, AND INSPECTION AND MAINTENANCE OF MOTOR VEHICLES.

40-10.1-109. Motor carrier compliance with safety rules. (1) A MOTOR CARRIER SUBJECT TO PART 2 OR 3 OF THIS ARTICLE SHALL COMPLY WITH THE SAFETY RULES ADOPTED BY THE COMMISSION PURSUANT TO SECTION 40-10.1-108.

(2) A MOTOR CARRIER OPERATING A MOTOR VEHICLE THAT IS DEFINED AS A COMMERCIAL VEHICLE IN SECTION 42-4-235 (1) (a), C.R.S., SHALL COMPLY WITH THE SAFETY RULES ADOPTED BY THE DEPARTMENT OF PUBLIC SAFETY PURSUANT TO SECTION 24-33.5-203 (1) (b), C.R.S., IN ADDITION TO THE RULES ADOPTED BY THE COMMISSION UNDER SUBSECTION (1) OF THIS SECTION.

(3) NOTHING IN SUBSECTION (1) OR (2) OF THIS SECTION DIMINISHES THE AUTHORITY OF THE COMMISSION, THE DEPARTMENT OF PUBLIC SAFETY, A PEACE OFFICER, OR ANY OTHER AGENT OF GOVERNMENT TO ENFORCE THE LAWS OF THIS STATE.

40-10.1-110. Criminal history record check. (1) AN INDIVIDUAL WHO WISHES TO DRIVE EITHER A TAXICAB FOR A MOTOR CARRIER THAT IS THE HOLDER OF A CERTIFICATE TO PROVIDE TAXICAB SERVICE ISSUED UNDER PART 2 OF THIS ARTICLE OR A MOTOR VEHICLE FOR A MOTOR CARRIER THAT IS THE HOLDER OF A PERMIT TO OPERATE AS A CHARTER BUS, CHILDREN'S ACTIVITY BUS, LUXURY LIMOUSINE, OR OFF-ROAD SCENIC CHARTER UNDER PART 3 OF THIS ARTICLE 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 USING RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. THE COMMISSION IS THE AUTHORIZED AGENCY TO RECEIVE INFORMATION REGARDING THE RESULT OF A NATIONAL CRIMINAL HISTORY RECORD CHECK. THE INDIVIDUAL WHOSE FINGERPRINTS ARE CHECKED SHALL PAY THE ACTUAL COSTS OF THE STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

(2) AN INDIVIDUAL WHOSE FINGERPRINTS ARE CHECKED PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY, PENDING THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK, DRIVE SUCH MOTOR VEHICLES FOR THE MOTOR CARRIER DESCRIBED IN SUBSECTION (1) OF THIS SECTION FOR UP TO NINETY 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 MOTOR VEHICLES FOR THE MOTOR CARRIER DESCRIBED IN SUBSECTION (1) OF THIS SECTION, 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 PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(3) AN INDIVIDUAL WHOSE CRIMINAL HISTORY RECORD IS CHECKED PURSUANT TO THIS SECTION IS DISQUALIFIED AND PROHIBITED FROM DRIVING MOTOR VEHICLES FOR THE MOTOR CARRIER DESCRIBED IN SUBSECTION (1) OF THIS SECTION IF THE CRIMINAL HISTORY RECORD CHECK REFLECTS THAT:

(a) THE INDIVIDUAL IS NOT OF GOOD MORAL CHARACTER, AS DETERMINED BY THE COMMISSION BASED ON THE RESULTS OF THE CHECK;

(b) (I) THE INDIVIDUAL HAS BEEN CONVICTED OF A FELONY OR MISDEMEANOR INVOLVING MORAL TURPITUDE.

(II) AS USED IN THIS PARAGRAPH (b), "MORAL TURPITUDE" INCLUDES ANY UNLAWFUL SEXUAL OFFENSE AGAINST A CHILD, AS DEFINED IN SECTION 18-3-411, C.R.S., OR A COMPARABLE OFFENSE IN ANY OTHER STATE OR IN THE UNITED STATES.

(c) WITHIN THE TWO YEARS IMMEDIATELY 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.

(4) THE COMMISSION SHALL CONSIDER THE INFORMATION RESULTING FROM THE CRIMINAL HISTORY RECORD CHECK IN ITS DETERMINATION AS TO WHETHER THE INDIVIDUAL HAS MET THE STANDARDS SET FORTH IN SECTION 24-5-101 (2), C.R.S.

(5) AN INDIVIDUAL WHOSE FINGERPRINTS WERE CHECKED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL, AS A CONDITION OF CONTINUED QUALIFICATION TO DRIVE A MOTOR VEHICLE FOR A MOTOR CARRIER, RESUBMIT A SET OF HIS OR HER FINGERPRINTS TO THE COMMISSION IN ACCORDANCE WITH THE COMMISSION'S RULES.

(6) EACH MOTOR CARRIER DESCRIBED IN SUBSECTION (1) OF THIS SECTION SHALL ENSURE DRIVER COMPLIANCE WITH THIS SECTION AND WITH COMMISSION RULES PROMULGATED PURSUANT TO THIS SECTION. NOTHING IN THIS SUBSECTION (6) MAKES A DRIVER AN EMPLOYEE OF THE MOTOR CARRIER.

(7) 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, AND THE FREQUENCY AND CIRCUMSTANCES REQUIRING RESUBMISSION OF FINGERPRINTS.

40-10.1-111. Filing, issuance, and annual fees. (1) A MOTOR CARRIER SHALL PAY THE COMMISSION THE FOLLOWING FEES IN AMOUNTS PRESCRIBED IN THIS SECTION OR, IF NOT SO PRESCRIBED, AS SET ADMINISTRATIVELY BY THE COMMISSION WITH APPROVAL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES:

(a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), THE FILING FEE FOR AN APPLICATION FOR A TEMPORARY AUTHORITY, CERTIFICATE, OR PERMIT UNDER PART 2 OF THIS ARTICLE OR FOR AN EXTENSION, AMENDMENT, TRANSFER, OR LEASE OF A TEMPORARY AUTHORITY, CERTIFICATE, OR PERMIT IS THIRTY-FIVE DOLLARS, AND THE FEE FOR ISSUANCE OF A TEMPORARY AUTHORITY, CERTIFICATE, OR PERMIT UNDER PART 2 OF THIS ARTICLE IS FIVE DOLLARS.

(b) THE COMMISSION SHALL ADMINISTRATIVELY SET THE FILING FEE FOR AN APPLICATION UNDER PART 2 OF THIS ARTICLE TO PROVIDE TAXICAB SERVICE WITHIN AND BETWEEN THE COUNTIES OF ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS, EL PASO, AND JEFFERSON.

(c) THE FILING FEE FOR A PERMIT TO OPERATE UNDER PART 4 OF THIS ARTICLE IS ONE HUNDRED FIFTY DOLLARS.

(d) THE COMMISSION SHALL ADMINISTRATIVELY SET THE ANNUAL FILING FEE FOR A PERMIT TO OPERATE UNDER PART 5 OF THIS ARTICLE; EXCEPT THAT THE FEE MAY NOT EXCEED THREE HUNDRED TWENTY-FIVE DOLLARS.

(e) THE FILING FEE FOR A TEMPORARY PERMIT TO OPERATE AS A MOVER PURSUANT TO SECTION 40-10.1-502 (5) (a) IS ONE HUNDRED FIFTY DOLLARS.

(f) THE COMMISSION SHALL ADMINISTRATIVELY SET THE ANNUAL FEE FOR EACH MOTOR VEHICLE A MOTOR CARRIER OWNS, CONTROLS, OPERATES, OR MANAGES.

(2) EXCEPT FOR A MOVER HOLDING A PERMIT ISSUED UNDER PART 5 OF THIS ARTICLE AND A MOTOR CARRIER THAT HAS PAID A FEE PURSUANT TO ARTICLE 10.5 OF THIS TITLE, A MOTOR CARRIER SHALL NOT OPERATE ANY MOTOR VEHICLE IN INTRASTATE COMMERCE UNLESS THE ANNUAL FEES REQUIRED BY PARAGRAPH (f) OF SUBSECTION (1) OF THIS SECTION HAVE BEEN PAID. SUCH FEES APPLY ON A CALENDAR YEAR BASIS AND ARE CREDITABLE ONLY TO THE SPECIFIC VEHICLES FOR WHICH THE FEES HAVE BEEN PAID.

(3) ADMINISTRATIVELY SET FEES MUST BE BASED ON THE APPROPRIATION MADE

FOR THE PURPOSES SPECIFIED IN SECTION 40-2-110 (2) (a) (I), SUBJECT TO THE APPROVAL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES, SUCH THAT THE REVENUE GENERATED FROM ALL MOTOR CARRIER FEES APPROXIMATES THE DIRECT AND INDIRECT COSTS OF THE COMMISSION IN THE SUPERVISION AND REGULATION OF MOTOR CARRIERS.

(4) THE COMMISSION SHALL TRANSMIT ALL FEES COLLECTED UNDER THIS SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE PUBLIC UTILITIES COMMISSION MOTOR CARRIER FUND CREATED IN SECTION 40-2-110.5.

40-10.1-112. Commission may take action against a certificate or permit.

(1) EXCEPT AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, THE COMMISSION, AT ANY TIME, BY ORDER DULY ENTERED, AFTER HEARING UPON NOTICE TO THE MOTOR CARRIER AND UPON PROOF OF VIOLATION, MAY ISSUE AN ORDER TO CEASE AND DESIST OR MAY SUSPEND, REVOKE, ALTER, OR AMEND ANY CERTIFICATE OR PERMIT ISSUED TO THE MOTOR CARRIER UNDER THIS ARTICLE FOR THE FOLLOWING REASONS:

(a) A VIOLATION OF THIS ARTICLE OR OF ANY TERM OR CONDITION OF THE MOTOR CARRIER'S CERTIFICATE OR PERMIT;

(b) EXCEEDING THE AUTHORITY GRANTED BY A CERTIFICATE OR PERMIT;

(c) A VIOLATION OR REFUSAL TO OBSERVE ANY OF THE PROPER ORDERS OR RULES OF THE COMMISSION;

(d) FOR A TOWING CARRIER, A VIOLATION OF ANY OF THE PROVISIONS SET FORTH IN PART 18 OR 21 OF ARTICLE 4 OF TITLE 42, C.R.S., OR A CONVICTION, GUILTY PLEA, OR PLEA OF NOLO CONTENDERE TO A FELONY;

(e) FOR A MOVER, FAILURE OR REFUSAL TO ABIDE BY THE TERMS OF AN ARBITRATOR'S AWARD UNDER SECTION 40-10.1-507, OR FAILURE TO SATISFY THE REQUIREMENTS FOR A NEW OR RENEWED PERMIT UNDER SECTION 40-10.1-502.

(2) ANY PERSON MAY FILE A COMPLAINT AGAINST A MOTOR CARRIER FOR A VIOLATION OF THIS ARTICLE OR A RULE ADOPTED UNDER THIS ARTICLE. THE COMPLAINANT MAY REQUEST ANY RELIEF THAT THE COMMISSION, IN ITS AUTHORITY, MAY GRANT, INCLUDING AN ORDER TO CEASE AND DESIST, SUSPENSION OR REVOCATION OF THE MOTOR CARRIER'S CERTIFICATE OR PERMIT, OR ASSESSMENT OF CIVIL PENALTIES. UPON PROOF OF VIOLATION, THE COMMISSION MAY ISSUE AN ORDER TO CEASE AND DESIST, SUSPEND OR REVOKE THE MOTOR CARRIER'S CERTIFICATE OR PERMIT, ASSESS CIVIL PENALTIES AS PROVIDED IN ARTICLE 7 OF THIS TITLE, OR TAKE ANY OTHER ACTION WITHIN THE COMMISSION'S AUTHORITY. IN ASSESSING CIVIL PENALTIES UNDER THIS SUBSECTION (2), THE COMMISSION IS NOT CONSTRAINED BY THE PROCEDURAL REQUIREMENTS OF SECTION 40-7-116.

(3) NOTWITHSTANDING THE NOTICE AND HEARING PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THE COMMISSION SHALL SUMMARILY SUSPEND THE CERTIFICATE OR PERMIT OF ANY MOTOR CARRIER FOR FAILURE TO MAINTAIN EFFECTIVE INSURANCE OR SURETY BOND COVERAGE AND FILE EVIDENCE OF THE SAME IN ACCORDANCE WITH SECTION 40-10.1-107 AND RULES ADOPTED PURSUANT THERETO. THE COMMISSION SHALL REINSTATE SUCH SUMMARILY SUSPENDED CERTIFICATE OR

PERMIT WITHIN A TIME PERIOD SPECIFIED IN, AND IN ACCORDANCE WITH, THE RULES OF THE COMMISSION.

(4) A MOTOR CARRIER WHOSE CERTIFICATE OR PERMIT HAS BEEN REVOKED FOR CAUSE MORE THAN TWICE IS NOT ELIGIBLE FOR ANOTHER SUCH CERTIFICATE OR PERMIT FOR AT LEAST TWO YEARS AFTER THE DATE OF THE THIRD SUCH REVOCATION. IN THE CASE OF AN ENTITY, THE TWO-YEAR PERIOD OF INELIGIBILITY ALSO APPLIES 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 (4), "REVOKED 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.

(5) ANY COMMISSION ACTION UNDER SUBSECTION (1) OR (2) OF THIS SECTION MUST CONFORM TO THE PROVISIONS AND PROCEDURES SPECIFIED IN ARTICLE 6 OF THIS TITLE. THE MOTOR CARRIER HAS ALL THE RIGHTS TO THE OPPORTUNITY FOR A HEARING, REVIEW, AND APPEAL AS TO SUCH ORDER OR RULING OF THE COMMISSION AS ARE NOW PROVIDED BY ARTICLES 1 TO 7 OF THIS TITLE. NO APPEAL FROM OR REVIEW OF ANY ORDER OR RULING OF THE COMMISSION SUPERSEDES OR SUSPENDS SUCH ORDER OR RULINGS UNLESS SPECIFICALLY ORDERED BY THE PROPER COURT.

40-10.1-113. Penalty for violations. ANY PERSON WHO PROVIDES TRANSPORTATION IN INTRASTATE COMMERCE WITHOUT FIRST OBTAINING A CERTIFICATE OR PERMIT, VIOLATES ANY OF THE TERMS THEREOF, FAILS OR REFUSES TO MAKE ANY RETURN OR REPORT REQUIRED BY THE COMMISSION, DENIES TO THE COMMISSION ACCESS TO THE BOOKS AND RECORDS OF SUCH PERSON, OR MAKES ANY FALSE RETURN OR REPORT COMMITS A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED AS PROVIDED IN SECTION 40-10.1-114.

40-10.1-114. Penalty for violation of article. (1) EVERY MOTOR CARRIER AND EVERY OFFICER, AGENT, OR EMPLOYEE OF A MOTOR CARRIER AND EVERY OTHER PERSON WHO VIOLATES OR FAILS TO COMPLY WITH OR WHO PROCURES, AIDS, OR ABETS IN THE VIOLATION OF THIS ARTICLE, WHO FAILS TO OBEY, OBSERVE, OR COMPLY WITH ANY ORDER, DECISION, OR RULE OF THE COMMISSION ADOPTED UNDER THIS ARTICLE, OR WHO PROCURES, AIDS, OR ABETS ANY PERSON IN SUCH FAILURE TO OBEY OR OBSERVE SUCH ORDER, DECISION, OR RULE COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

(2) AN INDIVIDUAL WHO IS EMPLOYED BY OR WHO CONTRACTS WITH A MOTOR CARRIER AND WHO OPERATES A MOTOR VEHICLE FOR THE MOTOR CARRIER'S BUSINESS IN VIOLATION OF SECTION 40-10.1-110 COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

(3) EACH DAY OF A CONTINUING VIOLATION OF THIS ARTICLE CONSTITUTES A SEPARATE OFFENSE.

40-10.1-115. Jurisdiction of courts. THE DISTRICT COURT OR, WITHIN ITS JURISDICTION, THE COUNTY COURT OF ANY COUNTY IN OR THROUGH WHICH A MOTOR CARRIER OPERATES HAS JURISDICTION IN ALL MATTERS ARISING UNDER THIS ARTICLE

ON ACCOUNT OF THE OPERATIONS OF SUCH MOTOR CARRIER EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE AND EXCEPTING THOSE MATTERS EXPRESSLY DELEGATED TO THE COMMISSION; AND IT IS THE DUTY OF THE DISTRICT ATTORNEY FOR THE COUNTY HAVING JURISDICTION TO PROSECUTE ALL VIOLATIONS OF THIS ARTICLE.

40-10.1-116. Commission to notify local authorities - procedure.

(1) WHENEVER THE COMMISSION IS OF THE OPINION THAT A MOTOR CARRIER IS FAILING OR OMITTING TO DO ANYTHING REQUIRED OF IT BY LAW OR BY ANY ORDER, DECISION, RULE, DIRECTION, OR REQUIREMENT OF THE COMMISSION OR IS ACTING OR IS ABOUT TO ACT OR PERMITTING AN ACT OR ABOUT TO PERMIT AN ACT IN VIOLATION OF THE LAW OR OF ANY ORDER, DECISION, RULE, DIRECTION, OR REQUIREMENT OF THE COMMISSION, THE COMMISSION SHALL REQUEST THE ATTORNEY GENERAL OF THE STATE OR THE DISTRICT ATTORNEY OF ANY DISTRICT TO COMMENCE AN ACTION OR PROCEEDING IN THE DISTRICT COURT IN AND FOR THE COUNTY OR CITY AND COUNTY IN WHICH THE CAUSE OR SOME PART THEREOF AROSE OR IN WHICH THE MOTOR CARRIER COMPLAINED OF MAINTAINS A PRINCIPAL PLACE OF BUSINESS OR RESIDES. SUCH ACTION OR PROCEEDING MUST BE CONDUCTED IN ACCORDANCE WITH SECTION 40-7-104; EXCEPT THAT REFERENCES IN SECTION 40-7-104 TO THE ATTORNEY GENERAL INCLUDE ANY DISTRICT ATTORNEY BRINGING THE ACTION OR PROCEEDING.

(2) APPELLATE REVIEW MAY BE OBTAINED IN THE SUPREME COURT CONCERNING A FINAL JUDGMENT IN AN ACTION OR PROCEEDING UNDER THIS SECTION IN THE SAME MANNER AND WITH THE SAME EFFECT, SUBJECT TO THIS ARTICLE, AS APPELLATE REVIEW OF JUDGMENTS OF THE DISTRICT COURT IN OTHER ACTIONS FOR MANDAMUS OR INJUNCTION.

(3) A PERSON INJURED BY THE NONCOMPLIANCE OF A MOTOR CARRIER WITH THIS ARTICLE OR ANY OTHER PROVISION OF LAW OR AN ORDER, DECISION, RULE, DIRECTION, OR REQUIREMENT OF THE COMMISSION MAY APPLY TO A COURT OF COMPETENT JURISDICTION FOR THE ENFORCEMENT THEREOF, AND THE COURT HAS JURISDICTION TO ENFORCE OBEDIENCE THERETO BY INJUNCTION OR OTHER PROPER PROCESS, MANDATORY OR OTHERWISE, AND TO RESTRAIN THE MOTOR CARRIER AND ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES FROM FURTHER DISOBEDIENCE THEREOF, OR TO ENJOIN UPON THEM OBEDIENCE TO THE SAME, AND ANY PERSON SO INJURED HAS CAUSE OF ACTION IN DAMAGES AND IS PRIVILEGED TO PURSUE THE USUAL AND PROPER REMEDIES AS IN ANY OTHER CASE.

PART 2
MOTOR CARRIERS OF PASSENGERS -
COMMON CARRIERS AND CONTRACT CARRIERS

40-10.1-201. Certificate required. (1) A PERSON SHALL NOT OPERATE OR OFFER TO OPERATE AS A COMMON CARRIER 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.

(2) THE FACT THAT A PERSON CARRIES ON OPERATIONS, IN WHOLE OR IN PART, BETWEEN SUBSTANTIALLY FIXED POINTS OR OVER ESTABLISHED ROUTES, OR UNDER CONTRACTS WITH MORE THAN ONE PERSON, OR BY MAKING REPEATED OR PERIODIC

TRIPS IS PRIMA FACIE EVIDENCE THAT THE PERSON IS A COMMON CARRIER AND SUBJECT TO THIS PART 2 AND PART 1 OF THIS ARTICLE.

40-10.1-202. Permit required - legislative declaration. (1) (a) A PERSON SHALL NOT OPERATE OR OFFER TO OPERATE AS A CONTRACT CARRIER IN INTRASTATE COMMERCE WITHOUT FIRST OBTAINING A PERMIT FOR SUCH OPERATION FROM THE COMMISSION. AS USED IN THIS PART 2, "PERMIT" DOES NOT INCLUDE A PERMIT UNDER PARTS 3, 4, OR 5 OF THIS ARTICLE.

(b) THE GENERAL ASSEMBLY HEREBY DECLARES THAT THE BUSINESS OF CONTRACT CARRIERS IS AFFECTED WITH A PUBLIC INTEREST AND THAT THE SAFETY AND WELFARE OF THE PUBLIC TRAVELING UPON THE HIGHWAYS, THE PRESERVATION AND MAINTENANCE OF THE HIGHWAYS, AND THE PROPER REGULATION OF COMMON CARRIERS USING THE HIGHWAYS REQUIRE THE REGULATION OF CONTRACT CARRIERS 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 AND MAY ATTACH TO SUCH PERMIT AND TO THE EXERCISE OF THE RIGHTS AND PRIVILEGES GRANTED BY THE PERMIT SUCH TERMS AND CONDITIONS AS ARE REASONABLE.

(2) NO PERMIT, NOR ANY EXTENSION OR ENLARGEMENT OF AN EXISTING PERMIT, SHALL BE GRANTED BY THE COMMISSION IF, IN THE COMMISSION'S JUDGMENT, THE PROPOSED OPERATION OF ANY SUCH CONTRACT CARRIER WILL IMPAIR THE EFFICIENT PUBLIC SERVICE OF ANY AUTHORIZED COMMON CARRIER THEN ADEQUATELY SERVING THE SAME TERRITORY OVER THE SAME GENERAL HIGHWAY ROUTE. THE COMMISSION SHALL GIVE WRITTEN NOTICE OF ANY APPLICATION FOR A PERMIT TO ALL PERSONS INTERESTED IN OR AFFECTED BY THE ISSUANCE OF THE PERMIT OR ANY EXTENSION OR ENLARGEMENT THEREOF, PURSUANT TO SECTION 40-6-108 (2).

(3) NOTHING CONTAINED IN THIS ARTICLE COMPELS A CONTRACT CARRIER TO BE OR BECOME A COMMON CARRIER OR SUBJECTS A CONTRACT CARRIER TO THE LAWS OR LIABILITY APPLICABLE TO A COMMON CARRIER.

40-10.1-203. Rules for issuance of certificate - standing to protest - judicial review. (1) THE COMMISSION HAS THE POWER TO ISSUE A CERTIFICATE TO A COMMON CARRIER OR TO ISSUE IT FOR THE PARTIAL EXERCISE ONLY OF THE PRIVILEGE SOUGHT, AND MAY ATTACH TO THE EXERCISE OF THE RIGHTS GRANTED BY THE CERTIFICATE SUCH TERMS AND CONDITIONS AS, IN THE COMMISSION'S JUDGMENT, THE PUBLIC CONVENIENCE AND NECESSITY MAY REQUIRE.

(2) (a) THE GRANTING OF A CERTIFICATE TO OPERATE A TAXICAB SERVICE WITHIN AND BETWEEN COUNTIES WITH A POPULATION OF LESS THAN SEVENTY THOUSAND, BASED ON THE MOST RECENT AVAILABLE FEDERAL CENSUS FIGURES, IS GOVERNED BY THE DOCTRINE OF REGULATED MONOPOLY.

(b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), THE GRANTING OF A CERTIFICATE TO OPERATE A TAXICAB SERVICE WITHIN AND BETWEEN COUNTIES WITH A POPULATION OF SEVENTY THOUSAND OR GREATER, BASED ON THE MOST RECENT AVAILABLE FEDERAL CENSUS FIGURES, IS NOT AN EXCLUSIVE GRANT OR MONOPOLY, AND THE DOCTRINE OF REGULATED COMPETITION APPLIES.

(II) IN AN APPLICATION FOR A CERTIFICATE TO PROVIDE TAXICAB SERVICE WITHIN AND BETWEEN THE COUNTIES OF ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS, EL PASO, AND JEFFERSON:

(A) THE APPLICANT HAS THE INITIAL BURDEN OF PROVING THAT IT IS OPERATIONALLY AND FINANCIALLY FIT TO PROVIDE THE PROPOSED SERVICE. THE APPLICANT NEED NOT PROVE THE INADEQUACY OF EXISTING TAXICAB SERVICE, IF ANY, WITHIN THE APPLICANT'S PROPOSED GEOGRAPHIC AREA OF OPERATION.

(B) IF THE APPLICANT SUSTAINS THE INITIAL BURDEN OF PROOF AS SET FORTH IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II), THERE SHALL BE A REBUTTABLE PRESUMPTION OF PUBLIC NEED FOR THE SERVICE, AND ANY PARTY OPPOSING THE APPLICATION SHALL PREVAIL UPON PROVING THAT THE PUBLIC CONVENIENCE AND NECESSITY DOES NOT REQUIRE GRANTING THE APPLICATION OR THAT THE ISSUANCE OF THE CERTIFICATE WOULD BE DETRIMENTAL TO THE PUBLIC INTEREST.

(c) (I) THE HOLDER OF A CERTIFICATE THAT CONTAINS AUTHORITY TO OPERATE A TAXICAB SERVICE BETWEEN POINTS IN THE CITY AND COUNTY OF DENVER ALSO HOLDS TAXICAB SERVICE AUTHORITY FROM POINTS IN THE CITY AND COUNTY OF DENVER TO ALL POINTS IN THIS STATE.

(II) THE HOLDER OF A CERTIFICATE THAT CONTAINS AUTHORITY TO OPERATE A TAXICAB SERVICE TO POINTS IN THE CITY AND COUNTY OF DENVER ALSO HOLDS TAXICAB SERVICE AUTHORITY FROM POINTS IN THE CITY AND COUNTY OF DENVER TO ALL POINTS WITHIN THE COMMON CARRIER'S BASE AREA, DEFINED AS THAT GEOGRAPHIC AREA IN WHICH SUCH COMMON CARRIER MAY PROVIDE POINT-TO-POINT TAXICAB SERVICE.

(III) THE COMMISSION SHALL AMEND, BY ORDER AND WITHOUT NOTICE OR HEARING, ANY EXISTING TAXICAB SERVICE CERTIFICATE AS DESCRIBED IN SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (c) TO ALLOW SERVICE FROM POINTS IN THE CITY AND COUNTY OF DENVER TO EITHER ALL POINTS IN THIS STATE OR ALL POINTS WITHIN THE COMMON CARRIER'S BASE AREA TO CONFORM WITH THE DIRECTIVES CONTAINED IN SAID SUBPARAGRAPH (I) OR (II).

(3) WHEN AN APPEAL OF A COMMISSION DECISION UNDER THIS SECTION HAS BEEN MADE BY FILING EXCEPTIONS PURSUANT TO SECTION 40-6-109 AND THE COMMISSION HAS RENDERED A FINAL DECISION ON SUCH EXCEPTIONS AS PROVIDED IN ARTICLE 6 OF THIS TITLE, ANY PARTY THERETO MAY, WITHIN THIRTY DAYS AFTER THE FINAL DECISION, APPLY DIRECTLY TO A DISTRICT COURT IN THIS STATE FOR JUDICIAL REVIEW PURSUANT TO SECTION 40-6-115. FOR PURPOSES OF JUDICIAL REVIEW, A DECISION OF THE COMMISSION ON EXCEPTIONS IS FINAL ON THE DATE THE DECISION IS SERVED ON THE PARTIES TO THE PROCEEDING.

40-10.1-204. Temporary authority. (1) TO ENABLE THE PROVISION OF COMMON CARRIER OR CONTRACT CARRIER SERVICE FOR WHICH THERE APPEARS TO BE AN IMMEDIATE AND URGENT NEED TO ANY POINT OR WITHIN A TERRITORY HAVING NO SUCH SERVICE CAPABLE OF MEETING THE NEED, THE COMMISSION MAY, IN ITS DISCRETION AND WITHOUT HEARINGS OR OTHER PROCEEDINGS, GRANT TEMPORARY AUTHORITY FOR SUCH SERVICE BY A COMMON CARRIER OR A CONTRACT CARRIER,

AS THE CASE MAY BE. SUCH TEMPORARY AUTHORITY, UNLESS SUSPENDED OR REVOKED FOR GOOD CAUSE, IS VALID FOR SUCH TIME AS THE COMMISSION SPECIFIES, BUT FOR NOT MORE THAN AN AGGREGATE OF ONE HUNDRED EIGHTY DAYS, UNLESS FOR GOOD CAUSE SHOWN THE COMMISSION EXTENDS THE TEMPORARY AUTHORITY FOR A PERIOD WHICH MAY EXTEND UNTIL A FINAL ADMINISTRATIVE DECISION IS RENDERED. A GRANT OF TEMPORARY AUTHORITY OR AN EXTENSION THEREOF CREATES NO PRESUMPTION THAT CORRESPONDING PERMANENT AUTHORITY WILL BE GRANTED THEREAFTER.

(2) PENDING THE DETERMINATION OF AN APPLICATION FILED WITH THE COMMISSION FOR APPROVAL OF AN ACQUISITION OF STOCK OF A COMMON CARRIER OR CONTRACT CARRIER, A CONSOLIDATION OR MERGER OF TWO OR MORE SUCH CARRIERS, OR A PURCHASE, LEASE, OR CONTRACT TO OPERATE THE PROPERTIES OF ONE OR MORE SUCH CARRIERS, THE COMMISSION MAY, IN ITS DISCRETION AND WITHOUT HEARINGS OR OTHER PROCEEDINGS, GRANT TEMPORARY APPROVAL FOR A PERIOD NOT EXCEEDING ONE HUNDRED EIGHTY DAYS FOR THE OPERATION OF THE CARRIER OR ITS PROPERTIES SOUGHT TO BE ACQUIRED BY THE PERSON PROPOSING IN SUCH PENDING APPLICATION TO ACQUIRE THE PROPERTIES OR STOCK, IF IT APPEARS THAT FAILURE TO GRANT SUCH TEMPORARY APPROVAL MAY RESULT IN DESTRUCTION OF OR INJURY TO THE CARRIER OR ITS PROPERTIES SOUGHT TO BE ACQUIRED, OR MAY INTERFERE SUBSTANTIALLY WITH THEIR FUTURE USEFULNESS IN THE PERFORMANCE OF ADEQUATE AND CONTINUOUS SERVICE TO THE PUBLIC. FOR GOOD CAUSE SHOWN, THE COMMISSION MAY EXTEND SUCH TEMPORARY APPROVAL FOR A PERIOD WHICH MAY EXTEND UNTIL A FINAL ADMINISTRATIVE DECISION IS RENDERED. TEMPORARY APPROVAL OR AN EXTENSION THEREOF DOES NOT CREATE A PRESUMPTION THAT THE APPLICATION WILL BE GRANTED.

(3) COMMON CARRIER OR CONTRACT CARRIER SERVICE RENDERED UNDER TEMPORARY AUTHORITY OR APPROVAL IS SUBJECT TO ALL APPLICABLE PROVISIONS OF THIS TITLE AND TO THE RULES AND REQUIREMENTS OF THE COMMISSION. THE MAXIMUM TIME PERIOD OF ANY TEMPORARY AUTHORITY OR APPROVAL IS NOT SUBJECT TO EXTENSION OR RENEWAL.

(4) THE COMMISSION SHALL NOT ISSUE A TEMPORARY AUTHORITY OR APPROVAL UNLESS, UNDER SUCH GENERAL RULES AS THE COMMISSION MAY PRESCRIBE GOVERNING THE APPLICATION AND NOTICE THEREOF TO INTERESTED OR AFFECTED COMMON CARRIERS, ALL INTERESTED OR AFFECTED CARRIERS HAVE BEEN GIVEN AT LEAST FIVE DAYS' NOTICE OF THE FILING OF THE APPLICATION AND AN OPPORTUNITY TO PROTEST THE GRANTING THEREOF. IF THE COMMISSION DETERMINES THAT AN EMERGENCY EXISTS, IT MAY ISSUE TEMPORARY AUTHORITY OR APPROVAL AT ONCE BY MAKING SPECIFIC REFERENCE IN ITS ORDER TO THE CIRCUMSTANCES CONSTITUTING THE EMERGENCY, IN WHICH CASE NO NOTICE NEED BE GIVEN, BUT ANY SUCH EMERGENCY AUTHORITY OR APPROVAL EXPIRES NO LATER THAN THIRTY DAYS AFTER IT WAS ISSUED.

40-10.1-205. Transfer of certificate or permit. (1) A CERTIFICATE OR PERMIT, OR RIGHTS OBTAINED UNDER A CERTIFICATE OR PERMIT, THAT ARE HELD, OWNED, OR OBTAINED BY ANY COMMON CARRIER OR CONTRACT CARRIER MAY BE SOLD, ASSIGNED, LEASED, ENCUMBERED, OR TRANSFERRED AS OTHER PROPERTY, SUBJECT TO PRIOR AUTHORIZATION BY THE COMMISSION.

(2) ABSENT OTHER FACTS, THE FACT THAT A COMMON CARRIER OR CONTRACT CARRIER CONDUCTS OPERATIONS WITH INDEPENDENT CONTRACTORS DOES NOT IN AND OF ITSELF CONSTITUTE A LEASE OR TRANSFER OF THE CERTIFICATE.

(3) AN EXISTING CERTIFICATE OR PERMIT SHALL NOT BE TRANSFERRED UNLESS THE FITNESS OF THE TRANSFEREE IS ESTABLISHED TO THE SATISFACTION OF THE COMMISSION.

40-10.1-206. Rates - limitations. (1) IT IS UNLAWFUL FOR ANY COMMON CARRIER TO CARRY OR ADVERTISE THAT IT WILL CARRY ANY INDIVIDUALS AT RATES DIFFERENT FROM THOSE IT HAS ON FILE WITH THE COMMISSION FOR SUCH CARRIAGE.

(2) A CONTRACT CARRIER SHALL NOT DESTROY OR IMPAIR, THROUGH DISCRIMINATION OR UNFAIR COMPETITION, THE SERVICE OR BUSINESS OF ANY COMMON CARRIER OR THE INTEGRITY OF THE STATE'S REGULATION OF ANY SUCH SERVICE OR BUSINESS; AND TO THAT END, THE COMMISSION IS AUTHORIZED AND DIRECTED TO PRESCRIBE MINIMUM RATES, FARES, AND CHARGES TO BE COLLECTED BY CONTRACT CARRIERS WHEN COMPETING WITH DULY AUTHORIZED COMMON CARRIERS, WHICH RATES, FARES, AND CHARGES MUST NOT BE LESS THAN THE RATES PRESCRIBED FOR COMMON CARRIERS FOR SUBSTANTIALLY THE SAME OR SIMILAR SERVICE.

(3) IN ACCORDANCE WITH THIS ARTICLE AND SUCH RULES AS THE COMMISSION MAY PRESCRIBE, EVERY CONTRACT CARRIER SUBJECT TO THIS ARTICLE SHALL FILE WITH THE COMMISSION, WITHIN SUCH TIME AND IN SUCH FORM AS THE COMMISSION MAY DESIGNATE, AND SHALL KEEP ON FILE WITH THE COMMISSION, AT ALL TIMES, SCHEDULES SHOWING RATES, CHARGES, AND COLLECTIONS, COLLECTED OR ENFORCED OR TO BE COLLECTED OR ENFORCED, THAT IN ANY MANNER AFFECT OR RELATE TO THE OPERATIONS OF ANY SUCH CONTRACT CARRIER; AND THE COMMISSION HAS FULL POWER TO CHANGE, AMEND, OR ALTER ANY SUCH TARIFF OR, AFTER HEARING, FIX THE RATES OF ANY CONTRACT CARRIER SUBJECT TO THIS ARTICLE THAT COMPETES WITH A COMMON CARRIER.

PART 3 MOTOR CARRIERS OF PASSENGERS - LIMITED REGULATION

40-10.1-301. Definitions. AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CHARTER BASIS" MEANS ON THE BASIS OF A CONTRACT FOR TRANSPORTATION WHEREBY A PERSON AGREES TO PROVIDE EXCLUSIVE USE OF A MOTOR VEHICLE TO A SINGLE CHARTERING PARTY FOR A SPECIFIC PERIOD OF TIME DURING WHICH THE CHARTERING PARTY HAS THE EXCLUSIVE RIGHT TO DIRECT THE OPERATION OF THE VEHICLE, INCLUDING SELECTION OF THE ORIGIN, DESTINATION, ROUTE, AND INTERMEDIATE STOPS.

(2) "CHARTER BUS" MEANS A MOTOR VEHICLE WITH A MINIMUM SEATING CAPACITY OF THIRTY-THREE, INCLUDING THE DRIVER, THAT IS HIRED TO TRANSPORT A PERSON OR GROUP OF PERSONS TRAVELING FROM ONE LOCATION TO ANOTHER FOR A COMMON PURPOSE. A CHARTER BUS DOES NOT PROVIDE REGULAR ROUTE SERVICE

FROM ONE LOCATION TO ANOTHER.

(3) "CHARTERING PARTY" MEANS A PERSON OR GROUP OF PERSONS WHO SHARE A PERSONAL OR PROFESSIONAL RELATIONSHIP WHEREBY ALL SUCH PERSONS ARE MEMBERS OF THE SAME AFFILIATED GROUP, INCLUDING A FAMILY, BUSINESS, RELIGIOUS GROUP, SOCIAL ORGANIZATION, OR PROFESSIONAL ORGANIZATION. "CHARTERING PARTY" DOES NOT INCLUDE GROUPS OF UNRELATED PERSONS BROUGHT TOGETHER BY A CARRIER, TRANSPORTATION BROKER, OR OTHER THIRD PARTY.

(4) "CHILDREN'S ACTIVITY BUS" MEANS A MOTOR VEHICLE THAT TRANSPORTS GROUPS OF EIGHT OR MORE CHILDREN, EIGHTEEN YEARS OF AGE OR YOUNGER, AND ANY ADULTS OVER EIGHTEEN YEARS OF AGE ACCOMPANYING OR PARTICIPATING WITH THE GROUP, TO OR FROM ACTIVITIES THAT ARE SPONSORED BY NONPROFIT ORGANIZATIONS ENTITLED TO A TAX EXEMPTION UNDER THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, OR THE TRANSPORTATION OF CHILDREN TO AND FROM SCHOOL, SCHOOL-RELATED ACTIVITIES, OR SCHOOL-SANCTIONED ACTIVITIES TO THE EXTENT THAT SUCH TRANSPORTATION IS NOT PROVIDED BY THE SCHOOL OR SCHOOL DISTRICT OR THE SCHOOL OR SCHOOL DISTRICT'S TRANSPORTATION CONTRACTORS.

(5) "COMMERCIAL LOCATION" MEANS A PLACE WHERE GOODS OR SERVICES ARE BOUGHT, SOLD, OR EXCHANGED.

(6) "FIRE CREW TRANSPORT" MEANS A MOTOR VEHICLE THAT TRANSPORTS PEOPLE ENGAGED IN FIGHTING WILDFIRES.

(7) "LUXURY LIMOUSINE" MEANS A CHAUFFEUR-DRIVEN, LUXURY MOTOR VEHICLE AS DEFINED BY THE COMMISSION BY RULE.

(8) "LUXURY LIMOUSINE SERVICE" MEANS A SPECIALIZED, LUXURIOUS TRANSPORTATION SERVICE PROVIDED ON A PREARRANGED, CHARTER BASIS. "LUXURY LIMOUSINE SERVICE" DOES NOT INCLUDE TAXICAB SERVICE OR ANY SERVICE PROVIDED BETWEEN FIXED POINTS OVER REGULAR ROUTES AT REGULAR INTERVALS.

(9) "OFF-ROAD SCENIC CHARTER" MEANS A MOTOR VEHICLE THAT TRANSPORTS PASSENGERS, ON A CHARTER BASIS, TO SCENIC POINTS WITHIN COLORADO, ORIGINATING AND TERMINATING AT THE SAME LOCATION AND USING A ROUTE THAT IS WHOLLY OR PARTLY OFF OF PAVED ROADS. "OFF-ROAD SCENIC CHARTER" DOES NOT INCLUDE THE TRANSPORT OF PASSENGERS TO COMMERCIAL LOCATIONS.

40-10.1-302. Permit requirements. (1) (a) A PERSON SHALL NOT OPERATE OR OFFER TO OPERATE A CHARTER BUS, CHILDREN'S ACTIVITY BUS, FIRE CREW TRANSPORT, LUXURY LIMOUSINE, OR OFF-ROAD SCENIC CHARTER IN INTRASTATE COMMERCE WITHOUT FIRST HAVING OBTAINED A PERMIT THEREFOR FROM THE COMMISSION IN ACCORDANCE WITH THIS PART 3.

(b) A PERSON MAY APPLY FOR A PERMIT UNDER THIS PART 3 TO THE COMMISSION IN SUCH FORM AND WITH SUCH INFORMATION AS THE COMMISSION MAY REQUIRE.

(2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 40-10.1-112 (4), THE COMMISSION SHALL ISSUE A PERMIT TO A MOTOR CARRIER OF PASSENGERS UNDER THIS PART 3 UPON COMPLETION OF THE APPLICATION AND COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY REQUIREMENTS OF THIS ARTICLE.

40-10.1-303. Livery license plates - rules. (1) THE COMMISSION SHALL EITHER:

(a) CREATE A DOCUMENT THAT A PERSON AUTHORIZED TO PROVIDE LUXURY LIMOUSINE SERVICE UNDER THIS ARTICLE MAY USE TO VERIFY TO THE DEPARTMENT OF REVENUE OR ITS AUTHORIZED AGENT THAT THE PERSON PROVIDES SUCH SERVICE; OR

(b) CREATE A SYSTEM TO ELECTRONICALLY VERIFY TO THE DEPARTMENT OF REVENUE OR ITS AUTHORIZED AGENT THAT THE PERSON IS AUTHORIZED TO PROVIDE LUXURY LIMOUSINE SERVICE UNDER THIS ARTICLE.

(2) UPON REQUEST, THE COMMISSION SHALL PROVIDE THE DOCUMENT TO THE PERSON WITH SUCH AUTHORITY OR THE ELECTRONIC VERIFICATION TO THE DEPARTMENT OF REVENUE OR ITS AUTHORIZED AGENT.

(3) THE COMMISSION MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION AND TO ENFORCE SECTION 42-3-235, C.R.S.

PART 4 MOTOR CARRIERS OF TOWED MOTOR VEHICLES

40-10.1-401. Permit requirements. (1) (a) A PERSON SHALL NOT OPERATE OR OFFER TO OPERATE AS A TOWING CARRIER IN INTRASTATE COMMERCE WITHOUT FIRST HAVING OBTAINED A PERMIT THEREFOR FROM THE COMMISSION IN ACCORDANCE WITH THIS ARTICLE.

(b) A PERSON MAY APPLY FOR A PERMIT UNDER THIS PART 4 TO THE COMMISSION IN SUCH FORM AND WITH SUCH INFORMATION AS THE COMMISSION MAY REQUIRE.

(2) THE COMMISSION MAY DENY AN APPLICATION UNDER THIS PART 4 OF A PERSON WHO HAS, WITHIN THE IMMEDIATELY PRECEDING FIVE YEARS, BEEN CONVICTED OF, OR PLED GUILTY OR NOLO CONTENDERE TO, A FELONY.

(3) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION AND SECTION 40-10.1-112 (4), THE COMMISSION SHALL ISSUE A PERMIT TO A TOWING CARRIER UPON COMPLETION OF THE APPLICATION, THE FILING OF PROOF OF WORKERS' COMPENSATION INSURANCE COVERAGE IN ACCORDANCE WITH THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, C.R.S., THE FILING OF PROOF OF A SURETY BOND IN THE AMOUNT OF AT LEAST FIFTY THOUSAND DOLLARS, AND COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY REQUIREMENTS OF THIS ARTICLE, AND MAY ATTACH TO SUCH PERMIT AND TO THE EXERCISE OF THE RIGHTS GRANTED BY THE PERMIT SUCH RESTRICTIONS, TERMS, AND CONDITIONS, INCLUDING ALTERING THE RATES AND CHARGES OF SUCH APPLICANT, AS ARE REASONABLY DEEMED NECESSARY FOR THE PROTECTION OF THE PROPERTY OF THE PUBLIC. THE SURETY BOND MUST BE MADE PAYABLE TO THE COMMISSION AND IS FOR THE PURPOSE OF PAYING ANY CIVIL PENALTY ASSESSMENTS AGAINST THE

CARRIER THAT THE CARRIER FAILS TO PAY WHEN DUE.

(b) A TOWING CARRIER THAT HELD A CURRENT AND VALID PERMIT ON THE EFFECTIVE DATE OF THIS SUBSECTION (3) MUST FILE PROOF OF WORKERS' COMPENSATION INSURANCE COVERAGE AND OF THE SURETY BOND AS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (3) ON OR BEFORE DECEMBER 31, 2011.

PART 5
MOTOR CARRIERS OF HOUSEHOLD GOODS

40-10.1-501. Definitions. AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACCESSORIAL SERVICE" MEANS ANY SERVICE PERFORMED BY A MOVER THAT RESULTS IN A CHARGE TO THE SHIPPER AND IS INCIDENTAL TO THE TRANSPORTATION SERVICE, INCLUDING VALUATION COVERAGE; PREPARATION OF WRITTEN INVENTORY; EQUIPMENT, INCLUDING DOLLIES, HAND TRUCKS, PADS, BLANKETS, AND STRAPS; STORAGE, PACKING, UNPACKING, OR CRATING OF ARTICLES; HOISTING OR LOWERING; WAITING TIME; LONG CARRY, WHICH IS DEFINED AS CARRYING ARTICLES EXCESSIVE DISTANCES BETWEEN THE MOVER'S VEHICLE AND THE RESIDENCE; OVERTIME LOADING AND UNLOADING; REWEIGHING; DISASSEMBLY OR REASSEMBLY; ELEVATOR OR STAIR CARRYING; BOXING OR SERVICING OF APPLIANCES; AND FURNISHING OF PACKING OR CRATING MATERIALS. "ACCESSORIAL SERVICE" ALSO INCLUDES SERVICES NOT PERFORMED BY THE MOVER BUT BY A THIRD PARTY AT THE REQUEST OF THE SHIPPER OR MOVER IF THE CHARGES FOR SUCH SERVICES ARE TO BE PAID TO THE MOVER BY THE SHIPPER AT OR PRIOR TO THE TIME OF DELIVERY.

(2) "CONTRACT" MEANS A WRITTEN DOCUMENT, APPROVED BY THE SHIPPER IN WRITING BEFORE THE PERFORMANCE OF ANY SERVICE, THAT AUTHORIZES SERVICES FROM THE NAMED MOVER AND LISTS THE SERVICES AND ALL COSTS ASSOCIATED WITH THE TRANSPORTATION OF HOUSEHOLD GOODS AND ACCESSORIAL SERVICES TO BE PERFORMED.

(3) "ESTIMATE" MEANS A WRITTEN DOCUMENT THAT SETS FORTH THE TOTAL COST AND THE BASIS OF SUCH COSTS RELATED TO A SHIPPER'S MOVE, INCLUDING TRANSPORTATION OR ACCESSORIAL SERVICES.

(4) "STORAGE" MEANS WAREHOUSING OF THE SHIPPER'S GOODS WHILE UNDER THE CARE, CUSTODY, AND CONTROL OF THE MOVER.

40-10.1-502. Permit requirements - issuance by ports of entry. (1) (a) A PERSON SHALL NOT OPERATE OR OFFER TO OPERATE AS A MOVER IN INTRASTATE COMMERCE PURSUANT TO THIS ARTICLE, OR ADVERTISE SERVICES AS A MOVER, WITHOUT FIRST HAVING OBTAINED A PERMIT FROM THE COMMISSION IN ACCORDANCE WITH THIS PART 5.

(b) A MOVER SHALL ANNUALLY APPLY FOR A PERMIT UNDER THIS PART 5 TO THE COMMISSION IN SUCH FORM AND WITH SUCH INFORMATION AS THE COMMISSION MAY REQUIRE.

(2) THE COMMISSION MAY DENY AN APPLICATION UNDER THIS PART 5 OR REFUSE

TO RENEW THE PERMIT OF ANY MOVER BASED UPON A DETERMINATION THAT THE MOVER, OR ANY OF ITS DIRECTORS, OFFICERS, OWNERS, OR GENERAL PARTNERS HAS NOT SATISFIED A CIVIL PENALTY ARISING OUT OF ANY ADMINISTRATIVE OR ENFORCEMENT ACTION BROUGHT BY THE COMMISSION.

(3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION AND SECTION 40-10.1-112 (4), THE COMMISSION SHALL ISSUE A PERMIT TO A MOVER UPON COMPLETION OF THE APPLICATION AND COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY REQUIREMENTS OF THIS ARTICLE.

(4) A PERMIT IS NOT VALID FOR A MOVER TRANSACTING BUSINESS AT ANY LOCATION OTHER THAN THOSE DESIGNATED IN ITS APPLICATION UNLESS THE MOVER FIRST NOTIFIES THE COMMISSION IN WRITING OF ANY CHANGE OF LOCATION. A PERMIT ISSUED UNDER THIS SECTION IS NOT ASSIGNABLE, AND THE MOVER IS NOT PERMITTED TO CONDUCT BUSINESS UNDER MORE THAN ONE NAME EXCEPT AS SHOWN ON ITS PERMIT. A MOVER DESIRING TO CHANGE ITS NAME OR LOCATION AT A TIME OTHER THAN UPON RENEWAL OF A PERMIT SHALL NOTIFY THE COMMISSION OF SUCH CHANGE.

(5)(a) THE MOTOR CARRIER SERVICES DIVISION IN THE DEPARTMENT OF REVENUE MAY ISSUE, THROUGH A PORT OF ENTRY WEIGH STATION CREATED PURSUANT TO ARTICLE 8 OF TITLE 42, C.R.S., A TEMPORARY HOUSEHOLD GOODS MOVER PERMIT. THE TEMPORARY PERMIT IS VALID FOR FIFTEEN CONSECUTIVE DAYS AND IS NOT RENEWABLE. A MOVER OR ITS SUCCESSOR WHO HAS BEEN ISSUED A TEMPORARY PERMIT IS NOT ELIGIBLE FOR A SUBSEQUENT TEMPORARY PERMIT.

(b) A TEMPORARY PERMIT SHALL NOT BE APPROVED UNTIL THE APPLICANT:

(I) PROVIDES EVIDENCE OF FINANCIAL RESPONSIBILITY AS REQUIRED BY SECTION 40-10.1-107;

(II) SIGNS A VERIFICATION, UNDER PENALTY OF PERJURY AS SPECIFIED IN SECTION 24-4-104 (13) (a), C.R.S., THAT THE APPLICANT MEETS THE FINANCIAL RESPONSIBILITY REQUIRED BY SECTION 40-10.1-107; AND

(III) PAYS THE FEES REQUIRED BY SECTION 40-10.1-111 (1) (e) AND (1) (f). THE MOTOR CARRIER SERVICES DIVISION IN THE DEPARTMENT OF REVENUE SHALL TRANSMIT THE FEES TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE PUBLIC UTILITIES COMMISSION MOTOR CARRIER FUND PURSUANT TO SECTION 40-10.1-111 (4).

(c) IF A MOVER APPLIED FOR AND RECEIVED A TEMPORARY PERMIT PURSUANT TO THIS SUBSECTION (5), THE MOVER IS NOT SUBJECT, DURING THE PERIOD COVERED BY THE TEMPORARY PERMIT, TO A PENALTY FOR FAILURE TO HAVE A PERMANENT PERMIT.

40-10.1-503. Enforcement of carrier's lien. A MOVER WITHOUT A CURRENT AND VALID PERMIT ISSUED UNDER THIS PART 5 IS NOT ENTITLED TO ACQUIRE OR ENFORCE A CARRIER'S LIEN UNDER SECTION 4-7-307 OR 4-7-308, C.R.S.

40-10.1-504. Advertising. (1) NO MOVER, NOR ANY OFFICER, AGENT,

EMPLOYEE, OR REPRESENTATIVE OF THE MOVER, SHALL ADVERTISE A TRANSPORTATION SERVICE IN A NAME OTHER THAN THAT IN WHICH THE MOVER'S PERMIT IS HELD.

(2) EACH ADVERTISEMENT OF A MOVER SHALL INCLUDE THE PHRASE "CO PUC PERMIT NO. ____" AND THE PHYSICAL ADDRESS OF THE MOVER.

40-10.1-505. Contracts for service. (1) AT OR BEFORE THE TIME OF COMMENCING WORK, A MOVER THAT PROVIDES ANY MOVING OR ACCESSORIAL SERVICES SHALL LEAVE WITH THE SHIPPER A CONTRACT AS SPECIFIED BY THE COMMISSION CONTAINING THE INFORMATION LISTED IN THIS SUBSECTION (1). THE CONTRACT MUST BE SIGNED AND DATED BY THE SHIPPER AND THE MOVER AND MUST INCLUDE:

(a) THE NAME, TELEPHONE NUMBER, AND PHYSICAL ADDRESS WHERE THE MOVER'S EMPLOYEES ARE AVAILABLE DURING NORMAL BUSINESS HOURS;

(b) THE DATE THE DOCUMENT IS PREPARED AND THE PROPOSED DATE OF THE MOVE;

(c) THE NAME AND ADDRESS OF THE SHIPPER, THE ADDRESSES WHERE THE GOODS ARE TO BE PICKED UP AND DELIVERED, AND A TELEPHONE NUMBER WHERE THE SHIPPER MAY BE REACHED;

(d) THE NAME, TELEPHONE NUMBER, AND PHYSICAL ADDRESS OF A LOCATION WHERE THE GOODS WILL BE HELD PENDING FURTHER TRANSPORTATION, INCLUDING SITUATIONS WHERE THE MOVER RETAINS POSSESSION OF GOODS PENDING RESOLUTION OF A FEE DISPUTE WITH THE SHIPPER;

(e) AN ITEMIZED BREAKDOWN AND DESCRIPTION OF COSTS OR RATES AND SERVICES FOR TRANSPORTATION AND ACCESSORIAL SERVICES TO BE PROVIDED DURING A MOVE OR STORAGE OF HOUSEHOLD GOODS;

(f) ACCEPTABLE FORMS OF PAYMENT. A MOVER SHALL ACCEPT A MINIMUM OF TWO OF THE FOLLOWING FOUR FORMS OF PAYMENT:

(I) CASH;

(II) CASHIER'S CHECK, MONEY ORDER, OR TRAVELER'S CHECK;

(III) A VALID PERSONAL CHECK, SHOWING UPON ITS FACE THE NAME AND ADDRESS OF THE SHIPPER OR AUTHORIZED REPRESENTATIVE; OR

(IV) A VALID CREDIT CARD.

(g) ANY OTHER ITEMS AS DESIGNATED BY THE RULES OF THE COMMISSION.

(2) A MOVER SHALL CLEARLY AND CONSPICUOUSLY DISCLOSE TO THE SHIPPER IN THE CONTRACT THE FORMS OF PAYMENTS THE MOVER WILL ACCEPT FROM THOSE CATEGORIES DESCRIBED IN PARAGRAPH (f) OF SUBSECTION (1) OF THIS SECTION.

(3) EACH CONTRACT MUST INCLUDE THE PHRASE "(NAME OF MOVER) IS PERMITTED WITH THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO AS A MOVER. PERMIT NO. ____."

(4) AT OR BEFORE THE TIME OF COMMENCING WORK, THE MOVER SHALL LEAVE WITH THE SHIPPER A CONSUMER ADVISEMENT. THE MOVER SHALL RETAIN A COPY OF THE CONSUMER ADVISEMENT, SIGNED AND DATED BY THE SHIPPER, FOR AT LEAST THREE YEARS AND SHALL MAKE THE COPY AVAILABLE TO THE COMMISSION UPON REQUEST. THE CONSUMER ADVISEMENT SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

CONSUMER ADVISEMENT

INTRASTATE MOVERS IN COLORADO ARE REGULATED BY THE COLORADO PUBLIC UTILITIES COMMISSION (PUC). EACH MOVER SHOULD HAVE A PUC PERMIT NUMBER. YOU ARE ENCOURAGED TO CONTACT THE PUC TO CONFIRM THAT THE MOVER YOU ARE USING IS INDEED PERMITTED IN COLORADO.

A MOVER THAT IS NOT PERMITTED MAY *NOT* WITHHOLD ANY OF YOUR PROPERTY TO ENFORCE PAYMENT OF MONEY DUE UNDER THE CONTRACT ("CARRIER'S LIEN").

A MOVER MUST INCLUDE ITS PUC PERMIT NUMBER, TRUE NAME, AND PHYSICAL (STREET) ADDRESS IN ALL ADVERTISEMENTS.

YOU SHOULD BE AWARE THAT THE TOTAL PRICE OF ANY HOUSEHOLD MOVE CAN CHANGE, BASED ON A NUMBER OF FACTORS THAT MAY INCLUDE AT LEAST THE FOLLOWING:

- ADDITIONAL SERVICES YOU REQUEST AT THE TIME OF THE MOVE;
- ADDITIONAL ITEMS TO BE MOVED THAT WERE NOT INCLUDED IN THE MOVER'S ORIGINAL ESTIMATE;
- CHANGES TO THE LOCATION OR ACCESSIBILITY OF BUILDING ENTRANCES, AT EITHER END OF THE MOVE, THAT WERE NOT INCLUDED IN THE MOVER'S ORIGINAL ESTIMATE; AND
- CHANGES TO THE PREVIOUSLY AGREED DATE OF PICKUP OR DELIVERY.

YOU SHOULD ALSO BE AWARE THAT, IN CASE OF A DISPUTE BETWEEN YOU AND THE MOVER, COLORADO HAS AN ARBITRATION PROCESS AVAILABLE TO RESOLVE THE DISPUTE WITHOUT GOING TO COURT.

IF YOU HAVE ANY QUESTIONS, YOU ARE ENCOURAGED TO CALL THE PUC FOR GUIDANCE ON YOUR RIGHTS AND OBLIGATIONS.

I ACKNOWLEDGE THAT I HAVE BEEN GIVEN A COPY OF THIS CONSUMER ADVISEMENT TO KEEP FOR MY RECORDS.

SIGNED _____ (SHIPPER).

40-10.1-506. Delivery and storage of household goods. (1) A MOVER SHALL RELINQUISH HOUSEHOLD GOODS TO A SHIPPER AND SHALL PLACE THE GOODS INSIDE A SHIPPER'S DWELLING UNLESS THE SHIPPER HAS NOT TENDERED PAYMENT IN THE AMOUNT SPECIFIED IN A CONTRACT SIGNED AND DATED BY THE SHIPPER. A MOVER SHALL NOT REFUSE TO RELINQUISH PRESCRIPTION MEDICINES, MEDICAL EQUIPMENT, MEDICAL DEVICES, OR GOODS FOR USE BY CHILDREN, INCLUDING CHILDREN'S FURNITURE, CLOTHING, OR TOYS, UNDER ANY CIRCUMSTANCES.

(2) A MOVER SHALL NOT REFUSE TO RELINQUISH HOUSEHOLD GOODS TO A SHIPPER OR FAIL TO PLACE THE GOODS INSIDE A SHIPPER'S DWELLING BASED ON THE MOVER'S REFUSAL TO ACCEPT AN ACCEPTABLE FORM OF PAYMENT.

(3) A MOVER THAT LAWFULLY REFUSES TO RELINQUISH A SHIPPER'S HOUSEHOLD GOODS MAY PLACE THE GOODS IN STORAGE UNTIL PAYMENT IS TENDERED; HOWEVER, THE MOVER SHALL NOTIFY THE SHIPPER OF THE LOCATION WHERE THE GOODS ARE STORED AND THE AMOUNT DUE WITHIN FIVE DAYS AFTER RECEIPT OF A WRITTEN REQUEST FOR THAT INFORMATION FROM THE SHIPPER, WHICH REQUEST SHALL INCLUDE THE ADDRESS WHERE THE SHIPPER MAY RECEIVE THE NOTICE. A MOVER SHALL NOT REQUIRE A PROSPECTIVE SHIPPER TO WAIVE ANY RIGHTS OR REQUIREMENTS UNDER THIS SECTION.

40-10.1-507. Binding arbitration. IN THE EVENT OF A DISPUTE BETWEEN A MOVER AND A SHIPPER CONCERNING THE AMOUNT CHARGED FOR SERVICES OR CONCERNING LOST OR DAMAGED GOODS, THE MOVER SHALL OFFER THE SHIPPER THE OPPORTUNITY TO PARTICIPATE IN BINDING ARBITRATION UNDER THE UNIFORM RULES FOR BETTER BUSINESS BUREAU BINDING ARBITRATION OR A SUBSTANTIALLY SIMILAR BINDING ARBITRATION PROCESS PROMULGATED BY THE COUNCIL OF BETTER BUSINESS BUREAUS, INCORPORATED, OR ITS SUCCESSOR ORGANIZATION. IF THE SHIPPER ACCEPTS THE OFFER TO ARBITRATE, THE MOVER SHALL PARTICIPATE IN GOOD FAITH IN THE ARBITRATION PROCESS AND SHALL AGREE TO BE BOUND BY THE ARBITRATOR'S AWARD.

SECTION 2. Repeal. Articles 10, 11, 13, 14, and 16 of title 40, Colorado Revised Statutes, are repealed.

SECTION 3. Repeal. 40-2-116, 40-6-120, and 40-7-114, Colorado Revised Statutes, are repealed.

SECTION 4. 4-7-307 (d), Colorado Revised Statutes, is amended to read:

4-7-307. Lien of carrier. (d) A mover, as defined in section ~~40-14-103~~ 40-10.1-101, C.R.S., that does not have a current and valid ~~registration~~ PERMIT ISSUED under ~~article 14~~ PART 5 OF ARTICLE 10.1 of title 40, C.R.S., does not have a lien under this section. A mover that acquires a lien under this section and whose ~~registration~~ PERMIT lapses or is revoked during the pendency of the lien loses its lien.

SECTION 5. The introductory portion to 8-70-140.5 (1), Colorado Revised Statutes, is amended to read:

8-70-140.5. Employment does not include - drivers of taxis or limousines.

(1) "Employment" does not include services performed by an individual who is working as a driver under a lease or contract with a taxi or limousine motor common carrier ~~which~~ THAT holds a certificate pursuant to article ~~10~~ 10.1 of title 40, C.R.S. Any such lease or contract may contain the following provisions:

SECTION 6. 10-4-624 (3), Colorado Revised Statutes, is amended to read:

10-4-624. Self-insurers. (3) For purposes of subsection (2) of this section, the commissioner shall accept, as proof that a motor ~~vehicle~~ carrier ~~or contract carrier by motor vehicle~~, as defined in ~~articles 10 and 11~~ ARTICLE 10.1 of title 40, C.R.S., is able and will continue to be able to pay all judgments that might be obtained against the carrier, a surety bond in a form acceptable to the commissioner in an amount determined by the commissioner sufficient to ensure that the carrier has the ability to pay all judgments that may be obtained against any such carrier.

SECTION 7. 12-47-901 (1) (h) (II), Colorado Revised Statutes, is amended to read:

12-47-901. Unlawful acts - exceptions. (1) Except as provided in section 18-13-122, C.R.S., it is unlawful for any person:

(h) (II) Notwithstanding subparagraph (I) of this paragraph (h), it ~~shall~~ IS not ~~be~~ unlawful for a person who is at least twenty-one years of age to consume malt, vinous, or spirituous liquors while ~~such~~ THE person is a passenger aboard a luxury limousine ~~as defined in section 40-16-101 (3), C.R.S.~~; or a charter ~~or scenic~~ bus, as ~~THOSE TERMS ARE defined in section 40-16-101 (1.3)~~ 40-10.1-301, C.R.S. Nothing in this subparagraph (II) ~~shall be construed to authorize~~ AUTHORIZES an owner or operator of a luxury limousine or charter ~~or scenic~~ bus to sell or distribute malt, vinous, or spirituous liquors without obtaining a public transportation system license pursuant to section 12-47-419.

SECTION 8. 24-33.5-203 (1) (b), Colorado Revised Statutes, is amended to read:

24-33.5-203. Duties of executive director and patrol. (1) (b) Except as otherwise provided in ~~sections 40-16-105 (1) and 40-14-105 (1)~~ SECTION 40-10.1-108 (1), C.R.S., the executive director has the duty to establish, for ~~movers and motor vehicle carriers not subject to economic regulation by the Colorado public utilities commission~~ MOTOR CARRIERS AS DEFINED IN SECTION 42-4-235, C.R.S., 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 operation ~~thereof~~ OF COMMERCIAL VEHICLES AS DEFINED IN SECTION 42-4-235, C.R.S. For the purpose of carrying out the provisions of this section pertaining to safety, the executive director may enlist the assistance of any agency of the United States or of this state having special knowledge of any ~~such~~ matter as may be necessary to promote the safety of operation and equipment of motor vehicles as provided in this section. In adopting such rules, the executive director shall use as general guidelines the standards contained in the current rules of the United States department of transportation relating to explosives and other dangerous articles, safety regulations, qualifications of drivers, driving of motor

vehicles, parts and accessories, recording and reporting of accidents, hours of service of drivers, and inspection and maintenance of motor vehicles. The state patrol shall enforce or aid in enforcing all of such rules.

SECTION 9. 24-33.5-212 (1) (a) (I), Colorado Revised Statutes, is amended to read:

24-33.5-212. Powers and duties of officers. (1) All officers of the Colorado state patrol have all the powers of any peace officer to:

(a) (I) Make arrest upon view and with or without warrant for any violation of ~~the provisions of~~ any law of this state regulating the operation of vehicles and use of the highways or concerning motor vehicle registration; motor fuel tax laws; public utility laws, rules, and regulations, insofar as they pertain to motor ~~vehicle~~ carriers AS DEFINED IN SECTION 42-4-235, C.R.S.; the inspection laws of this state; and any criminal law of this state if, during an officer's exercise of powers or performance of duties under this section, probable cause is established that a violation of said criminal law has occurred;

SECTION 10. 31-15-402 (3), Colorado Revised Statutes, is amended to read:

31-15-402. Liability for violation of nuisance ordinance. (3) If the abatement of a nuisance pursuant to this section requires the removal of a motor vehicle from the property, the property owner may abate the nuisance only by hiring a towing carrier, as defined in section ~~40-13-101(3)~~ 40-10.1-101, C.R.S., to take the vehicle to a lot for storage under appropriate protection.

SECTION 11. 40-1-102 (3) (a) (I) and (3) (b), Colorado Revised Statutes, are amended to read:

40-1-102. Definitions. As used in articles 1 to 7 of this title, unless the context otherwise requires:

(3) (a) "Common carrier" means:

(I) Every person directly or indirectly affording a means of transportation, or any service or facility in connection therewith, within this state by motor vehicle ~~aircraft~~; or other vehicle whatever by indiscriminately accepting and carrying PASSENGERS for compensation; ~~passengers between fixed points or over established routes or otherwise and includes lessees, trustees, or receivers thereof, whether appointed by a court or otherwise;~~ and

(b) "Common carrier" does not include a ~~ridesharing arrangement, as defined in section 39-22-509 (1) (a) (II), C.R.S., or a motor vehicle carrier exempt from regulation as a public utility, as defined in section 40-16-101 (4)~~ MOTOR CARRIER THAT PROVIDES TRANSPORTATION NOT SUBJECT TO REGULATION PURSUANT TO SECTION 40-10.1-105 OR THAT IS SUBJECT TO PART 3, 4, OR 5 OF ARTICLE 10.1 OF THIS TITLE.

SECTION 12. 40-1-103 (3), Colorado Revised Statutes, is amended to read:

40-1-103. Public utility defined. (3) For the purposes of articles 1 to 7 of this title, operators of amusement rides, as defined in section 40-10-101 (3), and ~~A motor vehicle carriers exempt from regulation as public utilities, as defined in section 40-16-101 (4),~~ ~~are~~ CARRIER THAT PROVIDES TRANSPORTATION NOT SUBJECT TO REGULATION PURSUANT TO SECTION 40-10.1-105 OR THAT IS SUBJECT TO PART 3, 4, OR 5 OF ARTICLE 10.1 OF THIS TITLE IS NOT ~~considered to be~~ A public utilities UTILITY.

SECTION 13. The introductory portion to 40-1.1-104 (1) and 40-1.1-104 (1)(b), (1) (c), and (1) (d), Colorado Revised Statutes, are amended to read:

40-1.1-104. Inapplicable laws and regulations. (1) People service transportation and volunteer transportation shall not be considered transportation for compensation, commercial transportation, or any form of carrier. Thus, the following laws and regulations ~~shall~~ DO not apply to motor vehicles while being used for the purpose of people service transportation or volunteer transportation:

- (b) Article ~~10~~ 10.1 of this title, concerning motor ~~vehicle~~ carriers; AND
- (c) ~~Article 11 of this title, concerning contract carriers by motor vehicle;~~
- (d) ~~Article 13 of this title, concerning towing carriers;~~

SECTION 14. 40-2-109, Colorado Revised Statutes, is amended to read:

40-2-109. Report to executive director of the department of revenue. On March 1 of each year, the public utilities commission shall furnish the executive director of the department of revenue with a list of those public utilities subject to its jurisdiction, supervision, and regulation on January 1 of each year, excepting those motor ~~vehicle~~ carriers subject to the passenger-mile tax imposed by ~~the provisions of~~ sections 42-3-304 to 42-3-306, C.R.S., but only so long as the cost of regulation of such motor ~~vehicle~~ carriers is defrayed from the proceeds of such passenger-mile tax.

SECTION 15. 40-2-110.5 (1), (4), (5), and (8), Colorado Revised Statutes, are amended to read:

40-2-110.5. Annual fees - motor carriers - public utilities commission motor carrier fund - created. (1) ~~Every motor vehicle carrier that has been issued a certificate pursuant to section 40-10-104, every contract carrier by motor vehicle that has been issued a permit pursuant to section 40-11-103, every towing carrier that has been issued a permit pursuant to section 40-13-103, every mover that has registered pursuant to section 40-14-103, and every motor vehicle carrier exempt from regulation as a public utility shall pay an annual identification fee, set administratively by the commission, for each motor vehicle such carrier owns, controls, operates, or manages. Fees shall be set based upon the appropriation made for the purposes specified in section 40-2-110 (2) (a) (i), subject to the approval of the executive director of the department of regulatory agencies, such that the revenue generated from all motor vehicle carrier fees approximates the direct and indirect costs of the commission in the supervision and regulation of motor carriers. Such fees shall be valid from January 1 to December 31 of each year and shall be valid only for those specific vehicles for which the fee has been paid.~~

~~(4) No such carriers shall use any motor vehicle for the transportation of persons or property for compensation on any public highway in this state unless the annual fees required by subsection (1) of this section have been paid. In lieu of the penalty provisions specified in section 40-7-105, every motor vehicle carrier who violates the provisions of this section is subject to the penalties set forth in section 40-10-113 and every contract carrier by motor vehicle who violates the provisions of this section is subject to the penalties set forth in section 40-11-111.~~

~~(5) All fees collected under this section shall be transmitted to the state treasurer, who shall credit the same to the public utilities commission motor carrier fund.~~

(8) Notwithstanding the amount specified for any fee in this section 40-10.1-111, 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 16. 40-7-101, Colorado Revised Statutes, is amended to read:

40-7-101. Enforcement of laws. It is the duty of the commission to see that ~~the provisions of~~ the constitution and statutes of this state affecting public utilities, AND PERSONS SUBJECT TO ARTICLE 10.1 OR 10.5 OF THIS TITLE, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed and that violations thereof are promptly prosecuted and penalties due the state ~~therefor~~ ARE recovered and collected, and to this end it may sue in the name of the people of the state of Colorado. Upon the request of the commission, ~~it is the duty of~~ the attorney general or the district attorney acting for the proper county or city and county ~~to~~ SHALL aid in any investigation, hearing, or trial had under ~~the provisions of~~ articles 1 to 7 of this title and ~~to~~ institute and prosecute actions or proceedings for the enforcement of ~~the provisions of~~ the constitution and statutes of this state affecting public utilities AND PERSONS SUBJECT TO ARTICLE 10.1 OR 10.5 OF THIS TITLE and for the punishment of all violations thereof.

SECTION 17. 40-7-112, Colorado Revised Statutes, is amended to read:

40-7-112. Applicability of civil penalties. (1) A person who operates OR OFFERS TO OPERATE 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)~~ (3); a towing carrier as defined in section ~~40-13-101 (3)~~ (3); a mover as defined in section ~~40-14-102 (9)~~ (9); a motor vehicle carrier exempt from regulation as a public utility as defined in section ~~40-16-101~~ 40-10.1-101; 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~~ IS 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.

(2) ~~SUBSECTIONS (3) TO (5) OF THIS SECTION AND the civil penalties provided in sections 40-7-113 and 40-7-114 shall~~ SECTION 40-7-113 DO not apply to persons

transporting nuclear materials who commit violations of section 42-20-406 (3), 42-20-407, or 42-20-505, C.R.S., or to persons transporting hazardous materials who commit violations of section 42-20-204, C.R.S.

(3) AN OWNER OR OTHER PERSON ALLOWING A DRIVER TO OPERATE A MOTOR VEHICLE UPON A HIGHWAY IN VIOLATION OF A STATUTE OR RULE FOR WHICH A CIVIL PENALTY MAY BE IMPOSED UNDER SECTION 40-7-113 (1) IS SUBJECT TO THE CIVIL PENALTIES PROVIDED IN SECTION 40-7-113 IF HE OR SHE KNOWS OR HAS REASON TO KNOW THAT THE DRIVER IS ENGAGED IN A VIOLATION.

(4) AN OWNER OR OTHER PERSON WHO DIRECTS A DRIVER TO OPERATE A MOTOR VEHICLE UPON A HIGHWAY IN VIOLATION OF A STATUTE OR RULE FOR WHICH A CIVIL PENALTY MAY BE IMPOSED UNDER SECTION 40-7-113 (1) IS SUBJECT TO THE CIVIL PENALTIES PROVIDED IN SECTION 40-7-113.

(5) ANY CIVIL PENALTY ASSESSED AGAINST AN OWNER OR OTHER PERSON PURSUANT TO SUBSECTION (3) OR (4) OF THIS SECTION IS IN ADDITION TO, AND NOT IN LIEU OF, ANY CIVIL PENALTY AGAINST THE ACTUAL DRIVER OF THE VEHICLE, AND ANY SUCH PENALTY MAY BE ASSESSED UPON THE INITIAL VIOLATION BY THE PERSON.

SECTION 18. 40-7-113, 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~~ 10.1 OR 10.5 of this title or any rule promulgated by the commission pursuant to such articles, which ~~provision~~ ARTICLE or rule is applicable to ~~such~~ THE person, may be subject to fines as specified in the following paragraphs:

(a) Any person who fails to carry the insurance required by law may be assessed a civil penalty of not more than eleven thousand dollars.

(b) ~~Any person who operates a motor vehicle for hire as a common carrier without first having obtained a certificate of public convenience and necessity from the commission as required by~~ VIOLATES section ~~40-10-104~~ 40-10.1-201 (1), 40-10.1-202 (1) (a), 40-10.1-302 (1) (a), 40-10.1-401 (1) (a), OR 40-10.1-502 (1) (a) may be assessed a civil penalty of not more than one thousand one hundred dollars.

(c) ~~Any person who operates a motor vehicle for hire as a contract carrier without first having obtained a permit from the commission as required by section 40-11-103~~ may be assessed a civil penalty of not more than one thousand one hundred dollars.

(d) ~~Any person who operates a motor vehicle for hire as a towing carrier without first having obtained a permit from the commission as required by section 40-13-103~~ may be assessed a civil penalty of not more than one thousand one hundred dollars.

(e) ~~Any~~ A person subject to section ~~40-2-110.5~~ 40-10.1-111 who operates a motor vehicle without having paid the annual identification fee for any motor vehicle ~~so~~ operated as required by section ~~40-2-110.5~~ 40-10.1-111 may be assessed

a civil penalty of not more than four hundred dollars.

~~(f) Any person who operates a charter or scenic bus as defined in section 40-16-101, a children's activity bus as defined in section 40-16-101, a luxury limousine as defined in section 40-16-101, or an off-road scenic charter as defined in section 40-16-101 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.~~

~~(f.5) Any person who operates as a mover as defined in section 40-14-102 (9) without having first registered with the commission as required by section 40-14-103 may be assessed a civil penalty of not more than one thousand one hundred dollars.~~

~~(g) Any A 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 ARTICLE 10.1 OR 10.5 of this title not enumerated in paragraphs PARAGRAPH (a), to (f.5) (b), OR (e) 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 MOTOR carriers AS DEFINED IN SECTION 40-10.1-101 may be assessed a civil penalty of not more than one thousand one hundred dollars; EXCEPT THAT any person who violates any A safety rule promulgated by the commission shall be IS subject to the civil penalties authorized pursuant to 49 CFR 386, subpart G, AND ASSOCIATED APPENDICES TO PART 386, as such subpart existed on October 1, 2001 2010.~~

~~(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.~~

(2) The COMMISSION SHALL SET THE amount of the civil penalties to be assessed pursuant to subsection (1) of this section ~~shall be set in rules. and regulations promulgated by the commission.~~

(3) If ~~any~~ A person receives a second civil penalty assessment for a violation of ~~the provisions of~~ subsection (1) of this section within one year after the first violation, the civil penalty assessed for ~~such~~ THE second violation may be two times the amount specified by rule ~~and regulation~~ for ~~such~~ THE violation.

(4) If ~~any~~ A person receives more than two civil penalty assessments for violation of ~~the provisions of~~ subsection (1) of this section within one year, the civil penalty assessed for each ~~such~~ subsequent violation may be three times the amount specified by rule ~~and regulation~~ for ~~such~~ THE violation.

(5) (a) ~~Any~~ A person who fails to pay in full all civil penalties for a second or subsequent violation assessed by commission order pursuant to this section, subject to ~~all applicable provisions of~~ article 4 of title 24, C.R.S., within thirty days ~~of~~ AFTER the due date established by ~~such~~ THE order may be subject to have his or her vehicle registration cancelled by the department of revenue as specified in section 42-3-120 (4), C.R.S. Registration of any vehicles owned by ~~such~~ THE person for

which the penalty was assessed may be denied until all penalties are paid or collected. Upon written notice from the commission, the department of revenue shall cancel ~~such~~ THE registration as specified in section 42-3-120 (4), C.R.S.

(b) THIS SUBSECTION (5) APPLIES TO ALL VEHICLES, REGARDLESS OF WHEN PURCHASED, ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (b).

SECTION 19. 40-7-115, Colorado Revised Statutes, is amended to read:

40-7-115. Each day a separate offense. Each day in which a person violates any statute, rule, or order of the commission for which a civil penalty may be imposed under section 40-7-113 OR 40-7-113.5 ~~or 40-7-114~~ may constitute a separate offense.

SECTION 20. 40-7-116 (1), Colorado Revised Statutes, is amended to read:

40-7-116. Enforcement of civil penalties against carriers. (1)(a) 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 40-7-112 AND 40-7-113. ~~and 40-7-114.~~ When a person is cited for ~~such~~ THE violation, the person operating the motor vehicle involved shall be given notice of ~~such~~ THE violation in the form of a civil penalty assessment notice.

(b) ~~Such~~ THE notice shall be tendered by the enforcement official, either in person or by certified mail, or by personal service by ~~any~~ A person authorized to serve process under rule 4(d) of the Colorado rules of civil procedure, and shall contain:

(I) The name and address of the person cited for the violation;

(II) A citation to the specific statute or rule alleged to have been violated;

(III) A brief description of the alleged violation, the date and approximate location of the alleged violation, AND the maximum penalty amounts prescribed for the violation;

(IV) The date of the notice;

(V) A place for ~~such~~ THE person to execute a signed acknowledgment of receipt of the civil penalty assessment notice;

(VI) A place for ~~such~~ THE person to execute a signed acknowledgment of liability for the violation; and

(VII) 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.

(c) ~~Every~~ A 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 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~~ THE payment postpaid in the United States mail within ten days ~~of~~ AFTER the issuance of the citation.

(d)(I) If the person cited does not pay the prescribed penalty within ten days after the issuance of the notice, the civil penalty assessment notice ~~shall constitute~~ CONSTITUTES 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.

(II) At ~~such~~ THE hearing, the commission ~~shall have~~ HAS the burden of demonstrating a violation by a preponderance of the evidence.

SECTION 21. 40-11.5-101, Colorado Revised Statutes, is amended to read:

40-11.5-101. Independent contractors - motor carriers. Notwithstanding ~~any provision in article 10 or article 11~~ 10.1 of this title, ~~motor vehicle~~ COMMON carriers and contract ~~motor~~ carriers may use independent contractors.

SECTION 22. 42-3-120 (3) (a) and (4), Colorado Revised Statutes, are amended to read:

42-3-120. Department may cancel or deny registration. (3) (a) Upon receiving written notice from the Colorado state patrol that a motor carrier has failed to timely pay civil penalties imposed in accordance with section 42-4-235 (2), the department shall cancel the registration of any vehicle that is owned by the carrier and shall deny the registration of any vehicle that is owned by the carrier until the department receives notice FROM THE COLORADO STATE PATROL that the penalty has been paid in full.

(4) (a) Upon receiving written notice from the public utilities commission that a person has failed to timely pay civil penalties imposed in accordance with section 40-7-113, the department shall cancel the registration of any vehicle that is owned by the person for which the penalty was assessed and shall deny the registration of any such vehicle until the department receives written notice FROM THE PUBLIC UTILITIES COMMISSION that the penalty has been paid in full.

(b) ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (b), THIS SUBSECTION (4) APPLIES TO ALL VEHICLES REGARDLESS OF WHEN THE VEHICLES WERE PURCHASED.

SECTION 23. 42-3-235 (2) (a), (2) (b), and (5), Colorado Revised Statutes, are amended to read:

42-3-235. Livery license plates - luxury limousines - repeal. (2) (a) Except as provided in paragraph (b) of this subsection (2), a person providing luxury limousine service under article ~~16~~ 10.1 of title 40, C.R.S., shall register the motor vehicle used for such purposes pursuant to this article and display livery license plates on the vehicle. Upon ~~such~~ registration, the department shall issue livery

license plates for the vehicles in accordance with this section. The department shall not issue a livery license plate unless the person either submits a verification document issued pursuant to section ~~40-16-111~~ 40-10.1-303, C.R.S., or the public utilities commission electronically verifies the authorization to provide luxury limousine service under section ~~40-16-111~~ 40-10.1-303, C.R.S.

(b) A person providing luxury limousine service under article ~~16~~ 10.1 of title 40, C.R.S., may provide such services without registering the motor vehicle or using livery license plates if the motor vehicle is rented, but the person shall not provide such services using a rented motor vehicle for more than thirty days.

(5) If the person who owns the motor vehicle with livery plates is not the same person under whose authority the motor vehicle operates pursuant to article ~~16~~ 10.1 of title 40, C.R.S., the person with such authority may request that the department of revenue require the plate to be replaced. Upon ~~such~~ a request being made, the department shall require the owner to return the livery license plate and be issued a new license plate.

SECTION 24. 42-3-304 (12), Colorado Revised Statutes, is amended to read:

42-3-304. Registration fees - passenger and passenger-mile taxes - clean screen fund - repeal. (12) An owner or operator that desires to make an occasional trip into this state with a truck, truck tractor, trailer, or semitrailer that is registered in another state shall obtain a permit from the public utilities commission as provided in ~~sections 40-10-104 and 40-11-103~~ ARTICLE 10.1 OF TITLE 40, C.R.S. This subsection (12) ~~shall~~ DOES not apply to the vehicles of a public utility that are temporarily in this state to assist in the construction, installation, or restoration of utility facilities used in serving the public.

SECTION 25. 42-3-306 (11) (b), Colorado Revised Statutes, is amended to read:

42-3-306. Registration fees - passenger and passenger-mile taxes - fee schedule. (11) (b) The owner or operator of a passenger bus that is registered in another state and that is used to make an occasional trip into this state need not obtain a permit from the public utilities commission as provided in ~~sections 40-10-104 and 40-11-103~~ ARTICLE 10.1 OF TITLE 40, C.R.S., but may instead apply to the department for the issuance of a trip permit and shall pay to the department for the issuance of such trip permit a fee of twenty-five dollars or the amount of passenger-mile tax becoming due and payable under paragraph (a) of this subsection (11) by reason of such trip, whichever amount is greater. The fee or passenger-mile tax shall be credited to the highway users tax fund created in section 43-4-201, C.R.S., as required by section 43-4-203 (1) (c), C.R.S., and allocated and expended as specified in section 43-4-205 (5.5) (d), C.R.S.

SECTION 26. 42-4-235 (4), Colorado Revised Statutes, is amended to read:

42-4-235. Minimum standards for commercial vehicles - rules - repeal. (4) (a) The department shall adopt rules for the operation of all commercial vehicles. In adopting such rules, the department shall use as general guidelines the standards contained in the current rules and regulations of the United States department of transportation relating to safety regulations, qualifications of drivers,

driving of motor vehicles, parts and accessories, notification and reporting of accidents, hours of service of drivers, inspection, repair and maintenance of motor vehicles, financial responsibility, insurance, and employee safety and health standards; EXCEPT THAT RULES REGARDING FINANCIAL RESPONSIBILITY AND INSURANCE DO NOT APPLY TO A COMMERCIAL VEHICLE AS DEFINED IN SUBSECTION (1) OF THIS SECTION THAT IS ALSO SUBJECT TO REGULATION BY THE PUBLIC UTILITIES COMMISSION UNDER ARTICLE 10.1 OF TITLE 40, C.R.S. On and after September 1, 2003, all commercial vehicle safety inspections conducted to determine compliance with rules promulgated by the department pursuant to this paragraph (a) shall be performed by an enforcement official, as defined in section 42-20-103 (2), who has been certified by the commercial vehicle safety alliance, or any successor organization thereto, to perform level I inspections.

(b) The Colorado public utilities commission may enforce safety rules of the department governing commercial vehicles described in ~~subparagraph (H)~~ SUBPARAGRAPHS (I) AND (II) of paragraph (a) of subsection (1) of this section pursuant to its authority to regulate ~~towing~~ MOTOR CARRIERS AS DEFINED IN SECTION 40-10.1-101, C.R.S., including ~~without limitation~~ the issuance of civil penalties for violations of ~~such~~ THE rules as provided in section 40-7-113, C.R.S.

SECTION 27. The introductory portion to 42-4-236 (3) and 42-4-236 (3) (f), Colorado Revised Statutes, are amended to read:

42-4-236. Child restraint systems required - definitions - exemptions - repeal. (3) Except as provided in section 42-2-105.5 (4), ~~the requirements of~~ subsection (2) of this section ~~shall~~ DOES not apply to a child who:

(f) Is being transported in a motor vehicle that is operated in the business of transporting persons for compensation or hire by or on behalf of a ~~motor vehicle~~ COMMON carrier ~~as defined in section 40-10-101 (4) (a), C.R.S.,~~ OR a contract carrier ~~by motor vehicle~~ as THOSE TERMS ARE defined in section ~~40-11-101 (3)~~ 40-10.1-101, C.R.S., or an operator of a luxury limousine service as defined in section ~~40-16-101 (3.3)~~ 40-10.1-301, C.R.S.

SECTION 28. 42-7-510 (1), Colorado Revised Statutes, is amended to read:

42-7-510. Insurance or bond required. (1) ~~Every~~ AN owner of a truck that is subject to the registration fee imposed pursuant to section 42-3-306 (5) (b) or (7) and that is not subject to article ~~10, 11, 13, 14, or 16~~ 10.1 of title 40, C.R.S., before operating or permitting the operation of ~~such~~ THE vehicle upon ~~any~~ A public highway in this state, shall have in each ~~such~~ vehicle a motor vehicle liability policy or a certificate evidencing ~~such~~ THE 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 29. Act subject to petition - 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 (August 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 22, 2011