

CHAPTER 217

PUBLIC UTILITIES

HOUSE BILL 12-1327

BY REPRESENTATIVE(S) Coram, Bradford, Brown, Conti, Gerou, Kerr J., Labuda, Looper, Ramirez, Schafer S., Scott, Vigil;
also SENATOR(S) Roberts and King S., Schwartz, White.

AN ACT

CONCERNING FINANCIAL RESPONSIBILITY REQUIREMENTS FOR MOTOR CARRIERS, AND, IN CONNECTION THEREWITH, REPEALING THE SURETY BOND REQUIREMENT FOR TOWING CARRIERS, IMPOSING A PERIOD OF DISQUALIFICATION FROM THE RIGHT TO OPERATE AS A TOWING CARRIER AS AN ADDITIONAL PENALTY FOR FAILURE TO RESPOND AS REQUIRED AFTER VIOLATING APPLICABLE PROVISIONS, CREATING A DESIGNATED TOW TRUCK LICENSE PLATE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 40-10.1-111, **amend** (1) (c) as follows:

40-10.1-111. Filing, issuance, and annual fees - repeal. (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:

(c) (I) The filing fee for a permit to operate under part 4 of this article is one hundred fifty dollars.

(II) (A) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), A TOWING CARRIER THAT FILED PROOF OF A SURETY BOND AS REQUIRED BY SECTION 40-10.1-401 (3) BEFORE THE EFFECTIVE DATE OF THIS PARAGRAPH (c), AS AMENDED, IS EXEMPT FROM THE FILING FEE UNTIL THE BOND EXPIRES.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2014.

SECTION 2. In Colorado Revised Statutes, **amend** 40-10.1-401 as follows:

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

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. PERMITS ARE VALID FOR ONE YEAR AFTER THE DATE OF ISSUANCE.

(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. THE COMMISSION MAY ALSO DENY AN APPLICATION UNDER THIS PART 4 OR REFUSE TO RENEW THE PERMIT OF A TOWING CARRIER BASED UPON A DETERMINATION THAT THE TOWING CARRIER OR ANY OF ITS OWNERS, PRINCIPALS, OFFICERS, MEMBERS, PARTNERS, OR DIRECTORS HAS NOT SATISFIED A CIVIL PENALTY ARISING OUT OF ANY ADMINISTRATIVE OR ENFORCEMENT ACTION BROUGHT BY THE COMMISSION.

(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 with the financial responsibility requirements of this article, and may attach to ~~such~~ THE 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~~ THE 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 August 10, 2011, 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. IF A TOWING CARRIER VIOLATES THIS ARTICLE, ANY OTHER APPLICABLE PROVISION OF LAW, OR ANY RULE OR ORDER OF THE COMMISSION ISSUED UNDER THIS ARTICLE AND AS A RESULT IS ORDERED BY A COURT OR BY THE COMMISSION TO PAY A FINE OR CIVIL PENALTY THAT THE TOWING CARRIER SUBSEQUENTLY FAILS TO PAY IN FULL WITHIN THE TIME PRESCRIBED FOR PAYMENT, THEN:~~

(I) THE COMMISSION MAY IMMEDIATELY REVOKE THE TOWING CARRIER'S OPERATING AUTHORITY; AND

(II) THE TOWING CARRIER, ITS OWNERS, PRINCIPALS, OFFICERS, MEMBERS, PARTNERS, AND DIRECTORS, AND ANY OTHER ENTITY OWNED OR OPERATED BY ONE OR MORE OF THOSE OWNERS, PRINCIPALS, OFFICERS, MEMBERS, PARTNERS, OR DIRECTORS, MAY BE DISQUALIFIED FROM OBTAINING OR RENEWING ANY OPERATING AUTHORITY UNDER THIS ARTICLE FOR A PERIOD OF FIVE YEARS AFTER THE DATE ON WHICH THE FINE OR CIVIL PENALTY WAS DUE. THE PERIOD OF DISQUALIFICATION PURSUANT TO THIS SUBPARAGRAPH (II) IS IN ADDITION TO, AND NOT IN LIEU OF, AND DOES NOT AFFECT, ANY OTHER PENALTY OR PERIOD OF DISQUALIFICATION, INCLUDING THE PERIOD OF DISQUALIFICATION SPECIFIED IN SECTION 40-10.1-112 (4).

(c) A TOWING CARRIER'S FACILITIES AND VEHICLES ARE SUBJECT TO INSPECTION BY THE COMMISSION AND BY AUTHORIZED PERSONNEL OF THE COLORADO STATE PATROL, WHICH SHALL PROMPTLY REPORT TO THE COMMISSION CONCERNING ANY VIOLATIONS REVEALED BY AN INSPECTION.

SECTION 3. In Colorado Revised Statutes, **add** 40-10.1-402 as follows:

40-10.1-402. Verification of authority - notice of requirement for designated license plates - rules - repeal. (1) (a) THE COMMISSION SHALL EITHER:

(I) CREATE A DOCUMENT THAT A PERSON AUTHORIZED TO OPERATE AS A TOWING CARRIER UNDER THIS ARTICLE MAY USE TO VERIFY TO THE DEPARTMENT OF REVENUE OR THE DEPARTMENT'S AUTHORIZED AGENT THAT THE PERSON IS SO AUTHORIZED; OR

(II) CREATE A SYSTEM TO ELECTRONICALLY VERIFY TO THE DEPARTMENT OF REVENUE OR THE DEPARTMENT'S AUTHORIZED AGENT THAT THE PERSON IS AUTHORIZED TO PROVIDE TOWING SERVICES UNDER THIS PART 4.

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

(2) THE COMMISSION MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION AND TO ENFORCE SECTION 42-3-235.5, C.R.S.

(3) (a) BY JANUARY 1, 2013, THE COMMISSION SHALL NOTIFY EACH PERSON AUTHORIZED TO PROVIDE TOWING SERVICES UNDER THIS ARTICLE OF THE REQUIREMENTS OF SECTION 42-3-235.5, C.R.S.

(b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2013.

SECTION 4. In Colorado Revised Statutes, **add** 42-3-235.5 as follows:

42-3-235.5. Tow truck license plates - conditions for use - transitional provisions - repeal. (1) THE TOW TRUCK LICENSE PLATE IS HEREBY ESTABLISHED. THE PLATE CONSISTS OF BLACK LETTERS ON A YELLOW BACKGROUND AND FEATURES THE WORDS "COLORADO" ACROSS THE TOP AND "TOW TRUCK" ACROSS THE BOTTOM OF THE PLATE.

(2) A PERSON WHO IS AUTHORIZED TO OPERATE AS A TOWING CARRIER UNDER ARTICLE 10.1 OF TITLE 40, C.R.S., SHALL REGISTER A MOTOR VEHICLE USED FOR TOWING PURPOSES UNDER THIS ARTICLE AND DISPLAY EITHER TOW TRUCK LICENSE PLATES OR APPORTIONED PLATES ON THE VEHICLE. UPON REGISTRATION, THE DEPARTMENT SHALL ISSUE TOW TRUCK LICENSE PLATES FOR THE VEHICLE IN ACCORDANCE WITH THIS SECTION. THE DEPARTMENT SHALL NOT ISSUE TOW TRUCK LICENSE PLATES UNLESS THE PERSON EITHER SUBMITS A VERIFICATION DOCUMENT OR THE PUBLIC UTILITIES COMMISSION ELECTRONICALLY VERIFIES THE AUTHORIZATION AS PROVIDED IN SECTION 40-10.1-402, C.R.S.

(3)(a) A PERSON PROVIDING TOWING CARRIER SERVICES USING A MOTOR VEHICLE

THAT WAS REGISTERED ON JANUARY 1, 2013, IS NOT REQUIRED TO OBTAIN TOW TRUCK LICENSE PLATES UNTIL THE VEHICLE IS SCHEDULED FOR RENEWAL OF THE CURRENT REGISTRATION. UPON RENEWING A REGISTRATION FOR A TOW TRUCK REGISTERED UNDER THIS ARTICLE, THE DEPARTMENT SHALL ISSUE TOW TRUCK LICENSE PLATES FOR THE VEHICLE IN ACCORDANCE WITH THIS SECTION.

(b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JANUARY 1, 2014.

(4) A PERSON SHALL NOT OPERATE A MOTOR VEHICLE WITH TOW TRUCK LICENSE PLATES OR TEMPORARY TOW TRUCK LICENSE PLATES UNLESS THE MOTOR VEHICLE TO WHICH THE PLATES ARE ATTACHED IS REQUIRED BY SUBSECTION (2) OF THIS SECTION TO BEAR TOW TRUCK LICENSE PLATES.

(5) IF THE PERSON WHO OWNS THE MOTOR VEHICLE WITH TOW TRUCK LICENSE PLATES IS NOT THE PERSON UNDER WHOSE AUTHORITY THE MOTOR VEHICLE OPERATES UNDER ARTICLE 10.1 OF TITLE 40, C.R.S., THE PERSON WITH THE AUTHORITY MAY REQUEST THAT THE DEPARTMENT REQUIRE THE PLATES TO BE REPLACED. WITHIN THIRTY DAYS AFTER RECEIVING THE REQUEST, THE DEPARTMENT SHALL REQUIRE THE OWNER OF THE MOTOR VEHICLE TO RETURN THE TOW TRUCK LICENSE PLATES AND BE ISSUED NEW LICENSE PLATES. THE OWNER OF THE MOTOR VEHICLE SHALL SURRENDER THE TOW TRUCK LICENSE PLATES TO THE DEPARTMENT WITHIN TEN DAYS AFTER RECEIVING NOTICE FROM THE DEPARTMENT UNLESS THE OWNER OF THE MOTOR VEHICLE OBTAINS AUTHORITY TO OPERATE A TOW TRUCK UNDER PART 4 OF ARTICLE 10.1 OF TITLE 40, C.R.S., EITHER DIRECTLY OR AS AN AGENT, AND EITHER THE PERSON SUBMITS A VERIFICATION DOCUMENT OR THE PUBLIC UTILITIES COMMISSION ELECTRONICALLY VERIFIES THE AUTHORIZATION AS PROVIDED IN SECTION 40-10.1-402, C.R.S.

(6) A PERSON WHO VIOLATES THIS SECTION COMMITS A CLASS B TRAFFIC INFRACTION, PUNISHABLE BY A FINE OF SEVENTY-FIVE DOLLARS.

(7) THIS SECTION IS EFFECTIVE JANUARY 1, 2013.

SECTION 5. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the license plate cash fund created in section 42-3-301 (1) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2012, the sum of \$11,840, or so much thereof as may be necessary, to be allocated for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado state titling and registration account in the highway users tax fund created in section 42-1-211 (2), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2012, the sum of \$12,210, or so much thereof as may be necessary, for the purchase of computer center services.

(3) In addition to any other appropriation, there is hereby appropriated to the governor - lieutenant governor - state planning and budgeting, for the fiscal year beginning July 1, 2012, the sum of \$12,210, or so much thereof as may be necessary, for allocation to the office of information technology, for the provision

of computer center services for the department of revenue related to the implementation of this act. Said sum is from reappropriated funds received from the department of revenue out of the appropriation made in subsection (2) of this section

SECTION 6. Effective date - applicability. This act takes effect upon passage and applies to towing carriers that applied for permits on, before, or after said date.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 24, 2012