

CHAPTER 416

PUBLIC UTILITIES

HOUSE BILL 22-1314

BY REPRESENTATIVE(S) Ricks and Hooton, Amabile, Bacon, Bennett, Boesenecker, Cutter, Daugherty, Esgar, Gonzales-Gutierrez, Herod, Kipp, Lindsay, Lontine, Sirota, Bird, Exum, Kennedy, Snyder, Titone, Valdez A., Woodrow; also SENATOR(S) Gonzales and Sonnenberg, Buckner, Coleman, Coram, Danielson, Fields, Gardner, Hansen, Hinrichsen, Jaquez Lewis, Lee, Moreno, Pettersen, Rodriguez, Story, Winter, Fenberg.

AN ACT

CONCERNING THE RIGHTS OF A PERSON WITH OWNERSHIP INTEREST IN A VEHICLE THAT HAS BEEN TOWED FROM PRIVATE PROPERTY WITHOUT THE PERSON'S CONSENT, 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, 42-4-2103, **amend** (2), (3)(a), (3)(c)(I)(A), (3)(c)(I)(D), and (3)(c)(II); and **repeal** (4)(b) as follows:

42-4-2103. Abandonment and nonconsensual towing of motor vehicles - private property - rules. (2) (a) (I) Any operator ~~having in his or her possession~~ **any** POSSESSING A motor vehicle that was abandoned on private property shall notify, within thirty minutes, the department, the sheriff, or the sheriff's designee, of the county in which the motor vehicle is located or the chief of police, or the chief's designee, of the municipality in which the motor vehicle is located. THE NOTICE MUST INCLUDE:

(A) ~~as to~~ The name of the operator; ~~and~~

(B) The location of the ~~impound lot~~ STORAGE FACILITY where the vehicle is located; and

(C) A description of the abandoned motor vehicle, including the make, model, color, and year; the number, issuing state, and expiration date of the license plate; and the vehicle identification number.

(II) AN OPERATOR IS DEEMED TO HAVE COMPLIED WITH SUBSECTION (2)(a)(I) OF

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

THIS SECTION IF:

(A) THE OPERATOR GAVE THE LOCATION OF THE STORAGE FACILITY TO THE LAW ENFORCEMENT AGENCY WHEN OBTAINING AUTHORIZATION FOR THE TOW; OR

(B) THE OPERATOR MADE TWO OR MORE ATTEMPTS, WITHIN THE THIRTY MINUTES REQUIRED IN SUBSECTION (2)(a)(I) OF THIS SECTION, TO NOTIFY THE RESPONSIBLE LAW ENFORCEMENT AGENCY BUT WAS UNSUCCESSFUL FOR REASONS BEYOND THE CONTROL OF THE OPERATOR.

(b) Upon ~~such notification~~ RECEIVING THE NOTICE REQUIRED IN SUBSECTION (2)(a) OF THIS SECTION, the law enforcement agency that receives ~~such~~ THE notice shall:

(I) Assign the vehicle a tow report number immediately;

(II) ~~shall~~ Enter the vehicle and the fact that it has been towed in the Colorado crime information center computer system; and

(III) ~~shall~~ Ascertain, if possible, whether ~~or not~~ the vehicle has been reported stolen, and, if so, ~~reported, such~~ THE agency shall:

(A) Recover and secure the motor vehicle;

(B) ~~and~~ Notify its rightful owner; and

(C) Terminate the abandonment proceedings under this part 21.

(c) Upon the release of the vehicle to the owner or lienholder, the operator shall notify the responsible law enforcement agent, who shall adjust or delete the entry in the Colorado crime information center computer system. The responsible law enforcement agency and operator ~~shall~~ have the right to recover from the owner their reasonable fees for recovering and securing the vehicle. Nothing in this section ~~shall be construed to authorize~~ AUTHORIZES fees for services that were not provided or that were provided by another person or entity.

(3) (a) NOT MORE THAN TEN DAYS AFTER A MOTOR VEHICLE HAS BEEN TOWED, an operator shall ~~no less than two days, but no more than ten days after a motor vehicle has been towed or abandoned,~~ report ~~such~~ THE motor vehicle tow to the department by first-class or certified mail, by personal delivery, or by internet communication. ~~which~~ THE report ~~shall~~ MUST be on a form prescribed and supplied by the department.

(c) (I) (A) NOT MORE THAN TEN DAYS AFTER A MOTOR VEHICLE HAS BEEN TOWED, an operator or its agent shall ~~no less than two days, but no more than ten days after a motor vehicle has been towed or abandoned,~~ determine who the owner is and if WHETHER there is a lienholder and ~~send~~ NOTIFY THE OWNER AND ANY LIENHOLDER BY SENDING a notice by certified mail, return receipt requested, to the address of the owner and any lienholder as determined from records of the department or from the national search performed by the department IN ACCORDANCE WITH SUBSECTION (3)(c)(IV) OF THIS SECTION. AN OPERATOR SHOULD WAIT TWENTY-FOUR HOURS

AFTER THE TOW TO NOTIFY THE OWNER AND ANY LIENHOLDER AND SEND THE NOTICE AS SOON AS REASONABLY PRACTICAL AFTER THE TWENTY-FOUR HOURS. AN OPERATOR SHALL NOT CHARGE MORE THAN SEVENTY-FIVE DOLLARS TO SEND THE NOTICE.

(D) The cost of complying with this ~~paragraph (c)~~ SUBSECTION (3)(c) is a cost of towing, ~~except that the total of all costs of complying with this section shall not exceed one hundred fifty dollars.~~ The tow operator shall send the notice to the owner and lienholder within five days after receiving the information from the department IN ACCORDANCE WITH SUBSECTION (3)(c)(I)(A) OF THIS SECTION.

(II) The operator ~~shall~~ is not be entitled to recover any daily storage fees from the day the vehicle is towed until the day the OPERATOR SENDS THE OWNER AND ANY LIENHOLDER ARE NOTIFIED, ~~unless the operator reasonably attempts to notify the owner and lienholder by the date specified in subparagraph (I) of this paragraph (c).~~ Sending a notice by certified mail, return receipt requested, to the owner and the lienholder as represented in department records shall be deemed a reasonable attempt to notify the owner and the lienholder. Failure to notify the owner and the lienholder due to the receipt of erroneous information from the department shall not cause the loss of such storage fees accrued from the date the vehicle is towed until ~~the owner and the lienholder receive such notice~~ THE NOTICE REQUIRED IN SUBSECTION (3)(c)(I) OF THIS SECTION; EXCEPT THAT THE OPERATOR MAY CHARGE FOR THE FIRST TWENTY-FOUR HOURS OF STORAGE IN ACCORDANCE WITH SECTION 40-10.1-405 (1)(c)(I).

(4) Within three days after the receipt of the records set forth in subsection (3)(c) of this section from the department, the operator shall notify by certified mail the owner of record, including an out-of-state owner of record. The operator shall make a reasonable effort to ascertain the address of the owner of record. The notice must contain the following information:

(b) ~~The claim of any lien under section 42-4-2105;~~

SECTION 2. In Colorado Revised Statutes, 42-4-2104, **amend** (1)(a) and (4) as follows:

42-4-2104. Appraisal of abandoned motor vehicles - sale. (1) (a) TO SELL A motor vehicles that are VEHICLE THAT WAS abandoned on private property, ~~shall be appraised and sold by~~ the operator MUST SELL THE MOTOR VEHICLE in a commercially reasonable manner at a public or private sale held not less than thirty days nor more than sixty days after the postmarked date the notice was mailed pursuant to section 42-4-2103 (4) or the date the operator receives notice that no record exists for such vehicle. ~~Such sale shall be made~~ THE OPERATOR MUST MAKE THE SALE to a licensed motor vehicle dealer or wholesaler, or wholesale motor vehicle auction dealer, or through a classified newspaper advertisement published in Colorado. THE APPRAISAL MUST BE PERFORMED BY AN INDEPENDENT THIRD PERSON. For purposes of this section, a sale ~~shall not be considered~~ IS NOT commercially reasonable if:

(I) The vehicle's appraisal value is more than three hundred fifty dollars and the vehicle is sold to an officer or partner of the operator that has possession of the

vehicle or to any other person with a proprietary interest in ~~such~~ THE operator; OR

(II) THE OPERATOR FAILS TO SET THE SALE PRICE AT THE TIME OF SALE, LIST THE FAIR MARKET PRICE AT THE TIME OF SALE, OR REPORT THE SALE; OR REPORT THE SALE PRICE TO THE DEPARTMENT WITHIN FIVE BUSINESS DAYS AFTER THE SALE.

(4) Transferring the title of a motor vehicle to an operator to satisfy a debt ~~covered by a lien created pursuant to this part 21 shall~~ INCURRED IN TOWING AN ABANDONED VEHICLE IS ~~not be~~ deemed to be the sale of a motor vehicle.

SECTION 3. In Colorado Revised Statutes, 42-4-2105, **amend** (1) and (3) as follows:

42-4-2105. Liens upon towed motor vehicles. (1) (a) ~~Whenever~~ IN ACCORDANCE WITH THE ATTACHMENT SCHEDULE IN SUBSECTION (1)(b) OF THIS SECTION, an operator who is registered with the department in accordance with subsection (2) of this section recovers, removes, or stores a motor vehicle upon instructions from the owner of record OR any other legally authorized person in control of ~~such~~ THE motor vehicle, or from the owner or lessee of real property upon which a motor vehicle is illegally parked or ~~such~~ ABANDONED OR THE owner's or lessee's agent authorized in writing, ~~such~~ THE operator ~~shall have~~ HAS a possessory lien, subject to the provisions of section 42-4-2103 (3), upon ~~such~~ THE motor vehicle ~~and its attached accessories, equipment, and personal property~~ for all the costs and fees for recovering, towing, and storage as authorized in section 42-4-2108. ~~Such~~ THE lien ~~shall be~~ IS a first and prior lien on the motor vehicle, and ~~such lien shall be~~ IS satisfied before all other charges against ~~such~~ THE motor vehicle. ~~This subsection (1) shall not apply to personal property if subsection (3) of this section applies to such personal property.~~

(b) THE LIEN GRANTED IN SUBSECTION (1)(a) OF THIS SECTION ATTACHES TO THE MOTOR VEHICLE IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

(I) IF THE OPERATOR RECOVERED, REMOVED, OR STORED THE MOTOR VEHICLE UPON INSTRUCTIONS FROM THE OWNER OF RECORD OR ANY OTHER LEGALLY AUTHORIZED PERSON IN CONTROL OF THE MOTOR VEHICLE, THE LIEN ATTACHES TO THE MOTOR VEHICLE WHEN THE OPERATOR TAKES POSSESSION OF THE MOTOR VEHICLE; OR

(II) IF THE OPERATOR RECOVERED, REMOVED, OR STORED THE MOTOR VEHICLE UPON INSTRUCTIONS OF THE OWNER OR LESSEE OF REAL PROPERTY UPON WHICH A MOTOR VEHICLE WAS ILLEGALLY PARKED OR ABANDONED OR UPON THE OWNER'S OR LESSEE'S AGENT AUTHORIZED IN WRITING, THE LIEN ATTACHES TO THE MOTOR VEHICLE THIRTY DAYS AFTER THE POSTMARKED DATE THE NOTICE WAS MAILED IN ACCORDANCE WITH SECTION 42-4-2103 (4) OR THE DATE THE OPERATOR RECEIVED NOTICE THAT NO RECORD EXISTS FOR THE MOTOR VEHICLE.

(3) If the operator obtains personal property from an abandoned vehicle that has been towed pursuant to this part 21 and if the serial or identification number of such property has been visibly altered or removed, the operator ~~shall not have a lien upon such property and~~ shall destroy or discard such property within five days after disposing of ~~such~~ THE vehicle pursuant to sections 42-4-2104 and 42-4-2107.

SECTION 4. In Colorado Revised Statutes, **amend** 42-4-2106 as follows:

42-4-2106. Perfection of lien. The lien provided for in section 42-4-2105 ~~shall be~~ is perfected by taking physical possession of the motor vehicle ~~and its attached accessories, equipment, or personal property~~ and by sending to the department, within ten working days after the time possession was taken, a notice containing the information required in the report to be made under ~~the provisions of section 42-4-2103.~~ ~~In addition, such~~ THE LIEN IS NOT PERFECTED UNTIL THE LIEN ATTACHES IN ACCORDANCE WITH THE SCHEDULE DESCRIBED IN SECTION 42-4-2105 (1)(b). The report ~~shall~~ MUST contain a declaration by the operator that a possessory lien is claimed for all past, present, and future charges, up to the date of redemption, and that the lien is enforceable and may be foreclosed pursuant to the provisions of this part 21.

SECTION 5. In Colorado Revised Statutes, **amend** 42-4-2107 as follows:

42-4-2107. Sale of abandoned vehicle. (1) AN OPERATOR MAY SELL any motor vehicle and its attached accessories and equipment or personal property within or attached to ~~such~~ THE vehicle that are not redeemed by the last-known owner of record or lienholder after ~~such owner or lienholder has been sent notice of such lien by the operator shall be sold in accordance with the provisions of section 42-4-2104~~ THE NOTICE WAS SENT IN ACCORDANCE WITH SECTION 42-4-2104 (1).

(2) ~~Within five days after foreclosure of the lien pursuant to this section~~ AT LEAST FIVE DAYS BEFORE A VEHICLE IS SOLD IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION, the operator shall send a notice to the law enforcement agency having jurisdiction over the operator. ~~Such notice shall~~ THE NOTICE MUST contain a list of personal property found within the abandoned vehicle that has an intact serial or identification number and ~~such~~ EACH serial or identification number. ~~Such notification shall be made~~ THE OPERATOR SHALL DELIVER THE NOTICE by certified mail, facsimile machine, or personal delivery.

SECTION 6. In Colorado Revised Statutes, 42-4-2108, **amend** (1), (2) introductory portion, and (2)(c); and **repeal** (2)(b) as follows:

42-4-2108. Proceeds of sale. (1) (a) If the sale of any motor vehicle, personal property, and attached accessories or equipment under the provisions of section 42-4-2104 produces an amount less than or equal to the sum of all charges of the operator, ~~who has perfected his or her lien,~~ then the operator ~~shall have~~ HAS a valid claim against the owner for the full amount of ~~such~~ THE charges, less the amount received upon the sale of such motor vehicle. AN OPERATOR DOES NOT HAVE A VALID CLAIM IF THE OPERATOR HAS VIOLATED SECTION 40-10.1-405.

(b) Failure to register ~~such~~ A vehicle in accordance with this title ~~shall constitute~~ TITLE 42 IS DEEMED a waiver of ~~such~~ THE owner's right to be notified pursuant to this part 21. ~~for the purposes of foreclosure of the lien pursuant to section 42-4-2107.~~ Such Charges shall be SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION ARE assessed in the manner provided for in paragraph (a) of subsection (2) IN ACCORDANCE WITH SUBSECTION (2)(a) of this section.

(2) If the sale of any motor vehicle and its attached accessories or equipment

under the provisions of section 42-4-2104 produces an amount greater than the sum of all charges of the operator who has perfected ~~his or her~~ THE OPERATOR'S lien:

(b) ~~Any balance remaining after payment pursuant to paragraphs (a) and (a.5) of this subsection (2) shall be forwarded to the department, and the department may recover from such balance any taxes, fees, and penalties due to it with respect to such motor vehicle. The department shall provide a receipt to the operator within seven days after receiving the money if the operator provides the department with a postage-paid, self-addressed envelope.~~

(c) (I) ~~THE OPERATOR SHALL PAY any balance remaining after payment pursuant to paragraph (b) of this subsection (2) shall be paid by the department:~~ MAKING THE PAYMENT REQUIRED IN SUBSECTION (2)(a.5) OF THIS SECTION IN ACCORDANCE WITH THE FOLLOWING:

(A) First, to any lienholder of record as the lienholder's interest may appear upon the records of the department;

(B) Second, to any owner of record as the owner's interest may so appear; and

(C) ~~then~~ THIRD, to any person submitting proof of ~~such~~ THE person's interest in ~~such~~ THE motor vehicle upon the application of ~~such~~ THE lienholder, owner, or person.

(II) ~~If such payments are not requested and made within One hundred twenty days after the sale of the abandoned motor vehicle, the OPERATOR SHALL TRANSFER the balance, shall be transmitted~~ AFTER MAKING THE PAYMENT REQUIRED UNDER SUBSECTIONS (2)(a) TO (2)(c)(I) OF THIS SECTION, to the state treasurer, who shall credit the same to the ~~highway users tax fund for allocation and expenditure as specified in section 43-4-205 (5.5)(e), C.R.S.~~ UNCLAIMED PROPERTY TRUST FUND, CREATED IN SECTION 38-13-801, AND DISPOSED OF IN ACCORDANCE WITH ARTICLE 13 OF TITLE 38.

SECTION 7. In Colorado Revised Statutes, 40-10.1-101, **amend** (13); and **add** (1.5), (4.5), and (6.5) as follows:

40-10.1-101. Definitions. As used in this article 10.1, unless the context otherwise requires:

(1.5) "AUTHORIZED OR INTERESTED PERSON" MEANS:

(a) THE VEHICLE OWNER, AUTHORIZED OPERATOR, OR AUTHORIZED AGENT OF THE OWNER OF THE VEHICLE;

(b) THE LIENHOLDER OF THE VEHICLE OR AGENT OF THE LIENHOLDER OF THE VEHICLE; OR

(c) IF THE OWNER SIGNS A RELEASE AUTHORIZING AN INSURANCE COMPANY TO ACT ON BEHALF OF THE OWNER, THE INSURANCE COMPANY OR AGENT OF THE INSURANCE COMPANY PROVIDING INSURANCE COVERAGE ON THE VEHICLE.

(4.5) "COMMON PARKING AREA" MEANS ANY PART OF THE FOLLOWING AREAS THAT ARE NORMALLY USED FOR PARKING, SUCH AS THE SIDE OF A STREET OR PARKING SPACES, THAT AN OWNER DOES NOT HAVE THE RIGHT TO EXCLUDE OTHER RESIDENTS OF THE FOLLOWING FROM USING FOR PARKING:

- (a) A CONDOMINIUM, AS DEFINED IN SECTION 38-33.3-103 (9);
- (b) A COOPERATIVE, AS DEFINED IN SECTION 38-33.3-103 (10);
- (c) A MULTIFAMILY BUILDING, WHICH IS ALSO KNOWN AS AN APARTMENT COMPLEX, WITH SEPARATE LIVING QUARTERS THAT ARE RENTED OR LEASED SEPARATELY; OR
- (d) A MOBILE HOME PARK, AS DEFINED IN SECTION 38-12-201.5 (6).

(6.5) "DROP FEE" MEANS A FEE A TOWING OPERATOR CHARGES TO UNHOOK A VEHICLE FROM A TOW TRUCK.

(13) "Nonconsensual towing", ~~or~~ "nonconsensual tow", "TOWED NONCONSENSUALLY", "NONCONSENSUALLY TOW", OR "TOWED WITHOUT CONSENT" means the transportation of a motor vehicle by tow truck FROM PRIVATE PROPERTY if such the transportation is performed without the prior consent ~~or authorization~~ of:

- (a) The owner ~~or~~ OF THE VEHICLE, AUTHORIZED operator OF THE VEHICLE, OR AGENT OF THE OWNER of the motor vehicle;
- (b) THE LIENHOLDER OF THE VEHICLE OR AGENT OF THE LIENHOLDER, UNLESS THE VEHICLE IS BEING TOWED FOR THE PURPOSE OF REPOSSESSION UNDER A LIEN AGREEMENT; OR
- (c) IF THE OWNER SIGNS A RELEASE AUTHORIZING AN INSURANCE COMPANY TO ACT ON BEHALF OF THE OWNER, THE INSURANCE COMPANY OR AGENT OF THE INSURANCE COMPANY PROVIDING INSURANCE COVERAGE ON THE VEHICLE.

SECTION 8. In Colorado Revised Statutes, 40-10.1-111, **amend** (1)(c)(I) as follows:

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 prescribed in this section, 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 or part 8 of this article 10.1 is ~~one hundred fifty dollars~~ ADMINISTRATIVELY SET BY THE COMMISSION TO COVER THE DIRECT AND INDIRECT COST OF IMPLEMENTING PARTS 4 AND 8 OF THIS ARTICLE 10.1, BUT THE FEE AMOUNT MUST BE APPROVED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES.

SECTION 9. In Colorado Revised Statutes, 40-10.1-401, **amend** (2) as follows:

40-10.1-401. Permit requirements. (2) (a) The commission may deny an application OR REFUSE TO RENEW A PERMIT 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 OR A TOWING-RELATED OFFENSE. 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.

(b) THE COMMISSION MAY DENY AN APPLICATION OR REFUSE TO RENEW A PERMIT OF A TOWING CARRIER UNDER THIS PART 4 BASED ON A DETERMINATION THAT THERE IS GOOD CAUSE TO BELIEVE THE ISSUANCE OF OR RENEWAL OF THE PERMIT IS NOT IN THE PUBLIC INTEREST. THE DETERMINATION IS SUBJECT TO APPEAL IN ACCORDANCE WITH COMMISSION RULES.

SECTION 10. In Colorado Revised Statutes, 40-10.1-403, **amend** (5)(a); and **add** (4)(d)(I)(C), (4)(d)(I)(D), (4)(d)(I)(E), (4)(d)(I)(F), (4)(d)(I)(G), (4)(d)(I)(H), and (5)(c) as follows:

40-10.1-403. Towing task force - creation - rules - repeal. (4) (d) (I) By December 1 of each year, the commission shall make a report to the house of representatives transportation and local government committee, the house of representatives business affairs and labor committee, the senate business, labor, and technology committee, and the senate transportation and energy committee, or any successor committees. The report must:

(C) INCLUDE THE ANALYSIS REQUIRED IN SUBSECTION (5)(c) OF THIS SECTION;

(D) INCLUDE THE TASK FORCE'S DEFINITION OF CONSENSUAL TOW AND NONCONSENSUAL TOW;

(E) INCLUDE THE RANGE OF DOLLAR AMOUNTS CONSIDERED WHEN SETTING ALL RATES RELATED TO CHARGES BY TOWING CARRIERS FOR NONCONSENSUAL TOWS, INCLUDING INFORMATION CONSIDERED FOR THE MINIMUM AND MAXIMUM RATES FOR ALL FEES CHARGED, THE FORMULAS FOR DETERMINING THE ACTUAL COST AND MARKET RATE FOR THE FINAL FEES SET FOR ALL RATES, A SUMMARY OF ANY PUBLIC COMMENT OR FEEDBACK PROVIDED RELATED TO THE RATES SET, AND ANY OTHER INFORMATION THE TASK FORCE TOOK INTO CONSIDERATION WHEN ESTABLISHING ALL RATES;

(F) INCLUDE THE TIMES, INCLUDING THE SHORTEST, MEAN, MEDIAN, MODE, AND LONGEST, TO SETTLE COMPLAINTS MADE TO THE COMMISSION;

(G) INCLUDE THE CATEGORIES OF COMPLAINTS AND THE NUMBER OF COMPLAINTS IN EACH CATEGORY; AND

(H) INCLUDE A LIST OF THE TOWING CARRIERS THAT HAVE BEEN ISSUED A PERMIT, THE NUMBER OF VALID COMPLAINTS AGAINST EACH CARRIER, AND THE ACTION TAKEN BY THE COMMISSION IN RESPONSE TO EACH VALID COMPLAINT.

(5) The task force has the following duties and powers:

(a) To make comprehensive recommendations to the commission about the maximum rates that may be charged for the recovery, towing, and storage of a vehicle that has been towed without the owner's consent. The task force shall make comprehensive recommendations to the commission about the maximum rates after July 1, 2022, but no later than ~~September 1, 2022~~ November 1, 2022.

(c) TO ANALYZE AND MAKE RECOMMENDATIONS TO THE COMMISSION ABOUT NONCONSENSUAL TOWING RATES CHARGED TO THE PUBLIC. IN ANALYZING NONCONSENSUAL RATES, THE TASK FORCE SHALL TAKE INTO ACCOUNT CURRENT CONSENSUAL TOWING MARKET RATES AND THEIR RELATIONSHIP TO NONCONSENSUAL TOWING RATES.

SECTION 11. In Colorado Revised Statutes, **add** 40-10.1-405, 40-10.1-406, 40-10.1-407, 40-10.1-408, 40-10.1-409, and 40-10.1-410 as follows:

40-10.1-405. Nonconsensual tows - rights of owners, operators, and lienholders - rules. (1) **Towing fees.** (a) TOWING CARRIERS SHALL PROMINENTLY DISPLAY AT THEIR PLACE OF BUSINESS AND ON ANY WEBSITE OF THE TOWING CARRIER THE CURRENT MAXIMUM RATES PERMITTED BY RULE OF THE COMMISSION FOR EACH TOW SERVICE PROVIDED BY THE TOWING CARRIER. THE SIGN MUST INCLUDE THE FOLLOWING STATEMENT: "THE MAXIMUM PERMITTED RATE IS BASED UPON RULES OF THE PUBLIC UTILITIES COMMISSION, AND IF THERE ARE CONCERNS OR QUESTIONS ABOUT THESE RATES OR THE TOWING CARRIER, THEN CALL THE PUBLIC UTILITIES COMMISSION CONSUMER AFFAIRS HOTLINE AT 303-894-2070.

(b) (I) A TOWING CARRIER SHALL ACCEPT:

(A) CASH;

(B) MAJOR CREDIT CARDS; AND

(C) OTHER FORMS OF PAYMENT REQUIRED BY RULE OF THE COMMISSION.

(II) THE COMMISSION SHALL PROMULGATE A RULE DEFINING WHAT QUALIFIES AS A MAJOR CREDIT CARD FOR THE PURPOSES OF THIS SUBSECTION (1)(b).

(c) A TOWING CARRIER SHALL NOT:

(I) CHARGE STORAGE FEES FOR ANY TWENTY-FOUR-HOUR PERIOD DURING WHICH THE TOWING CARRIER DID NOT STORE THE VEHICLE, BUT THE TOWING CARRIER MAY CHARGE, IN ACCORDANCE WITH SECTION 42-4-2103 (3)(c), A PRORATED FEE FOR ANY PART OF A TWENTY-FOUR-HOUR PERIOD THE TOWING CARRIER STORED THE VEHICLE; AND

(II) CHARGE OR RETAIN ANY FEES NOT IDENTIFIED IN THE RULES OF THE COMMISSION FOR THE NONCONSENSUAL TOW OF A VEHICLE FROM PRIVATE PROPERTY.

(2) **Towing carrier document vehicle's condition and reason for tow - adequate illumination.** (a) BEFORE A TOWING CARRIER CONNECTS A TOWING VEHICLE TO A VEHICLE WITHOUT CONSENT, THE TOWING CARRIER SHALL DOCUMENT

THE VEHICLE'S CONDITION AND THE REASON FOR THE TOW BY:

(I) TAKING AT LEAST FOUR PHOTOGRAPHS OF THE VEHICLE, WITH AT LEAST ONE PHOTOGRAPH TAKEN FROM THE FRONT, ONE PHOTOGRAPH TAKEN FROM THE REAR, ONE PHOTOGRAPH TAKEN FROM THE DRIVER'S SIDE, AND ONE PHOTOGRAPH TAKEN FROM THE PASSENGER'S SIDE. THESE PHOTOGRAPHS MUST:

(A) SHOW THE ENTIRE VEHICLE FROM THE REQUIRED ANGLE;

(B) HAVE THE VEHICLE FILL AT LEAST THREE-FOURTHS OF THE PHOTOGRAPH, MEASURED FROM SIDE TO SIDE; AND

(C) BE RENDERED IN A RESOLUTION OF AT LEAST TWO THOUSAND PIXELS BY AT LEAST TWO THOUSAND PIXELS.

(II) TAKING A PHOTOGRAPH THAT SHOWS THE REASON FOR THE VEHICLE BEING TOWED WITHOUT CONSENT. THE PHOTOGRAPH MUST:

(A) SHOW THE POSITION OF THE VEHICLE IN RELATION TO THE REASON, INCLUDING ANY SIGN, THAT THE VEHICLE WAS TOWED; AND

(B) BE RENDERED IN A RESOLUTION OF AT LEAST TWO THOUSAND PIXELS BY AT LEAST TWO THOUSAND PIXELS.

(b) UPON DEMAND BY AN AUTHORIZED OR INTERESTED PERSON, THE TOWING CARRIER SHALL PROVIDE COPIES OF THE PHOTOGRAPHS REQUIRED TO BE TAKEN PURSUANT TO SUBSECTION (2)(a)(I) OR (2)(a)(II) OF THIS SECTION.

(c) (I) A REBUTTABLE PRESUMPTION THAT A TOWING CARRIER DAMAGED A VEHICLE IS CREATED BY EVIDENCE THAT:

(A) THE TOWING CARRIER HAS FAILED TO PRODUCE PHOTOGRAPHS OF THE VEHICLE'S CONDITION IN COMPLIANCE WITH SUBSECTION (2)(b) OF THIS SECTION; AND

(B) A VEHICLE HAS SUFFERED DAMAGE.

(II) A TOWING CARRIER'S FAILURE TO PRODUCE A PHOTOGRAPH OF THE REASON FOR THE TOW IN COMPLIANCE WITH SUBSECTION (2)(b) OF THIS SECTION CREATES A REBUTTABLE PRESUMPTION THAT THE TOWING CARRIER DID NOT HAVE AUTHORIZATION TO TOW A VEHICLE.

(d) DURING BUSINESS HOURS OR WHEN A VEHICLE IS BEING RELEASED, A TOWING CARRIER SHALL MAINTAIN AN AREA AT EACH STORAGE FACILITY WITH LIGHTING THAT IS ADEQUATE TO ALLOW A PERSON TO INSPECT A VEHICLE FOR DAMAGE PRIOR TO ITS RELEASE FROM STORAGE.

(3) Authorization and notice required for tows from private property. (a) A TOWING CARRIER SHALL NOT NONCONSENSUALLY TOW A VEHICLE FROM PRIVATE PROPERTY UNLESS:

(I) THE VEHICLE IS BEING REPOSSESSED BY A CREDITOR WITH A LIEN OR SECURITY INTEREST IN THE VEHICLE;

(II) THE REMOVAL IS EXPRESSLY ORDERED OR AUTHORIZED BY A COURT ORDER, AN ADMINISTRATIVE ORDER, OR A PEACE OFFICER OR BY OPERATION OF LAW;

(III) THE VEHICLE BLOCKS A DRIVEWAY OR ROADWAY ENOUGH TO EFFECTIVELY OBSTRUCT A PERSON'S ACCESS TO THE DRIVEWAY OR ROADWAY; OR

(IV) THE TOWING CARRIER HAS RECEIVED PERMISSION TO TOW THE VEHICLE, WITHIN THE TWENTY-FOUR HOURS IMMEDIATELY PRECEDING THE TOW, FROM:

(A) THE OWNER OF OR LEASE HOLDER OF THE PRIVATE PROPERTY;

(B) A PERSON SUBJECT TO THE "COLORADO COMMON INTEREST OWNERSHIP ACT", ARTICLE 33.3 OF TITLE 38, IF THE PRIVATE PROPERTY IS LOCATED WITHIN THE BOUNDARIES OF THE PERSON'S AREA OF OPERATION; OR

(C) AN AGENT OF A PERSON DESCRIBED IN SUBSECTION (3)(a)(IV)(A) OR (3)(a)(IV)(B) OF THIS SECTION; EXCEPT THAT THE TOWING CARRIER DOES NOT QUALIFY AS AN AGENT WITH AUTHORITY TO GRANT PERMISSION UNDER THIS SUBSECTION (3)(a).

(b) (I) EXCEPT AS PROVIDED IN SUBSECTION (3)(b)(IV) OF THIS SECTION, A TOWING CARRIER SHALL NOT NONCONSENSUALLY TOW A VEHICLE FROM A PARKING SPACE OR COMMON PARKING AREA WITHOUT THE TOWING CARRIER OR PROPERTY OWNER GIVING THE VEHICLE OWNER OR OPERATOR TWENTY-FOUR HOURS' WRITTEN NOTICE, UNLESS:

(A) THE VEHICLE OWNER OR OPERATOR HAS RECEIVED TWO PREVIOUS NOTICES FOR PARKING INAPPROPRIATELY IN THE SAME MANNER;

(B) THE VEHICLE IS BEING REPOSSESSED BY A CREDITOR WITH A LIEN OR SECURITY INTEREST IN THE VEHICLE;

(C) THE REMOVAL IS EXPRESSLY ORDERED OR AUTHORIZED BY A COURT ORDER, AN ADMINISTRATIVE ORDER, OR A PEACE OFFICER OR BY OPERATION OF LAW;

(D) THE VEHICLE BLOCKS A DRIVEWAY OR ROADWAY ENOUGH TO EFFECTIVELY OBSTRUCT A PERSON'S ACCESS TO THE DRIVEWAY OR ROADWAY;

(E) THE VEHICLE IS PARKED IN VIOLATION OF SECTION 42-4-1208 (4) OR IN RESERVED PARKING FOR PEOPLE WITH DISABILITIES WITHOUT DISPLAYING AN IDENTIFYING PLACARD OR AN IDENTIFYING PLATE, AS THOSE TERMS ARE DEFINED IN SECTION 42-3-204 (1)(f) AND (1)(g), THAT IS CURRENTLY VALID OR HAS BEEN EXPIRED FOR NO MORE THAN SIXTY DAYS;

(F) THE VEHICLE IS PARKED IN OR EFFECTIVELY OBSTRUCTING A DESIGNATED AND MARKED FIRE ZONE;

(G) THE VEHICLE IS OCCUPYING WITHOUT PERMISSION OR EFFECTIVELY

OBSTRUCTING ACCESS TO OR FROM AN INDIVIDUALLY DESIGNATED, RENTED, OR PURCHASED PARKING SPACE OF A RESIDENT; OR

(H) THE VEHICLE IS PARKED WITHOUT DISPLAYING VALID AUTHORIZATION IN A PARKING LOT MARKED FOR THE EXCLUSIVE USE OF RESIDENTS.

(II) THE TOWING CARRIER OR PROPERTY OWNER SHALL PROVIDE THE NOTICE DESCRIBED IN SUBSECTION (3)(b)(I) OF THIS SECTION BY PLACING A WRITTEN NOTICE ON THE WINDSHIELD OF THE VEHICLE AT LEAST TWENTY-FOUR HOURS BEFORE TOWING THE VEHICLE.

(III) THE NOTICE MUST STATE CLEARLY:

(A) THAT THE VEHICLE WILL BE TOWED WITHOUT CONSENT IF THE VEHICLE REMAINS PARKED INAPPROPRIATELY;

(B) A DESCRIPTION OF THE INAPPROPRIATE PARKING THAT HAS CAUSED THE NOTICE TO BE GIVEN;

(C) THE TIME THE VEHICLE WILL BE TOWED IF IT IS NOT MOVED TO APPROPRIATE PARKING OR THE INAPPROPRIATE PARKING HAS BEEN CORRECTED; AND

(D) THAT CONTINUING TO PARK INAPPROPRIATELY IN THE SAME MANNER MAY LEAD TO THE VEHICLE BEING TOWED WITHOUT NOTICE.

(IV) IF THE VEHICLE IS PARKED A THIRD OR SUBSEQUENT TIME IN THE SAME INAPPROPRIATE MANNER THAT CAUSED IT TO RECEIVE PREVIOUS NOTICES, THE TOWING CARRIER OR PROPERTY OWNER NEED NOT GIVE THE NOTICE REQUIRED IN SUBSECTION (3)(b)(I) OF THIS SECTION BEFORE TOWING THE VEHICLE.

(V) FOR PURPOSES OF THIS SUBSECTION (3)(b), A VEHICLE IS PARKED INAPPROPRIATELY WHEN IT IS PARKED IN A MANNER THAT:

(A) VIOLATES THE PROCEDURES NECESSARY TO OBTAIN AUTHORIZATION TO PARK IN THE LOT OR SPACE;

(B) FAILS TO COMPLY WITH THE PROPERTY OWNER'S SIGNS OR THE AGREEMENTS OF THE TENANTS; OR

(C) VIOLATES A STATUTE, RULE, ORDINANCE, OR RESOLUTION OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(c) IN ORDER FOR A TOWING CARRIER TO CONDUCT A NONCONSENSUAL TOW UNDER SUBSECTION (3)(b)(I)(G) OR (3)(b)(I)(H) OF THIS SECTION, THE PROPERTY OWNER MUST HAVE POSTED SIGNAGE VISIBLE AND FACING THE DRIVER AT EACH ENTRY WAY INTO A PARKING AREA INDICATING THAT PARKING SPACES ARE DESIGNATED FOR ONE OR MORE SPECIFIED RESIDENTS AND THAT A VEHICLE PARKED WITHOUT AUTHORIZATION IS SUBJECT TO BEING TOWED. THE SIGN MUST ALSO CONTAIN THE INTERNATIONAL TOWING SYMBOL NO SMALLER THAN FOUR INCHES BY FOUR INCHES AND BE PERMANENTLY MOUNTED IN A POSITION THAT IS NO LOWER THAN FIVE FEET AND NO HIGHER THAN EIGHT FEET.

(4) Notice, disclosures, and signs. (a) IN CONNECTION WITH A NONCONSENSUAL TOW, THE TOWING CARRIER SHALL PROVIDE, UPON REQUEST, EVIDENCE OF THE TOWING CARRIER'S COMMERCIAL LIABILITY INSURANCE COVERAGE, INCLUDING CARGO LIABILITY COVERAGE, GARAGE KEEPER'S LIABILITY COVERAGE, IF APPLICABLE, AND MOTOR VEHICLE LIABILITY COVERAGE, TO AN AUTHORIZED OR INTERESTED PERSON.

(b) A TOWING CARRIER SHALL MAINTAIN A CLEARLY VISIBLE SIGN AT THE ENTRANCE TO THE STORAGE FACILITY HOLDING A NONCONSENSUALLY TOWED VEHICLE. THE SIGN MUST:

(I) STATE THE NAME OF THE BUSINESS, TELEPHONE NUMBER, AND HOURS OF OPERATION;

(II) STATE: "IF A VEHICLE IS NONCONSENSUALLY TOWED FROM PRIVATE PROPERTY, THE OWNER MAY RETRIEVE THE CONTENTS OF THE VEHICLE EVEN IF THE OWNER DOES NOT PAY THE TOWING CARRIER'S FEES. IF THE OWNER FILLS OUT THE APPROPRIATE FORM, THE OWNER MAY RETRIEVE THE VEHICLE AFTER PAYING A REDUCED FEE, BUT THE OWNER STILL OWES THE TOWING CARRIER THE BALANCE OF THOSE FEES."

(III) BE NO LESS THAN TWO SQUARE FEET IN SIZE;

(IV) HAVE LETTERING NOT LESS THAN TWO INCHES IN HEIGHT;

(V) HAVE LETTERING THAT CONTRASTS SHARPLY IN COLOR WITH THE BACKGROUND ON WHICH THE LETTERS ARE PLACED; AND

(VI) BE PRINTED IN ENGLISH.

(c) UPON REQUEST, A TOWING CARRIER SHALL PROVIDE TO AN AUTHORIZED OR INTERESTED PERSON AN ITEMIZED BILL SHOWING EACH CHARGE AND THE RATE FOR EACH FEE THAT THE AUTHORIZED OR INTERESTED PERSON HAS INCURRED AS A RESULT OF A NONCONSENSUAL TOW.

(d) UPON REQUEST, A TOWING CARRIER SHALL DISCLOSE ACCEPTED FORMS OF PAYMENT, INCLUDING THOSE REQUIRED TO BE ACCEPTED IN ACCORDANCE WITH SUBSECTION (1)(b) OF THIS SECTION.

(e) IF A TOWING CARRIER HAS NONCONSENSUALLY TOWED A VEHICLE FROM PRIVATE PROPERTY, THE TOWING CARRIER SHALL GIVE THE AUTHORIZED OR INTERESTED PERSON THAT IS RETRIEVING THE VEHICLE A WRITTEN NOTICE OF THE PERSON'S ABILITY TO MAKE A COMPLAINT TO THE COMMISSION. THE NOTICE:

(I) MUST BE WRITTEN IN A CONSPICUOUS TYPE FACE AND FONT ON THE INVOICE, THE RECEIPT, AND THE BILL FOR THE TOW; AND

(II) MUST NOT BE IN A TYPE FACE OR FONT THAT IS SMALLER THAN THE OTHER NUMBERS OR WORDS ON THE RECEIPT OR BILL, AS APPLICABLE.

(f) (I) A TOWING CARRIER SHALL NOT PERFORM A NONCONSENSUAL TOW OF A

VEHICLE, OTHER THAN AN ABANDONED MOTOR VEHICLE AS DEFINED IN SECTION 42-4-2102 (1), FROM PRIVATE PROPERTY NORMALLY USED FOR PARKING UNLESS:

(A) NOTICE OF THE PARKING REGULATIONS WAS PROVIDED TO THE VEHICLE OPERATOR WHEN THE VEHICLE ENTERED THE PRIVATE PROPERTY AND PARKED; AND

(B) NOTICE THAT ANY VEHICLE PARKED IN VIOLATION OF THE REGULATIONS IS SUBJECT TO TOW AT THE VEHICLE OWNER'S EXPENSE WAS PROVIDED TO THE VEHICLE OPERATOR WHEN THE VEHICLE ENTERED THE PRIVATE PROPERTY AND PARKED.

(II) A PROPERTY OWNER WITH TENANTS SHALL PROVIDE THE NOTICE DESCRIBED IN THIS SUBSECTION (4)(f) BY ISSUING EACH TENANT A WRITTEN DOCUMENT CONTAINING ANY APPLICABLE PARKING REGULATIONS BEFORE THE REGULATIONS ARE ADOPTED OR AMENDED OR BEFORE THE PERSON AGREES TO BE A TENANT.

(III) A TOWING CARRIER THAT ENTERS INTO AN AGREEMENT WITH A PROPERTY OWNER TO NONCONSENSUALLY TOW VEHICLES FROM THE PROPERTY SHALL POST SIGNS THAT:

(A) ARE NO LESS THAN ONE SQUARE FOOT IN SIZE;

(B) HAVE LETTERING NOT LESS THAN ONE INCH IN HEIGHT;

(C) HAVE LETTERING THAT CONTRASTS WITH THE BACKGROUND ON WHICH THE LETTERS ARE PLACED;

(D) STATE: "AUTHORIZED PARKING ONLY";

(E) INCLUDE THE NAME AND TELEPHONE NUMBER OF THE TOWING CARRIER AUTHORIZED TO PERFORM TOWS FROM THE PRIVATE PROPERTY;

(F) ARE PRINTED IN ENGLISH;

(G) ARE PLACED AT THE ENTRANCE TO THE PRIVATE PROPERTY, FACE OUTWARD TOWARD THE STREET, AND ARE VISIBLE PRIOR TO ENTERING AND UPON ENTERING THE PRIVATE PROPERTY;

(H) ARE PLACED INSIDE THE AREA USED FOR PARKING, FACE TOWARD THE PARKING SPACES, AND, IF THE PRIVATE PROPERTY IS NOT PROVIDED FOR RESIDENTIAL PARKING AND HAS MORE THAN TEN FREESTANDING LAMPPOSTS ON THE PROPERTY, ARE POSTED ON EACH LAMPPOST OR POSTED UPRIGHT NEAR EACH LAMPPOST;

(I) ARE NOT OBSTRUCTED OR PLACED IN SUCH A MANNER THAT PREVENTS VISIBILITY; AND

(J) ARE NOT PLACED HIGHER THAN EIGHT FEET OR LOWER THAN THREE FEET FROM THE GROUND SURFACE CLOSEST TO THE SIGN'S PLACEMENT.

(g) THE TOWING CARRIER SHALL RETAIN EVIDENCE, INCLUDING PHOTOGRAPHS OF THE RELEVANT SIGNS, OF GIVING THE NOTICES AND DISCLOSURES REQUIRED IN SUBSECTION (4)(f) OF THIS SECTION FOR THREE YEARS AFTER THE DATE OF

COMPLETION OF A NONCONSENSUAL TOW AND PROVIDE THE EVIDENCE TO THE COMMISSION OR AN ENFORCEMENT OFFICIAL UPON REQUEST.

(5) No mechanic's liens on vehicle or contents. (a) NOTWITHSTANDING SECTION 38-20-105, A TOWING CARRIER THAT NONCONSENSUALLY TOWS A VEHICLE DOES NOT HAVE A MECHANIC'S LIEN ON THE CONTENTS OF THE VEHICLE TO COVER THE COST OF TOWING THE VEHICLE.

(b) IF AN AUTHORIZED OR INTERESTED PERSON REQUESTS THAT A TOWING CARRIER RETURN THE CONTENTS OF A VEHICLE THAT WAS TOWED WITHOUT CONSENT WITHIN THIRTY DAYS AFTER THE POSTMARKED DATE THE NOTICE WAS MAILED IN ACCORDANCE WITH SECTION 42-4-2103 (4) OR THE DATE THE OPERATOR RECEIVED NOTICE THAT NO RECORD EXISTS FOR THE MOTOR VEHICLE, THE TOWING CARRIER SHALL IMMEDIATELY RETRIEVE OR ALLOW THE AUTHORIZED OR INTERESTED PERSON TO RETRIEVE THE VEHICLE'S CONTENTS. THIS SUBSECTION (5)(b) DOES NOT APPLY TO THE CONTENTS OF A VEHICLE IF THE CONTENTS OF THE VEHICLE ARE SUBJECT TO A HOLD ORDER ISSUED BY A COURT, DISTRICT ATTORNEY, LAW ENFORCEMENT AGENCY, OR PEACE OFFICER.

(c) THE TOWING CARRIER SHALL IMMEDIATELY RETRIEVE A VEHICLE THAT HAS BEEN NONCONSENSUALLY TOWED OR ALLOW THE OWNER TO RETRIEVE THE VEHICLE IF:

(I) THE OWNER PAYS FIFTEEN PERCENT OF THE FEES, NOT TO EXCEED SIXTY DOLLARS, OWED THE TOWING CARRIER FOR THE NONCONSENSUAL TOW; AND

(II) THE AUTHORIZED OR INTERESTED PERSON IS NOT A LIENHOLDER OR INSURANCE COMPANY.

(d) FOR AN AUTHORIZED OR INTERESTED PERSON TO RETRIEVE A VEHICLE WITHOUT PAYING THE TOWING CARRIER THE TOTAL AMOUNT OWED TO THE TOWING CARRIER, THE AUTHORIZED OR INTERESTED PERSON MUST SIGN A FORM AFFIRMING THAT THE AUTHORIZED OR INTERESTED PERSON OWES THE TOWING CARRIER PAYMENT FOR FEES THAT COMPLY WITH THIS ARTICLE 10.1, PART 21 OF ARTICLE 4 OF TITLE 42, OR ARTICLE 20 OF TITLE 38. KNOWINGLY PROVIDING FALSE INFORMATION ON THE FORM IS UNLAWFUL. SIGNING THIS FORM DOES NOT PROHIBIT A VEHICLE OWNER FROM FILING A COMPLAINT WITH THE COMMISSION OR PURSUING OTHER REMEDIES. THE TOWING CARRIER MAY USE THE FORM TO TAKE REASONABLE ACTIONS TO COLLECT THE DEBT, INCLUDING INITIATING A COURT ACTION OR USING A COLLECTION AGENCY. THE DEPARTMENT SHALL:

(I) CREATE THE FORM;

(II) GIVE THE FORM THE FOLLOWING TITLE: "TOWED VEHICLE RELEASE NOTICE: RETRIEVAL WITH PAYMENT OWED"; AND

(III) PROVIDE THE FORM ON THE PUBLIC UTILITIES COMMISSION WEBSITE FOR TOWING CARRIERS TO RETRIEVE AND USE.

(6) Releasing the vehicle upon request. (a) A TOWING CARRIER SHALL RELEASE A NONCONSENSUALLY TOWED VEHICLE IN ACCORDANCE WITH SUBSECTION (5)(c) OF

THIS SECTION.

(b) A TOWING CARRIER SHALL NOT ASSESS A DROP CHARGE TO RELEASE THE VEHICLE AFTER THE VEHICLE IS HOOKED UP TO THE TOW TRUCK BUT BEFORE THE VEHICLE IS REMOVED FROM THE PROPERTY.

(c) IF APPROACHED BY AN AUTHORIZED OR INTERESTED PERSON BEFORE THE VEHICLE IS REMOVED FROM PRIVATE PROPERTY, THE TOWING CARRIER SHALL NOTIFY THE AUTHORIZED OR INTERESTED PERSON THAT THE TOWING CARRIER IS REQUIRED TO RELEASE THE VEHICLE UPON REQUEST OF THE AUTHORIZED OR INTERESTED PERSON.

(d) UPON REQUEST BY THE AUTHORIZED OR INTERESTED PERSON, THE TOWING CARRIER SHALL STOP ANY TOW IN PROGRESS BEFORE THE VEHICLE IS REMOVED FROM PRIVATE PROPERTY.

(7) **No towing for expired registration.** UNLESS THE TOW IS BASED ON AN ORDER GIVEN BY A PEACE OFFICER, A TOWING CARRIER SHALL NOT TOW A VEHICLE FROM PRIVATE PROPERTY BECAUSE THE REAR LICENSE PLATE OF THE VEHICLE OR THE RECORD OBTAINED USING THE SYSTEM DESCRIBED IN SECTION 42-4-2103 (3)(c)(III) INDICATES THAT THE VEHICLE'S REGISTRATION HAS EXPIRED.

(8) **Towing carrier responsibility.** FOR A NONCONSENSUAL TOW, THE TOWING CARRIER IS RESPONSIBLE FOR THE SECURITY AND SAFETY OF THE TOWED VEHICLE UNTIL IT IS RELEASED TO AN AUTHORIZED OR INTERESTED PERSON.

(9) **Applicability.** THIS SECTION DOES NOT APPLY TO:

(a) A TOW ORDERED BY A PEACE OFFICER OR TECHNICIAN DIRECTED BY A PEACE OFFICER IN THE COURSE AND SCOPE OF THE OFFICER'S OR TECHNICIAN'S DUTIES; OR

(b) A TOW FROM A PARKING SPACE THAT SERVES A BUSINESS IF:

(I) THE PARKING SPACE IS NOT IN A COMMON PARKING AREA; AND

(II) THE PARKING SPACE IS ON COMMERCIAL REAL ESTATE, AS DEFINED IN SECTION 38-22.5-102 (2).

40-10.1-406. Failure to comply. (1) No fees. (a) IF A TOWING CARRIER FAILS TO COMPLY WITH THIS ARTICLE 10.1, ARTICLE 20 OF TITLE 38, OR PART 18 OR 21 OF ARTICLE 4 OF TITLE 42 OR ANY RULE PROMULGATED UNDER THIS ARTICLE 10.1 OR PART 18 OR 21 OF ARTICLE 4 OF TITLE 42, THE TOWING CARRIER:

(I) SHALL NOT CHARGE OR RETAIN ANY FEES OR CHARGES FOR THE SERVICES PERFORMED WITH RESPECT TO THE VEHICLE; AND

(II) SHALL RETURN TO THE AUTHORIZED OR INTERESTED PERSON ANY FEES IT COLLECTED WITH RESPECT TO THE VEHICLE.

(b) IT IS AN AFFIRMATIVE DEFENSE IN ANY ACTION TO COLLECT TOWING FEES THAT:

(I) THE VEHICLE WAS TOWED NONCONSENSUALLY; AND

(II) THE TOWING CARRIER FAILED TO COMPLY WITH SECTION 40-10.1-405.

(2) **Attorney fees.** AN AUTHORIZED OR INTERESTED PERSON SEEKING REIMBURSEMENT FOR DAMAGES MAY RECOVER FROM THE TOWING CARRIER REASONABLE ATTORNEY FEES IF:

(a) THE VEHICLE WAS TOWED NONCONSENSUALLY;

(b) A COURT HOLDS THAT:

(I) THE TOWING CARRIER FAILED TO COMPLY WITH THIS ARTICLE 10.1, ARTICLE 20 OF TITLE 38, OR PART 18 OR 21 OF ARTICLE 4 OF TITLE 42 OR ANY RULE PROMULGATED UNDER THIS ARTICLE 10.1 OR PART 18 OR 21 OF ARTICLE 4 OF TITLE 42, AND THIS FAILURE CAUSED DAMAGES, INCLUDING ECONOMIC DAMAGES, TO THE VEHICLE OWNER OR LIENHOLDER; OR

(II) THE TOWING CARRIER DAMAGED A VEHICLE WHILE CONNECTING IT TO A TOWING VEHICLE, WHILE POSSESSING THE VEHICLE, OR WHILE RETURNING THE VEHICLE TO AN AUTHORIZED OR INTERESTED PERSON; AND

(c) THE AUTHORIZED OR INTERESTED PERSON DEMANDED REIMBURSEMENT FOR THE SUFFERED DAMAGES AND THE TOWING CARRIER REFUSED TO REIMBURSE THE AUTHORIZED OR INTERESTED PERSON FOR THE DAMAGES.

(3) **Damages recovered for party in interest.** IN A COURT ACTION ARISING FROM A NONCONSENSUAL TOW, ANY AUTHORIZED OR INTERESTED PERSON MAY RECOVER THE DAMAGES SUFFERED BY ANOTHER AUTHORIZED OR INTERESTED PERSON FROM A TOWING CARRIER IF THE PERSON WHO RECOVERS THE DAMAGES REIMBURSES THE OTHER AUTHORIZED OR INTERESTED PERSON FOR THE DAMAGES SUFFERED BY THE AUTHORIZED OR INTERESTED PERSON. A COURT MAY ISSUE AN ORDER IMPLEMENTING THIS SUBSECTION (3).

40-10.1-407. Records. (1) A TOWING CARRIER SHALL RECORD THE FOLLOWING INFORMATION FOR EACH NONCONSENSUAL TOW:

(a) THE UNIQUE SERIAL NUMBER OF THE TOW RECORD OR INVOICE;

(b) THE NAME, ADDRESS, TOWING CARRIER PERMIT NUMBER, AND TELEPHONE NUMBER OF THE TOWING CARRIER;

(c) THE ADDRESS AND TELEPHONE NUMBER OF THE STORAGE FACILITY USED BY THE TOWING CARRIER;

(d) THE MAKE, MODEL, YEAR, COMPLETE VEHICLE IDENTIFICATION NUMBER, AND LICENSE PLATE NUMBER, IF AVAILABLE, OF THE TOWED VEHICLE;

(e) THE ORIGIN ADDRESS OF THE TOW, THE DESTINATION ADDRESS OF THE TOW, AND THE ONE-WAY MILEAGE BETWEEN THE TWO ADDRESSES;

(f) THE PRINTED NAME, ADDRESS, TELEPHONE NUMBER, AND SIGNATURE OF THE PERSON AUTHORIZING THE TOW;

(g) THE PRINTED NAME AND SIGNATURE OF THE TOW TRUCK DRIVER;

(h) AN ITEMIZED INVOICE OF ALL TOWING CHARGES ASSESSED;

(i) THE SIGNATURE OF THE PERSON TO WHOM THE VEHICLE IS RELEASED; EXCEPT THAT THE TOWING CARRIER MAY WRITE "REFUSED TO SIGN" IF THE PERSON TO WHOM THE VEHICLE IS RELEASED REFUSES TO SIGN THE RELEASE DOCUMENT;

(j) THE DATE AND TIME OF ANY OF THE FOLLOWING, IF PERFORMED:

(I) HOOKING THE VEHICLE TO THE TOW TRUCK;

(II) UNHOOKING THE VEHICLE FROM THE TOW TRUCK;

(III) COMPLETING THE TOW;

(IV) NOTIFYING THE APPROPRIATE LAW ENFORCEMENT AGENCY;

(V) PLACING THE VEHICLE IN STORAGE; AND

(VI) RELEASING THE TOWED VEHICLE FROM STORAGE; AND

(k) ANY OTHER INFORMATION REQUIRED BY RULE OF THE COMMISSION.

(2) A TOWING CARRIER SHALL RECORD THE INFORMATION REQUIRED TO BE RECORDED BY SUBSECTION (1) OF THIS SECTION BEFORE THE ACTION TO WHICH IT REFERS IS PERFORMED, UNLESS IMPRACTICABLE DUE TO SAFETY CONCERNS. IF THE SAFETY CONCERNS DELAY RECORDING THE INFORMATION REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE TOWING CARRIER SHALL RECORD THE INFORMATION AS SOON AS REASONABLY POSSIBLE.

(3) A TOWING CARRIER SHALL RETAIN THE INFORMATION REQUIRED IN SUBSECTION (1) OF THIS SECTION FOR THREE YEARS AFTER THE TOW COMMENCED.

(4) WITHIN FORTY-EIGHT HOURS AFTER A REQUEST, A TOWING CARRIER SHALL PROVIDE THE INFORMATION REQUIRED TO BE RECORDED BY SUBSECTION (1) OF THIS SECTION TO AN AUTHORIZED OR INTERESTED PERSON.

40-10.1-408. Kickbacks prohibited. A TOWING CARRIER SHALL NOT PAY MONEY OR OTHER VALUABLE CONSIDERATION FOR THE PRIVILEGE OF NONCONSENSUALLY TOWING VEHICLES.

40-10.1-409. Violators subject to penalties. (1) A TOWING CARRIER THAT VIOLATES THIS PART 4 IS SUBJECT TO THE PENALTIES PROVIDED IN SECTION 40-10.1-114.

(2) A VIOLATION OF THIS PART 4 IS A DECEPTIVE TRADE PRACTICE UNDER SECTION 6-1-105 (1)(ttt) AND IS SUBJECT TO ENFORCEMENT BY THE ATTORNEY GENERAL'S

OFFICE IN ADDITION TO THE ENFORCEMENT DESCRIBED IN THIS SECTION.

40-10.1-410. Towing rules. UPON MAKING A FINDING THAT A TOWING PRACTICE HARMS THE PUBLIC INTEREST, THE COMMISSION MAY PROMULGATE RULES, AS NECESSARY, TO STOP OR CHANGE THE TOWING PRACTICE THAT HARMS THE PUBLIC INTEREST.

SECTION 12. In Colorado Revised Statutes, 6-1-105, **add** (1)(ttt) as follows:

6-1-105. Unfair or deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person:

(ttt) VIOLATES PART 4 OF ARTICLE 10.1 OF TITLE 40.

SECTION 13. In Colorado Revised Statutes, **amend** 38-20-105 as follows:

38-20-105. Lien of common carrier. (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, every common carrier of goods or passengers who, at the request of the owner of any personal goods, carries, conveys, or transports the same from one place to another and every other person who safely keeps or stores any personal property at the request of the owner or person lawfully in possession thereof shall have OF THE PERSONAL PROPERTY HAS a lien upon ~~all such~~ THE personal property for his reasonable charges for the transportation, storage, or keeping thereof OF THE PERSONAL PROPERTY and for all reasonable and proper advances made thereon by him THE COMMON CARRIER OR WAREHOUSE, in accordance with the usage and custom of common carriers and ~~warehousemen~~ WAREHOUSES.

(2) IN ACCORDANCE WITH SECTION 40-10.1-405 (5)(a), THIS SECTION DOES NOT GRANT A TOWING CARRIER A LIEN ON THE CONTENTS OF A VEHICLE IF THE VEHICLE WAS TOWED NONCONSENSUALLY, AS DEFINED IN SECTION 40-10.1-101 (13).

SECTION 14. Appropriation. (1) For the 2022-23 state fiscal year, \$109,475 is appropriated to the department of regulatory agencies for use by the public utilities commission. This appropriation is from the public utilities commission motor carrier fund created in section 40-2-110.5 (6), C.R.S. To implement this act, the commission may use this appropriation as follows:

(a) \$85,981 for personal services, which amount is based on an assumption that the commission will require an additional 1.4 FTE;

(b) \$17,761 for operating expenses; and

(c) \$5,733 for the purchase of vehicle lease services.

(2) For the 2022-23 state fiscal year, \$5,733 is appropriated to the department of personnel. This appropriation is from reappropriated funds received from the department of regulatory agencies under subsection (1)(c) of this section. To implement this act, the department of personnel may use this appropriation for

vehicle replacement lease/purchase services to the department of regulatory agencies.

SECTION 15. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; 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 will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 7, 2022