

**Second Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 02-1011.01 Thomas Morris

SENATE BILL 02-202

SENATE SPONSORSHIP

Takis

HOUSE SPONSORSHIP

Fritz

Senate Committees

Govt, Veterans & Military Relations, & Trans

House Committees

Transportation & Energy
Finance

HOUSE
3rd Reading Unamended
May 7, 2002

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF MOTOR VEHICLE CARRIERS**
102 **EXEMPT FROM REGULATION AS PUBLIC UTILITIES.**

HOUSE
Amended 2nd Reading
May 6, 2002

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Modifies definitions applicable to, and grants the public utilities commission rule-making authority over, motor carriers exempt from regulation as public utilities ("carriers"). Substitutes a registration requirement for a permit requirement for luxury limousines. Substitutes a public liability and property damage insurance requirement for a general liability insurance requirement for carriers and allows carriers to meet the requirement through a surety bond. Increases the registration fee for carriers from \$50 to \$150.

SENATE
3rd Reading Unamended
May 1, 2002

SENATE
Amended 2nd Reading
April 30, 2002

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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

2 **SECTION 1.** 40-16-101 (1), (1.3), (3), (3.3), (4), (5), (6.3), and
3 (8), Colorado Revised Statutes, are amended, and the said 40-16-101 is
4 further amended BY THE ADDITION OF A NEW SUBSECTION, to
5 read:

6 **40-16-101. Definitions.** As used in this article, unless the context
7 otherwise requires:

8 (1) "Charter basis" means on the basis of a contract for
9 **PREARRANGED** transportation, AT A FIXED CHARGE FOR THE MOTOR
10 VEHICLE, whereby a person agrees to provide exclusive use of a motor
11 vehicle to a single chartering party for a specific period of time during
12 which the chartering party shall have the exclusive right to direct the
13 operation of the vehicle, including, but not limited to, selection of the
14 origin, destination, route, and intermediate stops.

15 (1.3) "~~Charter or scenic bus~~" means a motor vehicle ~~for the~~
16 ~~transport of people, on a charter basis,~~ with a **minimum** PASSENGER
17 capacity of thirty-two ~~passengers~~ OR MORE that is hired to **provide**
18 ~~services for~~ TRANSPORT a person or group of persons ~~traveling from one~~
19 ~~location to another for~~ WHO, PURSUANT TO a common purpose, UNDER A
20 SINGLE CONTRACT, AND AT A FIXED CHARGE FOR THE MOTOR VEHICLE,
21 HAVE ACQUIRED EXCLUSIVE USE OF THE MOTOR VEHICLE TO TRAVEL
22 TOGETHER UNDER AN ITINERARY SPECIFIED IN ADVANCE; EXCEPT THAT THE
23 ITINERARY MAY BE MODIFIED AFTER THE MOTOR VEHICLE LEAVES THE
24 PLACE OF ORIGIN. A ~~charter or scenic bus~~ does not provide regular route
25 service from one location to another.

26 (3)(a) "Luxury limousine" means a chauffeur-driven ~~luxury~~ motor

1 vehicle with a ~~rear seating~~ PASSENGER capacity of ~~three or more~~
2 THIRTY-ONE OR LESS, THAT IS EITHER ORIGINALLY MANUFACTURED OR
3 CONVERTED TO BE A LUXURY MOTOR VEHICLE AND THAT IS OFFERED for
4 hire on a prearranged, charter basis to transport passengers in luxury
5 limousine service, AND that:

6 (I) ~~Is not identified by exterior signs or graphics other than license~~
7 ~~plates~~ UNLESS OTHERWISE REQUIRED BY LAW, HAS NO EXTERNAL
8 MARKINGS IDENTIFYING THE CARRIER'S BUSINESS; EXCEPT THAT THE
9 CARRIER'S NAME MAY BE MARKED ON THE SIDES OR THE FRONT AND REAR
10 OF THE VEHICLE IN LETTERS NO MORE THAN ONE INCH IN HEIGHT;

11 (II) Is not equipped with a taxicab meter or other device for
12 measuring time or mileage other than a factory-installed odometer;

13 _____
14 (III) ~~EXCEPT FOR AN EXECUTIVE SEDAN OR AN EXECUTIVE SPORT~~
15 ~~UTILITY VEHICLE, offers~~ luxury features that shall include, but need not
16 be limited to, television ~~telephone~~, and beverages as specified by rules of
17 the commission; and

18 (IV) In addition, qualifies for inclusion in one of the following
19 categories:

20 (A) Stretched limousine, which is a motor vehicle ~~originally~~
21 ~~designed as a luxury motor-driven passenger vehicle~~, whose wheelbase
22 has been lengthened beyond the manufacturer's original specifications,
23 whether at the manufacturer's factory or otherwise, and that meets
24 applicable standards of the federal department of transportation.

25 (B) Executive sedan, which is a full-size, four-door, luxury sedan.
26 ~~or sports utility vehicle with a seating capacity of at least five, not~~
27 ~~including the driver, that has not been altered from the manufacturer's~~

1 original specifications.

2 (C) Executive van, which is a FULL-SIZE, LUXURY van. with a rear
3 seating capacity of seven or more that may be of standard manufacturer's
4 specifications, but may have been altered from the manufacturer's original
5 specifications, and that meets applicable standards of the federal
6 department of transportation.

7 (D) Luxury vehicle, which is a luxury motor vehicle with a
8 seating capacity of no more than five, not including the driver, that either
9 has a National Automobile Dealers' Association (NADA) "blue book"
10 retail value exceeding fifty thousand dollars at the time of registration or
11 has a manufacturer's suggested retail price exceeding fifty thousand
12 dollars and was purchased new during the current model year by a luxury
13 limousine registrant. LIMOUSINE BUS, WHICH IS A LUXURY MOTORCOACH
14 OR BUS THAT MAY BE BUILT ON A CUT-AWAY CHASSIS AND IS LARGER THAN
15 AN EXECUTIVE VAN.

16 (E) Discretionary vehicle, which is any other luxury motor vehicle
17 that, in the commission's discretion, qualifies as a luxury limousine.
18 EXECUTIVE SPORT UTILITY VEHICLE, WHICH IS A FULL-SIZE, FOUR-DOOR,
19 LUXURY SPORT UTILITY VEHICLE.

20 (b) An applicant for a luxury vehicle registration pursuant to
21 sub-subparagraph (D) of subparagraph (IV) of paragraph (a) of this
22 subsection (3) shall supply proof of the value of the vehicle in the form
23 of either:

24 (I) Reference to the most recent available edition of the NADA
25 "blue book", where applicable; or

26 (II) A sales receipt and affidavit confirming the actual price of the
27 vehicle, where applicable. The fifty-thousand-dollar threshold value set

1 ~~forth in said sub-subparagraph (D) shall be adjusted annually, on July 1~~
2 ~~of each year, based upon the consumer price index for the~~
3 ~~Denver-Boulder-Greeley area as published by the federal bureau of labor~~
4 ~~statistics.~~

5 (c) "Luxury limousine" does not include a taxicab.

6 (d) If the commission questions whether a specific vehicle is a
7 luxury limousine, it may determine if such vehicle is a luxury limousine
8 when application is made for vehicle identification as required by section
9 40-2-110.5. SUCH DETERMINATION SHALL BE NARROWLY FOCUSED TO
10 ASSURE THAT SUCH VEHICLE IS COMMONLY USED IN THE LUXURY
11 LIMOUSINE INDUSTRY AND THAT IT PROVIDES SUBSTANTIAL INTERIOR
12 PASSENGER ROOM.

13 (3.3) "Luxury limousine service" means a specialized, luxurious
14 transportation service provided on a prearranged, charter basis. "Luxury
15 limousine service" does not include ~~taxicab~~ service BY TAXICAB or any
16 service provided between fixed points over regular routes at regular
17 intervals.

18 (4) "Motor vehicle carrier exempt from regulation as a public
19 utility" means persons who offer services as property carriers by motor
20 vehicle or who offer charter ~~or scenic~~ buses, luxury limousines, off-road
21 scenic charters, and children's activity bus services.

22 (5) "Off-road scenic charter" means a ~~motor-driven passenger~~
23 MOTOR vehicle WITH A PASSENGER CAPACITY OF THIRTY-ONE OR LESS for
24 the transport of passengers, on a charter basis, to scenic points within
25 Colorado, a portion of which will be travel off paved roads. "Off-road
26 scenic charter" does not include the transport of passengers to commercial
27 locations. An off-road scenic charter provides services that originate and

1 terminate at the same location.

2 (5.5) "PASSENGER CAPACITY" MEANS THE ADULT SEATING
3 CAPACITY ESTABLISHED BY THE MOTOR VEHICLE'S MANUFACTURER, OR
4 SUCH CAPACITY AS EXISTS AFTER MODIFICATIONS SUCH AS THOSE
5 DESCRIBED IN SUBSECTION (3) OF THIS SECTION, EXCLUDING THE DRIVER.

6 (6.3) "Prearranged", in reference to a transportation service,
7 means that the transportation has been arranged or reserved by mail,
8 telephone, telefacsimile, ~~or~~ computer, OR IN PERSON AT THE CARRIER'S
9 FIXED LOCATION OFFICE before the carrier begins to render the
10 transportation service or any service ancillary to the transportation, such
11 as loading of baggage.

12 (8) "Taxicab" means a ~~motor-driven passenger~~ MOTOR vehicle
13 WITH A PASSENGER CAPACITY OF SEVEN OR LESS, for public hire on a
14 call-and-demand basis, with the ~~user entitled to demand exclusive use of~~
15 ~~the vehicle and to designate any destination, route, or stops desired on the~~
16 ~~route~~ FIRST PASSENGER HAVING EXCLUSIVE USE OF THE VEHICLE UNLESS
17 SUCH PASSENGER AGREES TO MULTIPLE LOADING.

18 **SECTION 2.** 40-16-102.5, Colorado Revised Statutes, is
19 amended to read:

20 **40-16-102.5. Luxury limousines - operational requirements.**

21 Luxury limousine service shall be provided on a prearranged basis only.
22 A luxury limousine company shall, at all times when providing service,
23 carry in each vehicle a manifest or charter order containing the name, ~~and~~
24 pickup address, AND DATE AND TIME OF PICKUP of the passengers who
25 have arranged for use of the vehicle. Such manifest or charter order shall
26 be made available immediately upon request to any authorized
27 representative of the commission, a law enforcement agency, or an airport

1 authority, AND SHALL BE RETAINED BY THE LUXURY LIMOUSINE COMPANY
2 FOR A PERIOD OF AT LEAST SIX MONTHS. The fact that a luxury limousine
3 operator stations equipment at an airport, in front of or across the street
4 from a hotel or motel, or within one hundred feet of a recognized taxicab
5 stand without a completed charter order in the vehicle shall constitute
6 prima facie evidence that the operator is operating an illegal taxicab
7 service. ALUXURY LIMOUSINE COMPANY SHALL NOT MAINTAIN AN OFFICE
8 AT AN AIRPORT OR HOTEL UNLESS SUCH AIRPORT OR HOTEL IS A
9 CORPORATE AFFILIATE OF THE LUXURY LIMOUSINE COMPANY OR IS OWNED
10 BY THE SAME SOLE PROPRIETOR OR PARTNERSHIP AS THE LUXURY
11 LIMOUSINE COMPANY. FOR PURPOSES OF THIS SECTION, "CORPORATE
12 AFFILIATE" MEANS A SUBSIDIARY CORPORATION OF THE LUXURY
13 LIMOUSINE COMPANY, THE PARENT CORPORATION OF THE LUXURY
14 LIMOUSINE COMPANY, OR A SUBSIDIARY OF THE PARENT CORPORATION OF
15 THE LUXURY LIMOUSINE COMPANY.

16 **SECTION 3.** 40-16-103.5, Colorado Revised Statutes, is
17 amended to read:

18 **40-16-103.5. Luxury limousines - previously registered**
19 **vehicles.** All vehicles registered as luxury limousines on or before June
20 30, ~~1998~~ 2002, shall maintain their registration status so long as the
21 luxury limousine ~~permit~~ REGISTRATION under which they were originally
22 registered remains continuously active and is not revoked.

23 **SECTION 4.** Article 16 of title 40, Colorado Revised Statutes,
24 is amended BY THE ADDITION OF A NEW SECTION to read:

25 **40-16-103.8. Commission to promulgate rules.** (1) THE
26 COMMISSION SHALL PROMULGATE SUCH RULES GOVERNING THE
27 OPERATIONS OF MOTOR VEHICLE CARRIERS EXEMPT FROM REGULATION AS

1 PUBLIC UTILITIES AS MAY BE NECESSARY FOR THE EFFECTIVE
2 ADMINISTRATION OF THIS ARTICLE.

3 (2) IN PROMULGATING SUCH RULES, THE COMMISSION MAY REVIEW
4 INFORMATION AVAILABLE FROM THE AUTOMOTIVE INDUSTRY, THE
5 LIMOUSINE INDUSTRY, THE AUTOMOBILE RENTAL INDUSTRY, AND ANY
6 OTHER APPROPRIATE SOURCE, AND THE COMMISSION MAY INCORPORATE
7 APPROPRIATE MATERIAL BY REFERENCE AS PROVIDED BY APPLICABLE LAW.

8 **SECTION 5.** The introductory portion to 40-16-104 (1) and
9 40-16-104 (1) (a), (1) (b), (1) (c), (1) (d), and (2), Colorado Revised
10 Statutes, are amended to read:

11 **40-16-104. Insurance and surety bond requirements.** (1) Each
12 motor vehicle carrier exempt from regulation as a public utility shall
13 maintain ~~a general~~ PUBLIC LIABILITY AND PROPERTY DAMAGE insurance
14 ~~policy~~, OR A SURETY BOND or, if such carrier is a public entity, a
15 certificate of self-insurance in lieu thereof, issued pursuant to section
16 42-7-501, C.R.S., at the option of the public entity. Such an insurance
17 policy shall be issued by some insurance carrier or insurer authorized to
18 do business in Colorado for each motor vehicle of such carrier, SUCH
19 SURETY BOND SHALL BE ISSUED BY A COMPANY AUTHORIZED TO DO SO, and
20 such certificate of self-insurance shall be issued by the executive director
21 of the department of revenue. For those motor vehicle carriers exempt
22 from regulation as public utilities specified in paragraphs (a) to (f) of this
23 subsection (1), such liability insurance OR SURETY BOND shall be in the
24 following minimum amounts:

25 (a) For charter ~~or scenic~~ buses, a minimum amount of five million
26 dollars combined single limit liability or in the case of public entities
27 operating such buses, the maximum amount that may be recovered from

1 a public entity under section 24-10-114 (1), C.R.S.;

2 (b) For luxury limousines AND OFF-ROAD SCENIC CHARTERS:

3 (I) A minimum amount of one million dollars combined single
4 limit liability for vehicles with a passenger capacity of fourteen or less;

5 AND

6 (II) A minimum amount of one million five hundred thousand
7 dollars combined single limit liability for vehicles with a passenger
8 capacity of more than fourteen and less than thirty-two. and

9 ~~(III) A minimum amount of five million dollars combined single~~
10 ~~limit liability for vehicles with a passenger capacity of thirty-two or more.~~

11 ~~(c) For off-road scenic charters, a minimum amount of one~~
12 ~~million dollars combined single limit liability;~~

13 (d) For children's activity buses, a minimum amount of one
14 million dollars combined single limit liability. If the vehicle being used
15 has a PASSENGER capacity ~~for~~ OF thirty-two or more, ~~passengers,~~
16 disclosure shall be made to the lessor of such vehicle that the liability
17 limits are lower than those for charter ~~or scenic~~ buses pursuant to
18 paragraph (a) of this subsection (1).

19 (2) Each motor vehicle carrier exempt from regulation as a public
20 utility shall maintain with the public utilities commission of this state
21 adequate written documentation that such carrier maintains ~~a general~~
22 PUBLIC liability AND PROPERTY DAMAGE insurance ~~policy,~~ OR A SURETY
23 BOND or, for public entities, a certificate of self-insurance, in accordance
24 with this section. No termination of such insurance policy OR SURETY
25 BOND shall be valid unless the insurer OR SURETY has notified the holder
26 of the policy and the public utilities commission of this state at least thirty
27 days prior to such termination.

1 **SECTION 6.** 40-16-110 (3) (a), (4), and (5) (b), Colorado
2 Revised Statutes, are amended to read:

3 **40-16-110. Legislative declaration - federal preemption -**
4 **registration fees - issuance by ports of entry.** (3) (a) ~~On or before~~
5 ~~January 1, 1996, every property carrier holding a certificate or permit~~
6 ~~issued by the public utilities commission under article 10 or 11 of this~~
7 ~~title shall surrender such certificate or permit to the commission.~~

8 (4) (a) ~~No person shall operate as a property carrier by motor~~
9 ~~vehicle without first obtaining a certificate of registration from the~~
10 ~~commission; except that, prior to January 1, 1996, a carrier subject to~~
11 ~~subsection (3) of this section may treat a certificate or permit not yet~~
12 ~~surrendered as the equivalent of such certificate of registration.~~

13 (b) The commission shall issue a certificate of registration to a
14 ~~property carrier by motor vehicle~~ CARRIER EXEMPT FROM REGULATION AS
15 A PUBLIC UTILITY upon COMPLETION OF THE REGISTRATION AND
16 INSURANCE REQUIREMENTS OF THIS ARTICLE AND submission of a filing
17 fee of ONE HUNDRED fifty dollars by the carrier.

18 (5) (b) Fees collected pursuant to SUBSECTION (4) OF THIS SECTION
19 AND this subsection (5) shall be credited to the public utilities commission
20 motor carrier fund.

21 **SECTION 7. Effective date.** This act shall take effect at 12:01
22 a.m. on the day following the expiration of the ninety-day period after
23 final adjournment of the general assembly that is allowed for submitting
24 a referendum petition pursuant to article V, section 1 (3) of the state
25 constitution; except that, if a referendum petition is filed against this act
26 or an item, section, or part of this act within such period, then the act,
27 item, section, or part, if approved by the people, shall take effect on the

- 1 date of the official declaration of the vote thereon by proclamation of the
- 2 governor.