

# Transportation Regulation

Title 40, Article 10.1, C.R.S., provides the structure of PUC regulatory authority over The motor carrier industries. There are 5 parts to Article 10.1

## Part 1

- **Definition of terms used within the Article (10.1-101)**
- **Powers of the Commission. (10.1-102)**
  - "The commission has the power to and shall administer and enforce this article.
- **Subject to control by commission. (10.1-103)**
  - Common and contract carriers are public utilities and affected with a public interest and subject to Article 10.1 and 1-7.
  - Motor carriers are NOT public utilities, but affected with a public interest and subject to regulation to the extent provided in Article 10.1, and applicable provisions of Articles 2, 6 and 7.
  - A person shall not operate or offer to operate as a motor carrier in this state except in accordance with this article (10.1-104)
- **Transportation not subject to regulation.(10.1-105)**
  - private, ridesharing, children to and from school, hearses, ambulances, people service, volunteer
  - Transportation by motor vehicles designed and used for nonemergency transportation of people with disabilities
  - Transportation of property, except towing and household goods.
  - Transportation by vehicles operated upon fixed rails
  - Transportation performed by the Federal Government
  - Transportation of repossessed property by a secured creditor
- **C3 authority - make rules & prescribe rates. (10.1-106)**
  - Rules covering the operations of mc's and admin of article
    - Ensure public safety, financial responsibility, consumer protection,
    - Service quality, provision of service to public
  - Circumstances under which a towing carrier may perform a nonconsensual tows
    - The rates and charges which may be collected
  - Administration of fingerprint-based criminal history record check(taxi, limited regulation)
- **Financial responsibility - filing (10.1-107)**
  - Each motor carrier shall maintain and file with the Commission evidence of financial responsibility
  - Policies shall be kept continuously effective during the life of the certificate or permit
  - No termination is valid unless the insurer notifies both the insured and the Commission at least 30 days before the effective date
- **C3 to make safety rules (10.1-108)**
  - Commission has the authority and duty to establish safety rules
  - Limited to parts 2 and 3 (common, contract, and limited regulation)
  - Motor carriers subject to parts 2 and 3 must comply with safety rules (10.1-109)
- **Criminal history record checks (10.1-110)**
  - Individuals wishing to drive either a taxi or vehicle operated by a limited regulation carrier are subject to record check
- **Filing, issuance, annual fees (10.1-111)**
  - Part 2 filing fee \$35 (taxi in metro area administratively set (\$800))
  - Part 4 filing fee is \$150 annual fee
  - Part 5 filing fee - administratively set <=\$325
  - Stamp fee - administratively set, currently \$5

- **Commission may take action against a cert or permit (10.1-112)**
  - After hearing, upon notice and proof of violation
    - Order to cease and desist
    - Suspend, revoke, alter, amend certificate or permit
    - Summary suspension for failure to maintain effective insurance
  - Certificates or permits revoked for cause (not insurance) more than twice
    - Not eligible for a certificate or permit for a period of two years.
  - Motor carriers have the rights of hearing, review and appeal
- **Penalties for violations (10.1-113 and 114)**
  - Class 2 misdemeanor
  - Subject to civil penalties provided in sections 40-7-112 through 116, C.R.S.

## Part 2 Common and Contract carriage

### Common carrier definition -

every person directly or indirectly affording a means of Transportation, or any service of facility in connection therewith, within this state By motor vehicle or other vehicle whatever by indiscriminately accepting and carrying Passengers for compensation (Excludes service identified in 105 (not regulated) or parts 3, 4, or 5)

### Contract carrier definition -

every person, other than a common carrier or a motor carrier of passengers under part 3, who by special contract directly or indirectly affords a means of passenger transportation over any public highway of this state.

Depending on the area and proposed service, there are now a variety of standards which must be applied by the Commission before an applicant is allowed entry. These standards are subjective, complex, and difficult to interpret.

### Certificate or permit is required (10.1-201 and 202)

#### Rules for issuance of Certificate (10.1-203)

- Taxi service within and between counties of < 70K - regulated monopoly.
- Taxi service within and between counties of >=70K - regulated competition.
- Taxi service in the counties of Adams, Arapahoe, Boulder, Denver, Douglas, El Paso and Jefferson - modified regulated competition.
- Non Taxi service (statewide) - regulated monopoly.

For every transportation application adjudicated before the Commission, the Commission must make multiple findings.

- First, C3 must make a determination regarding public need.
  - Then, in the case of regulated monopoly, it must determine if the incumbent service is substantially inadequate, or
  - in the case of regulated competition, that the grant of an application would or would not create destructive competition.
- In cases of a modified regulated competition entry standard
  - Applicant has initial burden of proving it is operationally and financially fit
  - Applicant need not prove inadequacy of existing taxicab service
  - If applicant sustains this burden, there is a rebuttable presumption of public need and any party opposing the application shall prevail upon proving that the public convenience and necessity does not require granting the app.
- These findings are made in each and every transportation application that comes



before the Commission.

### **Temporary Authority - (10.1-204)**

If there is an immediate and urgent need to any point having no such service the Commission may without hearing grant temporary authority

- Temporary authority - valid for a period not to exceed 180 days
- Emergency authority - valid for a period not to exceed 30 days

### **Transfer of Authority - (10.1-205)**

The rights obtained under a certificate or permit that are held, owned, or obtained may be sold, assigned, leased, encumbered, or transferred as other property, subject to Commission approval.

### **Rates (10.1-206)**

- Common carriers must advertise and charge the rates on file with the Commission
- Contract carriers - when competing with common carriers - rates must not be less than common carriers
- Rates must be on file with the Commission

## **Part 3 Limited regulation carriers**

Charter Scenic Bus, Children's Activity Bus, Luxury Limousine, Fire Crew Transport, Off-road Charter

- PUC must issue permit upon filing of application and filing of proof-of-Insurance
- No application fee
- \$5 per vehicle annual fee
- Carriers are subject to specific operational restrictions (i.e. charter, school activities, off paved roads)
- Subject to safety oversight,
- Drivers for carriers are subject to finger print based back ground checks
- Must be revoked 3 times before the Commission can refuse to issue

## **Part 4 Towing carriers**

Permits are valid for a period of 1 year.

Application/renewal fee of \$150

PUC must issue permit upon filing of application, filing of proof-of-workers Compensation Insurance and proof of financial responsibility (liability, cargo, garage keepers)

\$5 per vehicle annual fee

Rate regulation for nonconsensual tows

C3 may revoke permit for violation of Article or failure to pay civil penalty

C3 may deny an app of someone who has been convicted of a felony, or failed to pay a Civil penalty. Owners, principals, officers, member or directors may be disqualified from obtaining permit for a period of five years for failure to pay civil penalty.

PUC doe NOT receive any financial gain from payment of civil penalties.

PUC and CSP may inspect carrier's facilities and vehicles.

## **Part 5 HHG carriers**

Permits are valid for a period of 1 year.

Application/renewal fee of \$325

Not subject to annual vehicle fee

C3 shall issue a permit upon completion of app and compliance with financial responsibility (liability and cargo insurance)

Temporary permits (15 days) may be issued by POE

App may be denied for failure to pay civil penalty includes directors, officers, owners, or

### General partners

A mover w/o a permit is not able to acquire a mover's lien (10.1-503)

Additional requirements for movers - advertising, contracts, delivery and storage, binding arbitration (10.1-504 - 507)

## Article 10.5 Unified Carrier Registration System

Registration is required of motor carriers, motor private carriers, brokers, freight forwarders, leasing companies, or other person required to register with the US DOT.

PUC administers the program for the State of Colorado

Promulgates rules for administration and enforcement of this article

## PUC Transportation Section

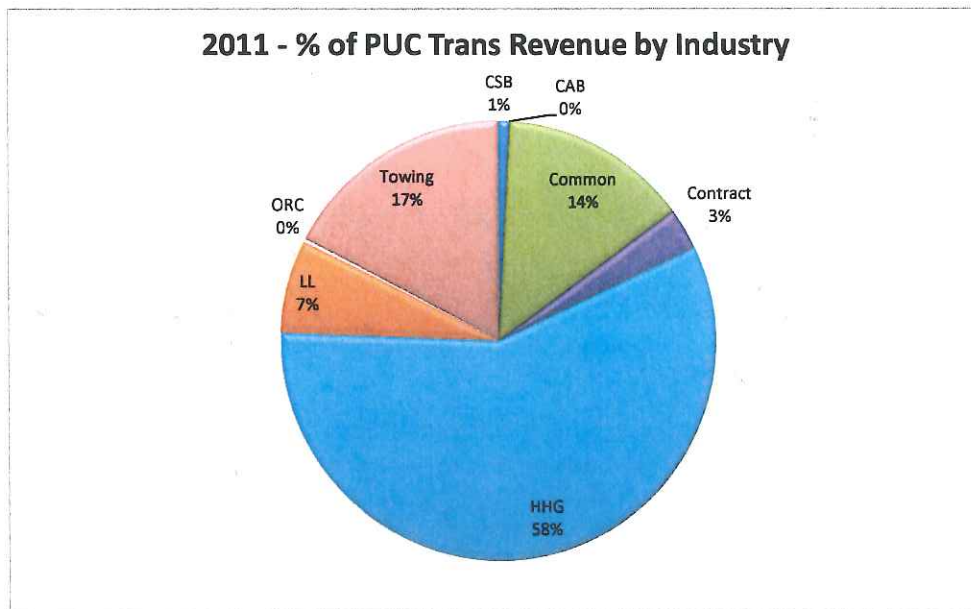
### Rates and Authorities - 4 FTE (Rate/Financial Analysts)

Reactive - processes applications as they are filed, prepares notices of applications advises commission on docketed transportation issues, analyzes rate filings

### Compliance and investigations - 3 FTE (Criminal Investigators)

Proactive - vehicle inspections, record inspections, complaint investigations, initiate enforcement actions, party to said proceedings.

## PUC Transportation Section Funding (Non UCR)



### 2011 Revenue by Permit Type:

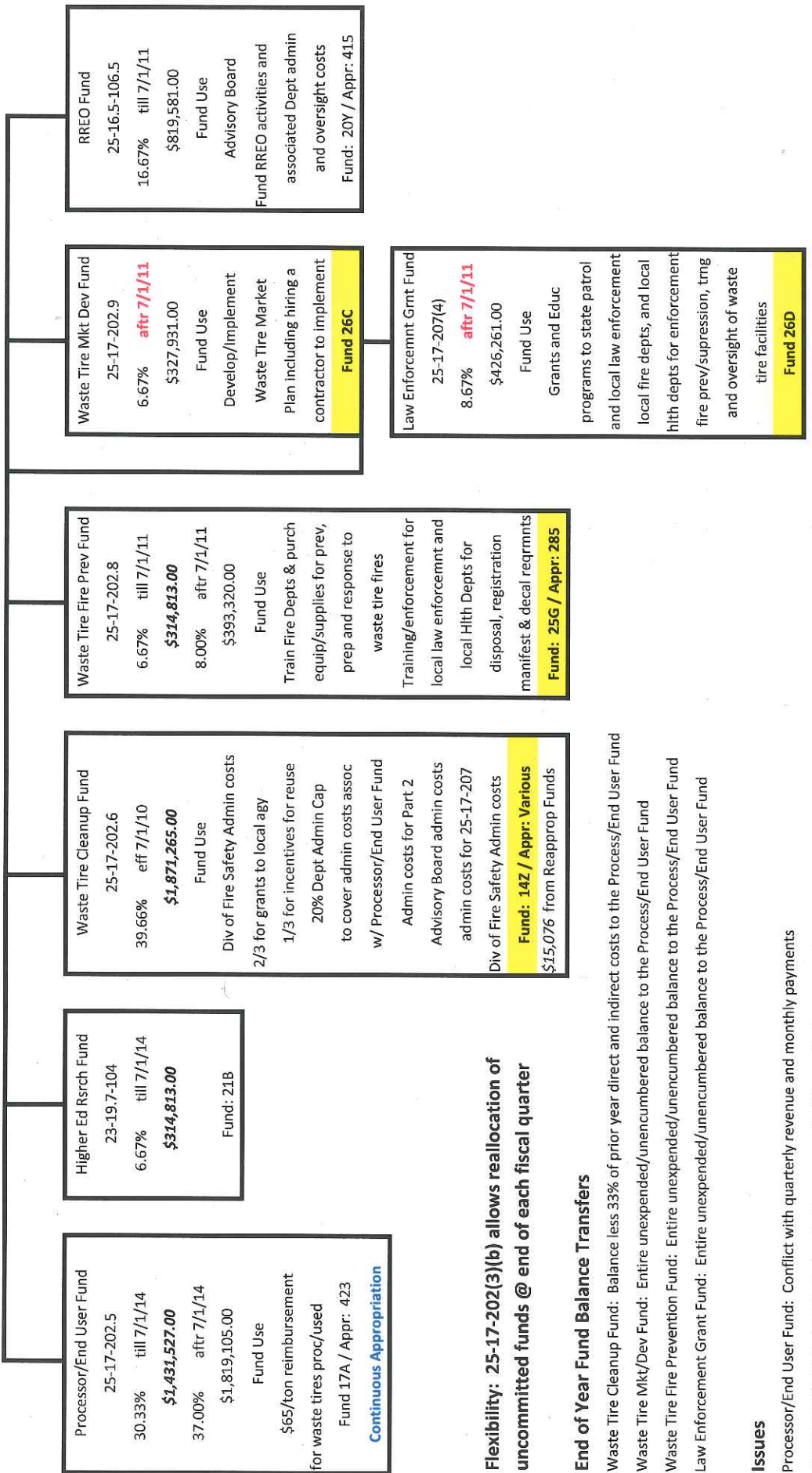
CAB	\$10	CSB	\$1,060	Common	\$17,045	Contract	\$3,740
HHG	\$69,500	LL	\$8,255	ORC	\$320	Towing	\$20,940
						Total:	\$120,870

UCR Revenue: \$1,476,514

# HB 10-1018 Waste Tire Bill

Revenue: \$1.50 per new tire sold      Tires Sold: 3,333,333  
 Estimated Total Revenue: \$5,000,000

Dept of Revenue  
 25-17-202(3)(a)  
 1.67% for Admin  
 \$83,500.00



**Flexibility: 25-17-202(3)(b) allows reallocation of uncommitted funds @ end of each fiscal quarter**

**End of Year Fund Balance Transfers**

Waste Tire Cleanup Fund: Balance less 33% of prior year direct and indirect costs to the Process/End User Fund  
 Waste Tire Mkt/Dev Fund: Entire unexpended/unencumbered balance to the Process/End User Fund  
 Waste Tire Fire Prevention Fund: Entire unexpended/unencumbered balance to the Process/End User Fund  
 Law Enforcement Grant Fund: Entire unexpended/unencumbered balance to the Process/End User Fund

**Issues**

Processor/End User Fund: Conflict with quarterly revenue and monthly payments  
 Revenue Estimates: Unclear as to whether revenue is either cyclical or seasonal