

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0886.01 Duane Gall x4335

HOUSE BILL 12-1327

HOUSE SPONSORSHIP

Coram,

SENATE SPONSORSHIP

Roberts and King S.,

House Committees

Transportation

Finance

Senate Committees

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that

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.

applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)

The bill repeals the requirement for a \$50,000 surety bond that was added to the statutes governing towing carriers in 2011 and provides instead that a towing carrier that fails to pay a fine for violating applicable statutory or regulatory requirements is subject to:

- ! Immediate revocation of its operating authority; and
- ! A prohibition on reapplying for new authority for a period of 5 years.

The bill imposes the 5-year period of disqualification on the towing carrier and on its owners, principals, officers, members, partners, directors, and affiliated companies.

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

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

4 **40-10.1-111. Filing, issuance, and annual fees - repeal.** (1) A
5 motor carrier shall pay the commission the following fees in amounts
6 prescribed in this section or, if not so prescribed, as set administratively
7 by the commission with approval of the executive director of the
8 department of regulatory agencies:

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

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

16 (B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1,
17 2014.

18 **SECTION 2.** In Colorado Revised Statutes, **amend** 40-10.1-401

1 as follows:

2 **40-10.1-401. Permit requirements.** (1) (a) A person shall not
3 operate or offer to operate as a towing carrier in intrastate commerce
4 without first having obtained a permit therefor from the commission in
5 accordance with this article.

6 (b) A person may apply for a permit under this part 4 to the
7 commission in such form and with such information as the commission
8 may require. PERMITS ARE VALID FOR ONE YEAR AFTER THE DATE OF
9 ISSUANCE.

10 (2) The commission may deny an application under this part 4 of
11 a person who has, within the immediately preceding five years, been
12 convicted of, or pled guilty or nolo contendere to, a felony. THE
13 COMMISSION MAY ALSO DENY AN APPLICATION UNDER THIS PART 4 OR
14 REFUSE TO RENEW THE PERMIT OF A TOWING CARRIER BASED UPON A
15 DETERMINATION THAT THE TOWING CARRIER OR ANY OF ITS OWNERS,
16 PRINCIPALS, OFFICERS, MEMBERS, PARTNERS, OR DIRECTORS HAS NOT
17 SATISFIED A CIVIL PENALTY ARISING OUT OF ANY ADMINISTRATIVE OR
18 ENFORCEMENT ACTION BROUGHT BY THE COMMISSION.

19 (3) (a) Except as otherwise provided in subsection (2) of this
20 section and section 40-10.1-112 (4), the commission shall issue a permit
21 to a towing carrier upon completion of the application, the filing of proof
22 of workers' compensation insurance coverage in accordance with the
23 "Workers' Compensation Act of Colorado", articles 40 to 47 of title 8,
24 C.R.S., the filing of proof of a surety bond in the amount of at least fifty
25 thousand dollars, and with the financial responsibility requirements of this
26 article, and may attach to such THE permit and to the exercise of the rights
27 granted by the permit such restrictions, terms, and conditions, including

1 altering the rates and charges of such THE applicant, as are reasonably
2 deemed necessary for the protection of the property of the public. The
3 surety bond must be made payable to the commission and is for the
4 purpose of paying any civil penalty assessments against the carrier that
5 the carrier fails to pay when due.

6 (b) A towing carrier that held a current and valid permit on
7 August 10, 2011, must file proof of workers' compensation insurance
8 coverage and of the surety bond as required by paragraph (a) of this
9 subsection (3) on or before December 31, 2011. IF A TOWING CARRIER
10 VIOLATES THIS ARTICLE, ANY OTHER APPLICABLE PROVISION OF LAW, OR
11 ANY RULE OR ORDER OF THE COMMISSION ISSUED UNDER THIS ARTICLE
12 AND AS A RESULT IS ORDERED BY A COURT OR BY THE COMMISSION TO PAY
13 A FINE OR CIVIL PENALTY THAT THE TOWING CARRIER SUBSEQUENTLY
14 FAILS TO PAY IN FULL WITHIN THE TIME PRESCRIBED FOR PAYMENT, THEN:

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

17 (II) THE TOWING CARRIER, ITS OWNERS, PRINCIPALS, OFFICERS,
18 MEMBERS, PARTNERS, AND DIRECTORS, AND ANY OTHER ENTITY OWNED
19 OR OPERATED BY ONE OR MORE OF THOSE OWNERS, PRINCIPALS, OFFICERS,
20 MEMBERS, PARTNERS, OR DIRECTORS, MAY BE DISQUALIFIED FROM
21 OBTAINING OR RENEWING ANY OPERATING AUTHORITY UNDER THIS
22 ARTICLE FOR A PERIOD OF FIVE YEARS AFTER THE DATE ON WHICH THE FINE
23 OR CIVIL PENALTY WAS DUE. THE PERIOD OF DISQUALIFICATION PURSUANT
24 TO THIS SUBPARAGRAPH (II) IS IN ADDITION TO, AND NOT IN LIEU OF, AND
25 DOES NOT AFFECT, ANY OTHER PENALTY OR PERIOD OF DISQUALIFICATION,
26 INCLUDING THE PERIOD OF DISQUALIFICATION SPECIFIED IN SECTION
27 40-10.1-112 (4).

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

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

7 **40-10.1-402. Verification of authority - notice of requirement**
8 **for designated license plates - rules - repeal.** (1) (a) THE COMMISSION
9 SHALL EITHER:

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

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

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

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

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

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

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

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

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

18 (3) (a) A PERSON PROVIDING TOWING CARRIER SERVICES USING A
19 MOTOR VEHICLE THAT WAS REGISTERED ON JANUARY 1, 2013, IS NOT
20 REQUIRED TO OBTAIN TOW TRUCK LICENSE PLATES UNTIL THE VEHICLE IS
21 SCHEDULED FOR RENEWAL OF THE CURRENT REGISTRATION. UPON
22 RENEWING A REGISTRATION FOR A TOW TRUCK REGISTERED UNDER THIS
23 ARTICLE, THE DEPARTMENT SHALL ISSUE TOW TRUCK LICENSE PLATES FOR
24 THE VEHICLE IN ACCORDANCE WITH THIS SECTION.

25 (b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JANUARY 1,
26 2014.

27 (4) A PERSON SHALL NOT OPERATE A MOTOR VEHICLE WITH TOW

1 TRUCK LICENSE PLATES OR TEMPORARY TOW TRUCK LICENSE PLATES
2 UNLESS THE MOTOR VEHICLE TO WHICH THE PLATES ARE ATTACHED IS
3 REQUIRED BY SUBSECTION (2) OF THIS SECTION TO BEAR TOW TRUCK
4 LICENSE PLATES.

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

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

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

24 **SECTION 5. Effective date - applicability.** This act takes effect
25 upon passage and applies to towing carriers that applied for permits on,
26 before, or after said date.

27 **SECTION 6. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.