

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 13-0770.01 Jery Payne x2157

SENATE BILL 13-189

SENATE SPONSORSHIP

Heath,

HOUSE SPONSORSHIP

Tyler,

Transportation
Finance
Appropriations

Transportation & Energy
Appropriations

A BILL FOR AN ACT

101 **CONCERNING CIVIL PENALTIES IMPOSED ON MOTOR CARRIERS FOR**
102 **LEGAL VIOLATIONS, AND, IN CONNECTION THEREWITH, MAKING**
103 **AN APPROPRIATION.**

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

Currently, all civil penalties collected by the public utilities commission (commission) are credited to the general fund. **Sections 1 and 4** of the bill allocate half the civil penalties collected from movers of household goods to an outreach fund. The fund is used to educate

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.

HOUSE
Amended 2nd Reading
May 3, 2013

SENATE
3rd Reading Unamended
April 24, 2013

SENATE
Amended 2nd Reading
April 23, 2013

consumers about their rights and the responsibilities of movers.

Currently, the commission may deny or cancel a motor carrier's registration if the carrier fails to pay a second or subsequent civil penalty. **Section 2** only permits the commission to deny or cancel the carrier's registration if any civil penalty is not paid.

If a civil penalty is not paid, **sections 3 and 4** authorize the commission to revoke the permit of a mover or owner or operator of a charter bus, children's activity bus, fire crew transport, luxury limousine, or off-road scenic charter.

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

SECTION 1. In Colorado Revised Statutes, 40-7-112, **amend** (1) as follows:

40-7-112. Applicability of civil penalties. (1) (a) A person who operates or offers to operate as a motor carrier as defined in section 40-10.1-101 or a motor carrier, motor private carrier, broker, freight forwarder, leasing company, or other person required to register under section 40-10.5-102 is subject to civil penalties as provided in this section and sections 40-7-113 to 40-7-116, ~~which shall be paid and credited to the general fund,~~ in addition to any other sanctions that may be imposed pursuant to law.

(b) THE COMMISSION SHALL TRANSMIT ALL PENALTIES IT COLLECTS TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE GENERAL FUND; EXCEPT THAT THE STATE TREASURER SHALL CREDIT ONE-HALF OF ANY CIVIL PENALTY IMPOSED UPON A MOTOR CARRIER OF HOUSEHOLD GOODS TO THE MOVING OUTREACH FUND CREATED IN SECTION 40-10.1-509.

SECTION 2. In Colorado Revised Statutes, 40-7-113, **amend** (5) (a) as follows:

40-7-113. Civil penalties - fines. (5) (a) A person who fails to

1 pay in full all civil penalties for a second or subsequent violation assessed
2 by commission order pursuant to UNDER this section, subject to article 4
3 of title 24, C.R.S., within thirty days after the due date established by the
4 order may be subject to have his or her vehicle registration cancelled by
5 the department of revenue as specified in section 42-3-120 (4), C.R.S.
6 Registration of any vehicles A VEHICLE owned by the person for which the
7 penalty was assessed may be denied until all penalties are paid or
8 collected. Upon written notice from the commission, the department of
9 revenue shall cancel the registration as specified in section 42-3-120 (4),
10 C.R.S.

11 **SECTION 3.** In Colorado Revised Statutes, 40-10.1-302, **amend**
12 (2); and **add** (3) and (4) as follows:

13 **40-10.1-302. Permit requirements.** (2) Except as otherwise
14 provided in ~~section 40-10.1-112 (4)~~ SUBSECTION (3) OF THIS SECTION, the
15 commission shall issue a permit to a motor carrier of passengers under
16 this part 3 upon completion of the application and compliance with the
17 financial responsibility requirements of this article.

18 (3) A PERSON WHOSE PERMIT HAS BEEN REVOKED FOR CAUSE IS
19 NOT ELIGIBLE FOR ANOTHER PERMIT FOR TWO YEARS AFTER THE DATE OF
20 REVOCATION. IF AN ENTITY'S PERMIT HAS BEEN REVOKED, THE TWO-YEAR
21 INELIGIBILITY ALSO APPLIES TO THE ENTITY'S PRINCIPLES, OFFICERS,
22 DIRECTORS, AND MEMBERS OF THE ENTITY, EXCEPT FOR A REVOCATION
23 FOR FAILURE TO CARRY INSURANCE UNLESS THE PERSON KNOWINGLY
24 OPERATED A MOTOR CARRIER WITHOUT INSURANCE.

25 (4) IN ORDER TO OBTAIN A PERMIT UNDER THIS SECTION, AN
26 APPLICANT MUST HAVE EACH VEHICLE OPERATED UNDER THE PERMIT
27 INSPECTED WITHIN THE IMMEDIATELY PRECEDING TWENTY DAYS BY A

1 QUALIFIED MECHANIC IN ACCORDANCE WITH RULES PROMULGATED BY THE
2 COMMISSION. THE APPLICANT MUST ALSO ATTACH A REPORT SHOWING
3 EACH VEHICLE PASSED INSPECTION.

4 **SECTION 4.** In Colorado Revised Statutes, **add** 40-10.1-304 as
5 follows:

6 **40-10.1-304. Revocation of permit for failure to pay fine.**

7 (1) IF A CARRIER THAT HOLDS A PERMIT UNDER THIS PART 3 FAILS TO PAY
8 A FINE OR CIVIL PENALTY IMPOSED UNDER THIS ARTICLE OR A RULE ISSUED
9 UNDER THIS ARTICLE WITHIN THE TIME PRESCRIBED FOR PAYMENT, THE
10 COMMISSION MAY IMMEDIATELY REVOKE THE CARRIER'S PERMIT AND
11 DISQUALIFY THE CARRIER FROM APPLYING FOR A PERMIT FOR ANY OF THE
12 FOLLOWING FOR THREE YEARS AFTER THE DATE THE FINE OR CIVIL
13 PENALTY IS DUE:

14 (a) THE CARRIER;

15 (b) ANY OWNER, PRINCIPAL, OFFICER, MEMBER, PARTNER, OR
16 DIRECTOR OF THE CARRIER; AND

17 (c) ANY OTHER ENTITY OWNED OR OPERATED BY THAT OWNER,
18 PRINCIPAL, OFFICER, MEMBER, PARTNER, OR DIRECTOR.

19 (2) THIS DISQUALIFICATION IS IN ADDITION TO AND NOT IN LIEU OF
20 ANY OTHER PENALTY OR DISQUALIFICATION, INCLUDING THE PERIOD OF
21 DISQUALIFICATION SPECIFIED IN SECTION 40-10.1-112 (4).

22 **SECTION 5.** In Colorado Revised Statutes, **add** 40-10.1-508 and
23 40-10.1-509 as follows:

24 **40-10.1-508. Revocation of permit for failure to pay fine.**

25 (1) IF A MOVER THAT HOLDS A PERMIT UNDER THIS SECTION FAILS TO PAY
26 A FINE OR CIVIL PENALTY IMPOSED UNDER THIS PART 5 OR A RULE ISSUED
27 UNDER THIS ARTICLE WITHIN THE TIME PRESCRIBED FOR PAYMENT, THE

1 COMMISSION MAY IMMEDIATELY REVOKE THE MOVER'S PERMIT AND
2 DISQUALIFY THE MOVER FROM APPLYING FOR A PERMIT FOR ANY OF THE
3 FOLLOWING FOR THREE YEARS AFTER THE DATE THE FINE OR CIVIL
4 PENALTY IS DUE:

5 (a) THE MOVER;

6 (b) ANY OWNER, PRINCIPAL, OFFICER, MEMBER, PARTNER, OR
7 DIRECTOR OF THE MOVER; AND

8 (c) ANY OTHER ENTITY OWNED OR OPERATED BY THAT OWNER,
9 PRINCIPAL, OFFICER, MEMBER, PARTNER, OR DIRECTOR.

10 (2) THIS DISQUALIFICATION IS IN ADDITION TO AND NOT IN LIEU OF
11 ANY OTHER PENALTY OR DISQUALIFICATION, INCLUDING THE PERIOD OF
12 DISQUALIFICATION SPECIFIED IN SECTION 40-10.1.112 (4).

13 **40-10.1-509. Outreach - fund.** THE MOVING OUTREACH FUND IS
14 HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF
15 ONE-HALF THE PENALTIES COLLECTED FROM MOVERS AND CREDITED TO
16 THE FUND UNDER SECTION 40-7-112. THE COMMISSION SHALL USE THE
17 FUND TO EDUCATE CONSUMERS ABOUT THEIR RIGHTS AND THE
18 RESPONSIBILITIES OF MOVERS UNDER THIS PART 5. THIS OUTREACH
19 INCLUDES PUBLIC SERVICE ANNOUNCEMENTS ABOUT THE LICENSING OF
20 MOVERS. THE MONEYS IN THE FUND AND ANY INTEREST EARNED ON
21 MONEYS IN THE FUND REMAIN IN THE FUND AND DO NOT REVERT TO THE
22 GENERAL FUND AT THE END OF ANY FISCAL YEAR.

23 **SECTION 6. Appropriation.** In addition to any other
24 appropriation, there is hereby appropriated, out of any moneys in the
25 moving outreach fund created in section 40-10.1-509, Colorado Revised
26 Statutes, not otherwise appropriated, to the department of regulatory
27 agencies, for the fiscal year beginning July 1, 2013, the sum of \$5,000, or

1 so much thereof as may be necessary, for allocation to the executive
2 director's office and administrative services for consumer outreach and
3 education related to the implementation of this act.

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