

(Decision No. C93-117)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF PROPOSED)
RULES REGARDING CIVIL)
PENALTIES FOR CARRIERS,)
4 CCR 723-22)
)

DOCKET NO. 92R-689

Mailing Date: January 29, 1993
Adopted Date: January 27, 1993

NOTICE OF PROPOSED RULEMAKING CONCERNING
CIVIL PENALTIES FOR CARRIERS

BY THE COMMISSION:

The Colorado Public Utilities Commission hereby gives notice of proposed rulemaking regarding civil penalties for carriers, 4 CCR 723-22. The intent of the proposed rules is to revise certain existing rule numbers to correspond to the numbering contained in the Commission's rules Governing Common Carriers by Motor Vehicle, revised March 3, 1991, and the rules Governing Contract Carriers by Motor Vehicle, revised January 30, 1991; to replace current rules 9 and 10 concerning interstate motor carriers with a new rule 9; to change the penalties for certain violations of Commission safety rules governing common carriers, contract carriers, carriers of household goods by motor vehicle, and motor

carriers exempt for regulation as public utilities; and to prescribe penalties for repeat violations of specified Commission rules. A copy of the proposed rules (i.e. proposed amendments to 4 CCR 723-22) is attached to this notice of proposed rulemaking. The statutory authority for the proposed rules is found at sections 40-7-112 through 116, C.R.S. and 40-2-108 C.R.S.

The Commission, through an Administrative Law Judge, will conduct a hearing on the proposed rules and related issues beginning at 9:00 a.m. on April 8, 1993. The hearing will be conducted in Hearing Room A, Office Level (OL) 2, 1580 Logan Street, Denver, Colorado. Interested persons may submit written comments on the rules and present these orally at hearing, unless the Commission deems oral presentations unnecessary. Interested persons may file written comments before the hearing. All submissions will be considered by the Commission.

THEREFORE THE COMMISSION ORDER THAT:

1. This Notice of Proposed Rulemaking shall be filed with the Secretary of State for publication in the February 10, 1993 copy of The Colorado Register. At the time of filing with the Secretary of State, this notice shall also be filed with the Office of Regulatory Reform.

2. Hearing on the proposed rules and related matters shall be held before an Administrative Law Judge:

DATE: Thursday, April 8, 1993

TIME: 9:00 a.m.

PLACE: Hearing Room A, Office Level (OL) 2
1580 Logan Street, Denver, Colorado

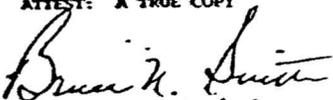
3. At the time set for hearing, interested persons may submit written comments and may present these orally unless the Commission deems oral comments unnecessary.

4. Interested persons may file written comments in this Docket before hearing. All submissions will be considered.

ADOPTED IN OPEN MEETING January 27, 1993.



ATTEST: A TRUE COPY


Bruce N. Smith
Executive Secretary

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT E. TEMMER

CHRISTINE E. M. ALVAREZ

Commissioners

THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO

RULES AND REGULATIONS CONCERNING
CIVIL PENALTIES FOR CARRIERS
4 CCR 723-22

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis and purpose of these rules is to prescribe specific penalties for the second and any subsequent occurrence within one year of a violation of any of the provisions of Articles 10, 11, 13, 14 and 16 of Title 40, C.R.S. as mandated by §§ 40-7-112 through 116, C.R.S.

To revise certain rule numbers of these rules so that they correspond with the same numbers of this Commission's Rules and Regulations Governing Common Carriers by Motor Vehicle (4 Code of Colorado Regulations 723-8), which were revised March 3, 1991 and the Rules and Regulations Governing Contract Carriers by Motor Vehicle (4 Code of Colorado Regulations 723-23), which were revised January 30, 1991.

To repeal current Rules 9 and 10 of these rules and replace them with a new Rule 9. Effective December 31, 1990, the Commission combined two existing rules into new rules titled Rules and Regulations Governing Registration of Interstate Motor Vehicle Carriers (4 Code of Colorado Regulations 723-6). The previous rules were titled Rules and Regulations Governing Registration of Exempt Interstate Motor Carriers previously found at 4 Code of Colorado Regulations 723-6, and Rules and Regulations Governing Registration of Interstate Motor Carrier Certificates and Permits previously found at 4 Code of Colorado Regulations 723-7.

To change the penalty which is set forth in Rule 11.2 of these rules from \$25.00 per day to \$100.00 per day for violations of Subparagraphs 391.11(b)(6) and (7) of the Commission's Safety Rules for Common Carriers, Contract Carriers, Carriers of Household Goods by Motor Vehicle and Motor Carriers Exempt from Regulation as Public Utilities (4 Code of Colorado Regulations 723-15).

The statutory authority for these rules is found at §§40-7-112 through 116, C.R.S.

Rule 1 -- Application of Rules

These rules apply to any person identified in §§ 40-7-113(g) or 40-7-114, C.R.S.

Rule 2 -- Definition and Terms

- 2.1 Commission means the Colorado Public Utilities Commission.
- 2.2 Intentional Violation -- Any person shall be deemed to have committed an intentional violation, as set forth in paragraph (1)(g) of section §§ 40-7-113 or section 40-7-14, C.R. S., if, after having been issued given a written notification of any violation, said person again then commits a like violation of the same statute, rule, or regulation. The existence of an intentional violation within the meaning of this rule may also be shown by other facts, circumstances or conduct as may be provided by law.
- 2.4 Multiple offenses -- The violation of more than one statute, rule or regulation during the course of one 24-hour period day shall constitute multiple offenses for which civil penalties may be assessed imposed as set forth in these rules.
- 2.4 Person -- Means a person as defined in § 40-1-102(5), C.R.S.
- 2.3 Separate offense -- Each The violation of any particular statute, rule or regulation within the scope of these rules shall constitute a separate offense for which a civil penalty may be assessed imposed as set forth in these rules.

Rule 3 -- Violations of Title 40, C.R.S. - Civil Penalties - Fines

- 3.1 A violation of any of the following paragraphs of subsection (1) of section § 40-7-113(1)(a), or (b), or (c), or (d), or (e), or (f), C.R.S., shall result in the assessment of a penalty of \$100.00 per day; ~~40-7-113(1)(a), (b), (c), (d), (e) or (f).~~
- 3.2 A violation of §§ 40-10-106, or 40-10-117, or 40-10-120(2), or 40-11-104, or 40-11-105(2) or (3), or 40-11-115(2) any of the following sections or subsections of Title 40, C.R.S. shall result in the assessment of a penalty of \$100.00 per day; ~~40-10-106, 117 or 120(2); 40-11-104, 105(2) or (3) or 40-11-115(2).~~
- 3.3 Any violation of any other provisions of Title 40, C.R.S., except as provided for in paragraphs (1)(a), (b), (c), (d), (e), (f), subsections (3) and (4) of section § 40-7-113, C.R.S., and Rule 3.1 and 3.2 of these rules, shall result in the assessment of a penalty of \$50.00 per day.

**Rule 4 -- Violations of Rules of Practice and Procedure -
Civil Penalties - Fines**

- 4.1 A violation of Rule 25(f) of the Commission's Rules of Practice and Procedure shall result in the assessment of a penalty of \$50.00 per day.
- 4.2 Any violation of any other rule of the Commission's Rules of Practice and Procedure, except as provided for in Rule 4.1 of these rules, shall result in the assessment of a penalty of \$25.00 per day.

**Rule 5 -- Violations of Rules Governing Common Carriers
by Motor Vehicle - Civil Penalties - Fines**

- 5.1 A violation of any of the following rules of the Commission's Rules and Regulations Governing Common Carriers by Motor Vehicle shall result in the assessment of a penalty of \$100.00 per day: ~~2(a), (b) or (f)~~ 2.1, 2.2 or 2.7; ~~3(a) or (b)~~ 4.1 or 4.2; ~~5~~; ~~11(a), (b) or (e)~~; 12.1, 12.3 or 12.4; ~~12(a), (b), (c) or (d)~~ 13.1, 13.2, 13.3 or 13.4; ~~13(a), (b) or (c)~~ 14.1, 14.2 or 14.3; ~~15(a)~~ 16.1.
- 5.2 A violation of any of the following rules of the Commission's Rules and Regulations Governing Common Carriers by Motor Vehicle shall result in the assessment of a penalty of \$50.00 per day: ~~9(b)~~ 9.2; ~~15(b)~~ 16.2; ~~16~~ 17; Paragraph 2 of ~~17(a)~~ 18.2.
- 5.3 Any violation of any other rule of the Commission's Rules and Regulations Governing Common Carriers by Motor Vehicle, except as provided for in Rules 5.1 or 5.2 of these rules, shall result in the assessment of a penalty of \$25.00 per day.

**Rule 6 -- Violations of Rules Governing Contract Carriers
by Motor Vehicle - Civil Penalties - Fines**

- 6.1 A violation of any of the following rules of the Commission's Rules and Regulations Governing Contract Carriers by Motor Vehicle shall result in the assessment of a penalty of \$100.00 per day: ~~2(a), (b) or (i)~~ 2.1, 2.1 or 2.9; ~~4(a), (b) or (c)~~ 4.1, 4.2 or 4.3; ~~11(a), (b) or (c)~~ 11.1, 11.2 or 11.3; 12; ~~14(a), (b), (c) or (d)~~; ~~15~~ 14; ~~16(a)~~ 15.1; ~~17(a), (b), (c) or (d)~~ 16.1, 16.2, 16.3 or 16.4.
- 6.2 A violation of Rule ~~9(b)~~ 9.2 of the Commission's Rules and Regulations Governing Contract Carriers by Motor Vehicle shall result in the assessment of a penalty of \$50.00 per day.
- 6.3 Any violation of any other rule of the Commission's Rules and Regulations Governing Contract Carriers by Motor Vehicle, except as provided for in Rules 6.1 or 6.2 of these rules, shall result in the assessment of a penalty of \$25.00 per day.

**Rule 7 -- Violations of Rules Governing Taxicabs -
Civil Penalties - Fines**

- 7.1 A violation of Rule 6 or 8 of the Commission's Rules and Regulations Governing the Operations of Taxicabs shall result in ~~the assessment of~~ a penalty of \$100.00 per day.
- 7.2 A violation of Rule 5, 7, 11.1 or 11.2 of the Commission's Rules and Regulations Governing the Operations of Taxicabs shall result in ~~the assessment of~~ a penalty of \$50.00 per day.
- 7.3 Any violation of any other rule of the Commission's Rules and Regulations Governing the Operations of Taxicabs, except as provided for in Rules 7.1 or 7.2 of these rules, shall result in ~~the assessment of~~ a penalty of \$25.00 per day.

**Rule 8 -- Violations of Rules Governing Towing Carriers -
Civil Penalties - Fines**

- 8.1 A violation of Rule 11.1, 14.2, 14.3.2, 14.3.3, 14.4 or 14.5 of the Commission's Rules and Regulations Governing Towing Carriers by Motor Vehicle shall result in ~~the assessment of~~ a penalty of \$100.00 per day.
- 8.2 A violation of Rule 8.1, 8.2, 8.5, 13.2, 13.3, 13.11, 14.1, 15.3, 16.6, or 17.3 of the Commission's Rules and Regulations Governing Towing Carriers by Motor Vehicle shall result in ~~the assessment of~~ a penalty of \$50.00 per day.
- 8.3 Any violation of any other rule of the Commission's Rules and Regulations Governing Towing Carriers by Motor Vehicle, except as provided for in Rules 8.1 or 8.2 of these rules, shall result in ~~the assessment of~~ a penalty of \$25.00 per day.

**~~Rule 9 -- Violations of Rules Governing Exempt
Interstate Motor Carriers - Civil Penalties - Fines~~**

- ~~9.1 A violation of Rule 2(a) of the Commission's Rules and Regulations Governing Registration of Exempt Interstate Motor Carriers shall result in a penalty of \$100.00 per day.~~
- ~~9.2 Any violation of any other rule of the Commission's Rules and Regulations Governing Registration of Exempt Interstate Motor Carriers, except as provided for in Rule 9.1 of these rules, shall result in a penalty of \$25.00 per day.~~

**~~Rule 10 -- Violation of Rules Governing Registration of
Interstate Motor Carriers - Civil Penalties - Fines~~**

~~10.1 A violation of Rule 2(a) of the Commission's Rules and Regulations Governing Registration of Interstate Motor Carrier Certificates and Permits shall result in a penalty of \$100.00 per day.~~

~~10.2 Any violation of any other rule of the Commission's Rules and Regulations Governing Registration of Interstate Motor Carrier Certificates and Permits, except as provided for in Rule 10.1 of these rules, shall result in a penalty of \$25.00 per day.~~

Rule 9 -- Violations of Rules and Regulations Governing Registration of Interstate Motor Vehicle Carriers

~~9.1 A violation of Rule 3(a) or (b) of the Commission's Rules and Regulations Governing Registration of Interstate Motor Vehicle Carriers shall result in the assessment of a penalty of \$100.00 per day.~~

~~9.2 A violation of any other rule of the Commission's Rules and Regulations Governing Registration of Interstate Motor Vehicle Carriers, except as provided for in Rule 9.1 of these rules, shall result in the assessment of a penalty of \$25.00 per day.~~

Rule ~~11~~10 -- Violations of Safety Rules
Civil Penalties - Fines

~~11.10.1 Penalties Penalty assessments per day for violating the Commission's Safety Rules for Common Carriers, Contract Carriers, Carriers of Household Goods by Motor Vehicle and Motor Carriers Exempt from Regulation as Public Utilities shall be as follows:~~

11.1.1 10.1.1	Rule 1.1	Paragraph 383.23(a)	\$100.00
11.1.2 10.1.2	Rule 1.1	Paragraph 383.37(a)	\$100.00
11.1.3 10.1.3	Rule 1.1	Paragraph 383.51(a)	\$100.00
11.1.4 10.1.4	Rule 1.2	Section 390.11	\$ 50.00
11.1.5 10.1.5	Rule 1.2	Section 390.13	\$ 50.00
11.1.6 10.1.6	Rule 1.2	Paragraphs 390.35(a), (b) or (c)	\$ 75.00
11.1.7 10.1.7	Rule 1.3	Subparagraphs 391.11(b)(6) or (7)	\$100.00
11.1.8 10.1.8	Rule 1.3	Subparagraphs 391.11(b)(1) or (2)	\$ 50.00
11.1.9 10.1.9	Rule 1.3	Paragraph 391.15(a)	\$ 75.00
11.1.10 10.1.10	Rule 1.3	Section 391.25	\$ 50.00
11.1.11 10.1.11	Rule 1.3	Section 391.31	\$ 50.00
11.1.12 10.1.12	Rule 1.3	Paragraph 391.41(a)	\$100.00
11.1.13 10.1.13	Rule 1.3	Paragraph 391.87(g)	\$100.00
11.1.14 10.1.14	Rule 1.3	Paragraphs 391.93(b) or (c)	\$100.00
11.1.15 10.1.15	Rule 1.3	Subparagraphs 391.93(d)(1), (2), or (3)	\$100.00
11.1.16 10.1.16	Rule 1.3	Paragraph 391.95(a) or (b)	\$100.00
11.1.17 10.1.17	Rule 1.3	Paragraph 391.103(a)	\$ 75.00
11.1.18 10.1.18	Rule 1.3	Subparagraphs 391.119(a)(1), (2) or (3)	\$100.00

11.1.1810.1.19	Rule 1.3	Subparagraphs 391.121(b) (3) or (4)	\$ 75.00
11.1.1910.1.20	Rule 1.4	Section 392.3	\$100.00
11.1.2010.1.21	Rule 1.4	Subparagraphs 392.4(a) (1), (2), (3) or (4)	\$100.00
11.1.2110.1.22	Rule 1.4	Paragraph 392.4(b)	\$100.00
11.1.2210.1.23	Rule 1.4	Subparagraphs 392.5(a) (1), (2) or (3)	\$100.00
11.1.2310.1.24	Rule 1.4	Subparagraphs 392.5(b) (1) or (2)	\$100.00
11.1.2410.1.25	Rule 1.4	Section 392.6	\$ 50.00
11.1.2510.1.26	Rule 1.4	Subparagraphs 392.9(c) (ii) or (iii)	\$ 50.00
11.1.2610.1.27	Rule 1.4	Section 392.42	\$ 50.00
11.1.2710.1.28	Rule 1.5	Section 393.1	\$ 50.00
11.1.2810.1.29	Rule 1.5	Paragraph 393.42(a)	\$ 75.00
11.1.2910.1.30	Rule 1.5	Paragraph 393.48(a)	\$ 75.00
11.1.3010.1.31	Rule 1.5	Paragraph 393.51(a)	\$ 75.00
11.1.3110.1.32	Rule 1.5	Paragraphs 393.75(b), (c) or (d)	\$ 50.00
11.1.3210.1.33	Rule 1.6	Paragraph 394.7(a)	\$ 75.00
11.1.3310.1.34	Rule 1.7	Subparagraphs 395.3(a) (1) or (2)	\$100.00
11.1.3410.1.35	Rule 1.7	Subparagraphs 395.3(b) (1) or (2)	\$100.00
11.1.3510.1.36	Rule 1.7	Paragraph 395.8(a)	\$ 75.00
11.1.3610.1.37	Rule 1.7	Subparagraph 395.8(a) (1)	\$ 75.00
11.1.3710.1.38	Rule 1.7	Subparagraph 395.8(f) (1)	\$ 50.00
11.1.3810.1.39	Rule 1.7	Subparagraph 395.8(f) (7)	\$100.00
11.1.3910.1.40	Rule 1.7	Paragraph 395.8(k)	\$ 50.00
11.1.4010.1.41	Rule 1.7	Subparagraph 395.8(k) (3)	\$ 50.00
11.1.4110.1.42	Rule 1.8	Subparagraph 396.9(c) (2)	\$100.00
11.1.4210.1.43	Rule 1.8	Subparagraph 396.9(d) (2)	\$ 50.00
11.1.4310.1.44	Rule 1.8	Subdivisions 396.9(d) (3) (i) or (ii)	\$ 50.00

11.210.2 Any violation of any other rule of the Commission's Safety Rules for Common Carriers, Contact Carriers, Carriers of Household Goods by Motor Vehicle and Motor Carriers Exempt from Regulation as Public Utilities, except as provided for in Rule 110.1 of these rules, shall result in the assessment of a penalty of \$25.00 per day.

Rule 11 -- Repeat Violations of Rules 3 through 10
Civil Penalties - Fines

11.1 Any person who receives a second civil penalty assessment for a violation of Rule 3, 4, 5, 6, 7, 8, 9, or 10 of these rules within one year after the first violation, may be assessed two times the amount specified in the rule for such second violation.

11.2 Any person who receives a third civil penalty assessment for a violation of Rule 3, 4, 5, 6, 7, 8, 9, or 10 of these rules within one year after the second violation, may be assessed three times the amount specified in the rule for such third violation.