

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19R-0485TR

IN THE MATTER OF THE PROPOSED RULES REGULATING VEHICLE BOOTING COMPANIES, 4 CODE OF COLORADO REGULATIONS 723-6.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: September 12, 2019
Adopted Date: September 11, 2019

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I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission (Commission) hereby issues this Notice of Proposed Rulemaking (NOPR) regarding proposed Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6.

2. The Commission proposes these rules in order to permanently implement Senate Bill (SB) 19-236 requirements for the Commission to regulate Vehicle Booting Companies. The

purpose of Rules 6806 through 6819 is to preserve the health, safety, welfare, and property of the public.

3. The statutory authority for the proposed rules is found in §§ 24-4-104(4), 40-2-108, 40-2-110.5, 40-7-113(2), 40-10.1-101, 40-10.1-801, C.R.S.

4. The proposed rules in a final version (Attachment A to this Decision), are available in this proceeding number (19R-0485TR) through the Commission's E-Filings system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=19R-0485TR

In the E-Filings system, select the "Search" button and enter this proceeding number (19R-0485TR).

B. Background

5. SB 19-236 became effective on May 30, 2019 and adds Part 8 to Article 10.1 of Title 40, C.R.S. Part 8 requires that beginning January 1, 2020, a person must have a permit to operate a vehicle booting company.

6. The statute defines a vehicle booting company as "a private corporation, partnership, or sole proprietor in the business of immobilizing a motor vehicle through use of a boot." § 40-10.1-101(22), C.R.S. This definition excludes municipal, county, state, or federal governmental agencies.

7. In addition to requiring a permit for vehicle booting companies, the new law requires vehicle booting companies to file proof of worker's compensation insurance and financial responsibility requirements. It also empowers the Commission to deny an application of a person who has, within the immediately preceding five years, been convicted of, or pled guilty or *nolo contendere* to, a felony. The Commission may also deny an application under

Part 8 or refuse to renew the permit of a vehicle booting company or any of its owners, principals, officers, members, partners, or directors if they have not satisfied a civil penalty arising out of any administrative or enforcement action brought by the Commission. § 40-10.1-801, C.R.S.

C. Description of Proposed Rules

8. Proposed Rule 6810 concerns the applicability of Vehicle Booting Companies.
9. Proposed Rule 6811 mirrors the definition of “vehicle booting company” provided by § 40-10.1-101(22), C.R.S.
10. Proposed Rule 6812 establishes the application process for obtaining a permit to provide vehicle booting service pursuant to § 40-10.1-801, C.R.S.
11. Proposed Rule 6813 establishes qualification requirements for persons applying for a vehicle booting company permit via criminal history background checks.
12. Proposed Rule 6814 regards the manner in which a vehicle booting company must identify their equipment and employees while in the performance of their duties. The Commission considers this matter a safety matter to ensure a reasonable person can easily identify the vehicle booting company responsible for booting installation as well as the necessary action(s) for remedy.
13. Proposed Rule 6815 authorizes a vehicle booting company to act as an authorized agent for a property owner and sets the minimum requirements for the vehicle booting company to operate under an authorized contractual agreement with the property owner.
14. Proposed Rule 6816 establishes a requirement and outlines the minimum required information for a vehicle booting company to utilize a booting invoice. Additionally, Rule 6809 requires a vehicle booting company to place notice of a boot on a booted vehicle.

15. Proposed Rule 6817 establishes the rates that a vehicle booting company can charge and requires a release fee for a reduced rate before completion of a full installation of a boot. The proposed maximum rate of \$120 is suggested based upon a mean average of current rates allowed by municipal ordinance in Denver (\$100) and the Town of Avon (75 percent of base tow rates, currently \$135). The Commission is particularly interested in receiving input from interested persons on these rules.

16. Proposed Rule 6818 establishes the requirements of a vehicle booting company to accept payment if offered by cash or valid major credit card and establishes to whom the vehicle booting company shall release the vehicle to. This rule also provides that a vehicle booting company must remove a boot within a certain timeframe after payment.

17. Proposed Rule 6819 establishes the fines for violation of any of these Rules or the Colorado Revised Statutes.

D. Conclusions

18. We issue this NOPR to implement SB 19-236 and to describe the manner of regulation over persons operating as a vehicle booting company in the State of Colorado. The proposed rules serve the public interest by enhancing public safety, and protecting the property of the public.

19. Interested parties may file written comment, no later than **October 11, 2019**. We encourage commenters to include proposed or alternate rule language, as necessary, with their comments. The Commission prefers and encourages interested persons to submit comments through its Electronic Filing System in this proceeding (19R-0485TR). The Commission will consider all submissions, whether oral or written.

20. We refer this proceeding to an Administrative Law Judge (ALJ) to hold a public hearing on **October 28, 2019**. Interested persons may provide oral comments at the public hearing unless the ALJ deems oral presentations unnecessary. The ALJ shall provide the record in this proceeding to the Commission for the Commission to issue an initial Commission Decision under § 40-6-109(6), C.R.S.

21. Under § 24-4-103(3)(a.5), C.R.S., the Commission is notifying the members of the General Assembly of the issuance of these proposed rules, because they contain increases in fees or fines. The Commission will place a copy of the notice to the General Assembly into the record of this proceeding.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the **September 25, 2019** edition of *The Colorado Register*.

2. A Hearing on the proposed rules and related matters shall be held before an Administrative Law Judge (ALJ) as follows:

DATE: **October 28, 2019**

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
Suite 250
1560 Broadway
Denver, Colorado

3. The ALJ may set additional hearings, if necessary.

4. Interested persons may file written comments on or before **October 11, 2019**.

The Commission prefers and encourages interested persons to submit comments through its Electronic Filing System at <https://www.dora.state.co.us/pls/efi/EFI.homepage> in this proceeding

(19R-0485TR). Interested persons may present comments orally at the hearing, unless the ALJ deems oral comments unnecessary.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 11, 2019.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners