

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 07R-327TR

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IN THE MATTER OF THE PROPOSED RULES REGULATING TRANSPORTATION BY  
MOTOR VEHICLE, 4 CODE OF COLORADO REGULATIONS 723-6.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
DALE E. ISLEY  
ADOPTING RULES**

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Mailed Date: February 21, 2008

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**I. STATEMENT**

1. The captioned rulemaking proceeding was commenced on August 30, 2007, when the Colorado Public Utilities Commission (Commission) issued its Notice of Proposed Rulemaking (NOPR) in this matter. *See*, Decision No. C07-0742. A copy of the proposed rules was attached to the NOPR.

2. The NOPR was published in the September 7, 2007, edition of *The Colorado Register*.

3. The purpose of this proceeding is to amend certain permanent and emergency Rules Regulating Transportation by Motor Vehicle found at 4 *Code of Colorado Regulations* (CCR) 723-6 (Rules), as set forth more particularly in paragraph 5 of the NOPR.<sup>1</sup> The proposed amendments seek to implement the provisions of House Bills 07-1019, 07-1065, and 07-1249; to make modifications to financial responsibility rules; to clarify rules for regulated intrastate carriers, including rules for applications; and to update civil penalty rules.

4. The statutory authority for the proposed rules is found in §§ 40-2-108, 40-2-116, 40-3-102, 40-5-105, 40-7-113(2), 40-10-105.5(5), 40-10-110, 40-10-111, 40-11-103(1), 40-11-105, 40-11-109, 40-14-103(2)(c), 40-14-106(2)(a)(I), 40-14-110, 40-16-103.8, 40-16-104, and 40-16-104.5(5), C.R.S.

5. Written comments were filed in this proceeding by or on behalf of the following entities: AEX, Inc, d/b/a Alpine Express, Inc., Tazco, Inc. d/b/a Sunshine Taxi, Alpine Taxi/Limo, Inc., Pioneer Limousine and Transportation Solutions, LLC, Boston Coach, A Custom Coach Boulder Transportation and Centennial Sedans, Destination Services of Colorado, Inc., RMA Worldwide Chauffeured Transportation, Denver Metro Convention & Visitors Bureau, Arrangers, Diva Limousine, Ltd., Presidential Limousine, Inc., SuperShuttle International Denver, Inc., Music Express, Inc., and A Company 4 U.

6. A hearing was conducted in this matter on October 15, 2007. Representatives of the following entities appeared and provided oral comments at the hearing: Staff of the

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<sup>1</sup> The following Commission decisions chronicle amendments previously made to the Rules on an emergency basis: Decision Nos. C07-0547, C07-0565, C07-0613, and C07-0700.

Commission (Staff); Colorado Motor Carriers Association (CMCA), Presidential Limousine, Inc., American Coach Limousine, Pioneer Limousine, Limousine Association of Colorado, Two Step Limousine, A Custom Coach, Denver Lincoln Limousine, Elite Limousine Service, Colorado Limousine Service, New Christian Town Car, Tazco, Inc. d/b/a Sunshine Taxi, and Alpine Taxi/Limo, Inc.

7. During the course of the hearing Exhibits 1 through 6 were identified, offered, and admitted into evidence. During the course of the proceeding, Staff proposed that some of the proposed rules originally attached to the NOPR be further modified or supplemented. *See*, Exhibits 1 and 2 and the modification to proposed Rule 6308(a)(II) discussed below.

8. At the conclusion of the rulemaking hearing, the Administrative Law Judge (ALJ) took the matter under advisement. In accordance with § 40-6-109, C.R.S., he now transmits to the Commission the record in this proceeding along with a written recommended decision.

## **II. FINDINGS, CONCLUSIONS, AND DISCUSSION**

### **A. Basis, Purpose, and Statutory Authority**

9. Staff proposes that the Basis, Purpose, and Statutory Authority portion of the Rules be amended by including other statutory references that provide additional authority underlying the Commission's ability to promulgate the Rules. Staff's proposal is well-founded and will be adopted.

### **B. General Provisions and Household Goods Mover and Property Carrier Rules**

10. Staff proposes that Rule 6000 be amended by deleting an outdated statutory reference to repossession and by inserting the updated statutory reference. This modification does not change the effect of Rule 6000 which generally provides that the Rules do not apply to

the repossession of a motor vehicle by a secured creditor. As a result, Staff's proposal will be adopted.

11. Staff proposes that the definition of "luxury limousine" be amended as set forth in proposed Rule 6100(ss). The prior Rule adopted the definition of that term as set forth in § 40-16-101(3), C.R.S. However, subsection (3) was changed by the Colorado Legislature in 2007 by deleting the statutory definition and giving the Commission authority to define a luxury limousine. Proposed Rule 6100(ss) sets forth such a definition and will be adopted.

12. Staff proposes to delete Rule 6002(e) dealing with applications that may be filed by transportation carriers. Deleting subsection (e) is consistent with Staff's proposal to modify Rule 6305 by eliminating the luxury limousine qualification process. For reasons set forth more fully in connection with the discussion of Rule 6305 below, the ALJ concludes that Staff's proposal should be adopted.

13. Staff proposes amending Rule 6006(b) by requiring transportation carriers to provide the Commission with additional contact-related information when they change their mailing address, physical address, telephone number or agent for service of process. Staff's proposal is well-founded and will be adopted.

14. Staff proposes that Rule 6007 be amended by adding a new subsection (g). It provides that a transportation carrier's failure to file proof of liability insurance coverage constitutes a rebuttable presumption that the carrier is not properly covered under the insurance requirements of the Rule. Staff believes that such a provision is necessary in light of the difficulty of proving noncompliance with Rule 6007, especially when a respondent charged with violating it fails to appear in Commission civil penalty proceedings thereby depriving Staff of the opportunity to examine the respondent on that point. *See*, Decision No. R07-0507 (holding, in

pertinent part, that Staff's failure to provide proof that respondent did not have in force motor vehicle liability insurance, cargo liability insurance, or general liability insurance required dismissal of civil penalty assessment actions alleging non-compliance with Rule 6007).

15. Sunshine Taxi and Alpine Taxi fear that the addition of proposed subsection (g) to Rule 6007 might subject them to liability when their insurance carrier fails to make the necessary insurance filings with the Commission notwithstanding the fact that they have secured the required insurance coverage. While it is possible that a transportation carrier could be cited for non-compliance with Rule 6007 as a result of its insurance carrier's failure to make necessary Commission filings, the presumption created by Rule 6007(g) could be easily rebutted by a showing that the carrier, in fact, has the necessary insurance coverage in place. The ALJ concludes, therefore, that the subject modification to Rule 6007 should be adopted.

16. Proposed Rules 6015 and 6603(e) are designed to implement procedures for conducting fingerprint based criminal history background checks mandated by newly enacted §§ 40-10-105.5, C.R.S. (taxicab drivers), 40-16-105.5, C.R.S. (exempt passenger transport drivers), and 40-14-103, C.R.S. and 40-14-103.5, C.R.S. (household goods mover registrants).

17. For purposes of Rule 6015, proposed subsection (a)(I) defines an "applicant" as a household goods mover seeking to establish or renew a household goods mover registration. CMCA contends that criminal history background checks mandated by §§ 40-14-103, C.R.S. and 40-14-103.5, C.R.S. were intended to apply only to "new" household goods mover registrants and not to existing registrants seeking merely to renew their mover registrations on an annual basis. It contends that the Legislature intended this result when it adopted these statutes. However, it has presented no legislative history on this point.

18. Sections 40-14-103, C.R.S. and 40-14-103.5, C.R.S. are somewhat ambiguous regarding the necessity for those seeking to renew their mover registrations to submit to annual criminal history background checks. Section 40-14-103, C.R.S. requires that household goods carriers register as movers on an annual basis. It requires the Commission to issue a registration upon completion of the registration process including, among other things, “completion of all fingerprint-based criminal history record checks required by § 40-14-103.5, C.R.S. (Emphasis added). It allows the Commission to “refuse to renew” the registration based, on among other things, a determination that the mover or any of its directors, officers, owners, or general partners (“principals”) have failed to meet the requirements for registration or are not of good moral character “as determined by the Commission based on the results of the criminal history record check required by § 40-14-103.5, C.R.S. or for other documented reasons.” (Emphasis added).

19. However, § 40-14-103.5, C.R.S. appears to require criminal history record checks only in connection with a “new registration.” That term is not defined by the statute. Therefore, it is uncertain whether the Legislature intended this to mean the initial registration submitted by a household goods mover or to the annual registration requirement.

20. The ALJ concludes that the statute requires annual criminal history background checks for movers and their principals. Otherwise, the Commission would be unable to fulfill the mandate set forth in subsection (3) of § 40-14-103, C.R.S. by refusing to “renew” mover registrations on the basis of adverse criminal history background check findings. This conclusion is consistent with the legislative intent underlying §§ 40-14-103, C.R.S. and 40-14-103.5, C.R.S.; i.e., to protect the public by disqualifying movers from engaging in the household goods moving business when a criminal background check reveals some defect in the moral character of their principals. That intent would be frustrated by conducting criminal

background checks only in connection with new or “first-time” mover registrants since this would not take into consideration possible changes in the moral character of mover principals that might be revealed by criminal background checks conducted subsequent to the time the mover obtained its initial registration.

21. Interpreting §§ 40-14-103, C.R.S. and 40-14-103.5, C.R.S. to require criminal background checks of movers and their principals only in connection with “new” registrations is also inconsistent with the intent evidenced by comparable statutes, §§ 40-10-105.5, and 40-16-105.5, C.R.S., that require virtually identical background checks for taxicab and exempt passenger carrier drivers. Those statutes effectively require that periodic background checks be conducted in light of the requirement that drivers be disqualified from driving if convicted of specified offenses within certain time periods. The ALJ concludes, therefore, that it was not the Legislature’s intent to grant movers and their principals the one-time, open-ended criminal background check process that would result from requiring background checks only in connection with initial, as opposed to annual, registrations.

22. The contention that annual criminal background checks of movers and their principals would be burdensome is somewhat mitigated by proposed Rule 6603(e)(V) which obviates the need for a hearing for each annual registration when the Commission has already held a hearing in connection with prior registrations, has issued the registration, and where the criminal background check conducted for the mover and its principals has not changed.

23. Proposed Rule 6015(a)(IV) defines a “passenger carrier” as an exempt passenger carrier or a common carrier with authority to provide taxicab service. Subsection (b) then provides that the provisions of Rule 6015 apply to passenger carriers, drivers, household goods

movers, and principals. Subsection (c) of Rule 6015 imposes various obligations on drivers and passenger carriers arising out of §§ 40-16-104.5 and 40-10-105.5, C.R.S.

24. As correctly observed by Alpine Taxi and Sunshine Taxi in their written comments, § 40-10-105.5, C.R.S. only requires criminal history background checks for individuals wishing to drive taxicabs for passenger carriers holding certificates of public convenience and necessity (CPCN) that include authority to operate as a taxicab. It does not require background checks for drivers who might wish to operate vehicles other than taxicabs for carriers whose CPCN also authorize them to provide other types of regulated transportation services. By including all “common carriers with authority to provide taxicab service” within the definition of “passenger carrier,” proposed rule 6015(a)(IV) impermissibly subjects those drivers and passenger carriers to the criminal background check obligations imposed by Rule 6015(c).

25. In order to rectify this problem, the definition of “driver” contained in proposed Rule 6015(a)(III) and the definition of “passenger carrier” contained in proposed Rule 6015(a)(IV) will be revised. For purposes of Rule 6015 the term “driver” will be defined as “a person who drives or wishes to drive a taxicab for a taxicab carrier or who drives or wishes to drive for an exempt passenger carrier regardless of whether such person drives or wishes to drive as an employee or independent contractor.” For purposes of Rule 6015 the term “passenger carrier” will be defined as “an exempt passenger carrier and a taxicab carrier, but only to the extent the taxicab carrier uses or wishes to use drivers to drive taxicabs.”

26. Subsection (c)(II) of proposed Rule 6015 requires a driver to re-submit a set of his/her fingerprints along with payment for the same at least once every two years. This two year period is based on subsection (4)(b) of §§ 40-16-104.5 and 40-10-105.5, C.R.S. which



prohibit a driver from driving if he/she has been convicted of certain specified offenses within two years preceding the date of the criminal record check. At hearing Staff expressed concern that this rule was not sufficiently clear as to when the two year period for re-submitting fingerprints would commence and expire. Staff described its current practice of advising drivers that the two year period would commence on the date the driver is notified under Rule 6015(c)(VII)(C) of the Commission's qualification determination, and that it would expire two years later. Staff's suggestion that this practice be memorialized in the subject rule will be adopted. Proposed Rule 6015(c)(II) will be modified to read as follows: "A driver shall re-submit to the Commission a set of the driver's fingerprints and payment of the actual cost to conduct a record check within two years after the Commission provides him/her with the qualification notice required by subsection (c)(VII)(C) of this rule."

27. Subsection (c)(IV) of proposed Rule 6015 imposes certain obligations on passenger carriers relating to §§ 40-16-104.5 and 40-10-105.5, C.R.S. and subsection (c) of proposed Rule 6016 allows for the assessment of civil penalties against such carriers if they fail to fulfill these obligations. Some participants question the statutory authority of the Commission to promulgate these particular rules on the basis of their contention that §§ 40-16-104.5 and 40-10-105.5, C.R.S. impose no affirmative duties on carriers. They argue that these statutes only require individuals wishing to drive taxicabs or vehicles operated by exempt passenger carriers to comply with the fingerprint-based criminal background record check requirements set forth therein.

28. However, subsection (5) of the subject statutes requires the Commission to promulgate rules concerning the employment of, contracting with, and retention of individuals whose criminal history records are checked pursuant to these statutes. The ALJ agrees with Staff

that this provides the necessary statutory authority for requiring that passenger carriers assume the obligations imposed by subsection (c)(IV) of proposed Rule 6015. These obligations uniformly deal with the employment, contracting with, and retention of drivers who are the subject of criminal background checks. The inability to require passenger carriers to insure and monitor compliance by their drivers with the criminal background check requirements would severely impair their effectiveness.

29. Notwithstanding the above, the ALJ agrees that the obligation imposed on passenger carriers by subsection (c)(IV)(C) of proposed Rule 6015 to not permit a driver to drive if they “reasonably should have become aware” that the driver had been convicted of certain offenses is unrealistic. It would be unreasonable to require passenger carriers to comply with such a subjective and open-ended standard. Accordingly, this portion of proposed Rule 6015(c)(IV)(C) will be deleted and the first portion of subsection (C) will be amended to read as follows: “...the passenger carrier becomes aware that the driver has been....”

30. In addition, the obligations imposed on passenger carriers by proposed Rule 6015 should not be used to support a contention that an employment relationship exists between a passenger carrier and its drivers. Colorado law clearly gives carriers the right to use independent contractor drivers. *See*, § 40-11.5-101, C.R.S. In order to negate such a contention, an additional subsection (f) will be added to Rule 6015 that will read as follows: “Nothing in this rule shall be construed to make an independent contractor driver an employee driver of a passenger carrier.”

31. There was considerable discussion at the hearing concerning the provisions of subsections (3) of §§ 40-16-104.5 and 40-10-105.5, C.R.S. These subsections allow an individual whose fingerprints are checked to continue driving for up to 60-days after the

Commission forwards his/her fingerprints to the Colorado Bureau of Investigation (CBI), or until the Commission receives the results of the check, whichever occurs first. The concern is that the CBI will, for whatever reason, be unable to process fingerprint-based background checks within this 60-day period thereby requiring drivers to discontinue driving until the Commission receives the results of the background check. Drivers are concerned about the financial and related implications of being unable to drive during this period. Passenger carriers are concerned about their staffing needs and the potential liability they may incur if they fail to monitor the situation and, inadvertently or otherwise, allow a driver to drive after the 60-day period expires but before the Commission receives the results of the background check. Alpine Taxi and Sunshine Taxi urge the Commission to adopt a new rule that would create a “safe harbor” allowing drivers to drive during the fingerprint check period regardless of its length.

32. While the ALJ appreciates the practical problems that may result from this 60-day fingerprint background check period, a review of the subject statutes reveal that they are clear and unambiguous on this point. The Legislature’s intention that a driver cease driving upon expiration of the 60-day period pending receipt of the results of the check from the CBI is evidenced by the second sentence of subsection (3) contained in each of the subject statutes. It provides that the driver may “resume” driving when the Commission receives the check results, provided the driving does not violate applicable law and does not occur while the driver has a criminal conviction that would disqualify him/her from driving under the provisions of subsection (4) of the statutes. Use of the word “resume” indicates that the Legislature contemplated the possibility that the driver would be forced to discontinue driving in the absence of receiving the background check results within 60-days of their being submitted to the CBI.

33. Given the clarity of the Legislature's intent, the ALJ does not believe the Commission has statutory authority to adopt a rule that would effectively ignore this part of §§ 40-16-104.5 and 40-10-105.5, C.R.S. That is for the Legislature to do by either amending the statutes in order to extend the background check period or by giving the Commission flexibility to fashion a "safe harbor" if the 60-day period is inadequate to conduct background checks.

34. Staff proposes that Rule 6016(c) be amended by allowing the Commission to assess civil penalties of up to \$275.00 per day in connection with violations of the fingerprint-based background check requirements and procedures implemented by Rule 6015. Staff points out that this is the lowest level of fine authorized for transportation rule violations and suggests that the amount be higher given the seriousness the Legislature placed on the need to disqualify drivers, movers, and principals who fail criminal background checks. Some of the passenger carriers fear that violating the obligations imposed on them by Rule 6015((c)(IV) and (VI) could result in significant cumulative fines as a result of their being assessed on a daily basis. They suggest that the amount of the fine be reduced to a nominal amount.

35. The ALJ is satisfied that the maximum civil penalty amount authorized by proposed Rule 6016(c) is appropriate. In the event the maximum \$275.00 daily fine amount is not sufficient to insure, or at least encourage, compliance with Rule 6015, it may be increased at a later date. Rule 1302(b) of the Commission's Rules of Practice and Procedure requires the Commission to take certain mitigating factors into consideration before imposing a civil penalty. This should provide some protection for passenger carriers who feel that circumstances justify a reduction in the cumulative civil penalty sought for Rule 6015 violations.

**C. Safety Violations, Civil Enforcement, and Civil Penalties**

36. Staff proposes a nominal change to Rule 6105(i) in order to accommodate the renumbering of the Rules resulting from the inclusion of new Rule 6015. That proposal will be adopted.

**D. Common and Contract Carrier Rules**

37. Staff proposes that Rule 6201 be modified to include definitions for “auto livery” or “auto livery service” (subsection (a)) and “special bus,” “special bus transportation,” or “special bus service” (subsection (l)). The subject definitions are designed to formally incorporate decision-based definitions of these terms into the Rules for the sole purpose of allowing the Commission to better interpret existing CPCNs that authorize these types of transportation services. *See*, Decision Nos. R90-577 and C80-2085 relating to the definition of “special bus service.” Including the subject definitions into Rule 6201 is not intended to authorize common or contract carriers to seek these types of operating authority through new applications. They will continue to be limited to the types of operating authority allowed by Rule 6203. This is reflected in Staff’s proposed change to Rule 6203(a)(VII). With those qualifications, Staff’s proposal to modify Rules 6201 and 6203 in this manner will be adopted.

38. Staff also proposes to modify Rules 6203(a)(XII) and 6205(XIII) by formally incorporating requirements that applicants for common or contract carrier authority or transferees in applications for the transfer, merger, consolidation, or acquisition of control of such authority include in their applications a statement setting forth their managerial, operational, and financial fitness to conduct the proposed operations. These modifications are also designed to formally incorporate into the Rules decision-based “fitness” standards that have historically and routinely been required of applicants seeking to obtain or transfer common or contract carrier operating authorities. Prior versions of the Rules alluded to the financial fitness standard

by requiring applicants to submit financial statements with their applications. That specific requirement was removed in the most recent revision of the Rules. However, that was not intended to suggest that applicants are no longer required to establish their managerial, operational, and financial fitness to conduct the operations they propose in their applications. Therefore, Staff's proposal to modify Rules 6203(a)(XII) and 6205(XIII) in this manner will be adopted.

**E. Exempt Passenger Carrier Rules**

39. Staff proposes to delete the definition of "fuel economy guide" from Rule 6301. The subject definition was used to determine whether a sedan or sport utility vehicle qualified as an executive car or whether a van-type vehicle qualified as an executive van and, therefore, as luxury limousines under Rule 6308. The proposal to delete this definition is consistent with the revisions proposed by Staff to Rule 6308 as discussed below.

40. Staff proposes to modify Rule 6305 in two respects. The first is to delete the television, beverages, and beverage service features previously used to define a luxury limousine as set forth in subsection (a) of the Rule. The deletion of these provisions was prompted by recent legislative changes to § 40-16-101, C.R.S. which removed the prior statutory definition of a luxury limousine set forth in subsection (3) of that statute (including, among other things, the television, beverage, and beverage service requirements and the various luxury limousine vehicle categories) and replaced it with a definition that, in large part, allows the Commission to define a luxury limousine. The only statutory requirements remaining are that the luxury limousine be a luxury motor vehicle and that it be chauffeur-driven.

41. The provisions deleted from subsection (a) of Rule 6305 have been replaced by proposed subsections (a) and (b). These new provisions require that a luxury limousine be in

good physical condition (subsection (a)) and, with certain exceptions, be no more than ten model years old (subsection (b)). The exceptions to the proposed vehicle age requirement are contained in proposed Rules 6308(a)(IV) and 6309. Proposed Rule 6308(a)(IV) provides that classic, antique, or specially built motor vehicles older than ten model years may nonetheless qualify as a luxury limousine if they have or had a retail value of \$50,000 or more.<sup>2</sup> Subsection (b) of proposed Rule 6308 requires a luxury limousine carrier operating pursuant to subsection (a)(IV) to produce evidence of such value if requested to do so by Commission enforcement personnel. Proposed Rule 6309 (a so-called “grandfathering” provision) allows all vehicles registered as luxury limousines on or before the effective date of the Rule to maintain their registration status so long as the luxury limousine permit under which they were originally registered remains continuously active and is not revoked.<sup>3</sup>

42. Several of the luxury limousine industry representatives appearing at the hearing objected to both the vehicle age and value provisions set forth in proposed Rules 6305(b) and 6308(a)(IV). They generally contend that these proposals should not be adopted since it is possible to maintain older, less expensive vehicles in a luxurious state and that such vehicles should be able to qualify as luxury limousines. However, the ALJ believes that the age and value standards in proposed Rules 6305(b) and 6308(a)(IV) constitute reasonable markers for what constitutes a luxurious classic, antique or specially built motor vehicle. In addition, it is possible to seek qualification of non-complying vehicles as luxury limousines on a case-by-case basis pursuant to the waiver provisions contained in Rule 6014(a). This provides an opportunity to qualify an older, less valuable vehicle as a luxury limousine under appropriate circumstances. For these reasons, proposed Rules 6305, 6309, 6308(a)(IV) and 6308(b) will be adopted.

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<sup>2</sup> The language of proposed Rule 6308(a)(IV), as modified by Staff at the hearing, is set forth in Exhibit 2.

<sup>3</sup> Proposed Rule 6309 is patterned on § 40-16-103.5, C.R.S. and is set forth in Exhibit 1.

43. The adoption of proposed Rule 6309 requires that proposed Rule 6305(b) be further modified by including an exception to the age limitation for older vehicles that may qualify as luxury limousines under the grandfathering provisions contained in Rule 6309. Therefore, the first sentence of proposed Rule 6305(b) should be modified to read as follows: “Except for luxury limousines covered under rule 6308(a)(IV) and/or vehicles covered by rule 6309, luxury limousine carriers shall not use vehicles older than ten model years as of July 1<sup>st</sup> of each year.”

44. The second proposed modification to Rule 6305 is to eliminate the luxury limousine qualification process set forth in subsections (b), (g) and (h) of that Rule. Under these provisions, a person was precluded from operating a vehicle as a luxury limousine prior to receiving approval from the Commission to do so. Approval was obtained through a physical inspection of the vehicle by a member of the Commission’s staff or by providing Staff a written description of the vehicle that conformed to luxury limousine qualification requirements. A Staff decision to deny a qualification request could be contested through a hearing process.

45. Alpine Taxi opposes this change and argues that a physical inspection of luxury limousine vehicles is necessary in order to prevent abuse by those who may operate non-qualifying vehicles, especially on a seasonal basis. The fear is that an operator may misrepresent the nature of the vehicle, unlawfully operate it over a relatively short period (i.e., the four month ski season), and then discontinue the illegal operations before Staff has the opportunity to become aware of them and take enforcement action.

46. In support of the proposal to eliminate the current luxury limousine qualification process, Staff indicates that the current location of the Commission’s offices no longer provides it with adequate facilities to conduct vehicle inspections. It also points out that the burden of



conducting physical inspections of vehicles away from the Commission's offices is substantial, especially in remote parts of the state. It believes that eliminating the qualification process will not materially affect its ability to enforce the requirement that luxury limousine services be provided only with vehicles defined as luxury limousines. In this regard, Staff indicates that its enforcement efforts rely in large part on the Commission's informal complaint process; i.e., the receipt of information relating to potential illegal operations that allows it to investigate and initiate enforcement action on a case-by-case basis. The ALJ finds that Staff's rationale for eliminating the current luxury limousine qualification process is convincing and, therefore, the modifications to Rule 6305 doing so should be adopted.

47. Staff proposes to delete subsections (a) and (b) of Rule 6307. Subsection (a) incorporated certain portions of Environmental Protection Agency rules defining "large cars" into the Rules. Subsection (b) provided notice to interested parties that such incorporated material could be inspected at the Commission's offices. The proposal to delete these provisions is consistent with the revisions proposed by Staff to Rule 6308 as discussed below and should be adopted.

48. As with Rule 6305, the changes to Rule 6308 proposed by Staff were prompted by recent legislative changes to § 40-16-101, C.R.S. As indicated previously, those changes removed the prior statutory definition of a luxury limousine set forth in subsection (3) of that statute, including definitions of various luxury limousine vehicle categories, and replaced it with a definition that effectively allows the Commission to define a luxury limousine. Staff's proposal defines four categories of luxury limousine; namely, stretched limousine, executive car, executive van and other limousine.<sup>4</sup> The definition of stretched limousine set forth

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<sup>4</sup> The "other limousine" category described in proposed Rule 6308(a)(IV) was discussed above.

in subsection (a)(I) has not changed. The definition of executive car set forth in subsection (a)(II) now contains a listing of specific sedan or sport utility type vehicles that, in Staff's opinion, represents the current industry standard for luxury vehicles of this type.<sup>5</sup> The definition of executive van set forth in subsection (a)(III) provides that for a van or motor coach-type vehicle to qualify as a luxury limousine it must be built on a cutaway chassis, be a motor coach, or be a van (but not a mini van), and have interior seating that has been enhanced from standard bench seats by the installation of captain's chairs, couch seats, or similar seating.

49. A number of the luxury limousine industry participants at the hearing object to the Staff's proposed definition of "executive car" and "executive van." A number of these participants urge the Commission to adopt rules that emphasize the luxurious nature of the service they provide as opposed to the luxurious nature of the vehicles used to provide that service. As a result, they propose the adoption of more generic definitional rules rather than the more objective standards for defining luxury limousine vehicles contained in Staff's proposal. They propose, for example, that "executive cars" and "executive vans" be generally defined as vehicles "commonly used in luxury limousine fleets throughout the United States." They argue that such a definition would be flexible, would accommodate future technological changes that enhance the luxurious nature of motor vehicles and/or services provided by luxury limousine operators, and would preclude the necessity of future luxury limousine rule changes designed to accommodate these technological changes.

50. Regarding the proposed "executive van" definition, the luxury limousine industry participants are particularly concerned about Staff's proposal to require that vans have enhanced interior seating instead of the standard bench seating currently in use. These participants object

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<sup>5</sup> At the hearing, Staff indicated that Rule 6308(a)(II) should be amended by adding two additional vehicles, the Rolls Royce Phantom and the Chrysler 300.

to the added expense involved in converting existing vans or in equipping new vans with such seating. They also object to the reduction in the seating capacity (from a maximum of 15 passengers to a maximum of 8 or 9 passengers) that would result from such a change. They point out that this reduction in seating capacity would require more vehicles to transport the same number of passengers and that would, in turn, result in higher operating expenses. They also indicate that the use of such reconfigured vans could potentially conflict with contractual arrangements they have with affiliated companies in other locations that, for the purpose of uniformity, encourage the use of standard vans with bench seating. At least one of the luxury limousine industry participants suggests that the Commission retain the existing methodology of defining an executive van (i.e., by requiring that it be equipped with a television, beverages, and beverage service) rather than adopting the requirement for enhanced interior seating.

51. Regarding the luxury limousine industry participants' argument that the Rules emphasize the luxurious nature of the service provided as opposed to the luxurious nature of the vehicles used, the ALJ points out that Article 16 of Title 40 clearly requires that luxury limousine services be provided with luxury vehicles. *See*, § 40-16-101(3), C.R.S. (luxury limousine defined as a chauffer-driven luxury motor vehicle) (Emphasis added). The Commission is not at liberty to ignore this statutory requirement and, as a result, its proposal to objectively define what constitutes a "luxury motor vehicle" is entirely appropriate. As a result, the ALJ concludes that the definition proposed by the luxury limousine industry participants (i.e., any vehicle commonly used in luxury limousine fleets) should not be adopted. Such a definition is far too subjective and would be extremely difficult to enforce. Most importantly, a definition of this type effectively ignores the statutory mandate referred to above since it would potentially allow any

vehicle to qualify as a luxury limousine merely by virtue of its being included in the fleets of luxury limousine providers. This would potentially negate the statutory requirement that luxury limousines be, in fact, luxurious.

52. As noted previously, Staff's proposed Rule 6308(a)(II) contains a listing of specific sedan or sport utility type vehicles that will be deemed to be luxury limousines under the executive car category. While such a definition will admittedly become "dated" with the future introduction of technological changes and newer models of luxury-type vehicles, it provides an objective standard for the executive car class of luxury limousine vehicles and, as a result, provides clear guidelines for those wishing to enter this segment of the luxury limousine business. It also eases Staff's enforcement tasks. In addition, the Rule can be rather easily and quickly updated through the Commission's rulemaking procedures if it becomes necessary to add new models of luxury-type vehicles to the list in the future or to delete currently listed vehicles that, as a result of future technological changes, may no longer be deemed luxurious. Also, the "grandfathering" provisions contained in Rule 6309 will provide some protection to existing luxury limousine providers who operate executive cars. Finally, it is possible to seek qualification of a vehicle not listed in Rule 6308(a)(II) as an executive car on a case-by-case basis pursuant to the waiver provisions contained in Rule 6014(a). For these reasons, proposed Rule 6308(a)(II), as amended by Staff at the hearing, will be adopted.

53. While the ALJ appreciates that the adoption of proposed Rule 6308(a)(III) may result in some hardship to luxury limousine providers who operate vans, he is convinced that § 40-16-101(3), C.R.S. requires that such vans be "luxurious;" i.e., that there be some meaningful distinction between standard 15-passenger vans that might, for example, be operated by regulated passenger carriers, and vans operated by luxury limousine carriers exempt from

regulation as public utilities. The statutory scheme relating to for-hire passenger carriage clearly contemplates that there be such a distinction by providing for both types of carriage. *See*, Articles 10 and 11 of Title 40 with regard to “regulated” carriage and Article 16 of Title 40 with regard to carriage exempt from regulation as public utilities. The failure to require luxury limousine providers to operate luxurious vans would obliterate that distinction in violation of these statutory requirements and would, in effect, administratively deregulate a portion of the regulated passenger carrier industry.

54. The ALJ finds that the enhanced interior seating requirement contained in proposed Rule 6308(a)(III) provides a reasonable and objective standard for defining executive vans and thereby distinguishing them from standard van-type vehicles. Therefore, that Rule should be adopted. The ALJ declines to adopt the proposal that the existing methodology of defining executive vans be retained by continuing to require that they be equipped with a television, beverages, and beverage service. The ALJ believes that the deletion of these requirements from the statutory definition of luxury limousine reflects a belief that technological changes occurring subsequent to the passage of legislation exempting luxury limousine providers from regulation as public utilities now render these amenities non-luxurious. The ALJ again notes that it is possible to seek qualification of a non-complying van as an executive van on a case-by-case basis pursuant to the waiver provisions contained in Rule 6014(a). Also, the “grandfathering” provisions contained in Rule 6309 will provide some protection to existing luxury limousine providers who operate vans. Finally, luxury limousine operators wishing to provide a luxurious passenger carrier service with standard vans always have the option of applying for regulated charter or call-and-demand passenger carrier authority under Articles 10 and 11 of Title 40.

55. Proposed Rule 6310 sets forth operational requirements, including the necessity of prearranging service, for luxury limousine operators.<sup>6</sup> See, Exhibit 1. The provisions of Rule 6310 are substantially the same as current Rules 6309 and 6311. Subsection (a) of proposed Rule 6310 has been modified slightly, the effect of which is to preclude luxury limousine service that is arranged “at or near” the point of departure. This is a reasonable change since the prior language, if construed literally, would have precluded such service only if the prearrangement occurred “at” the specific point of departure.

56. Subsection (b) of proposed Rule 6310 prohibits a luxury limousine carrier from stationing a luxury limousine at an airport, in front of or across the street from a hotel or motel, or within 100 feet of a recognized taxicab stand without a completed charter order in the vehicle. Some of the luxury limousine industry participants complained that the prohibition against having a vehicle stationed “at an airport” without a completed charter order was impractical since, if literally interpreted, it would preclude a vehicle from being stationed on any portion of airport property without a charter order. For a larger airport such as Denver International Airport this would preclude, for example, a luxury limousine vehicle from obtaining charter orders while waiting in designated vehicle holding areas that are not in reasonably close proximity to designated passenger pickup areas. This might also preclude a luxury limousine carrier from having an office at an airport where it also parks vehicles while they are not in use.

57. The intent of proposed Rule 6310(b) is to promote the prearrangement requirement by precluding a luxury limousine from soliciting transportation business at or near the point of departure without a charter order evidencing such prearrangement. The ALJ agrees that the “at an airport” language contained in proposed Rule 6310(b) should be modified to more

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<sup>6</sup> Statutory operational requirements for luxury limousine operators previously contained in § 40-16-102.5, C.R.S. have been repealed and are now contained in the Rules.

accurately define the point of departure at an airport. Therefore, the second sentence of the subject Rule will be modified to read as follows: “A luxury limousine carrier shall not station a luxury limousine in front of or across the street from a hotel or motel, or within one hundred feet of a recognized taxicab stand or a designated passenger pickup point at an airport without the completed charter order in the vehicle.”

58. Consistent with the statutory requirement that a luxury limousine carrier provide service only on a prearranged basis, proposed Rule 6311 provides that such a carrier will be presumed to have provided service in violation of Rule 6310(a) under certain circumstances which suggest that prearrangement has not occurred. The presumptions set forth in the Rule may be rebutted by competent evidence. Proposed Rule 6311 is substantially similar to current Rule 6310 except for a new subsection (b) which provides that a luxury limousine carrier charging or offering to charge for services on a per person basis shall be presumed to be providing or offering to provide services as a common carrier. This is consistent with the statutory requirement that luxury limousine service only be provided on a charter basis. *See*, § 40-16-101(3.3), C.R.S. As a result, proposed Rule 6311 should be adopted.

59. Proposed Rule 6312 provides for civil penalties in varying amounts that may be assessed against luxury limousine carriers for violating the requirement to register (subsection (a)), for violating Rule 6310 (subsection (b)), or for violating other provisions of Article 16 of Title 40 or the Exempt Passenger Carrier Rules (subsection (c)). Proposed Rule 6312 is substantially similar to current Rule 6312 except that the civil penalty amount for violating the prearrangement provisions contained in Rule 6310 has been reduced from \$1,100.00 per violation to \$500.00 per violation. Staff believes that a reduction in the maximum fine for violating Rule 6310 is warranted given the nature of the obligations imposed by that Rule.

The ALJ agrees with Staff's position and, as a result, recommends that this modification be adopted.

**F. Comments of General Applicability**

60. Some of the participants submitted comments in connection with some of the proposed Rules in addition to those specifically discussed above. Those comments may have suggested that additional modifications be made to the proposed Rules. The comments/changes that have not been addressed in this decision have not been adopted because the ALJ finds that they will not make the Rules clearer or are otherwise unnecessary. In some instances, the suggested changes run counter to the purposes of the Rules.

61. The Rules attached to this Decision contain grammatical and similar changes made so that the rules are clearer, more understandable, and internally consistent.

62. The Rules attached to this Decision are clear; are necessary to protect the public health, safety, and welfare; are understandable; do not conflict with other provisions of law; and do not duplicate other rules. The Rules are in the public interest, and they should be adopted.

63. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

**III. ORDER**

**A. The Commission Orders That:**

1. The Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6, contained in Attachment A to this Order, are adopted.

2. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.



3. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

4. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in black ink that reads "Doug Dean".

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

DALE E. ISLEY

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Administrative Law Judge

## COLORADO DEPARTMENT OF REGULATORY AGENCIES

### Public Utilities Commission

#### 4 CODE OF COLORADO REGULATIONS (CCR) 723-6

##### PART 6

#### RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE

### BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis for and purpose of these rules is to describe the manner of regulation over persons providing transportation services by motor vehicle in or through the State of Colorado. These rules address a wide variety of subject areas including, but not limited to, safety; civil penalties; the issuance, extension, transfer, and revocation of authority to operate as a transportation carrier; insurance and registration requirements; tariff and time schedule requirements; the identification, condition, and leasing of motor vehicles; record keeping; and service standards. These rules cover an array of carriers, including motor vehicle carriers (common carriers), contract carriers by motor vehicle, interstate carriers, hazardous materials carriers, towing carriers, household goods movers, and motor vehicle carriers exempt from regulation as public utilities (charter or scenic buses, children's activity buses, luxury limousines, off-road scenic charters, and property carriers by motor vehicle).

The statutory authority for the promulgation of these rules can be found at §§ 40-2-108, 40-2-110.5(8), 40-2-116, 40-3-101(1), 40-3-102, 40-3-103, 40-3-110, 40-4-101, 40-5-105, 40-7-113(2), 40-10-105(1), 40-10-105(2)(c), 40-10-105.5(5), 40-10-107, 40-10-110, 40-10-111, 40-10-120(4), 40-11-103(1), 40-11-105, 40-11-106, 40-11-109, 40-11-115(4), 40-13-104(1), 40-13-105, 40-13-107, 40-13-110(1), 40-14-103(2)(c), 40-14-104(2), 40-14-106(2)(a)(I), 40-14-108(1), 40-14-110, 40-16-103.6(1), 40-16-103.8, 40-16-104, 40-16-104.5(5), 40-16-105(1), 42-4-1809(2)(a), ~~and~~ 42-4-2108(2)(a), and 42-20-202(1)(a), C.R.S.

### GENERAL PROVISIONS

#### 6000. Scope and Applicability.

All rules in this Part 6, the "6000" series, shall apply to all Commission proceedings and operations concerning regulated entities providing transportation by motor vehicle, unless a specific statute or rule provides otherwise. Rules 6000 – 6099 apply to all common carriers, contract carriers, exempt intrastate carriers, towing carriers, household goods movers, and interstate carriers, as defined herein. Specific provisions regarding the applicability of this Part 6 can be found in rules 6100, 6200, 6250, 6300, 6400, 6500, and 6600.

Nothing in this Part 6, the "6000" series, shall be construed to apply to a secured creditor or assignee (principal), or reposessor (agent), or to the repossession of a motor vehicle by a secured creditor or assignee (principal), or reposessor (agent), when repossessing pursuant to § ~~4-9-503.5~~ 4-9-629, C.R.S.

\* \* \*

[signifies omission of unaffected rules]

#### **6001. Definitions.**

The following definitions apply throughout this Part 6, except where a specific rule or statute provides otherwise:

\* \* \*

- (ss) "Luxury limousine" means a motor vehicle, for hire on a prearranged, charter basis to transport passengers in luxury limousine service. Luxury limousine does not include a taxicab.

\* \* \*

#### **6002. Applications.**

Transportation carriers may seek Commission action regarding any of the following matters through the filing of an appropriate application:

\* \* \*

~~(e) — To qualify a motor vehicle as a luxury limousine after an enforcement official of the Commission has determined that the motor vehicle does not meet relevant statutory or regulatory requirements, as provided in paragraph 6305(b).~~

~~(fe)~~ For a permit to operate as a towing carrier, as provided in rule 6503.

~~(gf)~~ For any other matter provided by statute or rule but not specifically described in this rule.

\* \* \*

#### **6006. Reports, Name Changes, Address Changes, and Address Additions.**

\* \* \*

(b) Within two days of receipt of all supporting documentation required by this paragraph, each transportation carrier shall file a signed report with the Commission detailing as applicable, any change of name, ~~or mailing~~ address, physical address, telephone number, agent for service of process on file with the Commission. Such a filing shall indicate all the affected transportation carrier's common carrier certificate, contract carrier permit, towing carrier permit, or registration numbers. Name change filings, including trade name changes or trade name additions, shall include supporting documentation from the Colorado Secretary of State and/or the Colorado Department of Revenue.

- (I) In the event of a name change or an address change, the transportation carrier shall comply with all other applicable Commission rules, including but not limited to, rules regarding financial responsibility filings.
- (II) No name change shall be effective until proper proof of financial responsibility in the transportation carrier's new name has been filed with the Commission.

\* \* \*

#### 6007. Financial Responsibility.

\* \* \*

(g) The transportation carrier's failure to file proof of liability coverage, as required by this rule, shall constitute a rebuttable presumption that the carrier is not properly covered under the requirements of this rule.

(gh) All forms referred to in this rule are available from the Commission.

(hi) The transportation carrier shall ensure that the policy and the forms noted in this rule contain the transportation carrier's exact name, trade name (if any), and address as shown in the records of the Commission; and

(ji) Any subsequent changes of name, address, or policy number shall be reflected by the filing of an appropriate endorsement or amendment with the Commission.

(kj) The proof of minimum levels of financial responsibility required by this rule is public information and may be obtained from the Commission.

(lk) Except as provided in paragraph (lm) of this rule, each certificate of insurance and/or surety bond required by and filed with the Commission shall be kept in full force and effect unless and until canceled or not renewed upon 30-days advance written notice, on Form K, Form L, Form BMC 35, or Form BMC 36, as applicable, from the insurer or surety to the Commission. The 30-day cancellation or non-renewal notice period shall commence on the date the notice is received by the Commission. In lieu of the prescribed form, the insurer or surety may cancel or not renew a certificate of insurance and/or surety bond by letter to the Commission containing the same information as required by such form.

(m) Administrative cancellation of certificates of insurance and/or surety bond.

- (I) When a new certificate of insurance and/or surety bond is received by the Commission, all certificates of insurance and/or surety bond for the same type and category of coverage with an older effective date shall be administratively cancelled. For purposes of this paragraph, type of coverage means those listed in paragraph (f) of this rule, and category of coverage means primary coverage or excess coverage.
- (II) When the Commission receives notice from a transportation carrier to cancel all of its authorities and operating rights, all certificates of insurance and/or surety bond for the transportation carrier shall be administratively cancelled.

(n) Common and contract carriers operating under a waiver or variance of the insurance limits shall:

- (I) Post the following notice in each of its passenger motor vehicles affected by the waiver or variance, disclosing the appropriate amounts in the blanks of said notice:

NOTICE

The Public Utilities Commission's rules generally require \$\_\_\_\_\_ amount of insurance on a motor vehicle of this size. However, the Commission has authorized this company to operate with \$\_\_\_\_\_ of combined single limit liability insurance. This limit may not cover the total amount of a claim in the event of a serious accident.

- (II) Print such notice in letters of not less than 14-point size and posted in a manner that makes it readily visible to each passenger.

\* \* \*

**60165. Fingerprint-Based Criminal History Background Checks.**

(a) For purposes of this rule only:

- (I) "Applicant" means a household goods mover seeking to establish or renew a household goods mover registration.
- (II) "CBI" means the Colorado Bureau of Investigation.
- (III) "Driver" means a person who drives or wishes to drive a taxicab for a taxicab carrier or who drives or wishes to drive for ~~a~~ an exempt passenger carrier, regardless of whether such person drives or wishes to drive as an employee or independent contractor.
- (IV) "Passenger carrier" means an exempt passenger carrier ~~or a common carrier with authority to provide taxicab service~~ and a taxicab carrier, but only to the extent the taxicab carrier uses or wishes to use drivers to drive taxicabs.

(V) "Principal" means a director, officer, owner, or general partner of a household goods mover.

(VI) "Record check" means a state and national fingerprint-based criminal history record check.

(b) This rule applies to passenger carriers, drivers, household goods movers, and principals.

(c) Drivers and passenger carriers.

(I) Within ten days of contracting or being employed to drive for passenger carrier, a driver shall submit to the Commission a set of the driver's fingerprints and payment of the actual cost to conduct a record check.

(II) A driver shall re-submit to the Commission a set of the driver's fingerprints and payment of the actual cost to conduct a record check ~~at least once every within~~ two years after the Commission provides him/her with the qualification notice required by subsection (c)(VII)(C) of this rule.

(III) The driver may obtain information regarding the actual cost of the record check from the Commission or its website. The driver shall submit his or her fingerprints on an official form (FD-258). The Commission will only accept official forms completed in accordance with the instructions available from the Commission or its website.

~~(IV) [Reserved].~~

(IV) A passenger carrier shall not permit a driver to drive for the passenger carrier if:

(A) the driver has not complied with this rule and § 40-16-104.5 or § 40-10-105.5, C.R.S., as applicable;

(B) the driver is disqualified and prohibited from driving under subparagraph (c)(VII), or § 40-16-104.5(4) or § 40-10-105.5(4), C.R.S., as applicable; or

(C) the passenger carrier becomes ~~or reasonably should have become~~ aware that the driver has been

(i) convicted, within the last ten years, of any offense listed in § 40-16-104.5(4)(a) or § 40-10-105.5(4)(a), C.R.S., as applicable; or

(ii) convicted, within the last two years, of any offense listed in § 40-16-104.5(4)(b) or § 40-10-105.5(4)(b), C.R.S., as applicable.

~~(V)~~ Passenger carriers are authorized to contact the Commission regarding whether a particular driver has been disqualified and prohibited from driving.

~~(VI)~~ A passenger carrier shall, as a condition of continued contract or employment, require a driver to submit his or her fingerprints to the Commission for a record check:

- (A) at least once every two years; and/or
  - (B) within ten days of becoming aware that the driver has been convicted of the offenses listed in subparagraphs (I)(C)(i) and (ii) of this rule.
- (VI) Driver qualification determinations.
  - (A) Upon the Commission's receipt of a completed record check, Staff of the Commission (Staff) shall make the initial determination regarding the driver's qualification status under § 40-16-104.5(4) or § 40-10-105.5(4), C.R.S., as applicable.
  - (B) In making its initial qualification determination, Staff is authorized to request from the driver, and the driver shall provide, additional information that will assist Staff in making the initial determination regarding the driver's qualification status under § 40-16-104.5(4) or § 40-10-105.5(4), C.R.S., as applicable. If, within 15 days of Staff's request, a driver does not provide such additional information or a reason explaining why it is unavailable, Staff shall disqualify the driver.
  - (C) Staff shall give to the driver written notice of its initial qualification determination. If Staff initially determines that the driver is disqualified and prohibited from driving, the driver may, within 60 days of Staff's written disqualification notice, petition the Commission for an order reversing Staff's initial determination.
  - (D) Staff's initial qualification determination may be relied upon by all persons, unless and until the Commission reverses Staff's initial qualification determination.
- (d) Principals and household goods movers.
  - (I) Prior to the issuance of a household goods mover registration, an applicant and each principal thereof shall submit a set of his or her fingerprints, using an official fingerprint form (FD-258), together with the established fee, to CBI for the purpose of conducting a record check. The applicant should begin the fingerprint process at least three months prior to the date that the applicant wishes to begin operations as a household goods mover; fingerprint processing may take longer if results are returned as unreadable or unclassifiable.
  - (II) Applicants and principals shall complete the official fingerprint form (FD-258) in accordance with the instructions available from the Commission or its website.
  - (III) The Commission will use the results of the record check to determine whether to issue a household goods mover registration under rule 6603(e).
- (e) The Commission and its Staff may consult and use any commercially or governmentally available information source in conducting criminal history record checks. The Commission may require a name-based criminal history record check of a driver, principal, or household goods mover who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unreadable or unclassifiable.



(f) Nothing in this rule shall be construed to make an independent contractor driver an employee driver of a passenger carrier.

**601~~56~~. Violations, Civil Enforcement, and Enhancement of Civil Penalties.**

- (a) A violation of subparagraph (a)(I) or (b)(I)(B) of rule 6007 may result in the assessment of a civil penalty of up to \$11,000.00 for each violation.
- (b) Any person subject to § 40-2-110.5, C.R.S., who operates a motor vehicle without having paid the annual identification fee, or who violates any provision of rule 6009, may be assessed a civil penalty of up to \$400.00 for each violation.
- (c) Except as provided for in paragraph (a) or (b) of this rule, a person who violates any provision of rules 6000 through ~~6014~~ 6015 may be assessed a civil penalty of up to \$275.00 for each violation.

\* \* \*

**SAFETY RULES**

\* \* \*

**6105. Safety Violations, Civil Enforcement, and Civil Penalties.**

\* \* \*

(~~h~~) The provisions relating to the doubling and tripling of civil penalty assessments, found in § 40-7-113(3) and (4), and in paragraphs (f) through (k) of rule ~~6015~~ 6016, shall not apply to the assessment of civil penalties for safety rule violations.

**6106. – 6199. [Reserved].**

**COMMON AND CONTRACT CARRIER RULES**

**Rules Generally Applicable to Common and Contract Carriers**

\* \* \*

**6201. Definitions.**

In addition to the generally applicable definitions in rule 6001, the following definitions apply only in the context of these Common and Contract Carrier Rules:

- (a) "Auto livery" or "auto livery service" means the transportation of passengers by common carrier, including the transportation of passengers in scheduled and/or call-and-demand service.
- (ba) "Capable," as used in § 40-6-120(1), C.R.S., means ready, willing, and able to provide services under the terms of the common carrier's authority. Capability may be evidenced by, among other things, ongoing transportation operations or good faith efforts to conduct such operations under such authority.
- (cb) "Call-and-demand," "on call-and-demand," or "call-and-demand service" means the transportation of passengers not on schedule. Call-and-demand service includes charter service, limousine service, sightseeing service, and taxicab service.
- (de) "Charter party" means a person or group of persons who are traveling together pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle, having acquired the exclusive use of the motor vehicle.
- (ed) "Charter service" means transportation of a charter party.
- (fe) "Dual-use vehicle" means a specific motor vehicle used to provide luxury limousine service, on the one hand, and either common carrier service, contract carrier service, or both, on the other hand.
- (gf) "Flag stop" means a point of service designated by a scheduled common carrier on its filed schedule, which point is located between two scheduled points on the scheduled route. Typically, the common carrier does not designate a specific time for service to the flag stop; if the common carrier does designate a specific time for service, the time is considered to be an approximation.
- (hg) "Limousine service" means the transportation of passengers charged at a per person rate, and the use of the motor vehicle is not exclusive to any individual or group. The term "limousine service" is distinguished from the term "luxury limousine service" as used in Article 16 of Title 40, C.R.S.
- (ih) "Outstanding authority" means an existing authority, or any portion thereof, which is not under suspension.
- (ji) "Schedule," "on schedule," or "scheduled service" means the transportation of passengers between fixed points and over designated routes at established times as specified in the common carrier's time schedule as filed with and approved by the Commission.
- (kj) "Sightseeing service" means the transportation of passengers for the sole purpose of viewing or visiting places of natural, historic, or scenic interest, such that the transportation originates and terminates at the same point.
- (l) "Special bus," "special bus transportation," or "special bus service" means the transportation of passengers by common carrier:
  - (I) not including ordinary and continuous scheduled service;
  - (II) rendered generally on weekends, holidays, or other special occasions;

(III) with a fixed termination date; and

(IV) to a number of passengers whom the carrier on its own initiative has assembled into a travel group, through its own promotion and sale of individual tickets, for a trip or tour planned by the carrier.

(mk) "Tacking" means the joinder of two or more separate authorities or two or more separate parts thereof at a common service point for the purpose of providing a through service.

(nt) "Taxicab service" means passenger transportation by taxicab.

\* \* \*

### **6203. Applications to Operate as a Common or Contract Carrier.**

- (a) Any person seeking permanent authority to operate as a common or contract carrier, or permanent authority to extend a common carrier certificate or contract carrier permit, shall file an application with the Commission. The application shall contain the following information:
- (I) The name, including trade name if applicable, physical address, mailing address, and telephone number of the applicant.
  - (II) The name, mailing address, and telephone number of the applicant's representative to whom the Commission may direct inquiries regarding the application.
  - (III) A statement describing the applicant's business structure (corporation, partnership, sole proprietorship, etc.).
  - (IV) If the applicant is a corporation: the name of the state in which it is incorporated; the location of its principal office, if any, in Colorado; the names of its directors and officers; the name and address of its Colorado agent for service of process; and a certified copy of its certificate of good standing authorizing it to do business in Colorado, certified within 14 days prior to the filing of the application.
  - (V) If the applicant is a limited liability company: ~~a statement of that fact;~~ the name of the state in which it is organized; the complete mailing address and physical address of its principal office; the name of its managers; and a certified copy of its certificate of good standing authorizing it to do business in Colorado, certified within 14 days prior to the filing of the application.
  - (VI) If the applicant is a partnership: the names, titles, and addresses of all general and limited partners; and a copy of the partnership agreement establishing the partnership and all subsequent amendments.
  - (VII) A complete description of the authority sought, which shall indicate:
    - (A) whether the applicant proposes to operate as a common or contract carrier;

- (B) the proposed type of service (*i.e.*, charter, limousine, sightseeing, taxicab, or scheduled, but not auto livery or special bus), if the applicant proposes to operate as a common carrier;
  - (C) the proposed geographic area of service or the proposed points or routes of service;
  - (D) any proposed restrictions to the authority sought; and
  - (E) a description of the make, model, and year of the motor vehicles proposed to be operated, or if unknown, then a summary of the number and types of motor vehicles proposed to be operated.
- (VIII) A map or diagram showing the proposed geographic area of service, or the proposed points or routes of service, if and in the form requested by the Commission or Commission staff.
- (IX) If the applicant seeks common carrier authority, the applicant shall attach signed letters of support indicating a public need for the proposed service. A letter from the applicant shall be considered a letter of public support. A letter of support:
- (A) shall contain the author's name, address, and phone number;
  - (B) should explain the public need;
  - (C) should specifically support the applicant's particular request for authority;
  - (D) should describe whether and how existing service is inadequate; and
  - (E) shall contain a statement, signed by the author, stating that the letter contains only information that is true and correct to the best of the author's knowledge and belief.
- (X) If the applicant seeks contract carrier authority, the applicant shall attach a letter signed by each proposed customer. Such a letter:
- (A) shall contain the proposed customer's name, address, and phone number;
  - (B) should indicate the proposed customer's special or distinctive transportation needs and whether those needs can be met by existing service;
  - (C) should specifically support the applicant's particular request for authority;
  - (D) should describe whether and how existing service is inadequate; and
  - (E) shall contain a statement, signed by the proposed customer, stating that the letter contains only information that is true and correct to the best of the proposed customer's knowledge and belief.

- (XI) A statement of the facts upon which the applicant relies to establish that the application should be granted. If the application seeks common carrier authority, the statement should establish how granting the application is in the public interest. If the application seeks contract carrier authority, the statement should establish the superior, special, or distinctive nature of the transportation service, or how the transportation service will be specifically tailored to meet the customer's needs.
- (XII) A statement setting forth the qualifications of the applicant, including managerial, operational, and financial fitness, to conduct the proposed operations.
- (XIII) A statement describing the extent to which the applicant, or any person affiliated with the applicant, holds or is applying for authority duplicating or overlapping in any respect the authority at issue in the application.
- (XIV) If applicable, current copies of any authority, issued by either a state or federal agency, authorizing the applicant to provide for-hire transportation of passengers in the State of Colorado.
- (XV) If applicable, current copies of any authority, issued by either a state or federal agency, authorizing any affiliate of the applicant to provide for-hire transportation of passengers in the State of Colorado.
- (XVI) If applicable, a statement that the applicant understands the Commission will, in its discretion, cancel any duplicating or overlapping authorities created by granting the application.
- (XVII) A statement indicating the town or city where the applicant prefers any hearing to be held.
- (XVIII) A statement, signed by the applicant, that the application contains only information that is true and correct to the best of the applicant's knowledge and belief.

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#### **6205. Encumbrances, Transfers, Mergers, Consolidations, and Acquisitions of Control.**

(a) For purposes of this rule:

- (I) "Encumbrancer" means a person seeking or holding an encumbrance (e.g., lien or mortgage) against the authority of a common or contract carrier.
- (II) "Transfer" means, without limitation, any sale, lease, assignment, license, change in ownership, foreclosure of an encumbrance, execution in satisfaction of any judgment or claim, merger, consolidation, or similar transaction in which control of any authority or portion thereof changes from one entity to another, whether voluntarily, by court order, or otherwise.

- (III) "Transferee" means any entity newly acquiring control of any authority from a transferor.
- (IV) "Transferor" means any entity transferring control of any authority to a transferee.
- (b) Except with regard to foreclosures of encumbrances, executions in satisfaction of a judgment or claim, or transfers pursuant to a court order, only the owners of an authority as shown in the official records of the Commission may transfer the authority.
- (c) An application to encumber any authority, transfer any authority, acquire control of any regulated intrastate carrier, or permit a merger or consolidation of a regulated intrastate carrier with any other entity, shall, if possible, take the form of a joint application submitted by all parties to the transaction. Such an application shall contain all the following information. If an applicant is unable to supply the required information, the applicant shall explain the reason for the lack of information.
  - (I) All applicants shall provide the information required by subparagraphs 6203(a)(I), (II), and (XVII).
  - (II) Transferees and encumbrancers shall provide the information required by subparagraphs 6203(a)(III) ~~= (VI), and (XII) = (XIV), and (XVI).~~
  - (III) If a transferee or encumbrancer is an executor, trustee, receiver, or other similar representative of the real party in interest: a copy of the court order evidencing the representative's appointment, or other evidence of authority if not under court order.
  - (IV) If the transaction covers only portions of an authority: a statement fully explaining which portions are covered by the transaction and which are not.
  - (V) A complete description of the type of transaction for which the applicants seek Commission approval, together with a statement describing each applicant's role in the transaction.
  - (VI) If the transaction involves an acquisition of stock: a statement of the transferor's total number of outstanding capital stock shares, by class; and the number of shares of each class to be acquired by transferee.
  - (VII) A copy of all agreements concerning the transaction, including a copy of all documents creating a security interest, if any, and a statement of the consideration paid in the transaction.
  - (VIII) A statement explaining how the transferee proposes to meet the financial requirements of the transaction, including, if a loan is involved, the amount, maturity, interest rate, and other terms and conditions.
  - (IX) A statement setting forth the nature, extent, and proposed disposition of any existing encumbrances against the affected authorities.
  - (X) A current copy of each of the letters of authority encompassing the authorities at issue in the application.

- (XI) If the transaction involves the lease of an authority: a copy of the proposed lease and a statement of the lease's effective date and termination date.
- (XII) If a transferor or encumbrancer seeks foreclosure of an encumbrance or execution in satisfaction of any judgment or claim: the transferee's written consent to transfer, or in lieu thereof, a judicial order authorizing unilateral action by the transferor or encumbrancer.
- (XIII) Except in the case of an application involving only the creation of an encumbrance, a statement setting forth the qualifications of the transferee, including managerial, operational, and financial fitness, to conduct the proposed operations.
- (XIV) A statement that the applicants understand the Commission will, in its discretion, cancel any duplicating or overlapping authority created by the transaction.
- (XV) A statement setting forth whether the transferor has been and is conducting active, bona fide operations under the authorities at issue in the transaction.
- (XVI) A statement of the facts upon which the applicants rely to show that the application should be granted. In this regard, the applicants should consult paragraph (e) of this rule.
- (XVII) A statement, signed by the applicant, that the application contains only information that is true and correct to the best of the applicant's knowledge and belief.

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## EXEMPT PASSENGER CARRIER RULES

\* \* \*

### 6301. Definitions. [Reserved]

~~"Fuel economy guide" means the fuel economy guide published by the federal Environmental Protection Agency and available on that Agency's website.~~

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### 6304. Exterior Signs or Graphics.

- (a) Except as otherwise provided in these rules, no person shall place, or permit to be placed, any exterior signs or graphics on a luxury limousine.
- (b) Signs or graphics located inside the luxury limousine that are readily legible from the outside shall be deemed to be exterior signs and graphics.

- (c) For purposes of this rule, and except as specifically provided in paragraph (d) of this rule, "identified" is deemed to mean:
  - (I) an identification of the name, address, Internet address, phone number, or any other contact information of the person offering luxury limousine service; or
  - (II) any identification of a type of passenger transportation service including, but not limited to, limousine, shuttle, or taxi.
- (d) Nothing in this rule shall prohibit the following:
  - (I) markings, signs, or graphics otherwise required by law, including those required by any rule of the Commission, the Colorado Department of Public Safety, the FMCSA, or an airport authority;
  - (II) markings, signs, or graphics attached by any law enforcement agency; or
  - (III) signs or graphics attached by the motor vehicle manufacturer or dealership for the purpose of identifying the manufacturer, dealership, or the motor vehicle's make or model.

**6305. Luxury Limousine Features, ~~Qualification, and Applications for Qualification.~~**

- (a) Features. Each luxury limousine carrier shall ensure that its motor vehicles, when in operation as luxury limousines or waiting to pickup a chartering party, are ~~equipped with the following in good physical condition, excluding consideration of defects covered by the Commission's safety rules. The Commission shall use the following general guidelines in determining if a vehicle is in good physical condition:~~
  - (I) ~~A television. The television shall be operational and securely attached to the motor vehicle in a professional manner. An electronic media system such as DVD or VHS may be used in conjunction with a television receiver. The screen shall have a diagonal measurement of at least three inches, be visible to passengers seated to the rear of the driver, and be in compliance with 49 C.F.R., § 393.88. The body of the luxury limousine has a good, unfaded paint job; is devoid of major dents and rust, broken trim, and cracked windows other than the windshield; and~~
  - (II) ~~Beverages and beverage service amenities, including at least an ice container and glasses or cups. The beverages and amenities shall be securely positioned inside a console or cabinet located inside the passenger compartment, to include any containment system, console and cup holder built into the motor vehicle by the manufacturer, and securely attached to the motor vehicle in a professional manner. The beverages are not required to be alcoholic in nature. Except for problems caused by current weather conditions, the interior of the luxury limousine is clean, free of offensive odors, and has no major tears, cracks, or stains upon the upholstery, headliner, and carpeting.~~
- (b) Age of Motor Vehicles. Except for luxury limousines covered under rule 6308(a)(IV) and/or vehicles covered by rule 6309, luxury limousine carriers shall not use vehicles older than ten



model years as of July 1st of each year. For purposes of this rule, the counting of model years shall begin with the present calendar year. By way of example, between July 1, 2004, and June 30, 2005, counting backwards, 2004 is the first model year, 2003 is the second model year, and so forth. Qualification. No person shall operate any motor vehicle as a luxury limousine unless such person has first received approval from the Commission, in accordance with one of the following processes, to operate as a luxury limousine:

- ~~(I) — A luxury limousine carrier may receive approval following an inspection of the motor vehicle by an enforcement official of the Commission.~~
- ~~(II) — In the alternative, a luxury limousine carrier may receive approval by:~~
  - ~~(A) — contacting an enforcement official of the Commission responsible for inspecting motor vehicles for qualification;~~
  - ~~(B) — adequately describing the motor vehicle to the enforcement official; and~~
  - ~~(C) — receiving written confirmation from such enforcement official that, based on the description given by the luxury limousine carrier, the subject motor vehicle meets relevant statutory and regulatory requirements for operation as a luxury limousine.~~

~~(c) — (f) [Reserved]~~

~~(g) — Applications for qualification. If the Commission's enforcement official determines that a motor vehicle does not meet relevant statutory and regulatory requirements for operation as a luxury limousine, and the luxury limousine carrier disagrees with such enforcement official's determination, such luxury limousine carrier may file an application to the Commission for a hearing on the matter. In any such hearing, the luxury limousine carrier shall bear the burden of proving that the motor vehicle in question complies with relevant statutory and regulatory requirements.~~

~~(h) — Disqualification. No person shall operate any motor vehicle as a luxury limousine if such motor vehicle has been disqualified to operate as a luxury limousine.~~

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**6307. Regulations Incorporated by Reference. [Reserved].**

~~(a) — The Commission incorporates by reference the regulations published in 40 C.F.R. § 600.315-82, as revised on July 1, 2006. No later amendments to or editions of the C.F.R. are incorporated into these rules. Persons interested in information concerning how the material incorporated by reference may be obtained or examined should contact the Chief of Transportation at:~~

Colorado Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, Colorado 80202

~~Telephone: (303) 894-2850~~

~~(b) The material incorporated by reference may be examined at the offices of the Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except when such days are state holidays. The material incorporated by reference may also be examined at any state publications library.~~

**6308. Luxury Limousine Categories.**

(a) A luxury limousine shall fit one or more of the following categories:

- (I) Stretched limousine, which is a motor vehicle whose wheelbase has been lengthened beyond the manufacturer's original specifications whether at the manufacturer's factory or otherwise.
- (II) Executive car, which is a ~~motor vehicle~~ Lincoln Towncar, Lincoln Navigator, Cadillac DTS, Cadillac Escalade, GMC Yukon, Chevrolet Suburban, Ford Excursion, Ford Expedition, Hummer (all models, excluding sport utility truck versions), Mercedes M Class, Mercedes S Class, Lexus LS, Lexus LX, Audi Q7, Audi A8, Infiniti QX, Infiniti M, BMW 7 Series, Rolls Royce Phantom, or the Chrysler 300.
  - ~~(A) that has four doors, that meets or exceeds the interior volume index of 120 cubic feet for "large cars" in 40 C.F.R. § 600.315-82, and that is classified as a luxury sedan or sport utility vehicle in the fuel economy guide; or~~
  - ~~(B) that is similar to a motor vehicle which falls within the parameters of subparagraph (A) but is so new that it is not yet listed in the fuel economy guide.~~
- (III) Executive van, which ~~is~~:
  - (A) is a motor vehicle built on a cutaway chassis; a motor coach, or a van (but not a mini van as classified by the manufacturer); and
  - (B) a motor coach; or has interior seating that has been enhanced from standard bench seats by the installation of captain's chairs, couch seats, or similar seating.
  - ~~(C) a van (but is neither classified as a mini van in the fuel economy guide, nor a similar vehicle not specifically classified as a mini van in the fuel economy guide).~~
- (IV) Other limousine, which is a classic, antique, or specially built motor vehicle that, at the time of registration as a luxury limousine, has or had a retail value of fifty thousand dollars or more.

(b) A luxury limousine carrier operating a motor vehicle pursuant to subparagraph (a)(IV) of this rule shall, upon request by an enforcement personnel official, ~~of the Commission supply proof of the retail value of the vehicle in the form of: reference to the most recent available edition of the National Automobile Dealers Association "blue book" or other similar and widely recognized publication which establishes the retail value of the vehicle; or a sales receipt or affidavit~~

~~confirming the actual price of the vehicle; produce evidence that the motor vehicle meets the requirements of subparagraph (a)(IV) of this rule.~~

**6309. Luxury Limousines – Previously Registered Vehicles.**

~~Notwithstanding anything in rules 6305(b) and 6308 to the contrary, all vehicles registered as luxury limousines on or before the effective date of this rule shall maintain their registration status so long as the luxury limousine permit under which they were originally registered remains continuously active and is not revoked.~~

**63096310. Luxury Limousines – Operational Requirements, Prearrangement Required.**

- (a) No person shall provide luxury limousine service except on a prearranged basis. For purposes of this rule, “prearranged basis” means that the luxury limousine service has been arranged or reserved before the luxury limousine service, or ancillary service thereto, is provided. No person shall provide luxury limousine service, or a service ancillary to luxury limousine service, if that person arranges provision of the service with the chartering party at or near the point of departure.
- (b) ~~No person shall provide luxury limousine service without having in the luxury limousine a manifest or charter order containing the name, pickup address, and telephone number of the chartering party and the time of pickup. A luxury limousine carrier shall, at all times when providing service, carry in each vehicle a charter order containing the name, telephone number, pickup time, and pickup address of the chartering party who has arranged for use of the vehicle. A luxury limousine carrier shall not station a luxury limousine in front of or across the street from a hotel or motel, or within one hundred feet of a recognized taxicab stand or a designated passenger pickup point at an airport without the completed charter order in the vehicle.~~
- (c) ~~A luxury limousine carrier shall provide the charter order immediately upon request by any enforcement official or airport authority.~~

**63106311. Presumption of Providing Luxury Limousine Service – Presumptions.**

- (a) A person shall be presumed to have provided luxury limousine service in violation of rule ~~6309~~ 6310(a) if, without prearrangement, such person:
- (I) accepts payment for the transportation from the chartering party at the point of departure;
  - (II) makes the luxury limousine available to the chartering party at the point of departure;
  - (III) negotiates the immediate availability of, or the price for immediate use of, the luxury limousine at or near the point of departure;
  - (IV) loads the chartering party or its baggage into the luxury limousine; or
  - (V) transports the chartering party in the luxury limousine.

~~(b) A luxury limousine carrier that charges or offers to charge for transportation services on a per person basis shall be presumed to be providing or offering to provide services as a common carrier.~~

~~(b)c~~ A luxury limousine carrier may rebut the presumptions created in ~~paragraph (a) this rule~~ by competent evidence.

**~~6311. Luxury Limousine Operational Requirements.~~**

~~(a) A luxury limousine carrier shall, at all times when providing service, carry in each vehicle a charter order containing the name, telephone number, and pickup address of the chartering party who has arranged for use of the vehicle. A luxury limousine carrier shall not station a luxury limousine at an airport, in front of or across the street from a hotel or motel, or within one hundred feet of a recognized taxicab stand without the completed charter order in the vehicle.~~

~~(b) A luxury limousine carrier shall provide the charter order immediately upon request by any enforcement official or airport authority.~~

**6312. Exempt Passenger Carrier Violations, Civil Enforcement, and Civil Penalties.**

(a) A person who violates ~~any of the following provisions § 40-16-103, C.R.S., with regard to offering service without being registered, or rule 6302,~~ may be assessed a civil penalty of up to \$1,100.00 for each violation:

~~(I) Rule 6309.~~

~~(II) § 40-16-103, C.R.S., with regard to offering service without being registered; or rule 6302.~~

~~(b) A person who violates rule 6310 may be assessed a civil penalty of up to \$500.00 for each violation.~~

~~(b)c~~ Except as provided in paragraphs (a) ~~and (b)~~ of this rule, a person who violates any provision of Article 16 of Title 40, C.R.S., or any provision of these Exempt Passenger Carrier Rules may be assessed a civil penalty of up to \$275.00 for each violation.

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**HOUSEHOLD GOODS MOVER AND PROPERTY CARRIER RULES**

\* \* \*

**6603. Registration.**

(a) Any person seeking to register as a household goods mover or property carrier shall provide the following information, as applicable:

- (I) The name of the registrant and the trade name under which operations will be conducted.
- (II) A copy of the registrant's certificate of assumed trade name or trade name registration.
- (III) The registrant's telephone number, complete physical address, and complete mailing address. A post office box is only acceptable if a physical address is also provided.
- (IV) A statement describing the registrant's business structure (corporation, limited liability company, partnership, or sole proprietorship).
- (V) The name and address of the registrant's Colorado agent for service of process, as required by rule 6012.
- (VI) If a registrant is a corporation:
  - (A) The name of the state in which the registrant is incorporated.
  - (B) The location of the registrant's principal office, if any, in Colorado.
  - (C) The name and title of each director and officer.
  - (D) A certified copy of the registrant's certificate of good standing authorizing it to do business in Colorado, certified within 14 days prior to the filing of the registration.
- (VII) If the registrant is a limited liability company:
  - (A) The state in which the company is organized.
  - (B) The location of the registrant's principal office, if any, in Colorado.
  - (C) The name and title of each member.
  - (D) A certified copy of the registrant's certificate of good standing authorizing it to do business in Colorado, certified within 14 days prior to the filing of the registration.
- (VIII) If the registrant is a partnership:
  - (A) The name and business address of all general and limited partners.
  - (B) The location of the registrant's principal office, if any, in Colorado.
- (IX) If the registrant is a sole proprietorship:
  - (A) The name and business address of the sole proprietor.
  - (B) The location of the sole proprietor's principal office, if any, in Colorado.
- (X) A statement that the registrant is familiar with the Household Goods Mover and Property Carrier Rules and all applicable safety rules and that the registrant will comply with them.

- (XI) A statement that the registrant understands that the filing of a registration does not constitute authority to operate.
  - (XII) A statement indicating whether any of the motor vehicles to be used have a GVWR of 10,000 or more pounds.
  - (XIII) A verification made under penalty of perjury and signed by an authorized officer, partner, owner, employee, or manager of the registrant, as appropriate, verifying that the contents of the registration form and all attachments are true, accurate, and correct. The registration form shall contain the complete address of the affiant.
- (b) In addition to the information required by paragraph (a):
- (I) A person registering as a household goods mover or property carrier under this rule shall cause to be filed both the required proof of financial responsibility and the required annual identification fees.
  - (II) Household goods movers shall pay an annual filing fee of \$300.00.
  - (III) Household goods movers shall provide the following information for each director, officer, owner, or general partner of the household goods mover:
    - (A) First, middle, and last names;
    - (B) Gender;
    - (C) Social Security Number; and
    - (D) Date and place of birth.
  - (IV) Property carriers shall pay a registration filing fee of \$50.00; except that a person that simultaneously registers as a property carrier and as a household goods mover shall be exempt from the \$50.00 registration filing fee and need only pay the \$300.00 annual filing fee for a household goods mover.
- (c) The Commission will not register any person as a household goods mover or property carrier until the Commission has received all information, documentation, and payments required by paragraphs (a) and (b) of this rule.
- (d) The Commission shall treat the Social Security Number and the date and place of birth, acquired under subparagraph (b)(III) of this rule, as confidential.
- (e) Household goods mover registration.
- (I) The Commission may deny or refuse to renew the registration of a household goods mover pursuant to §§ 40-14-103(3) and 103.5(2), C.R.S.
  - (II) Commission staff shall review the results of the fingerprint-based criminal background history record check and, using any commercially or governmentally available information

source, research relevant criminal and civil history for the household goods mover and each director, officer, owner, and general partner thereof, issue a household goods mover registration if:

~~(A) the results of the fingerprint-based criminal background check are negative for each director, officer, owner, or general partner of the household goods mover; and~~

~~(B) all other requirements are met.~~

(III) Commission staff shall issue a household goods mover registration only if:

(A) the results of the fingerprint-based criminal history record check are negative for each director, officer, owner, or general partner of the household goods mover;

(B) the results of the research conducted by Commission staff indicates that the household goods mover has no unsatisfied final judgments arising out of any civil or criminal action in a court of law, pursuant to § 40-14-103(3)(c), C.R.S.; and

(C) all other requirements are met.

~~(IV) If the results of the fingerprint-based criminal background check are not negative for each director, officer, owner, or general partner of the household goods mover, Commission staff is unable to issue a household goods mover registration under subparagraph (e)(III) of this rule, then the Commission, after hearing upon reasonable notice, shall determine whether to issue a household goods mover registration. Notwithstanding anything in this subparagraph (IV) to the contrary, the Commission may issue an order without hearing when:~~

~~(A) the Commission has already held a hearing in prior annual registration cycles;~~

~~(B) after such hearing the Commission issued the registration; and~~

~~(C) since the prior annual registration cycle, the civil and criminal history has not changed for the household goods mover and each director, officer, owner, and general partner thereof.~~

(f) The Colorado Department of Revenue, Motor Carrier Services Division, through its Port of Entry weigh stations:

(I) may issue a non-renewable temporary household goods mover registration, valid for 15 consecutive days, to a person who:

(A) completes the temporary household goods mover registration form provided by the Commission;

(B) provides evidence of motor vehicle liability insurance as required by § 40-14-104, C.R.S.;

- (C) signs a verification, under penalty of perjury as specified in § 24-4-104(13)(a), C.R.S., that the applicant is insured as required by § 40-14-104, C.R.S.;
  - (D) pays a fee of one hundred fifty dollars; and
  - (E) pays the annual ~~vehicle~~-identification fee required by § 40-2-110.5, C.R.S.
- (II) may issue a temporary registration for the seasonal transportation of unprocessed agricultural produce to market or to places of storage, valid for 90 consecutive days, to a person who:
- (A) provides evidence of motor vehicle liability insurance as required by § 40-16-104, C.R.S., or
  - (B) signs a verification, under penalty of perjury as specified in § 24-4-104(13)(a), C.R.S., that the applicant is insured as required by § 40-16-104, C.R.S.; and
  - (C) pays a fee of twenty dollars per vehicle.
- (III) may issue the temporary registrations provided for in subparagraph (II) upon notification by the Commission identifying the specific counties, crops, and time periods for which the registrations are required, as identified by the Colorado Department of Agriculture.

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