

(Decision No. C93-1527)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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| IN THE MATTER OF MODIFICATIONS |) | |
| TO THE RULES AND REGULATIONS |) | |
| CONCERNING CIVIL PENALTIES FOR |) | DOCKET NO. 93R-699 |
| CARRIERS, 4 CCR 723-22 |) | |

NOTICE OF PROPOSED RULEMAKING

Mailing Date: December 10, 1993
 Adopted Date: December 9, 1993

BY THE COMMISSION:

The Colorado Public Utilities Commission hereby gives notice of proposed rulemaking regarding amendments to the rules and regulations concerning civil penalties for carriers, 4 CCR 723-22. The intent of the proposed rules is to revise civil penalties for specific violations of the statutes, rules and regulations governing motor vehicle carriers, in accordance with currently applicable statutes. A copy of the proposed rules is attached to this notice of proposed rulemaking. The statutory authority for the proposed rules is found at sections 40-2-108, and 40-7-112 through 40-6-116, C.R.S. (1993).

The Commission will conduct a hearing before an administrative law judge on the proposed rules and related issues beginning at 9:00 a.m. on February 18, 1994. The hearing will be conducted in a Commission Hearing Room, Office Level (OL) 2, 1580 Logan Street,

Denver, Colorado. Interested persons may submit written comments on the proposed rules and present these orally at hearing, unless the Commission deems oral presentations unnecessary. Interested persons may also file written comments before the hearing. The Commission requests that prefiled comments be submitted 7 days before the scheduled hearing. All submissions will be considered by the Commission.

THEREFORE THE COMMISSION ORDERS THAT:

1. This Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the January 10, 1994 edition of The Colorado Register. At the time of filing with the Secretary of State, this notice shall also be filed with the Office of Regulatory Reform.

2. Hearing on the proposed rules and related matters shall be held before an administrative law judge beginning at

TIME: 9:00 a.m.

DATE: February 18, 1994

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

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

3. Interested persons may file written comments in this docket before hearing. The Commission requests that prefiled be submitted 7 days before the scheduled hearing. All submissions, whether oral or written, will be considered.

This order is effective upon its mailed date.

ADOPTED IN OPEN MEETING December 10, 1993.

(SEAL)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Robert E. Temmer

Vincent Majkowski

Commissioners

COMMISSIONER CHRISTINE E. M. ALVAREZ
ABSENT

ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "Bruce N. Smith".

Bruce N. Smith
Director

THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO

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

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis and purpose of these rules is to amend certain penalties for the first, second and any subsequent occurrence within one year of a violation of these rules.

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

Rule 1 -- Application of Rules

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

Rule 2 -- Definition and Terms

- 2.1 Commission -- means the Colorado Public Utilities Commission.
- 2.2 Intentional Violation -- Any person shall be deemed to have committed an intentional violation, as set forth in paragraph (1)(g) of §§ 40-7-113 or 40-7-114, C.R. S., if, after having been issued a written notification of any violation, said person commits a violation of the same statute, rule, or regulation. The existence of an intentional violation within the meaning of this rule may also be shown by other facts, circumstances or conduct as may be provided by law.
- 2.3 Multiple offenses -- The violation of more than one statute, rule or regulation during the course of one 24-hour period shall constitute multiple offenses for which civil penalties may be assessed as set forth in these rules.
- 2.4 Person -- Means a person as defined in § 40-1-102(5), C.R.S.
- 2.5 Separate offense -- Each violation of a statute, rule or regulation within the scope of these rules shall constitute a separate offense for which a civil penalty may be assessed as set forth in these rules.

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

- 3.1 A violation of § 40-7-113(1)(a), or (b), or (c), or (d), or (e), or (f), C.R.S., shall result in the assessment of a penalty of ~~\$100.00~~400.00 per day.
- 3.2 A violation of §§ 40-10-106, or 40-10-117, or 40-10-120(2), or 40-11-104, or 40-11-105(2) or (3), or 40-11-115(2) shall result in the assessment of a penalty of ~~\$100.00~~400.00 per day.
- 3.3 A violation of any other provisions of Title 40, C.R.S., except as provided for in paragraphs (1)(a), (b), (c), (d), (e), (f), subsections (3) and (4) of § 40-7-113, C.R.S., and Rule 3.1 and 3.2 of these rules, shall result in the assessment of a penalty of ~~\$50.00~~200.00 per day.

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

- 4.1 A violation of Rule 25(f) of the Commission's Rules of Practice and Procedure shall result in the assessment of a penalty of ~~\$50.00~~200.00 per day.
- ~~4.2 Any violation of any other rule of the Commission's Rules of Practice and Procedure, except as provided for in Rule 4.1 of these rules, shall result in the assessment of a penalty of \$25.00 per day.~~

~~4.2 A violation of Rule 25(h) of the Commission's Rules of Practice and Procedure shall result in the assessment of a penalty of \$100.00 per day.~~

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

- 5.1 A violation of any of the following rules of the Commission's Rules and Regulations Governing Common Carriers by Motor Vehicle shall result in the assessment of a penalty of ~~\$100~~400.00 per day: 2.1, 2.2 or 2.7; 4.1 or 4.2; 6; 12.1, 12.3 or 12.4; 13.1, 13.2, 13.3 or 13.4; 14.1, 14.2 or 14.3; and 16.1.
- 5.2 A violation of any of the following rules of the Commission's Rules and Regulations Governing Common Carriers by Motor Vehicle shall result in the assessment of a penalty of ~~\$50~~200.00 per day: 9.2; 16.2; 17; and 18.2.
- 5.3 Any violation of any other rule of the Commission's Rules and Regulations Governing Common Carriers by Motor

Vehicle, except as provided for in Rules 5.1 or 5.2 of these rules, shall result in the assessment of a penalty of \$25100.00 per day.

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

- 6.1 A violation of any of the following rules of the Commission's Rules and Regulations Governing Contract Carriers by Motor Vehicle shall result in the assessment of a penalty of \$100100.00 per day: 2.1, 2.2 or 2.9; 4.1, 4.2 or 4.3; 11.1, 11.2 or 11.3; 12; 14; 15.1; and 16.1, 16.2, 16.3 or 16.4.
- ~~6.2 A violation of Rule 9.2 of the Commission's Rules and Regulations Governing Contract Carriers by Motor Vehicle shall result in the assessment of a penalty of \$50.00 per day.~~
- 6.3 Any violation of any other rule of the Commission's Rules and Regulations Governing Contract Carriers by Motor Vehicle, except as provided for in Rules 6.1 or 6.2 of these rules, shall result in the assessment of a penalty of \$25100.00 per day.

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

- 7.1 A violation of Rule 6 or 8 of the Commission's Rules and Regulations Governing the Operations of Taxicabs shall result in the assessment of a penalty of \$100150.00 per day.
- ~~7.2 A violation of Rule 5, 7, 11.1 or 11.2 of the Commission's Rules and Regulations Governing the Operations of Taxicabs shall result in the assessment of a penalty of \$50.00 per day.~~
- 7.3 Any violation of any other rule of the Commission's Rules and Regulations Governing the Operations of Taxicabs, except as provided for in Rules 7.1 or 7.2 of these rules, shall result in the assessment of a penalty of \$25100.00 per day.

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

- 8.1 A violation of Rule 11.1, 14.2, 14.3.2, 14.3.3, 14.4 or 14.5 of the Commission's Rules and Regulations Governing Towing Carriers by Motor Vehicle shall result in the assessment of a penalty of \$100100.00 per day.

8.2 A violation of Rule 14.2, 14.3.2, 14.3.3, 14.4 or 14.5 of the Commission's Rules and Regulations Governing Towing Carriers by Motor Vehicle shall result in the assessment of a penalty of \$150.00 per day.

~~8.2 A violation of Rule 8.1, 8.2, 8.5, 13.2, 13.3, 13.11, 14.1, 15.3, 16.6, or 17.3 of the Commission's Rules and Regulations Governing Towing Carriers by Motor Vehicle shall result in the assessment of a penalty of \$50.00 per day.~~

8.3 Any violation of any other rule of the Commission's Rules and Regulations Governing Towing Carriers by Motor Vehicle, except as provided for in Rules 8.1 or 8.2 of these rules, shall result in the assessment of a penalty of \$25~~100~~.00 per day.

**Rule 9 -- Violations of Rules and Regulations Governing
Registration of Interstate Motor Vehicle Carriers
Civil Penalties - Fines**

9.1 A violation of Rule 3(a) or (b) of the Commission's Rules and Regulations Governing Registration of Interstate Motor Vehicle Carriers shall result in the assessment of a penalty of \$~~100~~100.00 per day.

9.2 A violation of any other rule of the Commission's Rules and Regulations Governing Registration of Interstate Motor Vehicle Carriers, except as provided for in Rule 9.1 of these rules, shall result in the assessment of a penalty of \$25~~100~~.00 per day.

**Rule 10 -- Violations of Safety Rules
Civil Penalties - Fines**

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

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| 10.1.1 | Rule 1.1 Paragraph 383.23(a) | \$100.00 |
| 10.1.2 | Rule 1.1 Paragraph 383.37(a) | \$100.00 |
| 10.1.3 | Rule 1.1 Paragraph 383.51(a) | \$100.00 |
| 10.1.4 | Rule 1.2 Section 390.11 | \$ 50 100 .00 |
| 10.1.5 | Rule 1.2 Section 390.13 | \$ 50 100 .00 |
| 10.1.6 | Rule 1.2 Paragraphs 390.35(a), (b) or (c) | \$ 75.00 |
| 10.1.7 | Rule 1.3 Subparagraphs 391.11(b) (6) or (7) | \$100.00 |
| 10.1.8 | Rule 1.3 Subparagraphs 391.11(b) (1) or (2) | \$ 50.00 |

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| 10.1.95 | Rule 1.3 | Paragraph 391.15(a) | \$ 75150.00 |
| 10.1.106 | Rule 1.3 | Section 391.25 | \$ 50100.00 |
| 10.1.11 | Rule 1.3 | Section 391.31 | \$ 50.00 |
| 10.1.127 | Rule 1.3 | Paragraph 391.41(a) | \$100150.00 |
| 10.1.138 | Rule 1.3 | Paragraph 391.87(h) | \$100.00 |
| 10.1.149 | Rule 1.3 | Paragraphs 391.93(b) or (c) | \$100200.00 |
| 10.1.1510 | Rule 1.3 | Subparagraphs 391.93(e) (1), (2) or (3) | \$100200.00 |
| 10.1.1611 | Rule 1.3 | Paragraph 391.95(a) or (b) | \$100200.00 |
| 10.1.1712 | Rule 1.3 | Paragraph 391.103(a) | \$ 75150.00 |
| 10.1.1813 | Rule 1.3 | Subparagraphs 391.119(a) (1), (2) or (3) | \$100.00 |
| 10.1.1914 | Rule 1.3 | Subparagraphs 391.121(b) (3) or (4) (c) | \$ 75100.00 |
| 10.1.2015 | Rule 1.4 | Section 392.3 | \$100200.00 |
| 10.1.2116 | Rule 1.4 | Subparagraphs 392.4(a) (1), (2), (3) or (4) | \$100200.00 |
| 10.1.2217 | Rule 1.4 | Paragraph 392.4(b) | \$100200.00 |
| 10.1.2318 | Rule 1.4 | Subparagraphs 392.5(a) (1), (2) or (3) | \$100200.00 |
| 10.1.2419 | Rule 1.4 | Subparagraphs 392.5(b) (1) or (2) | \$100200.00 |
| 10.1.2520 | Rule 1.4 | Section 392.6 | \$ 50100.00 |
| 10.1.26 | Rule 1.4 | Subparagraphs 392.9(e) (i) or (iii) | \$ 50.00 |
| 10.1.2721 | Rule 1.4 | Section 392.42 | \$ 50100.00 |
| 10.1.2822 | Rule 1.5 | Section 393.1 | \$ 50150.00 |
| 10.1.2923 | Rule 1.5 | Paragraph 393.42(a) | \$ 75100.00 |
| 10.1.3024 | Rule 1.5 | Paragraph 393.48(a) | \$ 75150.00 |
| 10.1.3125 | Rule 1.5 | Paragraph 393.51(a) | \$ 75150.00 |
| 10.1.3226 | Rule 1.5 | Paragraphs 393.75(b), (c) or (d) | \$ 5075.00 |
| 10.1.33 | Rule 1.6 | Paragraph 394.7(a) | \$ 75.00 |
| 10.1.3427 | Rule 1.7 | Subparagraphs 395.3(a) (1) or (2) | \$100150.00 |
| 10.1.3528 | Rule 1.7 | Subparagraphs 395.3(b) (1) or (2) | \$100150.00 |
| 10.1.3629 | Rule 1.7 | Paragraph 395.8(a) | \$ 75150.00 |
| 10.1.3730 | Rule 1.7 | Subparagraph 395.8(a) (1) | \$ 75150.00 |
| 10.1.38 | Rule 1.7 | Subparagraph 395.8(f) (1) | \$ 50.00 |
| 10.1.3931 | Rule 1.7 | Subparagraph 395.8(f) (7) | \$100.00 |
| 10.1.4032 | Rule 1.7 | Paragraph 395.8(k) | \$ 50100.00 |
| 10.1.4133 | Rule 1.7 | Subparagraph 395.8(k) (2) | \$ 50100.00 |
| 10.1.4234 | Rule 1.8 | Subparagraph 396.9(c) (2) | \$100150.00 |
| 10.1.4335 | Rule 1.8 | Subparagraph 396.9(d) (2) | \$ 50100.00 |
| 10.1.44 | Rule 1.8 | Subdivisions 396.9(d) (3) (i) or (iii) | \$ 50.00 |

10.2 Any violation of any other rule of the Commission's Safety Rules for Common Carriers, Contact Carriers, Carriers of Household Goods by Motor Vehicle and Motor

Carriers Exempt from Regulation as Public Utilities, except as provided for in Rule 10.1 of these rules, shall result in the assessment of a penalty of \$2550.00 per day.

Rule 11 -- Repeat Violations of Statutes or Rules
Listed in Rules 3 through 10 - Civil Penalties - Fines

- 11.1 Any person who receives a second civil penalty assessment for a repeat violation of the statutes or rules listed in Rule 3, 4, 5, 6, 7, 8, 9, or 10 of these rules within one year after the first violation, may be assessed two times the amount specified in the applicable rule for such second violation.
- 11.2 Any person who receives a ~~third~~ ~~more than two~~ civil penalty assessments for a repeat violation of the statutes or rules listed in Rule 3, 4, 5, 6, 7, 8, 9, or 10 of these rules within one year after ~~the second violation,~~ may be assessed three times the amount specified in the applicable rule for ~~each~~ such ~~third subsequent~~ violation.