

## **COLORADO DEPARTMENT OF REGULATORY AGENCIES**

### **Public Utilities Commission**

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

#### **PART 6**

#### **RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE**

##### **VEHICLE BOOTING COMPANY RULES**

##### **6810. Applicability of Vehicle Booting Company Rules.**

- (a) Rules 6810 through 6899 apply to all vehicle booting companies.
- (b) For the booting of a motor vehicle performed under a written agreement with a municipality, county, or state or federal agency, nothing in these booting rules shall be construed to prohibit such municipality, county, or state or federal agency, to the extent permitted by law, from adopting and enforcing additional or more stringent requirements.
- (c) No vehicle booting company may engage in booting operations without first having obtained a booting permit from the Commission.
- (d) No vehicle booting company may boot a motor vehicle on public property without written agreement with a municipality, county, state, or federal agency.
- (e) No vehicle booting company may boot a motor vehicle that is occupied, unless authorized by a law enforcement officer. A vehicle booting company must undertake reasonable efforts under the circumstances to determine whether a motor vehicle is occupied.

##### **6811. Definitions.**

In addition to the definitions in rule 6001 and rule 6501, the following definitions apply to vehicle booting companies:

- (a) “Boot or booting” means to place an immobilization device upon a motor vehicle for the purpose of prohibiting the movement of any of the motor vehicle’s wheels.
- (b) “Vehicle booting company” means a private corporation, partnership, or sole proprietor in the business of immobilizing a motor vehicle through use of a boot.

##### **6812. Permit Application.**

- (a) In addition to completing and filing an application form, a person must:
  - (I) pay an annual application fee, as administratively set by the Commission;

- (II) each principal must possess a valid Colorado-issued driver's license or identification card;
  - (III) cause to be filed with the Commission the required proof of financial responsibility in the form of a Colorado Form GL, General Liability Certificate of Insurance evidencing that the has general liability insurance coverage, or surety bond, providing coverage of not less than \$100,000.00. For purposes of this subparagraph, "general liability" means liability for bodily injury and property damage. All vehicle booting companies shall keep in force such general liability insurance coverage at all times they are engaging in the business of immobilizing motor vehicles through the use of boots; and
  - (IV) file proof of compliance with worker's compensation insurance coverage in accordance with the "Worker's Compensation Act of Colorado", Articles 40 to 47 of Title 8, of the Colorado Revised Statutes, and the rules set forth by the Department of Labor and Employment, Division of Workers' Compensation.
    - (A) If workers' compensation insurance coverage is required, the vehicle booting company shall cause proof of coverage to be filed and maintained with the Commission on a Commission prescribed Form WC in lieu of the original policy.
    - (B) If a person has proof of workers' compensation insurance coverage on file with the Commission, there shall be a rebuttable presumption that the person is required to maintain such insurance.
    - (C) If workers' compensation insurance coverage is not required, the vehicle booting company shall cause to be filed:
      - (i) for corporations or limited liability companies, a completed Colorado Department of Labor and Employment, Division of Workers' Compensation Form WC43 including a part B for each Person listed on part A; or
      - (ii) for other vehicle booting companies, a statement that workers' compensation insurance coverage is not required.
- (b) Summary suspension and revocation for lack of financial responsibility/failure to maintain insurance coverage.
- (I) Whenever Commission records indicate that a vehicle booting company's required insurance or surety coverage is or will be canceled and the Commission has no proof on file indicating replacement coverage, the Commission shall summarily suspend such permit.
  - (II) Whenever Commission records indicate that a vehicle booting company's workers' compensation insurance coverage is or will be canceled and the Commission has no proof on file indicating replacement coverage, or documentation filed demonstrating that coverage is not required, the Commission shall summarily suspend such permit.
  - (III) Failure on the part of an insurance company to respond to a Commission inquiry for verification of insurance coverage within 60 days shall be treated as a cancellation of insurance.

- (IV) The summary suspension shall be effective on the date of coverage cancellation.
- (V) The Commission shall notify the vehicle booting company:
  - (A) that the Commission is in receipt of insurance or surety cancellation and the effective date of such cancellation;
  - (B) that its permit is summarily suspended as of the coverage cancellation date;
  - (C) that it shall not conduct operations under its permit after the coverage cancellation date;
  - (D) that the Commission has initiated a proceeding to revoke its permit;
  - (E) that it may submit, at a hearing convened to determine whether its permit should be revoked, written data, views, and arguments showing why such permit should not be revoked; and
  - (F) the date, time, and place set for such hearing.
- (VI) Until proper proof of insurance or surety coverage, or documentation demonstrating that coverage is not required as to workers' compensation insurance coverage, is filed with the Commission, a vehicle booting company receiving notice of summary suspension shall not conduct operations after the effective date of such summary suspension.
- (VII) If the Commission receives proper proof of coverage or documentation that workers' compensation insurance coverage is not required prior to the hearing, the summary suspension will be dismissed without further order of the Commission, even if there is a lapse in coverage. However, operations performed during lapses in coverage are subject to Civil Penalty Assessments.
- (VIII) After the hearing and prior to a final decision by the Commission, if the Commission receives proper proof of coverage or documentation that workers' compensation insurance coverage is not required, the Commission shall dismiss the summary suspension, even if there is a lapse in coverage. However, operations performed during lapses in coverage are subject to Civil Penalty Assessments.
- (IX) After the hearing and upon proof of violation of the financial responsibility requirements by a final Commission decision, the permit will be revoked.
- (X) When a permit expires or is canceled or revoked, all certificates of insurance and/or surety bonds for the vehicle booting company may be administratively canceled.
- (XI) Any action taken pursuant to this rule is in addition to, and not in lieu of, any other Civil Penalty, sanction, or disqualification authorized by law.

**6813. Criminal History Checks.**

- (a) This rule applies to principals, as defined in paragraph 6001(iii), of a vehicle booting company.
  - (I) An application shall be denied, if the applicant has:

- (A) within the five years preceding the application date been convicted in the state of Colorado of any class 1, 2, or 3 felony under any title of the Colorado Revised Statutes;
  - (B) within the four years preceding the application date been convicted in the state of Colorado, of any class 4, 5, or 6 felony under any title of the Colorado Revised Statutes; or
  - (C) an offense in any other state or in the United States that is comparable to any offense listed in subparagraphs (A) through (B) within the same time periods as listed in subparagraphs (A) through (B).
  - (D) fails to provide additional information requested by Commission staff to make a qualification determination.
- (II) For purposes of this rule, a deferred judgment and sentence pursuant to § 18-1.3-102, C.R.S., shall be deemed to be a conviction during the period of the deferred judgment and sentence.
- (III) The Commission and Commission staff may consult and use any commercially or governmentally available information source in conducting criminal history record checks.
- (IV) If a disqualifying criminal history record is found for a person subject to this rule, the applicant may file a petition to qualify the applicant within 60 days of Commission staff's notification.
- (A) Upon the filing of a petition for qualification, Commission staff shall be an indispensable party.
  - (B) The applicant shall bear the burden of proving that the Commission should issue a permit.

**6814. Equipment and Accessories.**

In addition to complying with all applicable safety regulations, all vehicle booting companies shall meet the following minimum requirements.

- (a) Any motor vehicles being operated by a vehicle booting company in the booting of motor vehicles shall have displayed, on each side of the motor vehicle and in plain view, the name of the business, the permit number, and a phone number of the business. The lettering shall be of a size and contrasting color to the motor vehicle as to be readily legible during daylight hours from a minimum distance of 50 feet, but in no case be less than three inches tall. Information may be removed from motor vehicles that are not in service (e.g., on a removable magnet).
- (b) A person engaged in booting shall have business identification visibly worn at all times while booting and accepting payment.

**6815. Authorization for Booting.**

- (a) Vehicle booting company acting as authorized agent for the property owner.

- (I) A vehicle booting company may act as the authorized agent for the property owner under a written agreement to that effect, provided the agreement is compliant with this paragraph (a). The contract shall contain at least the following information:
  - (A) the name, physical address, telephone number, email address (if applicable), and booting permit number of the vehicle booting company;
  - (B) the name, address, email address (if applicable), and telephone number of the property owner;
  - (C) the address of the property where booting will take place;
  - (D) the name of each individual person who is authorized to sign the authorization to boot except vehicle booting company employees where the vehicle booting company is authorized to act as the property owner agent under this rule;
  - (E) the beginning date and ending date of the contract. Provisions that provide for automatic renewal of the contract are permissible provided all signature parties on the original contract remain the same and are still valid at the time of renewal;
  - (F) a statement that the maximum rates for booting on private property are set by rule of the Public Utilities Commission;
  - (G) the printed name, title, phone number, and signature of the person making the contract on behalf of the property owner and on behalf of the vehicle booting company; and
  - (H) the date the contract is signed.
- (II) Nothing in this paragraph (a) shall preclude a vehicle booting company, which vehicle booting company has been paid for the booting by the property owner at proper rates, from collecting the booting charges from the motor vehicle owner and reimbursing said charges to the property owner.
- (III) Nothing stated in this rule shall affect any obligation, liability, or responsibility of the property owner to any third party. Any provision attempting to affect such obligation, liability, or responsibility shall be void.

**6816. Booting Invoice/Notice/Signage.**

- (a) Vehicle booting companies shall use and complete all applicable portions of a boot record/invoice form for all booting of motor vehicles. The boot record/invoice may be maintained electronically or in hard-copy. It shall contain the following information:
  - (I) the unique serial number of the boot record/invoice;
  - (II) the name, address, booting permit number, and telephone number of the vehicle booting company that is on file with the Commission;
  - (III) the date and time of the boot placement and the date and time of the boot removal, as applicable;

- (IV) the make, model, year, vehicle identification number (if observable), and license plate number (if observable) of the motor vehicle booted;
- (V) the address where the motor vehicle was booted;
- (VI) the initials of the person authorizing the application of the boot;
- (VII) the name of the authorized or interested person to whom the motor vehicle is released when the boot is removed; and
- (VIII) on at least the customer's copy, the following notice in font size of at least ten:

"Report problems to the Public Utilities Commission at (303) 894-2070."

- (b) The vehicle booting company shall retain the original copy of the boot record/invoice bearing all required original signatures for authorization and release, without regard to whether it is maintained in electronic or multi-copy paper form.
- (c) The vehicle booting company shall deliver a copy of the boot record/invoice to the authorized or interested person at the time of the release of the booted motor vehicle or within a reasonable time thereafter.
- (d) A vehicle booting company shall place a warning sign on the driver-side window of a motor vehicle to be booted or, if window placement is impracticable, in another location on the driver-side of the motor vehicle prior to the placement of the boot. If the circumstances warrant, the vehicle booting company shall place additional warning sign(s) in different locations on the motor vehicle to increase the likelihood that a driver will view a warning sign before attempting to drive the booted motor vehicle. The warning sign shall include the name and telephone number of the company that booted the motor vehicle, be at least six inches by eight inches, be yellow or orange in color, and state the following:

"WARNING: This vehicle has been booted. Attempting to operate or operating this vehicle may result in criminal prosecution and may lead to damage to the vehicle".
- (e) No more than one vehicle booting company may apply a boot to a motor vehicle at any given time. If a vehicle booting company applies more than one boot to a motor vehicle, it may only charge once for the removal of the boots.
- (f) A vehicle booting company may not apply a boot to a motor vehicle unless:
  - (I) notice of parking limitations, regulations, restrictions or prohibitions was provided at the time the motor vehicle was parked; and
  - (II) notice is provided that anyone parking in violation of limitations, regulations, restrictions or prohibitions is subject to being booted at the vehicle owner's expense.
- (g) The notice required in paragraph (f) is presumed to be met through signage if a permanent sign is conspicuously posted visibly at each point of entrance to the private property.
- (h) All signs posted to provide notice pursuant to paragraph (f) shall comply with any applicable ordinance. To the extent not inconsistent with applicable ordinance, signs shall also at a minimum:

- (I) be no less than one square foot in size;
- (II) have lettering not less than one inch in height;
- (III) have lettering that contrasts sharply in color with the background on which the letters are placed;
- (IV) state the restrictions enforced;
- (V) include the name and telephone number of vehicle booting company; and
- (VI) be printed in English.

**6817. Rates and Charges.**

- (a) Release charge. If the authorized or interested person that is parked without authorization of the property owner, appears in person to retrieve the motor vehicle prior to the completed installation of a booting device:
  - (I) the maximum release charge (prior to completion of boot installation) is the lesser of:
    - (A) \$25; or
    - (B) the amount prescribed by municipal ordinance or agreement with property owner.
  - (II) The vehicle booting company shall halt any booting installation in progress, including preparation thereof at the motor vehicle, and advise the authorized or interested person of acceptable forms of payment under rule 6818. Such advisements shall be provided via delivery of a charge notification card, in addition to any other means desired by the vehicle booting company.
  - (III) The release charge is in lieu of the motor vehicle booting charge and may not be combined.
- (b) The maximum rates are as follows.
  - (I) A motor vehicle booting charge for the removal of the boot shall be no more than \$160 and the vehicle booting company must accept forms of payment under paragraph 6818(a).
  - (II) A vehicle booting company cannot charge additional motor vehicle booting charges by removing and then reapplying the boot before the booting charge has been paid.
  - (III) Upon payment of the booting charge, the vehicle booting company shall immediately remove the boot.
  - (IV) A vehicle booting company may impose a surcharge on any authorized or interested person who uses a credit card in lieu of payment by cash, in an amount not to exceed two percent of the total cost, or the demonstratable real and actual cost of processing the transaction, as set forth in § 5-2-212, C.R.S.

- (c) If booting is performed in violation of state statute or Commission rule, the vehicle booting company may not charge or retain any fees or charges for the services it performs. Any motor vehicle that has been booted must be released, without charge, to an authorized or interested person. Any money collected must be returned to the authorized or interested person of the motor vehicle.

**6818. Release of Motor Vehicle/Removal of Booting Device.**

- (a) The vehicle booting company shall immediately accept payment if payment is offered in cash or valid major credit card. The vehicle booting company may accept other forms of payment, but must accept payment by either MasterCard or Visa. The vehicle booting company shall release the motor vehicle to an authorized or interested person.
- (b) The vehicle booting company shall be available to release the motor vehicle as provided in paragraph (a) to the authorized or interested person either:
  - (I) with 120 minutes notice during all times other than the vehicle booting company's normal business hours; or
  - (II) upon demand (but not more than 90 minutes) during the vehicle booting company's normal business hours; and
  - (III) the maximum time allowed may be extended based upon legitimate circumstances beyond the vehicle booting company's control (e.g., road closures or extreme weather conditions).
- (c) The vehicle booting company shall release a motor vehicle, and remove the boot without charge, to an authorized towing carrier immediately when evidence is presented that the towing carrier has authorization to conduct a nonconsensual tow or law enforcement-ordered tow.

**6819. Vehicle Booting Company Violations and Civil Penalty Assessments.**

- (a) A violation of any of the following provisions may result in the assessment of a civil penalty up to \$1,100.00 for each violation:
  - (I) § 40-10.1-801(1)(a), C.R.S.;
  - (II) paragraph (c) of rule 6810;
  - (III) paragraph (a) of rule 6815.
- (b) A violation of paragraph (a) or (b) of rule 6817 may result in the assessment of a civil penalty up to \$300 for each violation.
- (c) A violation of rule 6818 may result in the assessment of a civil penalty up to \$550.00 for each violation.
- (d) A violation of rule 6814 may result in the assessment of a civil penalty up to \$100.00 for each violation.



- (e) Except as provided in paragraph (a) through (d) of this rule, a violation of any provision of rules 6810 through 6818, may result in the assessment of a civil penalty of up to \$225.00 for each violation.
- (f) Civil penalty assessments are in addition to any other penalties provided by law.

**6820. – 6899. [Reserved].**