

SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Hisey

1 Amend printed bill, page 6, after line 6 insert:

2 "SECTION 5. In Colorado Revised Statutes, 42-20-402, **repeal**
3 (2) as follows:

4 **42-20-402. Definitions.** As used in this part 4 and part 5 of this
5 article, unless the context otherwise requires:

6 (2) "~~Commission~~" means the public utilities commission.

7 **SECTION 6.** In Colorado Revised Statutes, 42-20-405, **amend**
8 (1) as follows:

9 **42-20-405. Violations - criminal penalties.** (1) Notwithstanding
10 the provisions of section 40-7-107, ~~C.R.S.~~, any person who violates any
11 provision of this part 4 or part 5 of this article **20** or rule or regulation
12 promulgated by the chief pursuant to this part 4 and part 5 of this article
13 **20** commits a class 2 misdemeanor and shall be punished as provided in
14 section 18-1.3-501. ~~C.R.S.~~ No conviction pursuant to this section shall
15 bar enforcement by the PUBLIC UTILITIES commission of any provision of
16 title 40 ~~C.R.S.~~, with respect to violations by persons subject to said title.

17 **SECTION 7.** In Colorado Revised Statutes, 42-20-406, **amend**
18 (1), (2), (3) introductory portion, and (3)(e) as follows:

19 **42-20-406. Violations - civil penalties - motor vehicles.** (1) Any
20 person who violates any provision of this part 4 or part 5 of this article **20**
21 or a rule or regulation promulgated by the chief pursuant to this part 4 and
22 part 5 of this article **20**, except for the violations enumerated in subsection
23 (3) of this section and section 42-20-505, ~~shall be~~ IS subject to a civil
24 penalty of not more than ten thousand dollars per day for each day during
25 which ~~such~~ THE violation occurs. The penalty shall be assessed by the
26 chief upon receipt of a complaint by any ~~investigative personnel of the~~
27 ~~commission or~~ Colorado state patrol officer and after written notice and
28 an opportunity for a hearing pursuant to section 24-4-105. ~~C.R.S.~~
29 Payment of a civil penalty under this section ~~shall~~ DOES not relieve any
30 person from liability pursuant to article 11 of title 25, part 3 of article 15
31 of title 25, or article 22 of title 29. ~~C.R.S.~~ Any person who is assessed a
32 penalty pursuant to this subsection (1) ~~shall have~~ HAS the right to appeal
33 the chief's decision by filing a notice of appeal with the court of appeals
34 as specified in section 24-4-106 (11). ~~C.R.S.~~

35 (2) Any person who commits any of the acts enumerated in
36 subsection (3) of this section ~~shall be~~ IS subject to the civil penalty listed
37 in said subsection (3). ~~Investigative personnel of the commission, and~~
38 Officers of the Colorado state patrol ~~shall~~ have the authority to issue civil
39 penalty assessments for the enumerated violations. At any time that a

1 person is cited for a violation enumerated in subsection (3) of this section,
2 the person in charge of or operating the motor vehicle involved shall be
3 given a notice in the form of a civil penalty assessment notice. ~~Such~~ THE
4 notice shall be tendered by the ~~enforcement official~~ OFFICER OF THE
5 COLORADO STATE PATROL and ~~shall~~ MUST contain the name and address
6 of ~~such~~ THE person, the license number of the motor vehicle involved, if
7 any, the number of ~~such~~ THE person's driver's license, the nature of the
8 violation, the amount of the penalty prescribed for ~~such~~ THE violation, the
9 date of the notice, a place for ~~such~~ THE person to execute a signed
10 acknowledgment of his or her receipt of the civil penalty assessment
11 notice, a place for ~~such~~ THE person to execute a signed acknowledgment
12 of liability for the cited violation, and such other information as may be
13 required by law to constitute ~~such~~ THE notice as a complaint to appear in
14 court should the prescribed penalty not be paid within ten days. Every
15 cited person shall execute the signed acknowledgment of his or her
16 receipt of the civil penalty assessment notice. The acknowledgment of
17 liability shall be executed at the time the cited person pays the prescribed
18 penalty. The person cited shall pay the civil penalty specified in
19 subsection (3) of this section for the violation involved at the office of the
20 department of revenue either in person or by postmarking such payment
21 within ten days of the citation. The department of revenue shall accept
22 late payment of any penalty assessment up to twenty days after ~~such~~ THE
23 payment becomes due. If the person cited does not pay the prescribed
24 penalty within ten days of the notice, the civil penalty assessment notice
25 shall constitute a complaint to appear in court unless payment for ~~such~~
26 THE penalty assessment has been accepted by the department of revenue
27 as evidenced by receipt, and the person cited shall, within the time
28 specified in the civil penalty assessment notice, file an answer to this
29 complaint with the county court for the county in which the penalty
30 assessment was issued. The attorney general shall represent the ~~state~~
31 ~~agency that issued the civil penalty assessment notice~~ COLORADO STATE
32 PATROL if so requested by the ~~agency~~ COLORADO STATE PATROL.

33 (3) The following penalties ~~shall~~ apply only to the transportation
34 of nuclear materials by motor vehicle and shall be assessed against
35 drivers, shippers, carriers, operators, brokers, and other persons, as
36 appropriate:

37 (e) Any person who fails to produce his or her driver's log book
38 on demand of any law enforcement official OR port of entry personnel ~~or~~
39 ~~investigative personnel of the commission~~ in violation of 49 CFR 395.8
40 shall be assessed a civil penalty of two hundred fifty dollars.

41 **SECTION 8.** In Colorado Revised Statutes, **amend** 42-20-501 as
42 follows:

43 **42-20-501. Nuclear materials transportation permit required**

1 - **application.** (1) No transportation of nuclear materials shall take place
2 in, to, from, or through this state until the ~~commission~~ DEPARTMENT OF
3 TRANSPORTATION issues a permit, in accordance with the provisions of
4 this section, which is not inconsistent with federal law, authorizing the
5 applicant to operate or move upon public roads of this state a motor
6 vehicle or combination of motor vehicles which carry nuclear materials.

7 (2) Each carrier desiring to transport nuclear materials shall
8 submit a permit application, in the form designated by the ~~commission~~
9 DEPARTMENT OF TRANSPORTATION, to the ~~commission prior to~~
10 DEPARTMENT BEFORE beginning such transportation.

11 **SECTION 9.** In Colorado Revised Statutes, 42-20-505, **amend**
12 (1) and (3) as follows:

13 **42-20-505. Penalties - permit system.** (1) ~~The investigative~~
14 ~~personnel of the commission,~~ A Colorado state patrol officer or a port of
15 entry officer, as defined in section 42-8-102 (3), may assess a civil
16 penalty of one thousand dollars against a carrier who transports nuclear
17 materials without first obtaining a nuclear materials transportation permit.

18 (3) The penalties in subsection (1) of this section shall be assessed
19 upon an action brought by ~~the commission~~ or the Colorado state patrol in
20 accordance with the procedure set forth in section 42-20-406.

21 **SECTION 10.** In Colorado Revised Statutes, **amend** 42-20-506
22 as follows:

23 **42-20-506. Permit suspension and revocation.** In addition to any
24 other civil or criminal penalties, the ~~commission~~ DEPARTMENT OF
25 TRANSPORTATION may suspend the nuclear materials transportation
26 permit of any carrier for a period not to exceed six months or revoke ~~such~~
27 ~~THE~~ permit for failure to comply with the permit terms, misrepresentation
28 of information in the permit application, failure to pay a civil penalty
29 assessed pursuant to section 42-20-406, or failure to comply with the
30 regulations promulgated pursuant to parts 4 and 5 of this article **20**. The
31 permit may be suspended or revoked only for good cause shown after due
32 notice and opportunity for a hearing pursuant to section 24-4-105, ~~C.R.S.~~,
33 if requested by the carrier.

34 **SECTION 11.** In Colorado Revised Statutes, **amend** 42-20-511
35 as follows:

36 **42-20-511. Nuclear materials transportation fund.** All moneys
37 MONEY collected pursuant to parts 4 and 5 of this article **20** shall be
38 transmitted to the state treasurer, who ~~in addition to any excess moneys~~
39 ~~transferred from the motor carrier fund pursuant to section 40-2-110.5~~
40 ~~(9), C.R.S.~~, shall credit the ~~same~~ MONEY to the nuclear materials
41 transportation fund, which fund is hereby created. The ~~moneys~~ MONEY in
42 the fund ~~shall be~~ IS subject to annual appropriation by the general
43 assembly for the direct and indirect costs of the administration of parts 4

1 and 5 of this article *20*."

2 Renumber succeeding section accordingly.

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