

8/20/2014



CATPA

APPLICABLE STATUTES & REGULATIONS



Resource Guide | Robert Force

TABLE OF CONTENTS

42-5-101. Definitions. {Automobile Theft Law} 2

42-5-102. Stolen motor vehicle parts - buying, selling - removed or altered motor vehicle parts - possession.. 3

42-5-103. Tampering with a motor vehicle..... 4

42-5-104. Theft of motor vehicle parts - theft of license plates 5

42-5-105. Daily record..... 6

42-5-106. Duties of dealers - assembled motor vehicles 8

42-5-107. Seizure of motor vehicles or component parts by peace officers 9

42-5-108. Penalty {Automobile Theft}.....10

42-5-109. Report of stored or parked motor vehicles - when11

42-5-110. Possession of removed, defaced, altered, or destroyed motor vehicle identification numbers.....12

42-5-111. Proof of authorized possession14

42-5-112. Automobile theft prevention authority - board- creation - duties - rules - fund – repeal.....15

42-5-113. Colorado auto theft prevention cash fund - audit.....18

10-4-617. Insurers - biannual fee - auto theft prevention authority {Property & Casualty Insurance}.....19

24-36-113. Investment of state moneys – limitations {Dept. of the Treasury}.....20

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment22

10-1-102. Definitions {Insurance General Provisions}33

10-4-608. Exemptions.....36

10-4-412. Assigned risk motor vehicle insurance.....37

10-4-624. Self-insurers.....38

10-4-620. Required coverage39

10-4-601. Definitions {Insurance Policy}.....41

2-3-1201. Sunrise and sunset review - designation of committees of reference to conduct review.....44

42-4-1206. Unattended motor vehicle.45

Sec. 4-43. - Idling restriction.46

24-6-402. Meetings - open to public - definitions.....47

Code of Colorado Regulations {8 CCR 1507-50}55

Department of Regulatory Administration (DORA) Implementation Guide57

Governor’s Executive Order D2012-00261

Index63

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 42. VEHICLES AND TRAFFIC AUTOMOBILE THEFT LAW

ARTICLE 5. AUTOMOBILE THEFT LAW - INSPECTION OF MOTOR VEHICLE IDENTIFICATION NUMBERS

PART 1. AUTOMOBILE THEFT

C.R.S. 42-5-101 (2013)

42-5-101. Definitions. {Automobile Theft Law}

As used in this part 1, unless the context otherwise requires:

- (1) "Calendar year" means the twelve calendar months beginning January first and ending December thirty-first of any year.
- (2) "Dealer" means all persons, firms, partnerships, associations, or corporations engaged in the business or vocation of manufacturing, buying, selling, trading, dealing in, destroying, disposing of, or salvaging motor vehicles or in secondhand or used motor vehicle parts, equipment, attachments, accessories, or appurtenances common to or a part of motor vehicles.
- (3) "Driver" means the person operating or driving a motor vehicle.
- (4) "Garage" means any public building or place of business for the storage or repair of motor vehicles.
- (5) "Motor vehicle" means any vehicle of whatever description propelled by any power other than muscular except a vehicle running on rails.
- (6) "Officer" means any duly constituted peace officer of this state, or of any town, city, county, or city and county in this state.
- (7) "Owner" means any person, firm, partnership, association, or corporation.
- (8) "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
- (9) "Person" includes a partnership, company, corporation, or association.
- (10) "Public highway" means any public street, thoroughfare, roadway, alley, lane, or bridge in any county or city and county in the state.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 42. VEHICLES AND TRAFFIC AUTOMOBILE THEFT LAW

ARTICLE 5. AUTOMOBILE THEFT LAW - INSPECTION OF MOTOR VEHICLE IDENTIFICATION NUMBERS

PART 1. AUTOMOBILE THEFT

C.R.S. 42-5-102 (2013)

Legislative Alert:

LEXSEE 2014 Colo. SB 176 -- See section 2.

42-5-102. Stolen motor vehicle parts - buying, selling - removed or altered motor vehicle parts - possession

(1) Any person who buys, sells, exchanges, trades, receives, conceals, or alters the appearance of a motor vehicle or any motor vehicle part, equipment, attachment, accessory, or appurtenance which is the property of another or any person who aids or abets in the commission or attempted commission of any such act, knowing or having reasonable cause to know and believe that such motor vehicle or motor vehicle part, equipment, attachment, accessory, or appurtenance is stolen property, commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

(2) Except as necessary to effect legitimate repairs, any person who intentionally removes, changes, alters, or obliterates the vehicle identification number, manufacturer's number, or engine number of a motor vehicle or motor vehicle part or who possesses a motor vehicle or a motor vehicle part and knows or has reasonable cause to know that it contains such a removed, changed, altered, or obliterated vehicle identification number, manufacturer's number, or engine number commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S. Any person who commits any of said acts for the purpose of legitimately repairing the motor vehicle shall provide evidence of such legitimate repair to the investigating law enforcement agency. Such evidence shall include, but need not be limited to, preresearch and postrepair photographs of the affected motor vehicle part and vehicle identification number and a signed affidavit describing the required repairs.

HISTORY: Source: L. 94: Entire title amended with relocations, p. 2440, § 1, effective January 1, 1995. L. 2002: Entire section amended, p. 1562, § 372, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

ANNOTATION

This section constitutes a reasonable classification, and there may be prosecutions under this section irrespective of the general theft statutes. People v. Smith, 193 Colo. 357, 566 P.2d 364 (1977).

This section is not unconstitutionally vague; it gives adequate notice to one wishing to conform his conduct to the requirements of the law that knowingly possessing an automobile or automobile part containing intentionally altered identification numbers is proscribed. People v. Sequin, 199 Colo. 381, 609 P.2d 622 (1980); People v. Bossert, 722 P.2d 998 (Colo. 1986); People v. Bossert, 722 P.2d 618 (Colo. 1989), cert. denied, 493 U.S. 845, 110 S. Ct. 137, 107 L. Ed. 2d 96 (1989).

The purpose of this section is to curb the trafficking of stolen automobiles and stolen automobile parts. People v. Smith, 193 Colo. 357, 566 P.2d 364 (1977).

The intent of the legislature in this section is to prohibit intentional alteration of identification numbers; this is not inconsistent with provisions of § 42-6-117 (now § 42-5-205) which recognize that an identification number might legitimately be "destroyed, obliterated, or mutilated". People v. Sequin, 199 Colo. 381, 609 P.2d 622 (1980); People v. Rautenkranz, 641 P.2d 317 (Colo. App. 1982); People v. Bossert, 722 P.2d 998 (Colo. 1986).

Court's determination in motion for return of seized vehicle. In a motion for return of a seized vehicle, the trial court must determine whether the obliteration or alteration of the vehicle identification number was intentional, in which case subsection (2) would govern, and the vehicle would be subject to forfeiture as contraband, or whether the obliteration or alteration was unintentional, in which case the vehicle would not be contraband and should be released to the owner. People v. Rautenkranz, 641 P.2d 317 (Colo. App. 1982).

Subsection (2) of this section and § 18-5-305 proscribe different, albeit related, criminal conduct. People v. Bossert, 722 P.2d 998 (Colo. 1986).

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 42. VEHICLES AND TRAFFIC AUTOMOBILE THEFT LAW

ARTICLE 5. AUTOMOBILE THEFT LAW - INSPECTION OF MOTOR VEHICLE IDENTIFICATION NUMBERS

PART 1. AUTOMOBILE THEFT

C.R.S. 42-5-103 (2013)

42-5-103. Tampering with a motor vehicle

(1) Any person who with criminal intent does any of the following to a motor vehicle or to any part, equipment, attachment, accessory, or appurtenance contained in or forming a part thereof without the knowledge and consent of the owner of such motor vehicle commits tampering with a motor vehicle:

(a) Tightens or loosens any bolt, bracket, wire, screw, or other fastening contained in, contained on, or forming a part of such motor vehicle; or

(b) Shifts or changes the gears or brakes of such motor vehicle; or

(c) Scratches, mars, marks, or otherwise damages such motor vehicle or any part thereof; or

(d) Adds any substance or liquid to the gas tank, carburetor, oil, radiator, or any other part of such motor vehicle; or

(e) Aids, abets, or assists in the commission or attempted commission of any such unlawful act or acts enumerated in this subsection (1).

(2) Tampering with a motor vehicle is:

(a) A class 1 misdemeanor if the damage is less than one thousand dollars;

(b) A class 5 felony if the damage is one thousand dollars or more but less than twenty thousand dollars;

(c) A class 3 felony if the damage is twenty thousand dollars or more or causes bodily injury to a person.

HISTORY: Source: L. 94: Entire title amended with relocations, p. 2440, § 1, effective January 1, 1995. L. 98: (2)(a) and (2)(b) amended, p. 799, § 16, effective July 1; (2)(a) and (2)(b) amended, p. 1441, § 22, effective July 1. L. 2007: (2) amended, p. 1697, § 16, effective July 1. Cross references: For the legislative declaration contained in the 2007 act amending subsection (2), see section 1 of chapter 384, Session Laws of Colorado 2007.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 42. VEHICLES AND TRAFFIC AUTOMOBILE THEFT LAW

ARTICLE 5. AUTOMOBILE THEFT LAW - INSPECTION OF MOTOR VEHICLE IDENTIFICATION NUMBERS

PART 1. AUTOMOBILE THEFT

C.R.S. 42-5-104 (2013)

42-5-104. Theft of motor vehicle parts - theft of license plates

- (1) Any person who with criminal intent removes, detaches, or takes from a motor vehicle which is the property of another any part, equipment, attachment, accessory, or appurtenance contained therein, contained thereon, or forming a part thereof or any person who aids, abets, or assists in the commission of any such act or acts is guilty of theft of motor vehicle parts.
- (2) Theft of motor vehicle parts is:
 - (a) A class 1 misdemeanor if the value of the thing involved is less than one thousand dollars;
 - (b) A class 5 felony if the value of the thing involved is one thousand dollars or more but less than twenty thousand dollars;
 - (c) A class 3 felony if the value of the thing involved is twenty thousand dollars or more.
- (3) When a person commits theft of motor vehicle parts two times or more within a period of six months without having been placed in jeopardy for the prior offense or offenses and the aggregate value of the things involved is one thousand dollars or more but less than twenty thousand dollars, it is a class 5 felony; however, if the aggregate value of the things involved is twenty thousand dollars or more, it is a class 4 felony.
- (4) Any person who steals a license plate shall be in violation of paragraph (a) of subsection (2) of this section.

HISTORY: Source: L. 94: Entire title amended with relocations, p. 2441, § 1, effective January 1, 1995. L. 98: (2)(a) and (2)(b) amended, p. 1441, § 23, effective July 1; (2)(a), (2)(b), and (3) amended, p. 799, § 17, effective July 1. L. 2003: (4) added, p. 2649, § 9, effective July 1. L. 2007: (2) and (3) amended, p. 1697, § 17, effective July 1.

Cross references: (1) For penalties for class 2 misdemeanors, see § 18-1.3-501; for penalties for class 3, 4, or 5 felonies, see § 18-1.3-401. (2) For the legislative declaration contained in the 2007 act amending subsections (2) and (3), see section 1 of chapter 384, Session Laws of Colorado 2007.

ANNOTATION

This section makes a valid classification of theft of auto parts, as distinct from general theft, and its unconstitutionality has not been demonstrated beyond a reasonable doubt. People v. Czajkowski, 193 Colo. 352, 568 P.2d 23 (1977).

When the general assembly concludes that certain factual situations justify the harsher penalty for automobile parts theft, the classification does not of itself violate equal protection of the laws. People v. Czajkowski, 193 Colo. 352, 568 P.2d 23 (1977).

The general assembly did not proscribe the same conduct in this section and § 18-4-401. This section requires that the thing stolen be a part of, or contained in, an automobile, and there is no such requirement under section 18-4-401. People v. Czajkowski, 193 Colo. 352, 568 P.2d 23 (1977).

Knowledge required to sustain conviction as accessory. Knowledge that a theft has occurred is knowledge sufficient to sustain a conviction of accessory to theft of auto parts. Barreras v. People, 636 P.2d 686 (Colo. 1981).

Statute as basis for jurisdiction. See People v. Davis, 194 Colo. 466, 573 P.2d 543 (1978).

Applied in People v. Sequin, 199 Colo. 381, 609 P.2d 622 (1980).

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 42. VEHICLES AND TRAFFIC AUTOMOBILE THEFT LAW

ARTICLE 5. AUTOMOBILE THEFT LAW - INSPECTION OF MOTOR VEHICLE IDENTIFICATION NUMBERS

PART 1. AUTOMOBILE THEFT

C.R.S. 42-5-105 (2013)

42-5-105. Daily record

(1) (a) It is the duty of every dealer, and of the proprietor of every garage, to keep and maintain in such person's place of business an easily accessible and permanent daily record of all secondhand or used motor vehicle equipment, attachments, accessories, and appurtenances bought, sold, traded, exchanged, dealt in, repaired, or received or disposed of in any manner or way by or through the dealer or proprietor. The record may be created, recorded, stored, or reproduced physically or electronically.

(b) The record shall be kept in a good businesslike manner in the form of invoices or in a book by the dealer or proprietor and shall contain the following:

(I) A description of any and all such articles of property of every class or kind sufficient for the ready identification thereof by a peace officer;

(II) The name and address, legibly written, of the owner, vendor, and vendee;

(III) The time and date of such transactions;

(IV) The name, address, and a copy of the identification document of the driver and the owner of a motor vehicle received for any purpose; except that a licensed motor vehicle dealer or used motor vehicle dealer is not required to obtain or retain a copy of an identification document if such dealer complies with article 6 of title 12, C.R.S.;

(V) The model year, make and style, and engine or vehicle identification number and state registration license number of such motor vehicle if registered; and

(VI) The purpose the motor vehicle was received and the disposition made thereof.

(c) The record shall be open and the motor vehicle shall be available at all times during regular business hours to the inspection by the department of revenue or any peace officer and available for use as evidence.

(2) It is the duty of every person offering to a dealer, or to the proprietor of a garage, for any purpose, a motor vehicle or secondhand or used motor vehicle equipment, attachment, accessory, or appurtenance to:

(a) Write or register, as legibly as possible, the full and true name and address of the person and the name and address of the owner in the record kept by such dealer or proprietor of a garage as provided for in this section; and

(b) Present a valid identification document verifiable by federal or state law enforcement. The following documents, without limitation, shall be deemed to comply with this paragraph (b):

(I) An identification document issued by the state of Colorado;

(II) An identification document issued by any other state;

(III) An identification document issued by the United States government;

(IV) A passport issued by the United States government or another jurisdiction.

(3) It is the duty of every driver, upon taking a motor vehicle to any dealer's place of business or to any garage for storage, repair, sale, trade, or any other purpose, to write or register, as legibly as possible, with ink or indelible pencil, the full and true name and address of the driver and the name and address of the owner of such motor vehicle in the record provided for in this section. Such driver shall not be required, however, to so register the same motor vehicle more than once in the same garage in any calendar year when the driver is personally known to the dealer or the proprietor of the garage to be in the rightful and lawful possession of such motor vehicle. Such driver, on request or demand of such dealer or proprietor of a garage, or his or her agent, shall produce for examination the motor vehicle state registration license certificate issued to such driver or to the owner of such motor vehicle.

(4) Any person violating any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars.

HISTORY: Source: L. 94: Entire title amended with relocations, p. 2441, § 1, effective January 1, 1995.L. 2007: (1) and (2) amended, p. 1628, § 2, effective July 1.

ANNOTATION

A dealer or garage is not required to record the vehicle identification number of motor vehicle parts. The statute requires this only for motor vehicles, as defined in § 42-5-101 (5). Metal Mgmt. W., Inc. v. State, 251 P.3d 1164 (Colo. App. 2010).

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 42. VEHICLES AND TRAFFIC

AUTOMOBILE THEFT LAW

ARTICLE 5. AUTOMOBILE THEFT LAW - INSPECTION OF MOTOR VEHICLE IDENTIFICATION NUMBERS

PART 1. AUTOMOBILE THEFT

C.R.S. 42-5-106 (2013)

42-5-106. Duties of dealers - assembled motor vehicles

It is the duty of every dealer and of every proprietor of a garage to examine, without charge, the engine or vehicle identification number of every motor vehicle bought, taken in trade, repaired, or stored by them. Such dealer shall not be required to examine the engine or vehicle identification number of the same motor vehicle more than once in the same calendar year when such dealer knows that the person in possession of such motor vehicle is the lawful owner thereof. It is the further duty of the dealer, proprietor of a garage, or his or her agent, promptly and without delay, to report to or notify in person, or by telephone or telegraph, or by special messenger the nearest police station or peace officer if the engine or vehicle identification number of said motor vehicle has been altered, changed, or so obliterated as to make the number indecipherable or if the engine or vehicle identification number or the state registration license number of said motor vehicle does not correspond with the engine or vehicle identification number of the motor vehicle state registration certificate of the driver of said motor vehicle. Any person violating any of the provisions of this section commits a class 1 petty offense and shall be punished as provided in section 18-1.3-503, C.R.S.

HISTORY: Source: L. 94: Entire title amended with relocations, p. 2442, § 1, effective January 1, 1995. L. 2002: Entire section amended, p. 1563, § 373, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 42. VEHICLES AND TRAFFIC AUTOMOBILE THEFT LAW

ARTICLE 5. AUTOMOBILE THEFT LAW - INSPECTION OF MOTOR VEHICLE IDENTIFICATION NUMBERS

PART 1. AUTOMOBILE THEFT

C.R.S. 42-5-107 (2013)

42-5-107. Seizure of motor vehicles or component parts by peace officers

All peace officers are authorized to take and hold possession of any motor vehicle or component part if its engine number, vehicle identification number, or manufacturer's serial number has been altered, changed, or obliterated or if such officer has good and sufficient reason to believe that the motor vehicle or component part is not in the rightful possession of the driver or person in charge thereof.

HISTORY: Source: L. 94: Entire title amended with relocations, p. 2442, § 1, effective January 1, 1995.

ANNOTATION

The term "good and sufficient reason" interpreted to mean reasonable suspicion that criminal activity had occurred or was about to occur. People v. Litchfield, 918 P.2d 1099 (Colo. 1996).

Police had reasonable suspicion to believe criminal activity occurred where the driver of a rental vehicle in Colorado produced two unsigned rental agreements for the vehicle, one of which was for the wrong vehicle, where the rental agreement prohibited driving outside of Arizona or Nevada, and where the driver offered conflicting reasons for being in the state. People v. Litchfield, 918 P.2d 1099 (Colo. 1996).

Temporary detention of a vehicle pursuant to this section did not constitute an impoundment justifying an administrative inventory search of the vehicle's trunk. People v. Litchfield, 918 P.2d 1099 (Colo. 1996).

Right to arrest without warrant. In view of this section, an officer, who has been instructed that the woman he is to look for is driving a stolen car, that she has been placed under arrest, and has escaped from the deputy sheriff, may under these circumstances arrest even without warrant. People ex rel. Little v. Hutchinson, 9 F. 2d 275 (8th Cir. 1925).

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 42. VEHICLES AND TRAFFIC AUTOMOBILE THEFT LAW

ARTICLE 5. AUTOMOBILE THEFT LAW - INSPECTION OF MOTOR VEHICLE IDENTIFICATION NUMBERS

PART 1. AUTOMOBILE THEFT

C.R.S. 42-5-108 (2013)

42-5-108. Penalty {Automobile Theft}

Any person violating any of the provisions of this part 1, unless otherwise specifically provided for in this part 1, commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

HISTORY: Source: L. 94: Entire title amended with relocations, p. 2443, § 1, effective January 1, 1995. L. 2002: Entire section amended, p. 1563, § 374, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 42. VEHICLES AND TRAFFIC AUTOMOBILE THEFT LAW

ARTICLE 5. AUTOMOBILE THEFT LAW - INSPECTION OF MOTOR VEHICLE IDENTIFICATION NUMBERS

PART 1. AUTOMOBILE THEFT

C.R.S. 42-5-109 (2013)

42-5-109. Report of stored or parked motor vehicles - when

Whenever any motor vehicle of a type subject to registration in this state has been stored, parked, or left in a garage, a trailer park, or any type of storage or parking lot for a period of over thirty days, the owner of such garage, trailer park, or lot shall report the make, engine number, vehicle identification number, and serial number of such motor vehicle in writing to the Colorado state patrol auto theft section, Denver, Colorado, and the sheriff of the county in which the garage, trailer park, or lot is located. Nothing in this section shall apply where arrangements have been made for continuous storage or parking by the owner of the motor vehicle so parked or stored and where the owner of said motor vehicle so parked or stored is personally known to the owner or operator of such garage, trailer park, or storage or parking lot. Any person who fails to submit the report required under this section at the end of thirty days shall forfeit all claims for storage of such motor vehicles and shall be subject to a fine of not more than twenty-five dollars, and each day's failure to make such a report as required under this section shall constitute a separate offense.

HISTORY: Source: L. 94: Entire title amended with relocations, p. 2443, § 1, effective January 1, 1995.

ANNOTATION

Applied in Calabrese v. Hall, 42 Colo. App. 347, 593 P.2d 1387 (1979).

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 42. VEHICLES AND TRAFFIC AUTOMOBILE THEFT LAW

ARTICLE 5. AUTOMOBILE THEFT LAW - INSPECTION OF MOTOR VEHICLE IDENTIFICATION NUMBERS

PART 1. AUTOMOBILE THEFT

C.R.S. 42-5-110 (2013)

42-5-110. Possession of removed, defaced, altered, or destroyed motor vehicle identification numbers

(1) No person shall knowingly buy, sell, offer for sale, receive, or possess any motor vehicle or component part thereof from which the vehicle identification number or any number placed on said vehicle or component part for its identification by the manufacturer has been removed, defaced, altered, or destroyed unless such vehicle or component part has attached thereto a special identification number assigned or approved by the department in lieu of the manufacturer's number.

(2) Whenever such motor vehicle or component part comes into the custody of a peace officer, it shall be destroyed, sold, or otherwise disposed of under the conditions provided in an order by the court having jurisdiction. No court order providing for disposition shall be issued unless the person from whom the property was seized and all claimants to the property whose interest or title is on the records in the department of revenue are provided a postseizure hearing by the court having jurisdiction within a reasonable period after the seizure. This postseizure hearing shall be held on those motor vehicles or component parts for which true ownership is in doubt, including, but not limited to, those motor vehicles or component parts that are altered to the extent that they cannot be identified, those motor vehicles or component parts that are composed of parts belonging to several different claimants, and those motor vehicles or component parts for which there are two or more existing titles. This subsection (2) shall not apply with respect to such motor vehicle or component part used as evidence in any criminal action or proceeding. Nothing in this section shall, however, preclude the return of such motor vehicle or component part to the owner by the seizing agency following presentation of satisfactory evidence of ownership and, if it is determined to be necessary, upon assignment of an identification number to the vehicle or component part by the department of revenue. There shall be no special identification number issued for a component part unless it is a component part of a complete motor vehicle.

(3) Whenever such motor vehicle or component part comes into the custody of a peace officer, the person from whom the property was seized and all claimants to the property whose interest or title is noted on the records of the department of revenue shall be notified within ninety days of seizure of the seizing agency's intent to commence a postseizure hearing as described in subsection (2) of this section. Such notice shall contain the following information:

(a) The name and address of the person or persons from whom the motor vehicle or component part was seized;

(b) A statement that the motor vehicle or component part has been seized for investigation as provided in this section and that the property will be released upon a determination that the identification number has not been removed, defaced, altered, or destroyed or upon the presentation of satisfactory evidence of the ownership of such motor vehicle or component part if no other person claims an interest in the property within thirty days of the date the notice is mailed; otherwise, a hearing regarding the disposition of such motor vehicle or component part shall take place in the court having jurisdiction;

(c) A statement that the person from whom the property was seized and all claimants to the motor vehicle or component part whose interest or title is on the records in the department of revenue will have notification of the seizing agency's intention to commence a postseizure hearing, and such notice shall be sent to the last-known address by registered mail within ninety days of the date of seizure;

(d) The name and address of the law enforcement agency where the evidence of ownership of such motor vehicle or component part may be presented;

(e) A statement or copy of the text contained in this section.

(4) (a) A hearing on the disposition of the motor vehicle or component part shall be held by the court having jurisdiction within a reasonable time after the seizure. The hearing shall be before the court without a jury.

(b) If the evidence reveals either that the identification number has not been removed, altered, or destroyed or that the identification has been removed, altered, or destroyed but satisfactory evidence of ownership has been presented, then the motor vehicle or component part shall be released to the person entitled thereto. Nothing in this section shall preclude the return of such motor vehicle or component part to a good faith purchaser following the presentation of satisfactory evidence of ownership thereof, and, if necessary, said good faith purchaser may be required to obtain an assigned identification number from the motor vehicle group.

(c) If the evidence reveals that the identification number of the motor vehicle or the component part has been removed, altered, or destroyed and satisfactory evidence of ownership has not been presented, then the property shall be destroyed, sold, or converted to the use of the seizing agency or otherwise disposed of as provided by court order.

(d) At the hearing, the seizing agency shall have the burden of establishing that the identification number of the motor vehicle or the component part has been removed, defaced, altered, or destroyed.

(e) At the hearing, any claimant to the property shall have the burden of providing satisfactory evidence of ownership.

HISTORY: Source: L. 94: Entire title amended with relocations, p. 2443, § 1, effective January 1, 1995. L. 2000: (1), (2), IP(3), (3)(c), and (4)(b) amended, p. 1646, § 35, effective June 1.

ANNOTATION

Mandatory hearing pursuant to subsection (4) complies with due process requirements of Article II, Section 25 of the Colorado Constitution. Denver v. Desert Truck Sales, Inc., 837 P.2d 759 (Colo. 1992).

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 42. VEHICLES AND TRAFFIC AUTOMOBILE THEFT LAW

ARTICLE 5. AUTOMOBILE THEFT LAW - INSPECTION OF MOTOR VEHICLE IDENTIFICATION NUMBERS

PART 1. AUTOMOBILE THEFT

C.R.S. 42-5-111 (2013)

42-5-111. Proof of authorized possession

Whenever any motor vehicle or major component part of a motor vehicle is transported, shipped, towed, or hauled by any means in this state, said vehicle or component part shall be accompanied by proper authorization of possession from the legal owner or a law enforcement agency. Such authorization may include, but need not be limited to, bills of lading, shipment invoices, towing requests, or other specific authorization which readily identifies the rightful owner and conveys said owner's authorization of possession to the person transporting the motor vehicle or component part.

HISTORY: Source: L. 94: Entire title amended with relocations, p. 2445, § 1, effective January 1, 1995.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 42. VEHICLES AND TRAFFIC AUTOMOBILE THEFT LAW

ARTICLE 5. AUTOMOBILE THEFT LAW - INSPECTION OF MOTOR VEHICLE IDENTIFICATION NUMBERS

PART 1. AUTOMOBILE THEFT

C.R.S. 42-5-112 (2013)

42-5-112. Automobile theft prevention authority - board- creation - duties - rules - fund - repeal

(1) There is hereby created in the department of public safety the automobile theft prevention authority, referred to in this section as the "authority". Under the authority, a law enforcement agency or other qualified applicant may apply for grants to assist in improving and supporting automobile theft prevention programs or programs for the enforcement or prosecution of automobile theft crimes through statewide planning and coordination.

(2) (a) There is hereby created the automobile theft prevention board, referred to in this section as the "board", which shall consist of eleven members as follows:

(I) The executive director of the department of public safety, or the executive director's designee;

(II) The executive director of the department of revenue, or the executive director's designee; and

(III) Nine members appointed by the governor as follows:

(A) Five representatives of insurance companies who are authorized to issue motor vehicle insurance policies pursuant to part 6 of article 4 of title 10, C.R.S.;

(B) Two representatives of law enforcement;

(C) A representative of a statewide association of district attorneys; and

(D) A representative of the public who may also be a representative of a consumer group.

(b) The governor shall appoint members of the board within thirty days after the governor receives notification pursuant to subsection (5) of this section that moneys in the fund exceed the sum of three hundred thousand dollars. The appointed members of the board shall serve terms of six years; except that, of the members first appointed pursuant to sub-subparagraph (A) of subparagraph (III) of paragraph (a) of this subsection (2), the governor shall select one member who shall serve an initial term of four years and one member who shall serve an initial term of two years. Of the members first appointed pursuant to sub-subparagraph (B) of subparagraph (III) of paragraph (a) of this subsection (2), the governor shall select one member who shall serve an initial term of two years. The member first appointed pursuant to sub-subparagraph (C) of subparagraph (III) of paragraph (a) of this subsection (2) shall serve an initial term of four years. No appointed member shall serve more than two consecutive six-year terms.

(b.5) Notwithstanding the provisions of paragraph (b) of this subsection (2), of the two additional members appointed to the board pursuant to Senate Bill 08-060, enacted at the second regular session of the sixty-sixth general assembly, one member shall serve an initial term of four years and one member shall serve an initial term of two years.

(c) The members of the board shall serve without compensation; except that the members of the board shall be reimbursed from moneys in the fund created in subsection (4) of this section for their actual and necessary expenses incurred in the performance of their duties pursuant to this section.

(3) (a) The board shall solicit and review applications for grants pursuant to this section. The board may award grants for one to three years. The board shall give priority to applications representing multijurisdictional programs. Each application, at a minimum, shall describe the type of theft prevention, enforcement, prosecution, or offender rehabilitation program to be implemented. Such programs may include, but need not be limited to:

(I) Multi-agency law enforcement and national insurance crime bureau task force programs using proactive investigative methods to reduce the incidents of motor vehicle theft and related crimes and to increase the apprehension of motor vehicle thieves and persons who attempt to defraud insurance companies in order to:

(A) Direct proactive investigative and enforcement efforts toward the reduction of motor vehicle thefts;

(B) Increase recoveries of stolen motor vehicles, including farm and construction equipment; and

(C) Increase the arrests of perpetrators;

(II) Programs that engage in crime prevention efforts, activities, and public awareness campaigns that are intended to reduce the public's victimization by motor vehicle theft, fraud, and related crimes;

(III) Programs that provide or develop specialized training for motor vehicle theft investigations personnel, including but not limited to law enforcement personnel, county title and registration clerks, division of revenue title clerks, and port-of-entry officials, in order to enhance knowledge, skills, procedures, and systems to detect, prevent, and combat motor vehicle theft and fraud and related crimes;

(IV) Programs to provide for the support and maintenance of one or more dedicated prosecutors who have the specific mission and expertise to provide legal guidance and prosecutorial continuity to complex criminal cases arising from the activities of a multi-agency law enforcement program; and

(V) Programs to prevent future criminal behavior by first time offenders who have been charged, convicted, or adjudicated for motor vehicle theft.

(b) Subject to available moneys, the board shall approve grants pursuant to this section. In selecting grant recipients, the board, to the extent possible, shall ensure that grants are awarded to law enforcement agencies or other qualified applicants in a variety of geographic areas of the state. The board shall not require as a condition of receipt of a grant that an agency, political subdivision, or other qualified applicant provide any additional moneys to operate an automobile theft prevention program or a program for the enforcement or prosecution of automobile theft crimes.

(c) Subject to available moneys, the board may appoint a director for the authority who may employ such staff as may be necessary to operate and administer the authority.

(d) No more than eight percent of the moneys in the fund created pursuant to subsection (4) of this section may be used for operational or administrative expenses of the authority.

(e) The FTE authorization for any staff necessary to support the authority shall be eliminated should sufficient moneys from gifts, grants, or donations no longer be available for the authority.

(f) The executive director of the department of public safety shall promulgate rules for the administration of this section, including but not limited to:

(I) Requirements for an entity other than a law enforcement agency to be a qualified applicant;

(II) Application procedures by which law enforcement agencies or other qualified applicants may apply for grants pursuant to this section;

(III) The criteria for selecting those agencies or other qualified applicants that shall receive grants and the criteria for determining the amount to be granted to the selected agencies or applicants and the duration of the grants; and

(IV) Procedures for reviewing the success of the programs that receive grants pursuant to this section.

(g) On or before December 1, 2006, any law enforcement agency or other qualified applicant that receives a grant pursuant to this section shall submit a report to the board concerning the implementation of the program funded through the grant.

(h) On or before February 1, 2007, the board shall report to the judiciary committees of the senate and the house of representatives on the implementation of the programs receiving grants pursuant to this section and the authority. The report shall include but need not be limited to:

(I) The number and geographic jurisdiction of law enforcement agencies or other qualified applicants that received grants under the authority and the amount and duration of the grants;

(II) The effect that the programs that received grants had on the number of automobile thefts in areas of the state; and

(III) Recommendations for legislative changes to assist in the prevention, enforcement, and prosecution of automobile-theft-related criminal activities.

(4) (a) The department of public safety is authorized to accept gifts, grants, or donations from private or public sources for the purposes of this section. All private and public funds received through gifts,

grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the Colorado auto theft prevention cash fund, which fund is hereby created and referred to in this section as the "fund". The fund shall also include the moneys deposited in the fund pursuant to section 10-4-617, C.R.S.. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this section. Any moneys in the fund not expended for the purpose of this section may be invested by the state treasurer as provided in section 24-36-113, C.R.S. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(b) It is the intent of the general assembly that the department of public safety not be required to solicit gifts, grants, or donations from any source for the purposes of this section and that no general fund moneys be used to pay for grants awarded pursuant to this section or for any expenses of the authority.

(5) (a) The state treasurer shall notify the governor and the executive directors of the departments of public safety and revenue the first time that the moneys in the fund reach or exceed the sum of three hundred thousand dollars.

(b) If by June 1, 2008, moneys in the fund have never reached or exceeded three hundred thousand dollars, the state treasurer shall return from the fund to the grantee or donee the amount of all gifts, grants, or donations. If gifts, grants, and donations are returned pursuant to this paragraph (b), on July 1, 2008, the treasurer shall transfer to the general fund any interest or income earned on moneys in the fund.

(6) (a) This section is repealed, effective September 1, 2018.

(b) Prior to said repeal, the authority created pursuant to subsection (1) of this section and the board created pursuant to subsection (2) of this section shall be reviewed as provided for in section 24-34-104, C.R.S.

HISTORY: Source: L. 2003: Entire section added, p. 1326, § 1, effective April 22. L. 2004: (2)(a)(III)(A) amended, p. 906, § 35, effective May 21. L. 2008: IP(2)(a), IP(2)(a)(III), (2)(a)(III)(A), (4)(a), and (6) amended and (2)(b.5) added, p. 2097, § 2, effective July 1.

Cross references: For the legislative declaration contained in the 2008 act amending the introductory portions to subsections (2)(a) and (2)(a)(III) and subsections (2)(a)(III)(A), (4)(a), and (6) and enacting subsection (2)(b.5), see section 1 of chapter 415, Session Laws of Colorado 2008.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 42. VEHICLES AND TRAFFIC AUTOMOBILE THEFT LAW

ARTICLE 5. AUTOMOBILE THEFT LAW - INSPECTION OF MOTOR VEHICLE IDENTIFICATION NUMBERS

PART 1. AUTOMOBILE THEFT

C.R.S. 42-5-113 (2013)

42-5-113. Colorado auto theft prevention cash fund - audit

Beginning in the 2008-09 fiscal year, and every five years thereafter, the state auditor shall cause an audit to be made of the Colorado auto theft prevention cash fund created in section 42-5-112 (4) to include procedures to test distributions from the fund for compliance with program requirements and guidelines. The auditor shall review a sample of distributions and expenditures from the Colorado auto theft prevention cash fund for the purposes described in section 42-5-112. The state auditor shall prepare a report of each audit conducted and file the report with the audit committee of the general assembly. Following the release of the audit report, the state auditor shall file the audit report with the judiciary committees of the house of representatives and the senate, or any successor committees.

HISTORY: Source: L. 2008: Entire section added, p. 2098, § 3, effective July 1. L. 2013: Entire section amended, (SB 13-129), ch. 284, p. 1493, § 5, effective May 24.

Cross references: For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 415, Session Laws of Colorado 2008.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 10. INSURANCE PROPERTY AND CASUALTY INSURANCE
ARTICLE 4. PROPERTY AND CASUALTY INSURANCE
PART 6. AUTOMOBILE INSURANCE POLICY - REGULATIONS
C.R.S. 10-4-617 (2013)

10-4-617. Insurers - biannual fee - auto theft prevention authority {Property & Casualty Insurance}

(1) Each insurer that issues a policy pursuant to this part 6 shall biannually pay a fee to the automobile theft prevention board, created pursuant to section 42-5-112, C.R.S., for the support of the automobile theft prevention authority. Upon receiving payment, the board shall transfer the amount received to the state treasurer for deposit in the Colorado auto theft prevention cash fund created in section 42-5-112 (4), C.R.S. The amount of the fee shall be equal to one dollar multiplied by the number of motor vehicles insured by the insurer as of July 1 of each year, divided by two. The insurer shall report the number of insured motor vehicles and pay the assessed biannual fee as follows:

(a) On or before August 15, 2008, and on or before August 15 each year thereafter, the insurer shall notify the automobile theft prevention board of the number of motor vehicles insured by that insurer as of July 1 of that year; and

(b) On or before January 1, 2009, and July 1, 2009, and on or before January 1 and July 1 each year thereafter, the insurer shall pay to the automobile theft prevention board the assessed biannual fee in the amount specified in this subsection (1).

(2) On or before February 1, 2009, and on or before February 1 each year thereafter, the automobile theft prevention board shall compare the list of insurers who paid the biannual fee with the list compiled by the division of insurance of all insurance companies licensed to insure motor vehicles in the state and shall notify the commissioner of the division of insurance of any insurer's failure to pay the fee prescribed in subsection (1) of this section. Upon receiving notice of an insurer's failure to pay the fee, the commissioner shall notify the insurer of the fee requirement. If the insurer fails to pay the fee to the automobile theft prevention board within fifteen days after receiving the notice, the commissioner may suspend the insurer's certificate of authority or impose a civil penalty of not more than one hundred twenty percent of the amount due, or both. The insurer shall pay the civil penalty to the commissioner. The commissioner shall transfer the amount received to the state treasurer who shall credit the amount to the Colorado auto theft prevention cash fund, created in section 42-5-112 (4), C.R.S.

(3) For the purposes of this section, "insurer" shall have the same meaning as provided in section 10-1-102 (13) that covers the operation of a motor vehicle.

(4) (a) Each insurer subject to the provisions of this section is hereby authorized to recoup the fee required in subsection (1) of this section from its policyholders.

(b) Each insurer subject to the provisions of this section shall not raise its premiums based on the fee in this section.

(5) As used in this section, "motor vehicle" does not include vehicles or vehicle combinations with a declared gross weight of more than twenty-six thousand pounds.

HISTORY: Source: L. 2003: Entire section added, p. 1330, § 2, effective April 22. L. 2008: Entire section amended, p. 2098, § 4, effective July 1. L. 2009: IP(1) and (2) amended, (SB 09-292), ch. 369, p. 1943, § 13, effective August 5.

Editor's note: This section was originally numbered as § 10-4-616 in House Bill 03-1251 but has been renumbered on revision for ease of location.

Cross references: For the legislative declaration contained in the 2008 act amending this section, see section 1 of chapter 415, Session Laws of Colorado 2008.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 24. GOVERNMENT – STATE PRINCIPAL DEPARTMENTS

ARTICLE 36. DEPARTMENT OF THE TREASURY

C.R.S. 24-36-113 (2013)

24-36-113. Investment of state moneys – limitations {Dept. of the Treasury}

(1) (a) Whenever there are moneys in the state treasury that are not immediately required to be disbursed, the state treasurer is authorized to invest the same in fixed income securities denominated in United States dollars. In making such investments, the state treasurer shall use prudence and care to preserve the principal and to secure the maximum rate of interest consistent with safety and liquidity. The state treasurer shall formulate investment policies regarding liquidity, maturity, and diversification appropriate to each fund or pool of funds in the state treasurer's custody available for investment.

(b) (I) If the state treasurer invests state moneys through an investment firm offering for sale corporate stocks, bonds, notes, debentures, or a mutual fund that contains corporate securities, the investment firm shall disclose, in any research or other disclosure documents provided in support of the securities being offered, to the state treasurer whether the investment firm has an agreement with a for-profit corporation that is not a government-sponsored enterprise, whose securities are being offered for sale to the state treasurer and because of such agreement the investment firm:

(A) Had received compensation for investment banking services within the most recent twelve months; or

(B) May receive compensation for investment banking services within the next three consecutive months.

(II) For the purposes of this paragraph (b), "investment firm" means a bank, brokerage firm, or other financial services firm conducting business within this state, or any agent thereof.

(2) Such moneys may be invested, without limitation, in debt obligations of the United States treasury, any agency of the United States government, or United States government-sponsored corporations.

(2.5) The state treasurer may, in the state treasurer's discretion, invest such moneys in municipal bonds rated in one of the two highest rating categories by a nationally recognized rating organization.

(3) The state treasurer may, in the state treasurer's discretion, invest such moneys in repurchase agreements, in banker's acceptances or bank notes issued by banks rated at least investment grade by a nationally recognized rating organization, in commercial paper of prime quality as so classed by a nationally recognized rating organization, and in money market funds that are registered as an investment company under the federal "Investment Company Act of 1940", as amended.

(3.5) The state treasurer may, in the state treasurer's discretion, invest such moneys in corporate debt obligations rated at least investment grade by a nationally recognized rating organization.

(3.6) The state treasurer may, in the state treasurer's discretion, invest such moneys in asset-backed securities and covered bonds rated in one of the two highest rating categories by a nationally recognized rating organization.

(3.7) The state treasurer may, in the state treasurer's discretion, invest such moneys in securities that are issued or guaranteed by the world bank, the inter-American development bank, the Asian development bank, or the African development bank or for which the credit of the world bank, the inter-American development bank, the Asian development bank, or the African development bank is pledged for payment and that are rated in one of the two highest rating categories by a nationally recognized rating organization.

(3.8) The state treasurer may, in the state treasurer's discretion, invest such moneys in mortgage pass-through securities and collateralized mortgage obligations that are issued by any agency of the United States government or a United States government-sponsored corporation or that are rated in one of the two highest rating categories by a nationally recognized rating organization.

(3.9) The state treasurer may, in the state treasurer's discretion, invest such moneys in debt obligations backed by the full faith and credit of the state of Israel that are rated in one of the two highest rating categories by a nationally recognized rating organization.

(4) The state treasurer may make such arrangements for the custody, safekeeping, and registration of all investment securities as will enable the state treasurer to make prompt delivery thereof upon maturity or in the event of sale.

(5) The state treasurer may engage in reverse repurchase agreements and securities lending programs for any securities in the state treasurer's custody and may purchase loans if, in the state treasurer's discretion, the purchase of loans will yield a fair and equitable return to the state.

(6) Notwithstanding any restrictions on the investment of state moneys set forth in this section or in any other provision of law, the state treasurer may authorize the escrow agent appointed pursuant to section 1 of the escrow agreement entered into in connection with, and attached as exhibit B to, the master settlement agreement entered by the court in the case denominated State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown Williamson Tobacco Corp.; Liggett Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc., Case No. 97 CV 3432, in the district court for the city and county of Denver, to invest any tobacco litigation settlement moneys held in escrow for the state of Colorado pursuant to the master settlement agreement and the escrow agreement in any manner permitted by section 5 of the escrow agreement.

(7) Notwithstanding any restrictions on the investment of state moneys set forth in this section or in any other provision of law, the state treasurer may invest moneys transferred on July 5, 2002, from the tobacco litigation settlement trust fund to the general fund pursuant to section 24-75-201.5 (1) (d) in any manner in which the trust fund moneys may be invested pursuant to section 24-22-115.5 (3) (a).

HISTORY: Source: L. 71: R&RE, p. 99, § 1. C.R.S. 1963: § 3-6-13.L. 73: p. 171, § 2.L. 77: (4) amended and (5) added, p. 1059, § 2, effective June 1.L. 81: (2) amended, p. 1070, § § 5, 6, effective May 21.L. 88: (3) amended and (3.5) and (3.6) added, p. 950, § 3, effective March 24.L. 92: (3), (3.5), and (3.6) amended and (3.7) added, p. 1113, § 3, effective July 1.L. 97: Entire section amended, p. 373, § 5, effective August 6.L. 99: (6) added, p. 1405, § 4, effective June 5.L. 2003: (7) added, p. 462, § 3, effective March 5; (1) amended, p. 674, § 2, effective August 6.L. 2008: (5) amended, p. 1315, § 2, effective May 27.L. 2013: (1)(a) and (3.6) amended and (2.5) added, (HB 13-1205), ch. 141, p. 457, § 2, effective August 7; (3.9) added, (SB 13-176), ch. 167, p. 547, § 2, effective August 7.

Cross references: (1) For the federal "Investment Company Act of 1940", see 15 U.S.C. sec. 80a-1 et seq. (2) For the legislative declaration in the 2013 act adding subsection (3.9), see section 1 of chapter 167, Session Laws of Colorado 2013.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 24. GOVERNMENT – STATE PRINCIPAL DEPARTMENTS
ARTICLE 34. DEPARTMENT OF REGULATORY AGENCIES
PART 1. ORGANIZATION
C.R.S. 24-34-104 (2013)

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment

(1) (a) The general assembly finds that state government actions have produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules and regulations and that the whole process developed without sufficient legislative oversight, regulatory accountability, or a system of checks and balances. The general assembly further finds that regulatory agencies tend to become unnecessarily restrictive. The general assembly further finds that, by establishing a system for the termination, continuation, or reestablishment of such agencies and by providing for the analysis and evaluation of such agencies to determine the least restrictive regulation consistent with the public interest, it will be in a better position to evaluate the need for the continued existence of existing and future regulatory bodies.

(b) It is the intent of the general assembly that the system set forth in this section for termination, continuation, or reestablishment of agencies in the department of regulatory agencies, as in effect prior to April 28, 1988, be extended to the functions of certain specified agencies and to certain specified boards. By providing for such extension within the existing system, it is the intent to provide for the review of such functions and boards in the most cost-effective manner.

(2) and (2.5) Repealed.

(3) and (3.1) Repealed.

(4) to (4.3) Repealed.

(4.5) and (4.6) Repealed.

(4.8) (Renumbered by revision as subsection (22).)

(5) (a) The divisions in the department of regulatory agencies, the boards and agencies in the division of professions and occupations, and the functions of the specified agencies and the specified boards shall terminate according to the termination schedule outlined in this section. Requirements for periodic reports to the general assembly shall expire as set forth in section 24-1-136 (11) and shall be treated as "functions" of the respective agencies for purposes of this section except as otherwise provided in this section.

(b) Upon termination, each division, board, or agency shall continue in existence or, in the case of the termination of a function, each function shall continue to be performed until July 1 of the next succeeding year or until the date that is one year after any specified termination date other than July 1 for the purpose of winding up affairs. During the wind-up period, termination shall not reduce or otherwise limit the powers or authority of each respective agency; except that every license issued or renewed during the wind-up period shall expire at the end of said period, and original license and renewal fees shall be prorated accordingly. Upon the expiration of one year after termination, each respective agency shall cease all activities, or, in the case of the termination of a function, each function shall cease. When a license issued or renewed prior to termination is scheduled to expire after the cessation of activities, the license shall expire at the end of the wind-up period, and the agency shall refund the portion of the license fee paid that is attributable to the period following the cessation of activities. Any criminal penalty for engaging in any profession or activity without being licensed therefor shall not be enforceable with respect to activities occurring after an agency has ceased its activities pursuant to this section.

(c) Paragraph (b) of this subsection (5) shall not apply to the function of the community corrections board terminated pursuant to paragraph (e) of subsection (36) of this section.

(5.5) Repealed.

(6) Whenever the state constitution imposes any powers, duties, or functions on an agency or officer subject to the provisions of this section and such agency or officer is terminated and the general assembly does not designate another agency or officer to exercise such powers or perform such duties and functions, such agency or officer shall continue in existence, after the one-year wind-up period, under the principal

department as if the agency or officer were transferred to the department by a type 2 transfer, as defined in section 24-1-105, until the general assembly shall otherwise designate.

(7) The life of any division, board, or agency scheduled for termination under this section may be continued or reestablished by the general assembly for periods not to exceed ten years. On or after May 25, 1994, the life of any division, board, or agency scheduled for termination under this section may be continued or reestablished by the general assembly for periods not to exceed fifteen years. Any newly created division, board, or agency in the department of regulatory agencies shall have a life not to exceed six years; but, on or after May 25, 1994, any such newly created division, board, or agency shall have a life not to exceed ten years, and shall be subject to the provisions of this section. The general assembly, acting by bill, may reschedule the termination date for a division, board, agency, or function to a later date if such rescheduled date does not violate the appropriate maximum life provision described in this subsection (7).

(8) (a) (I) The department of regulatory agencies shall conduct an analysis and evaluation of the performance of each division, board, or agency or each function scheduled for termination under this section. In conducting the analysis and evaluation, the department of regulatory agencies shall take into consideration, but need not be limited to considering, the factors listed in paragraph (b) of subsection (9) of this section. The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination, and a copy of said report shall be made available to each member of the general assembly.

(II) The department of regulatory agencies shall submit its report to the office of legislative legal services for the preparation of draft legislation based solely on specific recommendations for legislation contained in such report. Such report shall be submitted, no later than October 15 of the year preceding the date established for termination, to the office of legislative legal services for the preparation of draft legislation. Such draft legislation shall be prepared by the office of legislative legal services prior to the next regular session of the general assembly for the committee of reference designated pursuant to section 2-3-1201, C.R.S., and shall be submitted with the report of the department of regulatory agencies by the office of legislative legal services to the committee of reference designated pursuant to section 2-3-1201, C.R.S. The committee of reference designated pursuant to section 2-3-1201, C.R.S., shall determine the title of any legislation drafted pursuant to this subparagraph (II).

(III) This subsection (8) is exempt from the provisions of section 24-1-136 (11), and the periodic reporting requirement of this subsection (8) shall remain in effect until changed by the general assembly acting by bill.

(b) and (c) Repealed.

(9) (a) Prior to the termination, continuation, or reestablishment of an agency or function, a legislative committee of reference designated pursuant to section 2-3-1201, C.R.S., shall hold public hearings to receive testimony from the public, the executive director of the department of regulatory agencies, and the agencies involved. In such hearing, each agency shall have the burden of demonstrating a public need for continued existence of the agency or function and that its regulation is the least restrictive regulation consistent with the public interest.

(b) In such hearings, the determination as to whether an agency has demonstrated a public need for continued existence of the agency or function and for the degree of regulation it practices shall be based on the following factors, among others:

(I) Whether regulation by the agency is necessary to protect the public health, safety, and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less, or the same degree of regulation;

(II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether agency rules enhance the public interest and are within the scope of legislative intent;

(III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters;

(IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;

(V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;

(VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;

(VII) Whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;

(VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;

(VIII.5) Whether the agency through its licensing or certification process imposes any disqualifications on applicants based on past criminal history and, if so, whether the disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subparagraph (I) of paragraph (a) of subsection (8) of this section shall include data on the number of licenses or certifications that were denied, revoked, or suspended based on a disqualification and the basis for the disqualification.

(IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

(c) A legislative committee of reference that conducts a review pursuant to paragraph (a) of this subsection (9) shall determine whether each agency or function should be terminated, continued, or reestablished and whether its functions should be revised and, if deemed advisable, may recommend the consideration of a proposed bill to carry out its recommendations.

(c.3) (I) Bills recommended for consideration pursuant to paragraph (c) of this subsection (9) shall be introduced in the house of representatives in even numbered years and in the senate in odd numbered years. The chair of each legislative committee of reference that recommends a bill for consideration shall assign the proposed bill to the following for sponsorship; except that no more than two such bills shall be assigned to any one member of the general assembly:

(A) Members of the committee of reference; or

(B) Members of the general assembly who are not members of the committee if approved by a majority vote of the committee's members.

(II) The speaker of the house of representatives shall assign the proposed bill to a representative for sponsorship in the house of representatives in odd numbered years. The president of the senate shall assign the proposed bill to a senator for sponsorship in the senate in even numbered years.

(c.6) A bill recommended for consideration by any such committee pursuant to paragraph (c) of this subsection (9) shall not be counted against the number of bills to which members of the general assembly are limited by any law or joint rule of the senate and the house of representatives.

(d) Prior to the termination, continuation, reestablishment, or revision of an agency's functions, a committee of reference in each house of the general assembly designated pursuant to section 2-3-1201, C.R.S., shall hold a public hearing to consider the report provided by the department of regulatory agencies and any bill recommended for consideration pursuant to paragraph (c) of this subsection (9), said hearing to include the factors and testimony set forth in paragraph (b) of this subsection (9).

(10) Repealed.

(11) (a) Pursuant to the process established in this section, no more than one such division, board, or agency shall be continued or reestablished or its functions amended in any bill for an act, and such division, board, or agency shall be mentioned in the bill's title. This paragraph (a) shall not apply to requirements for periodic reports to the general assembly.

(b) This section shall not cause the dismissal of any claim or right of a person through or against any such agency or any claim or right of an agency which has ceased its activities pursuant to this section which is or may be subject to litigation. Any person may pursue said claims or rights through or against the department of regulatory agencies, the agency which performed the terminated function, or, in the case of a terminated board which is not in the department of regulatory agencies, the specified department in which the board is located, and said claims and rights of an agency which has ceased its activities shall be assumed by the department of regulatory agencies, the agency which performed the terminated function, or the specific department. Nothing in this section shall interfere with the general assembly otherwise considering legislation on any division, board, agency, or similar body.

(12) When an agency or function is terminated pursuant to the provisions of this section and the general assembly reestablishes the agency or function during the wind-up period with substantially the same powers, duties, and functions, the agency or function shall be deemed to have been continued.

(12.5) The purpose of this section is to provide a listing of the divisions, boards, agencies, and functions subject to review and scheduled for termination under this section. No provision in this section effectuates the repeal of any statute; the provisions which effectuate the repeal of statute creating or governing a division, board, agency, or function are set forth in the substantive law creating such division, board, agency, or function. Nothing in such a repeal provision shall be construed to invalidate the wind-up period allowed by subsection (5) of this section or the provisions of subsection (6) of this section.

(13) The following divisions in the department of regulatory agencies shall terminate on July 1, 1984:

(a) to (c) Repealed.

(14) The following boards and agencies in the division of registrations shall terminate on July 1, 1985:

(a) to (e) Repealed.

(15) The following boards and agencies in the division of registrations shall terminate on July 1, 1986:

(a) to (d) Repealed.

(16) (a) The following boards and agencies in the division of registrations shall terminate on July 1, 1987:

(I) to (III) Repealed.

(b) Repealed.

(17) The following boards and agencies in the division of registrations shall terminate on July 1, 1988:

(a) to (f) Repealed.

(18) and (19) Repealed.

(19.1) The following boards and the functions of the specified agencies shall terminate on July 1, 1990:

(a) to (d) Repealed.

(20) (a) (Deleted by amendment, L. 91, p. 1477, § 16, effective July 1, 1991.)

(a.5) and (b) Repealed.

(20.1) The following boards and the functions of the specified agencies shall terminate on July 1, 1991:

(a) to (e) Repealed.

(21) (a) The following boards in the division of registrations shall terminate on July 1, 1992:

(I) (Deleted by amendment, L. 92, p. 2031, § 17, effective July 1, 1992.)

(II) Repealed.

(b) to (d) Repealed.

(21.1) The Colorado manufactured housing licensing board, created by article 51.5 of title 12, C.R.S., was repealed, effective July 1, 1992. However, a legislative committee of reference designated pursuant to section 2-3-1201, C.R.S., has continuing jurisdiction and may exercise discretion to review and recommend reestablishment of such board.

(21.5) Repealed.

(22) (a) The following divisions in the department of regulatory agencies shall terminate on July 1, 1993:

(I) and (II) Repealed.

(III) (Deleted by amendment, L. 93, p. 2056, § 2, effective July 1, 1993.)

(b) The following boards and agencies in the division of registrations shall terminate on July 1, 1993:

(I) (Deleted by amendment, L. 93, p. 1532, § 2, effective July 1, 1993.)

(II) Repealed.

(c) Repealed.

(I) Repealed.

(II) (Deleted by amendment, L. 93, p. 1751, § 12, effective July 1, 1993.)

(d) (Deleted by amendment, L. 93, p. 1494, § 12, effective July 1, 1993.)

(22.1) The following boards and the functions of the specified agencies shall terminate on July 1, 1993:

(a) to (d) Repealed.

(22.5) Repealed.

(23) (a) The following divisions in the department of regulatory agencies shall terminate on July 1, 1994:

(I) to (III) Repealed.

(b) Repealed.

- (23.1) The following boards and the functions of the specified agencies shall terminate on July 1, 1994:
- (a) The licensing of commercial driving schools through the department of revenue in accordance with article 15 of title 12, C.R.S.
 - (b) to (h) Repealed.
- (23.2) Repealed.
- (24) The following boards in the division of registrations shall terminate on July 1, 1995:
- (a) (Deleted by amendment, L. 95, p. 1320, § 12, effective July 1, 1995.)
 - (b) Repealed.
 - (c) (Deleted by amendment, L. 95, p. 1089, § 15, effective July 1, 1995.)
 - (d) and (e) Repealed.
- (24.1) The following functions of the specified agencies shall terminate on July 1, 1995:
- (a) to (c) Repealed.
 - (d) (Deleted by amendment, L. 95, p. 901, § 14, effective July 1, 1995.)
 - (e) (Deleted by amendment, L. 95, p. 698, § 14, effective May 23, 1995.)
 - (f) The licensing of persons operating a controlled atmosphere storage facility for apples through the commissioner of agriculture in accordance with article 23.5 of title 35, C.R.S.
 - (g) Repealed.
 - (h) (Deleted by amendment, L. 95, p. 296, § 11, effective July 1, 1995.)
 - (i) (Deleted by amendment, L. 95, p. 698, § 14, effective May 23, 1995.)
 - (j) Repealed.
- (24.2) Repealed.
- (24.5) The functions of the division of administration in the department of public health and environment relating to the training and certification requirements established under sections 25-7-105 (11) (c) and (11) (g), C.R.S., shall terminate on July 1, 1996.
- (25) The following boards in the division of registrations shall terminate on July 1, 1996:
- (a) (Deleted by amendment, L. 96, p. 1416, § 29, effective July 1, 1996.)
 - (b) Repealed.
- (25.1) The following functions of the specified agencies shall terminate on July 1, 1996:
- (a) to (i) Repealed.
 - (j) The licensing function for underground storage tank installers of the state inspector of oils conducted pursuant to part 4 of article 20.5 of title 8, C.R.S.
 - (k) and (l) Repealed.
- (25.2) and (25.5) Repealed.
- (25.6) The following agencies and functions of the specified agencies shall terminate on July 1, 1996:
- (a) and (b) Repealed.
- (25.7) The following agencies, functions, or both, shall terminate on July 1, 1996:
- (a) and (b) Repealed.
- (26) (a) Repealed.
- (b) (Deleted by amendment, L. 97, p. 1076, § 1, effective July 1, 1997.)
- (26.1) and (26.2) Repealed.
- (27) (a) The following boards in the division of registrations shall terminate on July 1, 1998:
- (I) to (IV) Repealed.
- (b) The following board and functions of the specified agencies shall terminate on July 1, 1998:
- (I) to (III) Repealed.
- (c) Repealed.
- (d) (Deleted by amendment, L. 94, p. 1637, § 49, effective May 31, 1994.)
- (e) Repealed.
- (27.1) Repealed.
- (27.5) (a) to (e) Repealed.
- (f) (Deleted by amendment and revision, L. 98, pp. 74, 78, §§ 2, 2, effective July 1, 1998.)
- (28) (a) The following divisions in the department of regulatory agencies shall terminate on July 1, 1999:
- (I) and (II) Repealed.
- (b) Repealed.
- (c) The following agencies and functions of the specified agencies shall terminate July 1, 1999:

- (I) to (III) Repealed.
- (28.5) Repealed.
- (29) The following boards shall terminate on July 1, 2000:
 - (a) to (c) Repealed.
 - (29.1) The following functions of the specified agencies shall terminate on July 1, 2000:
 - (a) The licensing of debt management through the banking board and the state bank commissioner in accordance with article 20 of title 12, C.R.S.;
 - (b) Repealed.
 - (29.5) Repealed.
- (30) (a) The following functions of the specified agency shall terminate on July 1, 2001:
 - (I) to (VI) Repealed.
 - (b) The following boards in the division of registrations shall terminate July 1, 2001:
 - (I) to (III) Repealed.
 - (c) and (d) Repealed.
- (31) (a) Repealed.
 - (b) The following agencies, functions, or both, shall terminate on July 1, 2002:
 - (I) to (IV) Repealed.
 - (31.5) The following agencies, functions, or both, shall terminate on July 1, 2002:
 - (a) Repealed.
 - (b) The division of insurance, created by sections 10-1-103 and 10-1-104, C.R.S.
- (32) The following function of the specified agency shall terminate on July 1, 2003:
 - (a) to (d) Repealed.
 - (32.1) Repealed.
 - (32.5) The following agencies, functions, or both, shall terminate on July 1, 2003:
 - (a) to (g) Repealed.
- (33) (Deleted by amendment, L. 94, p. 1637, § 49, effective May 31, 1994.)
- (34) The following agencies, functions, or both, shall terminate on July 1, 2004:
 - (a) to (c) Repealed.
 - (d) (I) (Deleted by amendment, L. 2004, p. 15, § 3, effective July 1, 2004.)
 - (II) (Deleted by amendment, L. 2004, p. 520, § 10, effective July 1, 2004.)
 - (e) to (i) Repealed.
- (35) Repealed.
- (36) The following agencies, functions, or both, shall terminate on July 1, 2005:
 - (a) to (d) Repealed.
 - (e) The functions of the community corrections board in assisting in and expediting the application process of an inmate or an offender for the receipt of medical assistance or supplemental security income prior to release in accordance with section 17-27-105.7, C.R.S.
 - (f) Repealed.
- (37) The following agencies, functions, or both, shall terminate on July 1, 2006:
 - (a) and (b) Repealed.
 - (c) (Deleted by amendment, L. 2003, p. 624, § 44, effective July 1, 2003.)
 - (d) and (e) Repealed.
 - (f) (Deleted by amendment, L. 2006, p. 203, § 2, effective March 31, 2006.)
 - (g) to (j) Repealed.
- (38) The following agencies, functions, or both, shall terminate on July 1, 2007:
 - (a) to (i) Repealed.
- (39) (a) Repealed.
 - (b) The following agencies, functions, or both, shall terminate on July 1, 2008:
 - (I) to (XV) Repealed.
 - (XVI) (Deleted by amendment, L. 2008, p. 210, § 6, effective March 26, 2008.)
 - (XVII) to (XX) Repealed.
 - (XXI) Review of multiple employer welfare arrangements pursuant to section 10-16-910, C.R.S., by the department of regulatory agencies.
 - (XXII) Repealed.
- (40) The following agencies, functions, or both, shall terminate on July 1, 2009:

- (a) to (f) Repealed.
- (g) (Deleted by amendment, L. 2009, (SB 09-116), ch. 62, p. 220, § 2, effective July 1, 2009.)
- (h) and (i) Repealed.
- (j) The following functions of the commissioner of the department of agriculture:
 - (I) and (II) Repealed.
 - (III) (Deleted by amendment, L. 2009, (SB 09-114), ch. 111, p. 461, § 2, effective April 9, 2009.)
 - (IV) Repealed.
- (k) to (m) Repealed.
- (n) (Deleted by amendment, L. 2009, (SB 09-138), ch. 400, p. 2157, § 2, effective July 1, 2009.)
- (o) (Deleted by amendment, L. 2009, (SB 09-239), ch. 401, p. 2165, § 2, effective July 1, 2009.)
- (p) (Deleted by amendment, L. 2009, (SB 09-167), ch. 366, p. 1916, § 2, effective June 1, 2009.)
- (41) The following agencies, functions, or both, shall terminate on July 1, 2010:
 - (a) Repealed.
 - (b) The following boards in the division of registrations in the department of regulatory agencies:
 - (I) and (II) Repealed.
 - (c) to (p) Repealed.
 - (q) The obesity treatment pilot program implemented by the department of health care policy and financing pursuant to section 25.5-5-317, C.R.S.
 - (r) (Deleted by amendment, L. 2009, (SB 09-138), ch. 400, p. 2157, § 2, effective July 1, 2009.)
 - (s) Repealed.
 - (41.5) Repealed.
- (42) The following agencies, functions, or both, shall terminate on July 1, 2011:
 - (a) to (h) Repealed.
 - (i) (Deleted by amendment, L. 2011, (SB 11-192), ch. 230, p. 983, § 1, effective July 1, 2011.)
 - (j) to (o) Repealed.
- (43) The following agencies, functions, or both, terminate on July 1, 2012:
 - (a) and (b) Repealed.
 - (c) The licensing of audiologists and hearing aid providers by the division of professions and occupations, pursuant to article 5.5 of title 12, C.R.S.;
 - (d) to (h) Repealed.
 - (43.5) The following agencies, functions, or both, terminate on June 30, 2013:
 - (a) to (c) Repealed.
- (44) The following agencies, functions, or both, terminate on July 1, 2013:
 - (a) and (b) Repealed.
 - (c) (Deleted by amendment, L. 2011, (HB 11-1303), ch. 264, p. 1165, § 58, effective August 10, 2011.)
 - (d) Repealed.
 - (e) The Colorado coordination council within the office of the executive director of the department of natural resources created in part 3 of article 33 of this title;
 - (f) Repealed.
 - (g) The banking board, created by article 102 of title 11, C.R.S.
 - (h) to (q) Repealed.
 - (44.5) Repealed.
- (45) The following agencies, functions, or both, terminate on July 1, 2014:
 - (a) The accreditation of health care providers under the workers' compensation system in accordance with section 8-42-101 (3.5) and (3.6), C.R.S.;
 - (b) The regulation of outfitters by the director of the division of professions and occupations pursuant to article 55.5 of title 12, C.R.S.;
 - (c) The state board of dental examiners, created by article 35 of title 12, C.R.S.;
 - (d) The fire suppression program of the division of fire prevention and control, created pursuant to sections 24-33.5-1204.5, 24-33.5-1206.1, 24-33.5-1206.2, 24-33.5-1206.3, 24-33.5-1206.4, 24-33.5-1206.5, 24-33.5-1206.6, and 24-33.5-1207.6;
 - (e) The record-keeping and licensing functions of the department of human services relating to addiction programs under which controlled substances are compounded, administered, or dispensed in accordance with part 2 of article 80 of title 27, C.R.S.;

- (f) Repealed.
- (g) The licensing of home care agencies in accordance with article 27.5 of title 25, C.R.S.;
- (h) The licensing of pet animal facilities pursuant to article 80 of title 35, C.R.S.
- (45.5) The following agencies, functions, or both, shall terminate on September 1, 2014:
 - (a) In-home support services, established pursuant to part 12 of article 6 of title 25.5, C.R.S.
- (46) The following agencies, functions, or both shall terminate on July 1, 2015:
 - (a) The licensing of massage parlors in accordance with article 48.5 of title 12, C.R.S.;
 - (b) The securities board, created in section 11-51-702.5, C.R.S.;
 - (c) The division of securities, created pursuant to article 51 of title 11, C.R.S.;
 - (d) The compliance advisory panel to the air pollution control division in the department of public health and environment created in section 25-7-109.2, C.R.S.;
 - (e) The licensing and regulation of respiratory therapists by the division of professions and occupations in the department of regulatory agencies in accordance with article 41.5 of title 12, C.R.S.;
 - (f) The licensing of barbers, hairstylists, cosmetologists, cosmeticians, and manicurists by the director of the division of professions and occupations pursuant to article 8 of title 12, C.R.S.;
 - (g) The office of consumer counsel, created in article 6.5 of title 40, C.R.S.;
 - (h) The utility consumers' board, created in article 6.5 of title 40, C.R.S.;
 - (i) The regulation of commercial applicators, qualified supervisors, certified operators, and private applicators by the commissioner of agriculture in accordance with article 10 of title 35, C.R.S.;
 - (j) The functions pursuant to part 2 of article 14.5 of title 12, C.R.S., of the administrator designated pursuant to section 5-6-103, C.R.S., and the registration of debt-management service providers;
 - (k) The regulation of athletic trainers by the director of the division of professions and occupations in the department of regulatory agencies in accordance with article 29.7 of title 12, C.R.S.;
 - (l) The regulation of persons registered to practice mortuary science pursuant to sections 12-54-110 and 12-54-111, C.R.S., and cremation pursuant to sections 12-54-303 and 12-54-304, C.R.S., and the administration thereof pursuant to part 4 of article 54 of title 12, C.R.S.;
 - (m) The Colorado commission for the deaf and hard of hearing, created by article 21 of title 26, C.R.S.;
 - (n) The regulation of persons licensed pursuant to article 43.3 of title 12, C.R.S.
- (46.5) The following agencies, functions, or both, shall terminate on September 1, 2015:
 - (a) The regulation of private occupational schools and their agents under article 59 of title 12, C.R.S., including the functions of the private occupational school division created in section 12-59-104.1, C.R.S., and the private occupational school board created in section 12-59-105.1, C.R.S.
- (47) The following agencies, functions, or both, shall terminate on July 1, 2016:
 - (a) Repealed.
 - (b) The division of racing events, including the Colorado racing commission created by article 60 of title 12, C.R.S.;
 - (c) The rural alcohol and substance abuse prevention and treatment program created pursuant to section 27-80-117, C.R.S., within the unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse;
 - (d) The regulation of persons licensed pursuant to article 43.4 of title 12, C.R.S.
- (47.5) The following agencies, functions, or both, shall terminate on September 1, 2016:
 - (a) The nursing facility culture change accountability board created in section 25-1-107.5 (6), C.R.S., and the use of moneys in the nursing home penalty cash fund for the purposes described in section 25-1-107.5 (4) (c) (II), C.R.S.;
 - (b) The registration of surgical assistants and surgical technologists pursuant to article 43.2 of title 12, C.R.S.;
 - (c) The identity theft and financial fraud board and the Colorado fraud investigators unit created in part 17 of article 33.5 of this title;
 - (d) The issuance of information letters and private letter rulings by the executive director of the department of revenue in accordance with section 24-35-103.5;
 - (e) The registration and regulation of vessels by the department of natural resources in accordance with article 13 of title 33, C.R.S.;
 - (f) The sex offender management board created in section 16-11.7-103, C.R.S.;
 - (g) The teen pregnancy and dropout prevention program, created in section 25.5-5-603, C.R.S.;

(h) The registration of direct-entry midwives by the division of registrations in accordance with article 37 of title 12, C.R.S.;

(i) The voluntary licensing of private investigators by the director of the division of professions and occupations in accordance with article 58.5 of title 12, C.R.S.

(48) The following agencies, functions, or both, shall terminate on July 1, 2017:

(a) The licensing of landscape architects and the Colorado state board of landscape architects in the department of regulatory agencies in accordance with article 45 of title 12, C.R.S.;

(b) The certification of conveyances and conveyance mechanics, contractors, and inspectors pursuant to article 5.5 of title 9, C.R.S.;

(c) The motor vehicle dealer board, created by section 12-6-103, C.R.S., and the functions of the executive director of the department of revenue, including licensing, in accordance with part 1 of article 6 of title 12, C.R.S.;

(d) The regulation of powersports vehicles by the motor vehicle dealer board, created by section 12-6-103, C.R.S.;

(e) The function of licensing of bingo and other games of chance through the secretary of state in accordance with article 9 of title 12, C.R.S.;

(f) The Colorado bingo-raffle advisory board, created in section 12-9-201, C.R.S.;

(g) The division of real estate, including the real estate commission created in part 1 of article 61 of title 12, C.R.S.;

(h) The regulation of collection agencies pursuant to article 14 of title 12, C.R.S.;

(i) The office of boxing, including the Colorado state boxing commission, created by article 10 of title 12, C.R.S.;

(j) The functions of the division of insurance in the department of regulatory agencies pursuant to article 1 of title 10, C.R.S., other than the functions of the division related to the licensing of bail bonding agents.

(48.5) The following agencies, functions, or both, terminate on September 1, 2017:

(a) The domestic violence offender management board created in section 16-11.8-103, C.R.S.;

(b) The regulation of speech-language pathologists by the director of the division of professions and occupations pursuant to article 43.7 of title 12, C.R.S.;

(c) The licensing of professional cash-bail agents and cash-bonding agents under article 23 of title 10, C.R.S.;

(d) The MOST program created by part 5 of article 5 of title 43, C.R.S.;

(e) The registering of naturopathic doctors by the director pursuant to article 37.3 of title 12, C.R.S.

(49) The following agencies, functions, or both, shall terminate on July 1, 2018:

(a) The environmental management system permit program, created in article 6.6 of title 25, C.R.S.;

(b) The conservation easement oversight commission, created in section 12-61-721, C.R.S.;

(c) The issuance of licenses and certificates related to measurement standards by the commissioner of the department of agriculture in accordance with article 14 of title 35, C.R.S.;

(d) The regulation by the department of agriculture of the custom processing of meat animals in accordance with article 33 of title 35, C.R.S.;

(e) The regulation by the department of agriculture of home food service plans in accordance with article 33.5 of title 35, C.R.S.;

(f) The board of examiners of nursing home administrators created pursuant to section 12-39-104, C.R.S.;

(g) The appointment of notaries public through the secretary of state in accordance with part 1 of article 55 of title 12, C.R.S.;

(h) The Colorado civil rights division, including the Colorado civil rights commission, created by part 3 of this article;

(i) The consolidated communications system authority created in section 29-24.5-103, C.R.S.

(49.5) The following agencies, functions, or both, terminate on September 1, 2018:

(a) The automobile theft prevention authority and the automobile theft prevention board, created in section 42-5-112, C.R.S.;

(b) The licensing of physical therapists by the physical therapy board in accordance with article 41 of title 12, C.R.S.;

(c) The certification of physical therapist assistants by the physical therapy board in accordance with article 41 of title 12, C.R.S.;

(d) The issuance of permits for specific weather modification operations through the executive director of the department of natural resources in accordance with article 20 of title 36, C.R.S.;

(e) The licensing of mortgage loan originators and the registration of mortgage companies pursuant to part 9 of article 61 of title 12, C.R.S.;

(f) The requirements and procedures regarding the preparation of a cost-benefit analysis in accordance with section 24-4-103 (2.5);

(g) The licensing of community association managers by the director of the division of real estate in accordance with part 10 of article 61 of title 12, C.R.S.

Editor's note: Paragraph (g) is effective January 1, 2015.

(50) The following agencies, functions, or both, shall terminate on July 1, 2019:

(a) Repealed.

(b) The passenger tramway safety board, created in section 25-5-703, C.R.S.;

(c) The licensing of public livestock markets pursuant to article 55 of title 35, C.R.S.;

(d) The licensing and regulation of psychiatric technicians by the state board of nursing pursuant to article 42 of title 12, C.R.S.;

(e) The state board of accountancy, created by article 2 of title 12, C.R.S.;

(f) The state electrical board, created by article 23 of title 12, C.R.S.;

(g) The Colorado podiatry board, created by article 32 of title 12, C.R.S.;

(h) The Colorado medical board, created by article 36 of title 12, C.R.S.

(50.5) The following agencies, functions, or both, terminate on September 1, 2019:

(a) The Colorado public utilities commission, created by article 2 of title 40, C.R.S.;

(b) The functions of the commissioner of the department of agriculture related to seed potatoes under article 27.3 of title 35, C.R.S.;

(c) The functions of the administrator, defined in section 5-9.5-103, C.R.S., with regard to refund anticipation loan facilitators regulated under article 9.5 of title 5, C.R.S.;

(d) The function of licensing river outfitters through the parks and wildlife commission and the division of parks and wildlife in accordance with article 32 of title 33, C.R.S.;

(e) The cold case task force created in section 24-33.5-109;

(f) The regulation of dialysis treatment clinics and hemodialysis technicians pursuant to section 25-1.5-108, C.R.S.;

(g) The functions of professional review committees pursuant to article 36.5 of title 12, C.R.S.

(51) The following agencies, functions, or both, shall terminate on July 1, 2020:

(a) The regulation of persons working in coal mines by the department of natural resources through the coal mine board of examiners in accordance with article 22 of title 34, C.R.S.;

(b) The regulation of poultry eggs pursuant to article 21 of title 35, C.R.S.;

(c) The registration functions of the commissioner of agriculture pursuant to article 27 of title 35, C.R.S.;

(d) The licensing and regulation of persons by the department of agriculture pursuant to article 16 of title 12, C.R.S.;

(e) The state board of nursing, created by article 38 of title 12, C.R.S.;

(f) The Colorado state board of chiropractic examiners, created by article 33 of title 12, C.R.S.

(51.5) The following agencies, functions, or both, terminate on September 1, 2020

(a) The certification of nurse aides by the state board of nursing in accordance with article 38.1 of title 12, C.R.S.;

(b) The HOA information and resource center, created in section 12-61-406.5, C.R.S.;

(c) Notwithstanding paragraph (a) of subsection (11) of this section, the functions of the boards created pursuant to article 43 of title 12, C.R.S., relating to the licensing, registration, or certification of and grievances against any person licensed, registered, or certified pursuant to article 43 of title 12, C.R.S.;

(d) The water and wastewater facility operators certification board, created by section 25-9-103, C.R.S.;

(e) The licensing of audiologists by the division of professions and occupations pursuant to article 29.9 of title 12, C.R.S.;

(f) The licensing of hearing aid providers by the division of professions and occupations, pursuant to article 5.5 of title 12, C.R.S.;

(g) The licensing of occupational therapists and occupational therapy assistants in accordance with article 40.5 of title 12, C.R.S.

(52) The following agencies, functions, or both, terminate on July 1, 2021:

(a) The workers' compensation classification appeals board, created in article 55 of title 8, C.R.S.;

(b) The electronic prescription drug monitoring program created in part 4 of article 42.5 of title 12, C.R.S.

(52.5) The following agencies, functions, or both, terminate on September 1, 2021:

(a) The assistance program for disability benefits under part 22 of article 30 of this title;

(b) The state board of pharmacy and the regulation of the practice of pharmacy by the department of regulatory agencies through the division of professions and occupations in accordance with parts 1 to 3 of article 42.5 of title 12, C.R.S.

(53.5) The following agencies, functions, or both, terminate on September 1, 2022:

(a) The state board of optometry, created by article 40 of title 12, C.R.S.;

(b) The state board of veterinary medicine, created by article 64 of title 12, C.R.S.;

(c) The certification of persons in connection with the control of asbestos pursuant to part 5 of article 7 of title 25, C.R.S.;

(d) The licensing of persons who practice acupuncture by the director of the division of professions and occupations in accordance with article 29.5 of title 12, C.R.S.;

(e) The licensure of massage therapists by the director of the division of professions and occupations in accordance with article 35.5 of title 12, C.R.S.;

(f) The board of real estate appraisers, created by article 61 of title 12, C.R.S.;

(g) The division of gaming, created by part 2 of article 47.1 of title 12, C.R.S.

(54) Reserved.

(55) The following agencies, functions, or both, terminate on September 1, 2024:

(a) The division of financial services created by article 44 of title 11, C.R.S.;

(b) The licensing functions of the banking board and the state bank commissioner in accordance with article 52 of title 12, C.R.S., regarding persons who transmit money;

(c) The division of banking and the banking board created by article 102 of title 11, C.R.S.;

(d) The state board of licensure for architects, professional engineers, and professional land surveyors in the department of regulatory agencies, created by section 12-25-106, C.R.S.;

(e) The state plumbing board, created by article 58 of title 12, C.R.S.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 10. INSURANCE GENERAL PROVISIONS

ARTICLE 1. GENERAL PROVISIONS

PART 1. GENERAL PROVISIONS

C.R.S. 10-1-102 (2013)

10-1-102. Definitions {Insurance General Provisions}

As used in this title, unless the context otherwise requires:

- (1) "Actuary" means a person designated by the commissioner as a qualified actuary based on requirements set forth in rules promulgated by the commissioner.
- (2) "Admitted assets" includes the investments that are admitted assets of a domestic company under parts 1 and 2 of article 3 and part 4 of article 7 of this title and, in addition thereto, includes:
 - (a) Those assets defined as admitted by nationally recognized insurance statutory accounting principles; and
 - (b) Other assets deemed by the commissioner to be available for the payment of losses and claims, at values to be determined by the commissioner.
- (3) "Admitted company" or "authorized company" designates companies duly qualified and licensed to transact business in this state, under the provisions of this title. "Nonadmitted companies" or "unauthorized companies" designates companies not licensed to transact business in this state, under the provisions of this title (except article 15) and article 14 of title 24, C.R.S.
 - (3.5) "Bail insurance company" means an insurer engaged in the business of writing bail bonds through bonding agents and subject to regulation by the division.
 - (3.7) "Bail recovery" means actions taken by a person other than a peace officer to apprehend an individual or take an individual into custody because of the individual's failure to comply with bail conditions.
- (4) "Charitable gift annuity" means an annuity that:
 - (a) Meets the definition and standards contained in section 501 (m) (5) of the federal "Internal Revenue Code of 1986", as amended;
 - (b) Contains on its face the following statement: "This annuity is not issued by an insurance company nor regulated by the Colorado division of insurance and is not protected by any state guaranty fund or protective association."
 - (c) Is issued or guaranteed by an organization that at all times during the three years preceding the date of the issuance of such annuity:
 - (I) Was qualified to receive contributions described in section 170 (c) of the federal "Internal Revenue Code of 1986", as amended; and
 - (II) If required as a condition of such qualification by provisions of the federal "Internal Revenue Code of 1986", as amended, was in receipt of notification from the federal internal revenue service that such organization was so qualified.
- (5) "Commissioner" or "insurance commissioner" means the commissioner of insurance.
- (6) (a) "Company", "corporation", "insurance company", or "insurance corporation" includes all corporations, associations, partnerships, or individuals engaged as insurers in the business of insurance, including the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or interinsurance exchange, or suretyship except fraternal or benevolent orders and societies.
 - (b) "Company", "corporation", "insurance company", or "insurance corporation" does not include health maintenance organizations unless the specific provision of law by its terms applies to health maintenance organizations.
 - (c) For the purposes of a "company", "corporation", or "insurance company", a reciprocal insurer shall be considered a single economic entity.
- (7) "Division" means the division of insurance.
- (8) "Domestic" designates those companies incorporated or formed in this state.
- (9) "Foreign", when used without limitation, includes all those companies formed by authority of any other state or government.

(10) "Institution" means any entity including, but not limited to, a corporation, a joint-stock company, a limited liability company, an association, a bank, a trust, a partnership, a joint venture, a special district, a government, or a quasi-governmental agency.

(11) "Insurable interest in property" means every interest in property or any relation thereto, or liability in respect thereof, of such a nature that a contemplated peril might directly damnify the insured.

(12) "Insurance" means a contract whereby one, for consideration, undertakes to indemnify another or to pay a specified or ascertainable amount or benefit upon determinable risk contingencies, and includes annuities.

(13) "Insurer" means every person engaged as principal, indemnitor, surety, or contractor in the business of making contracts of insurance.

(14) "Motor vehicle rental agreement" means an agreement for the rental of a motor vehicle for transportation purposes, for a period of no more than ninety days, in return for a fee that is calculated on a daily, weekly, or monthly basis.

(15) "Motor vehicle rental company" means an entity that is in the business of renting, pursuant to motor vehicle rental agreements, motor vehicles that do not come within the definition of a commercial motor vehicle as set forth in section 42-2-402 (4), C.R.S.

(16) "Nonadmitted assets" includes, but is not limited to, those assets defined as nonadmitted by nationally recognized insurance statutory accounting principles. Nonadmitted assets shall not be taken into account in determining the financial condition of a company.

(17) (a) "Qualified United States financial institution" means an institution that is:

(I) Organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof; and

(II) Regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks, trust companies, or savings and loan associations.

(b) If any qualified United States financial institution issues letters of credit, such institution shall have been determined by either the commissioner or the securities valuation office of the national association of insurance commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

(c) If any qualified United States financial institution operates a trust, such institution shall be eligible to operate as a fiduciary of a trust and shall have been granted authority to operate with fiduciary powers.

(18) "Real estate" and "real property" include fee simple and leasehold estates therein.

(19) "Transact" as applied to insurance means and includes any of the following:

(a) Solicitation and inducement;

(b) Negotiations preliminary to effectuation of a contract of insurance;

(c) Execution of a contract of insurance;

(d) Transaction of matters subsequent to effectuation of a contract of insurance and arising out of the contract obligations.

HISTORY: Source: L. 2003: Entire article RC&RE, p. 587, § 1, effective July 1. L. 2004: (3) amended, p. 897, § 5, effective May 21. L. 2012: (3) amended and (3.5) and (3.7) added, (HB 12-1266), ch. 280, p. 1491, § 1, effective July 1.

Editor's note: This section is similar to former § 10-1-102 as it existed prior to 2002.

ANNOTATION

I. General Consideration.

II. Company.

III. Insurable Interest.

IV. Insurance.

A. In General.

B. Construction.

V. Insurer.

I. GENERAL CONSIDERATION.

Annotator's note. Cases relevant to § 10-1-102 decided prior to its earliest source, L. 13, p. 321, § 2, have been included in the annotations to this section. Since § 10-1-102 is similar to § 10-1-102 as it existed prior to the 2002 repeal of article 1 of title 10, relevant cases construing that provision also have been included in the annotations to this section.

II. COMPANY.

An interinsurance exchange is included in the definition of insurance company in subsection (4). Because § 10-13-114 applies the regulatory remedies in §§ 10-3-401 to 10-3-414 to interinsurance exchanges, the insurance commissioner has the discretion to rehabilitate an interinsurance exchange in the same manner as any other insurance company. *Alias Smith Jones v. Barnes*, 695 P.2d 302 (Colo. App. 1984).

III. INSURABLE INTEREST. One who makes a bona fide claim to equitable or legal title in property has an insurable interest, because he would suffer pecuniary damage in its destruction. *Am. Ins. Co. v. Donlon*, 16 Colo. App. 416, 66 P. 249 (1901).

A trustor may recover for loss. Where an insurance policy is issued to the owner covering property upon which there is a deed of trust and a loss occurs, the trustor may recover the entire loss irrespective of the encumbrance or the fact that the cestui que trust also had a policy on the property in which his interest, to the amount of the indebtedness, was insured. *Farmers' Union Mut. Protective Ass'n v. San Luis State Bank*, 86 Colo. 293, 281 P. 366 (1929).

Owner has some interest in the property conveyed after sale by the trustee, until such time as the trustee under the deed of trust executes his deed to the person entitled thereto. *Farmers' Union Mut. Protective Ass'n v. San Luis State Bank*, 86 Colo. 293, 281 P. 366 (1929).

Insurable interest is not dependent upon completeness or validity of title by which the property is held; a limited or qualified interest is enough. *Webb v. M.F.A. Mut. Ins. Co.*, 44 Colo. App. 210, 620 P.2d 38 (1980).

Subsequent bona fide purchaser of stolen motor vehicle has insurable interest. A subsequent bona fide purchaser of a stolen motor vehicle has title and the right to possession of the vehicle against the whole world except the rightful owner, and this constitutes an insurable interest. *Webb v. M.F.A. Mut. Ins. Co.*, 44 Colo. App. 210, 620 P.2d 38 (1980).

For cases dealing generally with the question of "insurable interest" from an academic standpoint, see *Michigan Fire Marine Ins. Co. v. Wich*, 8 Colo. App. 409, 46 P. 687 (1896); *Helvetia Swiss Fire Ins. Co. v. Allis Co.*, 11 Colo. App. 264, 53 P. 242 (1898); *Am. Cent. Ins. Co. v. Donlon*, 16 Colo. App. 416, 66 P. 249 (1901); *Farmers' Union Mut. Protective Ass'n v. San Luis State Bank*, 86 Colo. 293, 281 P. 366 (1929); *Simon v. Truck Ins. Exch.*, 757 P.2d 1123 (Colo. App. 1988).

IV. INSURANCE.

A. In General. Fraternal benefit societies, by §§ 10-1-113 and 10-14-104, are not governed by general insurance laws. *Neighbors of Woodcraft v. Westover*, 99 Colo. 231, 61 P.2d 585 (1936).

Contracts of an insurance corporation purporting to be organized not for profit are insurance contracts under the definition recited in subsection (7) and the relationship between the company and its members that of insurer and insured. *Int'l. Serv. Union Co. v. People ex rel. Wettengel*, 101 Colo. 1, 70 P.2d 431 (1937).

B. Construction. The terms in an insurance contract are to be given their meaning according to common usage. *Reed v. United States Fid. Guar. Co.*, 176 Colo. 568, 491 P.2d 1377 (1971).

In the case of ambiguity of any term, the court will look to the body of the insurance contract for enlightenment, and the insurance contract terms will be construed most strongly against the insurer. *Reed v. United States Fid. Guar. Co.*, 176 Colo. 568, 491 P.2d 1377 (1971).

In determining whether an intent to harm precludes coverage for injury under a homeowner's insurance policy, where the injury is child molestation, the subjective intent of the injuring party is not relevant to the determination. Rather, an intent to injure may be inferred as a matter of law due to the inherently harmful nature of child molestation. *Allstate Ins. Co. v. Troelstrup*, 789 P. 2d 415 (Colo. 1990).

V. INSURER. A person in the business of selling motor vehicle service contracts is not an insurer. *In re First Assured Warranty Corp.*, 383 B.R. 502 (Bankr. D. Colo. 2008).

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 10. INSURANCE PROPERTY AND CASUALTY INSURANCE
ARTICLE 4. PROPERTY AND CASUALTY INSURANCE
PART 6. AUTOMOBILE INSURANCE POLICY - REGULATIONS
C.R.S. 10-4-608 (2013)

10-4-608. Exemptions

(1) This part 6 shall not apply to any policy:

- (a) Issued under an assigned risk plan established under section 10-4-412;
- (b) Insuring more than four automobiles;
- (c) Except as authorized by section 10-4-624, arising out of a motor vehicle rental agreement or any self-insurance thereof;
- (d) Covering a garage, automobile sales agency, repair shop, service station, or public parking place operation hazard; or
- (e) Issued principally to cover personal or premises liability of an insured even though such insurance may also provide some incidental coverage for liability arising out of the ownership, maintenance, or use of a motor vehicle on the premises of such insured, or on the ways immediately adjoining such premises.

HISTORY: Source: L. 69: p. 551, § 8. C.R.S. 1963: § 72-30-8.L. 79: Entire section amended, p. 376, § 10, effective July 1.L. 95: Entire section amended, p. 143, § 3, effective April 7.L. 2003: (1)(c) amended, p. 2433, § 1, effective June 5.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 10. INSURANCE PROPERTY AND CASUALTY INSURANCE

ARTICLE 4. PROPERTY AND CASUALTY INSURANCE

PART 4. RATE REGULATION

C.R.S. 10-4-412 (2013)

10-4-412. Assigned risk motor vehicle insurance

(1) The commissioner may, after consultation with the insurers licensed to write motor vehicle insurance in this state, establish or approve a reasonable plan, and rules governing the same, for the equitable apportionment among such insurers of applicants for such insurance who are in good faith entitled to but are unable to procure insurance through ordinary methods, and, when such plan has been approved, all such insurers shall subscribe thereto and shall participate therein. Any applicant for such insurance, any person insured under such plan, and any insurer affected may appeal to the commissioner from any ruling or decision of the manager or committee designated to operate such plan.

(2) If an insurer admitted to transact motor vehicle insurance fails to subscribe to the plan or to any amendments thereto or fails to comply with the rules of the plan, the commissioner shall give ten days' written notice to such insurer to so subscribe or so comply. If such insurer fails to comply with such notice, the commissioner, after hearing, may suspend the certificate of authority of such insurer to transact insurance business in this state until such insurer so complies.

HISTORY: Source: L. 79: Entire part R&RE, p. 371, § 8, effective July 1.

Editor's note: This section is similar to former § 10-4-316 as it existed prior to 1979.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 10. INSURANCE PROPERTY AND CASUALTY INSURANCE
ARTICLE 4. PROPERTY AND CASUALTY INSURANCE
PART 6. AUTOMOBILE INSURANCE POLICY - REGULATIONS
C.R.S. 10-4-624 (2013)

10-4-624. Self-insurers

- (1) Any person in whose name more than twenty-five motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the commissioner.
- (2) The commissioner may, in his or her discretion, upon the application of such person, issue a certificate of self-insurance when the commissioner is satisfied that such person is able and will continue to be able to pay benefits as required under section 10-4-620 and to pay any and all judgments that may be obtained against such person. Upon not less than five days' notice and a hearing pursuant to such notice, the commissioner may, upon reasonable grounds, cancel a certificate of self-insurance. Failure to pay any benefits under section 10-4-620 or failure to pay any judgment within thirty days after such judgment has become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.
- (3) For purposes of subsection (2) of this section, the commissioner shall accept, as proof that a motor carrier as defined in article 10.1 of title 40, C.R.S., is able and will continue to be able to pay all judgments that might be obtained against the carrier, a surety bond in a form acceptable to the commissioner in an amount determined by the commissioner sufficient to ensure that the carrier has the ability to pay all judgments that may be obtained against any such carrier.

HISTORY: Source: L. 2003: (2) amended, p. 2433, § 3, effective June 5; entire section added, p. 1563, § 3, effective July 1. L. 2011: (3) amended, (HB 11-1198), ch. 127, p. 417, § 6, effective August 10.

Editor's note: This section was originally numbered as § 10-4-621 in House Bill 03-1188 but has been renumbered on revision for ease of location.

ANNOTATION

Annotator's note. Since this section is similar to § 10-4-716 as it existed prior to the 2003 repeal of part 7 of article 4 of this title, a relevant case construing that provision has been included in the annotations to this section.

Provisions of act with regard to self-insurers do not limit obligation that every owner of a motor vehicle provide liability coverage for bodily injury arising from the vehicle's permissive use. Barnes v. Whitt, 852 P.2d 1322 (Colo. App. 1993).

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 10. INSURANCE PROPERTY AND CASUALTY INSURANCE
ARTICLE 4. PROPERTY AND CASUALTY INSURANCE
PART 6. AUTOMOBILE INSURANCE POLICY - REGULATIONS
C.R.S. 10-4-620 (2013)

10-4-620. Required coverage

Subject to the limitations and exclusions authorized by this part 6, the basic coverage required for compliance with this part 6 is legal liability coverage for bodily injury or death arising out of the use of the motor vehicle to a limit, exclusive of interest and costs, of twenty-five thousand dollars to any one person in any one accident and fifty thousand dollars to all persons in any one accident and for property damage arising out of the use of the motor vehicle to a limit, exclusive of interest and costs, of fifteen thousand dollars in any one accident.

HISTORY: Source: L. 2003: Entire section added, p. 1561, § 3, effective July 1.

Editor's note: This section was originally numbered as § 10-4-617 in House Bill 03-1188 but has been renumbered on revision for ease of location.

ANNOTATION

Law reviews. For article, "The Enterprise Liability Theory of Torts", see 47 U. Colo. L. Rev. 153 (1976). For article, "The Responsibility of the Insurer Once a Driver is Given Initial Permission", see 15 Colo. Law 1041 (1986).

Annotator's note. Since this section is similar to § 10-4-706(1)(a) as it existed prior to the 2003 repeal of part 7 of article 4 of this title, relevant cases construing that provision have been included in the annotations to this section.

Nothing in this section suggests the general assembly considered loss of consortium to be a separate bodily injury that must be insured against in all insurance policies. Thus an insurer need not offer either liability or uninsured motorist insurance which separately covers a loss of consortium claim to be in compliance with this section. Spaur v. Allstate Ins. Co., 942 P.2d 1261 (Colo. App. 1996).

An insurance policy is a contract that should be interpreted consistently with principles of contract law. A reviewing court should give the words of an insurance policy their plain and ordinary meaning unless the intent of the parties, as expressed in the policy, indicates a contrary intent. However, when the provisions are ambiguous, they are construed against the drafting party. Farmers Ins. Exch. v. Wiglesworth, 903 P.2d 659 (Colo. App. 1994), rev'd on other grounds, 917 P.2d 288 (Colo. 1996).

"Household exclusion" clause against public policy. A household exclusion clause, excluding coverage of family members residing in the same household, is void as against public policy. Meyer v. State Farm Mut. Auto. Ins. Co., 689 P.2d 585 (Colo. 1984) (decided prior to 1986 enactment of § 10-4-418 (2)(b)).

Physical damage waiver contained in automobile rental agreement was so significantly restricted it was unconscionable, and lessor could not enforce a limitation on such waiver which excluded damages caused when driver was under influence of drugs or intoxicants when it brought action against lessee to recover for total destruction of automobile which occurred while lessee was intoxicated. Davis v. M.L.G. Corp., 712 P.2d 985 (Colo. 1986).

Automobile lessor impermissibly attempted to limit the statutory requirements of subsection (1) which requires automobile liability coverage by conditioning its compulsory liability coverage for property damage on compliance with its lease's provisions. Davis v. M.L.G. Corp., 712 P.2d 985 (Colo. 1986).

Common-law obligations by contract may be altered by parties to bailment or lease of an automobile, provided such contract does not contravene public policy or violate a statute. Davis v. M.L.G. Corp., 712 P.2d 985 (Colo. 1986).

Initial permission from the primary insured to use the vehicle is all that is required to confer coverage. Wiglesworth v. Farmers Ins. Exch., 917 P.2d 288 (Colo. 1996).

The clause "exclusive of interest and costs" must be given meaning and therefore the minimum legal liability coverage mandated by this section means \$25,000 of benefits plus any interests and costs attendant thereto. Bjorkman by Bjorkman v. Steenrod, 762 P.2d 706 (Colo. App. 1988), overruled in Allstate Ins. Co. v. Allen, 797 P.2d 46 (Colo. 1990).

Prejudgment interest is subject to the policy limits. Prejudgment interest is an element of damages included within the damages coverages of an insurance policy and subject to the policy limit for such coverage. Allstate Ins. Co. v. Allen, 797 P.2d 46 (Colo. 1990), overruling Bjorkman by Bjorkman v. Steelrod, 762 P.2d 706 (Colo. App. 1988).

Mandatory coverage of \$25,000 exclusive of interest and costs establishes minimum applicable to initial amount of damages suffered and not exclusion from liability. Garceau v. Iowa Kemper Ins. Co., 859 P.2d 243 (Colo. App. 1993).

Where each of three identical vehicle insurance policies contained language limiting the insurer's liability to the maximum amount recoverable under any one policy, such provisions prohibited the "stacking" of liability coverage under

the three policies. The fact that separate premiums were paid on each policy is not dispositive and does not alter the plain wording of the policies. Am. Standard Ins. Co. v. Ekeroth, 791 P.2d 1220 (Colo. App. 1990).

The provisions of this section and § 10-4-705 do not mandate a minimum coverage for every policy. Rather, the purpose of these statutes is to impose upon motor vehicle owners a mandated level of insurance coverage for their vehicles. Since the insurer limited its total liability under all three identical vehicle insurance policies to the requisite statutory minimum and since each policy therefore complied with the insured's statutory obligation, there was no conflict with this section and § 10-4-107. Am. Standard Ins. Co. v. Ekeroth, 791 P.2d 1220 (Colo. App. 1990), cert. denied, 797 P.2d 1299 (Colo. 1990).

This section and § 10-4-623 (1) deal with mandated minimum liability coverages and have no application to the crime exclusion in the insurance policy because the exclusion applies to supplemental coverage that is in addition to, and separate from, the mandatory coverage. Lincoln Gen. Ins. Co. v. Bailey, 224 P.3d 336 (Colo. App. 2009), aff'd, 255 P.3d 1039 (Colo. 2011).

Any construction of the policy's exclusion, if inconsistent with the Act, renders the exclusion void. Great Plains Ins. Co., Inc. v. Angerman, 833 P.2d 810 (Colo. App. 1991).

Exclusion in insurance policy for bodily injury or property damage caused intentionally by or at the direction of an insured does not violate the mandatory liability insurance statute or the state's public policy. Gov't Employees Ins. Co. v. Brown, 739 F. Supp. 2d 1317 (D. Colo. 2010).

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 10. INSURANCE PROPERTY AND CASUALTY INSURANCE
ARTICLE 4. PROPERTY AND CASUALTY INSURANCE
PART 6. AUTOMOBILE INSURANCE POLICY - REGULATIONS
C.R.S. 10-4-601 (2013)

10-4-601. Definitions {Insurance Policy}

As used in this part 6, unless the context otherwise requires:

- (1) Repealed.
- (2) "Complying policy" means a policy of insurance that provides the coverages and is subject to the terms and conditions required by this part 6, and is certified by the insurer and the insurer has filed a certification with the commissioner that such policy, contract, or endorsement conforms to Colorado law and any rules promulgated by the commissioner.
- (3) "Converter" means a person other than a named insured or resident relative who operates or uses a motor vehicle in a manner that a reasonable person would determine was unauthorized or beyond the scope of permission given by a named insured or resident relative. In determining whether a person is a converter, the following factors should be considered:
 - (a) The duration of the person's control over the motor vehicle;
 - (b) The circumstances surrounding the conduct of the person operating or using the motor vehicle; and
 - (c) The person's good faith.
- (4) "Described motor vehicle" means the motor vehicle described in the complying policy.
- (5) "Insured" means the named insured, relatives of the named insured who reside in the same household as the named insured, and any person using the described motor vehicle with the permission of the named insured.
 - (5.5) "Licensed health care provider" means a person, corporation, facility, or institution licensed or certified by this state to provide health care or professional services as a hospital, health care facility, or dispensary or to practice and practicing medicine, osteopathy, chiropractic, nursing, physical therapy, podiatry, dentistry, pharmacy, acupuncture, or optometry in this state, or an officer, employee, or agent of the person, corporation, facility, or institution working under the supervision of the person, corporation, facility, or institution in providing health care services.
- (6) "Motor vehicle" means a "motor vehicle" and a "low-power scooter", as both terms are defined in section 42-1-102, C.R.S.; except that "motor vehicle" does not include a toy vehicle, snowmobile, off-highway vehicle, or vehicle designed primarily for use on rails.
- (7) "Nonpayment of premium" means failure of the named insured to discharge when due any obligations in connection with the payment of premiums on the policy, or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.
- (8) "Owner" means a person who holds the legal title to a vehicle; except that, if the vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of the vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this part 6.
- (9) "Person" means every natural person, firm, partnership, association, or corporation.
- (10) "Policy" means an automobile insurance policy providing coverage for all or any of the following coverages: Collision, comprehensive, bodily injury liability, property damage liability, medical payments, and uninsured motorist coverage, or a combination automobile policy providing bodily injury liability, property damage liability, medical payments, uninsured motorist, and physical damage coverage, delivered or issued for delivery in this state, insuring a single individual, or husband and wife, or family members residing in the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

(a) A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers nor rented to others pursuant to the terms of a motor vehicle rental agreement; or

(b) Any other four-wheel motor vehicle with a load capacity of fifteen hundred pounds or less that is not used in the occupation, profession, or business of the insured.

(11) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of the policy beyond its policy period or term; but any policy with a policy period or term of less than six months shall, for the purpose of this part 6, be considered as if written for a policy period or term of six months; and any policy written for a term longer than one year, or any policy with no fixed expiration date, shall, for the purpose of this part 6, be considered as if written for successive policy periods or terms of one year, and such policy may be terminated at the expiration of any annual period upon giving twenty days' notice of cancellation prior to such anniversary date, and such cancellation shall not be subject to any other provisions of this part 6.

(12) Repealed.

(13) "Resident relative" means a person who, at the time of the accident, is related by blood, marriage, or adoption to the named insured or resident spouse and who resides in the named insured's household, even if temporarily living elsewhere, and any ward or foster child who usually resides with the named insured, even if temporarily living elsewhere.

(14) "Stacking" has the same meaning set forth in section 10-4-402 (3.5).

HISTORY: Source: L. 69: p. 549, § 1. C.R.S. 1963: § 72-30-1.L. 92: (4) added, p. 1759, § 3, effective June 5.L. 95: (2)(a) amended, p. 142, § 2, effective April 7.L. 2003: Entire section amended, p. 1558, § 1, effective July 1; (1) amended and (1.5) and (3.5) added, p. 2554, § 1, effective July 1.L. 2004: (6) amended, p. 11, § 2, effective February 20.L. 2007: (1) and (12) repealed, p. 974, § 3, effective May 18.L. 2009: (6) amended, (HB 09-1026), ch. 281, p. 1253, § 1, effective July 1, 2010.L. 2010: (5.5) added, (HB 10-1220), ch. 197, p. 855, § 18, effective July 1.

Cross references: For insurance under the "Uniform Consumer Credit Code - Insurance", see article 4 of title 5; for liability insurance for state and county employees, see article 14 of title 24; for requirements for companies writing compensation insurance, see article 44 of title 8; for professional liability insurance for professional service corporations for the practice of law, see C.R.C.P. 265.

Law reviews: For article, "Declaratory Judgment Actions to Resolve Insurance Coverage Questions", see 18 Colo. Law. 2299 (1989); for discussion of Tenth Circuit decisions dealing with insurance law, see 66 Den. U. L. Rev. 775 (1989); for discussion of Tenth Circuit decisions dealing with insurance law, see 67 Den. U. L. Rev. 747 (1990).

Law reviews: For article, "Property Insurance", see 16 Colo. Law. 1828 (1987).

Cross references: For abuse of property insurance, see § 18-13-119.5.

Editor's note: Amendments to this section by House Bill 03-1253 and House Bill 03-1188 were harmonized, resulting in the renumbering of provisions of this section.

ANNOTATION

Annotator's note. Since this section is similar to former § 10-4-601 as it existed prior to its 2003 amendment and to § 10-4-703 as it existed prior to the 2003 repeal of part 7 of article 4 of this title, relevant cases construing those provisions have been included in the annotations to this section.

The phrase "unless the context otherwise requires" does not suggest that the definitions contained in this section apply to all uninsured motorist coverage provisions. If such were the case, the language limiting the definitions to "this part 7" would always be overridden by the exception. State Farm Mut. Auto. Ins. Co. v. Stein, 924 P.2d 1154 (Colo. App. 1996), aff'd, 940 P.2d 384 (Colo. 1997).

Policy provision cannot limit scope of insureds to whom compulsory coverage must be provided. Truck Ins. Exch. v. Home Ins. Co., 841 P.2d 354 (Colo. App. 1992).

The definition of "insured" under subsection (5) specifically allows liability coverage to be predicated upon using a motor vehicle described in the policy. The third category of "insureds" is, by definition, vehicle-dependent. Farmers Ins. Exch. v. Anderson, 260 P.3d 68 (Colo. App. 2010).

The plain import of subsection (6) is that an insurer is not required to extend coverage to any person who uses the vehicle without the permission of the named insured. The permissive use exclusion in insured's insurance policy is not in violation of the "Colorado Auto Accident Reparations Act" because it does not limit the compulsory classification of insureds to whom the insurer is obligated to provide coverage. The provision constitutes a valid exclusion by which a non-permissive user of a vehicle is exempt from coverage as an insured pursuant to the statute. Winscom v. Garza, 843 P.2d 126 (Colo. App. 1992); McConnell v. St. Paul Fire and Marine Ins. Co., 906 P.2d 109 (Colo. 1995).

Once a named insured grants initial permission to use the insured vehicle, the named insured impliedly consents to use of the vehicle by subsequent permittees unless their "permission" to use the vehicle emanates from a converter. Raitz v. State Farm Mut. Auto. Ins. Co., 960 P.2d 1179 (Colo. 1998).

If the definition of "permissive user" in the insurance policies is more restrictive than the language of the Colorado Auto Accident Reparations Act, the policies must be interpreted in accord with the Act, as clauses in an insurance contract which attempt to dilute, condition, or limit statutorily mandated coverage are invalid or void. Wigglesworth v. Farmers Ins. Exch., 917 P.2d 288 (Colo. 1996).

Exclusion of state, federal, police, and fire vehicles permissible exercise of police power. Bushnell v. Sapp, 194 Colo. 273, 571 P.2d 1100 (1977).

Definition of "motor vehicle" does not include snowmobiles. Uninsured motorist statute does not require coverage for accidents involving snowmobiles used off public roads. Keely v. Allstate Ins. Co., 835 P.2d 584 (Colo. App. 1992).

Definition of "motor vehicle" applies to any vehicle with the physical characteristics that require registration and licensing, regardless of whether the vehicle is actually registered and licensed in Colorado. Thus, the Act may extend to vehicles registered and licensed in another state. Ranger v. Fortune Ins. Co., 881 P.2d 394 (Colo. App. 1994).

Subsection (8) makes it clear that a title holder is not divested of the duty to insure a vehicle merely by conditional sale or by actual use by the vendee following a conditional sale. It is only after entering into a conditional sale agreement that vests the right of immediate possession in the vendee. Whether the right of immediate possession vests in a conditional vendee ultimately depends upon the agreement of the parties. Sachtjen v. Am. Family Mut. Ins. Co., 49 P.3d 1146 (Colo. 2002).

Policy clause that excludes from liability coverage a certain category of permissive users because some other form of coverage exists under a separate policy is inconsistent with the requirements of the Auto Accident Reparations Act and contrary to public policy; thus, it is unenforceable. Finizio v. Am. Hardware Mut. Ins., 967 P.2d 188 (Colo. App. 1998).

However, insurance policy's "excess clause", which made coverage secondary to other collectible insurance, was not void as an erosion of the statutory mandate of § 10-4-619 that vehicle owners carry minimum liability insurance. Court contrasted excess clause, which limited coverage to the extent that other coverage existed, with "escape clause", whereby an insurer provides no coverage if other insurance applied. Shelter Mut. Ins. Co. v. Mid-Century Ins. Co., 214 P.3d 489 (Colo. App. 2008), aff'd, 246 P.3d 651 (Colo. 2011) (disagreeing with Finizio v. Am. Hardware Mut. Ins. annotated above).

A certificate of title is prima facie evidence that a person is the "owner" of a vehicle; however, it does not represent conclusive proof of ownership. Martinez v. Allstate Ins. Co., 961 P.2d 531 (Colo. App. 1997).

Pursuant to definition of "policy", a snowmobile was not intended to be one of the "only" types of vehicles designated as an insured vehicle subject to the statutory "policy" provisions. Keely v. Allstate Ins. Co., 835 P.2d 584 (Colo. App. 1992).

The definition of "policy" in subsection (2) does not apply to limit the provisions of § 10-4-609. Based on the legislative intent that all purchasers of automobile liability insurance policies must have the opportunity to purchase uninsured motorist coverage, under § 10-4-609 a car rental agreement may qualify as a "policy" and the car rental company is required to offer the lessee uninsured motorist coverage. Passamano v. Travelers Indem. Co., 882 P.2d 1312 (Colo. 1994).

Definition of "motor vehicle" in subsection (2) makes it apparent that the general assembly did not intend for a motorcycle to be type of vehicle designated as an insured vehicle subject to statutory policy provisions. Allstate Indem. Co. v. Gonzales, 902 P.2d 953 (Colo. App. 1995).

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 2. LEGISLATIVE SERVICES

ARTICLE 3. LEGISLATIVE SERVICES

PART 12. SUNRISE AND SUNSET REVIEW COMMITTEE

C.R.S. 2-3-1201 (2013)

2-3-1201. Sunrise and sunset review - designation of committees of reference to conduct review

(1) At the convening of the first regular session of each general assembly, the speaker of the house of representatives and the president of the senate shall each designate one or more house committees of reference for even-numbered years and one or more senate committees of reference for odd-numbered years to perform the duties and functions assigned to it relating to the termination of each division, board, or agency pursuant to the provisions of section 24-34-104, C.R.S., and the duties and functions assigned to it by this part 12 relating to the sunset review of advisory committees. The committees of reference designated by the speaker of the house of representatives to conduct reviews under this section in even-numbered years and the committees of reference designated by the president of the senate to conduct such reviews in odd-numbered years shall be the committees of reference for any bills introduced under sections 2-3-1203 and 24-34-104, C.R.S., during any regular or extraordinary session of the general assembly. The speaker of the house of representatives may authorize one or more house committees of reference and the president of the senate may authorize one or more senate committees of reference to conduct hearings prior to the convening of any regular session of the general assembly.

(2) Repealed.

HISTORY: Source: L. 85: Entire part added, p. 279, § 1, effective May 23. L. 86: Entire section amended, p. 408, § 2, effective March 26. L. 88: Entire section amended, p. 1000, § 3, effective July 1. L. 91: Entire section amended, p. 677, § 1, effective April 20. L. 96: Entire section amended, p. 792, § 2, effective May 23.

Law reviews: For article, "Legislative Oversight of Regulatory Agencies: The Colorado Sunset Experience", see 18 Colo. Law. 2129 (1989).

Editor's note: Subsection (2)(b) provided for the repeal of subsection (2), effective February 1, 1997. (See L. 96, p. 792.)

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 42. VEHICLES AND TRAFFIC REGULATION OF VEHICLES AND TRAFFIC

ARTICLE 4. REGULATION OF VEHICLES AND TRAFFIC

PART 12. PARKING

C.R.S. 42-4-1206 (2013)

42-4-1206. Unattended motor vehicle.

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, and effectively setting the brake thereon, and, when standing upon any grade, said person shall turn the front wheels to the curb or side of the highway in such a manner as to prevent the vehicle from rolling onto the traveled way. Any person who violates any provision of this section commits a class B traffic infraction.

Source: L. 94: Entire title amended with relocations, p. 2372, § 1, effective January 1, 1995.

Editor's note: This section is similar to former § 42-4-1106 as it existed prior to 1994, and the former § 42-4-1206 was relocated to § 42-4-1404

City & County of Denver Idling Vehicle Law
Title II – Revised Municipal Code
Chapter 4 – Air Pollution Control
Article IV. – Mobile Sources

Sec. 4-43. - Idling restriction.

(a) No person shall allow a vehicle to idle for more than five (5) minutes in any one-hour period unless:

(1) The ambient outside air temperature has been less than twenty (20) degrees Fahrenheit for each hour of the previous twenty-four (24) hour period; or

(2) The latest hourly ambient outside air temperature is less than ten (10) degrees Fahrenheit.

(b) The idling restriction in subsection (a) shall not apply to emergency vehicles; to vehicles engaged in traffic control operations; to vehicles which are being serviced; to vehicles that must idle to operate auxiliary equipment, including but not limited to pumps, compressors or refrigeration units; or to vehicles en route to a destination that are stopped by traffic congestion.

(c) The idling restriction in subsection (a) applies to transportation vehicles, as defined in this subsection, except that the time during which transportation vehicles are actively loading or discharging passengers may not be included in the computation of the five (5) minutes provided for in subsection 4-43(a). A transportation vehicle shall be defined for purposes of this section to mean motor vehicles designed to transport a minimum of sixteen (16) persons.

(Ord. No. 330-90, 6-4-90; Ord. No. 683-08, § 15, 12-8-08)

Penalty for Violation of Denver Idling Restriction

If you are found guilty of violating the City and County of Denver Idling Restriction, you may be assessed a fine of up to \$150 for your first offense and up to \$999 for subsequent offenses, plus additional court fees.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 24. GOVERNMENT - STATE ADMINISTRATION

ARTICLE 6. COLORADO SUNSHINE LAW

PART 4. OPEN MEETINGS LAW

C.R.S. 24-6-402 (2013)

Legislative Alert:

LEXSEE 2014 Colo. SB 182 -- See section 2.

LEXSEE 2014 Colo. HB 1390 -- See section 1.

24-6-402. Meetings - open to public - definitions

(1) For the purposes of this section:

(a) "Local public body" means any board, committee, commission, authority, or other advisory, policy-making, rule-making, or formally constituted body of any political subdivision of the state and any public or private entity to which a political subdivision, or an official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the local public body.

(b) "Meeting" means any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication.

(c) "Political subdivision of the state" includes, but is not limited to, any county, city, city and county, town, home rule city, home rule county, home rule city and county, school district, special district, local improvement district, special improvement district, or service district.

(d) "State public body" means any board, committee, commission, or other advisory, policy-making, rule-making, decision-making, or formally constituted body of any state agency, state authority, governing board of a state institution of higher education including the regents of the university of Colorado, a nonprofit corporation incorporated pursuant to section 23-5-121 (2), C.R.S., or the general assembly, and any public or private entity to which the state, or an official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the state public body.

(2) (a) All meetings of two or more members of any state public body at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times.

(b) All meetings of a quorum or three or more members of any local public body, whichever is fewer, at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times.

(c) Any meetings at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public. In addition to any other means of full and timely notice, a local public body shall be deemed to have given full and timely notice if the notice of the meeting is posted in a designated public place within the boundaries of the local public body no less than twenty-four hours prior to the holding of the meeting. The public place or places for posting such notice shall be designated annually at the local public body's first regular meeting of each calendar year. The posting shall include specific agenda information where possible.

(d) (I) Minutes of any meeting of a state public body shall be taken and promptly recorded, and such records shall be open to public inspection. The minutes of a meeting during which an executive session authorized under subsection (3) of this section is held shall reflect the topic of the discussion at the executive session.

(II) Minutes of any meeting of a local public body at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or could occur shall be taken and promptly recorded, and such records shall be open to public inspection. The minutes of a meeting during which an executive session authorized under subsection (4) of this section is held shall reflect the topic of the discussion at the executive session.

(III) If elected officials use electronic mail to discuss pending legislation or other public business among themselves, the electronic mail shall be subject to the requirements of this section. Electronic

mail communication among elected officials that does not relate to pending legislation or other public business shall not be considered a "meeting" within the meaning of this section.

(IV) Neither a state nor a local public body may adopt any proposed policy, position, resolution, rule, or regulation or take formal action by secret ballot unless otherwise authorized in accordance with the provisions of this subparagraph (IV). Notwithstanding any other provision of this section, a vote to elect leadership of a state or local public body by that same public body may be taken by secret ballot, and a secret ballot may be used in connection with the election by a state or local public body of members of a search committee, which committee is otherwise subject to the requirements of this section, but the outcome of the vote shall be recorded contemporaneously in the minutes of the body in accordance with the requirements of this section. Nothing in this subparagraph (IV) shall be construed to affect the authority of a board of education to use a secret ballot in accordance with the requirements of section 22-32-108 (6), C.R.S. For purposes of this subparagraph (IV), "secret ballot" means a vote cast in such a way that the identity of the person voting or the position taken in such vote is withheld from the public.

(d.5) (I) (A) Discussions that occur in an executive session of a state public body shall be electronically recorded. If a state public body electronically recorded the minutes of its open meetings on or after August 8, 2001, the state public body shall continue to electronically record the minutes of its open meetings that occur on or after August 8, 2001; except that electronic recording shall not be required for two successive meetings of the state public body while the regularly used electronic equipment is inoperable. A state public body may satisfy the electronic recording requirements of this sub-subparagraph (A) by making any form of electronic recording of the discussions in an executive session of the state public body. Except as provided in sub-subparagraph (B) of this subparagraph (I), the electronic recording of an executive session shall reflect the specific citation to the provision in subsection (3) of this section that authorizes the state public body to meet in an executive session and the actual contents of the discussion during the session. The provisions of this sub-subparagraph (A) shall not apply to discussions of individual students by a state public body pursuant to paragraph (b) of subsection (3) of this section.

(B) If, in the opinion of the attorney who is representing a governing board of a state institution of higher education, including the regents of the university of Colorado, and is in attendance at an executive session that has been properly announced pursuant to paragraph (a) of subsection (3) of this section, all or a portion of the discussion during the executive session constitutes a privileged attorney-client communication, no record or electronic recording shall be required to be kept of the part of the discussion that constitutes a privileged attorney-client communication. The electronic recording of said executive session discussion shall reflect that no further record or electronic recording was kept of the discussion based on the opinion of the attorney representing the governing board of a state institution of higher education, including the regents of the university of Colorado, as stated for the record during the executive session, that the discussion constituted a privileged attorney-client communication, or the attorney representing the governing board of a state institution of higher education, including the regents of the university of Colorado, may provide a signed statement attesting that the portion of the executive session that was not recorded constituted a privileged attorney-client communication in the opinion of the attorney.

(C) If a court finds, upon application of a person seeking access to the record of the executive session of a state public body in accordance with section 24-72-204 (5.5) and after an in camera review of the record of the executive session, that the state public body engaged in substantial discussion of any matters not enumerated in subsection (3) of this section or that the body adopted a proposed policy, position, resolution, rule, regulation, or formal action in the executive session in contravention of paragraph (a) of subsection (3) of this section, the portion of the record of the executive session that reflects the substantial discussion of matters not enumerated in subsection (3) of this section or the adoption of a proposed policy, position, resolution, rule, regulation, or formal action shall be open to public inspection pursuant to section 24-72-204 (5.5).

(D) No portion of the record of an executive session of a state public body shall be open for public inspection or subject to discovery in any administrative or judicial proceeding, except upon the consent of the state public body or as provided in sub-subparagraph (C) of this subparagraph (I) and section 24-72-204 (5.5).

(E) The record of an executive session of a state public body recorded pursuant to sub-subparagraph (A) of this subparagraph (I) shall be retained for at least ninety days after the date of the executive session.

(II) (A) Discussions that occur in an executive session of a local public body shall be electronically recorded. If a local public body electronically recorded the minutes of its open meetings on or after August 8, 2001, the local public body shall continue to electronically record the minutes of its open meetings that occur on or after August 8, 2001; except that electronic recording shall not be required for two successive meetings of the local public body while the regularly used electronic equipment is inoperable. A local public body may satisfy the electronic recording requirements of this sub-subparagraph (A) by making any form of electronic recording of the discussions in an executive session of the local public body. Except as provided in sub-subparagraph (B) of this subparagraph (II), the electronic recording of an executive session shall reflect the specific citation to the provision in subsection (4) of this section that authorizes the local public body to meet in an executive session and the actual contents of the discussion during the session. The provisions of this sub-subparagraph (A) shall not apply to discussions of individual students by a local public body pursuant to paragraph (h) of subsection (4) of this section.

(B) If, in the opinion of the attorney who is representing the local public body and who is in attendance at an executive session that has been properly announced pursuant to subsection (4) of this section, all or a portion of the discussion during the executive session constitutes a privileged attorney-client communication, no record or electronic recording shall be required to be kept of the part of the discussion that constitutes a privileged attorney-client communication. The electronic recording of said executive session discussion shall reflect that no further record or electronic recording was kept of the discussion based on the opinion of the attorney representing the local public body, as stated for the record during the executive session, that the discussion constituted a privileged attorney-client communication, or the attorney representing the local public body may provide a signed statement attesting that the portion of the executive session that was not recorded constituted a privileged attorney-client communication in the opinion of the attorney.

(C) If a court finds, upon application of a person seeking access to the record of the executive session of a local public body in accordance with section 24-72-204 (5.5) and after an in camera review of the record of the executive session, that the local public body engaged in substantial discussion of any matters not enumerated in subsection (4) of this section or that the body adopted a proposed policy, position, resolution, rule, regulation, or formal action in the executive session in contravention of subsection (4) of this section, the portion of the record of the executive session that reflects the substantial discussion of matters not enumerated in subsection (4) of this section or the adoption of a proposed policy, position, resolution, rule, regulation, or formal action shall be open to public inspection pursuant to section 24-72-204 (5.5).

(D) No portion of the record of an executive session of a local public body shall be open for public inspection or subject to discovery in any administrative or judicial proceeding, except upon the consent of the local public body or as provided in sub-subparagraph (C) of this subparagraph (II) and section 24-72-204 (5.5).

(E) The record of an executive session of a local public body recorded pursuant to sub-subparagraph (A) of this subparagraph (II) shall be retained for at least ninety days after the date of the executive session.

(e) This part 4 does not apply to any chance meeting or social gathering at which discussion of public business is not the central purpose.

(f) The provisions of paragraph (c) of this subsection (2) shall not be construed to apply to the day-to-day oversight of property or supervision of employees by county commissioners. Except as set forth in this paragraph (f), the provisions of this paragraph (f) shall not be interpreted to alter any requirements of paragraph (c) of this subsection (2).

(3) (a) The members of a state public body subject to this part 4, upon the announcement by the state public body to the public of the topic for discussion in the executive session, including specific citation to the provision of this subsection (3) authorizing the body to meet in an executive session and identification of the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized, and the affirmative vote of two-thirds of the entire membership of the body after such announcement, may hold an executive session only at a regular or special meeting and for the sole purpose of considering any of the matters enumerated in paragraph (b) of this subsection (3) or the following matters; except that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action, except the review, approval, and amendment of the minutes of an executive session recorded

pursuant to subparagraph (I) of paragraph (d.5) of subsection (2) of this section, shall occur at any executive session that is not open to the public:

(I) The purchase of property for public purposes, or the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of the state public body shall use this paragraph (a) as a subterfuge for providing covert information to prospective buyers or sellers. Governing boards of state institutions of higher education including the regents of the university of Colorado may also consider the acquisition of property as a gift in an executive session, only if such executive session is requested by the donor.

(II) Conferences with an attorney representing the state public body concerning disputes involving the public body that are the subject of pending or imminent court action, concerning specific claims or grievances, or for purposes of receiving legal advice on specific legal questions. Mere presence or participation of an attorney at an executive session of a state public body is not sufficient to satisfy the requirements of this subsection (3).

(III) Matters required to be kept confidential by federal law or rules, state statutes, or in accordance with the requirements of any joint rule of the senate and the house of representatives pertaining to lobbying practices;

(IV) Specialized details of security arrangements or investigations, including defenses against terrorism, both domestic and foreign, and including where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law;

(V) Determining positions relative to matters that may be subject to negotiations with employees or employee organizations; developing strategy for and receiving reports on the progress of such negotiations; and instructing negotiators;

(VI) With respect to the board of regents of the university of Colorado and the board of directors of the university of Colorado hospital authority created pursuant to article 21 of title 23, C.R.S., matters concerning the modification, initiation, or cessation of patient care programs at the university hospital operated by the university of Colorado hospital authority pursuant to part 5 of article 21 of title 23, C.R.S., (including the university of Colorado psychiatric hospital), and receiving reports with regard to any of the above, if premature disclosure of information would give an unfair competitive or bargaining advantage to any person or entity;

(VII) With respect to nonprofit corporations incorporated pursuant to section 23-5-121 (2), C.R.S., matters concerning trade secrets, privileged information, and confidential commercial, financial, geological, or geophysical data furnished by or obtained from any person;

(VIII) With respect to the governing board of a state institution of higher education and any committee thereof, consideration of nominations for the awarding of honorary degrees, medals, and other honorary awards by the institution and consideration of proposals for the naming of a building or a portion of a building for a person or persons.

(b) (I) All meetings held by members of a state public body subject to this part 4 to consider the appointment or employment of a public official or employee or the dismissal, discipline, promotion, demotion, or compensation of, or the investigation of charges or complaints against, a public official or employee shall be open to the public unless said applicant, official, or employee requests an executive session. Governing boards of institutions of higher education including the regents of the university of Colorado may, upon their own affirmative vote, hold executive sessions to consider the matters listed in this paragraph (b). Executive sessions may be held to review administrative actions regarding investigation of charges or complaints and attendant investigative reports against students where public disclosure could adversely affect the person or persons involved, unless the students have specifically consented to or requested the disclosure of such matters. An executive session may be held only at a regular or special meeting of the state public body and only upon the announcement by the public body to the public of the topic for discussion in the executive session and the affirmative vote of two-thirds of the entire membership of the body after such announcement.

(II) The provisions of subparagraph (I) of this paragraph (b) shall not apply to discussions concerning any member of the state public body, any elected official, or the appointment of a person to fill the office of a member of the state public body or an elected official or to discussions of personnel policies that do not require the discussion of matters personal to particular employees.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection (3), the state board of parole created in part 2 of article 2 of title 17, C.R.S., may proceed in executive session to consider matters connected with any parole proceedings under the jurisdiction of said board; except that no final parole decisions shall be made by said board while in executive session. Such executive session may be held only at a regular or special meeting of the state board of parole and only upon the affirmative vote of two-thirds of the membership of the board present at such meeting.

(d) Notwithstanding any provision of paragraph (a) or (b) of this subsection (3) to the contrary, upon the affirmative vote of two-thirds of the members of the governing board of an institution of higher education who are authorized to vote, the governing board may hold an executive session in accordance with the provisions of this subsection (3).

(3.5) A search committee of a state public body or local public body shall establish job search goals, including the writing of the job description, deadlines for applications, requirements for applicants, selection procedures, and the time frame for appointing or employing a chief executive officer of an agency, authority, institution, or other entity at an open meeting. The state or local public body shall make public the list of all finalists under consideration for the position of chief executive officer no later than fourteen days prior to appointing or employing one of the finalists to fill the position. No offer of appointment or employment shall be made prior to this public notice. Records submitted by or on behalf of a finalist for such position shall be subject to the provisions of section 24-72-204 (3) (a) (XI). As used in this subsection (3.5), "finalist" shall have the same meaning as in section 24-72-204 (3) (a) (XI). Nothing in this subsection (3.5) shall be construed to prohibit a search committee from holding an executive session to consider appointment or employment matters not described in this subsection (3.5) and otherwise authorized by this section.

(4) The members of a local public body subject to this part 4, upon the announcement by the local public body to the public of the topic for discussion in the executive session, including specific citation to the provision of this subsection (4) authorizing the body to meet in an executive session and identification of the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized, and the affirmative vote of two-thirds of the quorum present, after such announcement, may hold an executive session only at a regular or special meeting and for the sole purpose of considering any of the following matters; except that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action, except the review, approval, and amendment of the minutes of an executive session recorded pursuant to subparagraph (II) of paragraph (d.5) of subsection (2) of this section, shall occur at any executive session that is not open to the public:

(a) The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest; except that no executive session shall be held for the purpose of concealing the fact that a member of the local public body has a personal interest in such purchase, acquisition, lease, transfer, or sale;

(b) Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions. Mere presence or participation of an attorney at an executive session of the local public body is not sufficient to satisfy the requirements of this subsection (4).

(c) Matters required to be kept confidential by federal or state law or rules and regulations. The local public body shall announce the specific citation of the statutes or rules that are the basis for such confidentiality before holding the executive session.

(d) Specialized details of security arrangements or investigations, including defenses against terrorism, both domestic and foreign, and including where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law;

(e) Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators;

(f) (I) Personnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting. With respect to hearings held pursuant to the "Teacher Employment, Compensation, and Dismissal Act of 1990", article 63 of title 22, C.R.S., the provisions of section 22-63-302 (7) (a), C.R.S., shall govern in lieu of the provisions of this subsection (4).

(II) The provisions of subparagraph (I) of this paragraph (f) shall not apply to discussions concerning any member of the local public body, any elected official, or the appointment of a person to fill the office of a member of the local public body or an elected official or to discussions of personnel policies that do not require the discussion of matters personal to particular employees.

(g) Consideration of any documents protected by the mandatory nondisclosure provisions of the "Colorado Open Records Act", part 2 of article 72 of this title; except that all consideration of documents or records that are work product as defined in section 24-72-202 (6.5) or that are subject to the governmental or deliberative process privilege shall occur in a public meeting unless an executive session is otherwise allowed pursuant to this subsection (4);

(h) Discussion of individual students where public disclosure would adversely affect the person or persons involved.

(5) (Deleted by amendment, L. 96, p. 691, § 1, effective July 1, 1996.)

(6) The limitations imposed by subsections (3), (4), and (5) of this section do not apply to matters which are covered by section 14 of article V of the state constitution.

(7) The secretary or clerk of each state public body or local public body shall maintain a list of persons who, within the previous two years, have requested notification of all meetings or of meetings when certain specified policies will be discussed and shall provide reasonable advance notification of such meetings, provided, however, that unintentional failure to provide such advance notice will not nullify actions taken at an otherwise properly published meeting. The provisions of this subsection (7) shall not apply to the day-to-day oversight of property or supervision of employees by county commissioners, as provided in paragraph (f) of subsection (2) of this section.

(8) No resolution, rule, regulation, ordinance, or formal action of a state or local public body shall be valid unless taken or made at a meeting that meets the requirements of subsection (2) of this section.

(9) The courts of record of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state. In any action in which the court finds a violation of this section, the court shall award the citizen prevailing in such action costs and reasonable attorney fees. In the event the court does not find a violation of this section, it shall award costs and reasonable attorney fees to the prevailing party if the court finds that the action was frivolous, vexatious, or groundless.

(10) Any provision of this section declared to be unconstitutional or otherwise invalid shall not impair the remaining provisions of this section, and, to this end, the provisions of this section are declared to be severable.

HISTORY: Source: Initiated 72. L. 73: p. 1666, § 1.C.R.S. 1963: § 3-37-402.L. 77: (1) and (2) amended and (3) added, pp. 1155, 1157, § 1, effective June 19.L. 85: (2.6) added, p. 644, § 6, effective June 19.L. 87: (1), (2.3)(a), (2.3)(b), and (2.5) amended and (2.3)(f) added, p. 926, § 1, effective March 27.L. 89: (2.3)(f) amended, p. 1004, § 4, effective October 1.L. 91: Entire section amended, p. 815, § 2, effective June 1; (3)(a)(VI) amended, p. 586, § 6, effective October 1.L. 92: (2)(f) added, p. 972, § 1, effective April 23.L. 96: (2)(d)(III) added, p. 1480, § 2, effective June 1; (1)(b), (1)(d), (2)(d), IP(3)(a), (3)(a)(II), (3)(a)(V), (3)(b), IP(4), (4)(c), (5), and (7) amended and (3.5) added, p. 691, § 1, effective July 1.L. 97: (3.5) amended, p. 320, § 1, effective April 14.L. 99: (4)(g) amended, p. 205, § 1, effective March 31.L. 2000: (1)(d) amended and (3)(a)(VII) added, pp. 414, 415, § 4, 5, effective April 13.L. 2001: (3)(a)(III) amended, p. 150, § 5, effective March 27; (2)(d.5) added and IP(3)(a), (3)(b), IP(4), and (4)(f) amended, pp. 1069, 1072, § 1, 2, effective August 8.L. 2002: (3)(a)(IV) and (4)(d) amended, p. 238, § 7, effective April 12; (2)(d.5)(I)(A) and (2)(d.5)(II)(A) amended, p. 643, § 3, effective May 24; (3)(a)(VIII) added, p. 85, § 1, effective August 7.L. 2006: (2)(d.5)(I)(A), (2)(d.5)(I)(B), (2)(d.5)(II)(A), and (2)(d.5)(II)(B) amended, p. 9, § 1, effective August 7.L. 2009: (2)(d.5)(I)(B) and (3)(a)(II) amended, (HB 09-1124), ch. 94, p. 359, § 1, effective August 5; (4)(g) amended, (SB 09-292), ch. 369, p. 1967, § 74, effective August 5.L. 2010: (3)(d) added, (SB 10-003), ch. 391, p. 1859, § 40, effective June 9.L. 2012: (2)(d)(IV) added, (HB 12-1169), ch. 64, p. 227, § 1, effective March 24.

Editor's note: Subsection (2.3)(f) was amended by House Bill No. 1143, enacted by the General Assembly at its first regular session in 1989, as a conforming amendment necessitated by the authorization for the operation of the university of Colorado university hospital by a nonprofit-nonstock corporation. The Colorado Supreme Court subsequently declared House Bill No. 1143 unconstitutional in its entirety. See Colorado Association of Public Employees v. Board of Regents, 804 P.2d 138 (Colo. 1990). Senate Bill 91-225, enacted by the General Assembly at its first regular session in 1991, authorized the operation of university hospital by a newly created university of Colorado hospital authority. Since the previous act was declared unconstitutional in its entirety, the General Assembly elected to make a similar conforming amendment in Senate Bill 91-225. However, subsection (2.3)(f) was amended in Senate Bill 91-33, enacted by the General Assembly at its first regular session in 1991. The provisions of said subsection (2.3)(f) were moved to subsection (3)(a), and, therefore, said subsection was the version amended. For further explanation of the circumstances surrounding the enactment of Senate Bill 91-225, see the legislative declaration contained in section 1 of chapter 99, Session Laws of Colorado 1991.

Cross references: For the legislative declaration contained in the 1996 act enacting subsection (2)(d)(III), see section 1 of chapter 271, Session Laws of Colorado 1996. For the legislative declaration contained in the 2002 act amending subsections (2)(d.5)(I)(A) and (2)(d.5)(II)(A), see section 1 of chapter 187, Session Laws of Colorado 2002. For the legislative declaration in the 2010 act adding subsection (3)(d), see section 1 of chapter 391, Session Laws of Colorado 2010.

ANNOTATION

Law reviews. For article, "Home Rule Municipalities and Colorado's Open Records and Meetings Laws", see 18 Colo. Law. 1125 (1989). For article, "Practicing Law Before Part-Time Citizen Boards and Commissions", see 18 Colo. Law. 1133 (1989). For article, "E-mail, Open Meetings, and Public Records", see 25 Colo. Law. 99 (October 1996).

Constitutionality of section. The open meetings law does not conflict with § 12 of art. V, Colo. Const., which provides in pertinent part: "Each house shall have power to determine the rules of its proceedings..." Cole v. State, 673 P.2d 345 (Colo. 1983).

The open meetings law strikes the proper balance between the public's right of access to information and a legislator's right to freedom of speech. Cole v. State, 673 P.2d 345 (Colo. 1983).

Although § 14 of art. V, Colo. Const., expressly authorizes the general assembly to conduct certain business in secret, both the senate and the house of representatives have determined that the business of legislative caucuses is not such as ought to be kept secret. Therefore, the open meetings law does not conflict with § 14 of art. V, Colo. Const. Cole v. State, 673 P.2d 345 (Colo. 1983).

Section only applies to state agencies, authorities, and the general assembly. Bagby v. Sch. Dist. No. 1, 186 Colo. 428, 528 P.2d 1299 (1974).

This section, in contrast to the Florida statute from which it was modeled, only applies to any state agency or authority. James v. Bd. of Comm'rs, 200 Colo. 28, 611 P.2d 976 (1980).

A broad construction of this section is unwarranted because the general assembly was very specific in defining the entities whose meetings were to be open to the public. Free Speech Def. Comm. v. Thomas, 80 P.3d 935 (Colo. App. 2003).

Section fails to define scope of term "state agency or authority". James v. Bd. of Comm'rs, 200 Colo. 28, 611 P.2d 976 (1980).

A county retirement plan operates as an agency or instrumentality of the county when the plan has availed itself of public entity tax and health benefits, has used county purchasing accounts, facilities, and the county seal, is authorized to levy a retirement tax, and has a budget that is factored into the county budget. Such plan is thereby subject to the open meetings law and the open records law. Zubeck v. El Paso County Retirement Plan, 961 P.2d 597 (Colo. App. 1998).

"Formal action" includes review of hearing officer's decision resulting in order representing final agency action on a particular issue. The quasi-judicial nature of such review is immaterial. Lanes v. State Auditor's Office, 797 P.2d 764 (Colo. App. 1990).

Teacher hiring and firing decisions are formal decisions, and, therefore, a firing decision by a school board that is made during an executive session as described in § 22-32-108 is invalid. Barbour v. Hanover Sch. Dist. No. 28, 148 P.3d 268 (Colo. App. 2006), aff'd in part and rev'd in part on other grounds, 171 P.3d 223 (Colo. 2007).

Legislative caucus meetings are "meetings" of policy making bodies within the meaning of the Colorado open meetings law and are therefore subject to the open meetings law's requirement that "meetings" be "public meetings open to the public at all times". Cole v. State, 673 P.2d 345 (Colo. 1983).

A local public body is required to give public notice of any meeting attended or expected to be attended by a quorum of the public body when the meeting is part of the policy-making process. Bd. of County Comm'rs v. Costilla County Conservancy Dist., 88 P.3d 1188 (Colo. 2004).

A meeting is part of the policy-making process when the meeting is held for the purpose of discussing or undertaking a rule, regulation, ordinance, or formal action. If the record supports the conclusion that the meeting is rationally connected to the policy-making responsibilities of the public body holding or attending the meeting, then the meeting is subject to the Open Meetings Law, and the public body holding or attending the meeting must provide notice. Bd. of County Comm'rs v. Costilla County Conservancy Dist., 88 P.3d 1188 (Colo. 2004).

Board of county commissioners was not required to give notice of a meeting arranged by others because nothing in the record establishes any connection between the meeting and the policy-making function of the board. Bd. of County Comm'rs v. Costilla County Conservancy Dist., 88 P.3d 1188 (Colo. 2004).

E-mails exchanged between a regulatory agency's chairperson, its commissioners, and a member of the governor's staff about draft language of, and the agency's position on, pending legislation did not constitute a meeting under the statute because the e-mails did not concern the agency's public business. "Public business" means a public body's policy-making functions, which consist of discussing or undertaking a rule, regulation, ordinance, or formal action of the public body itself. Providing input on pending legislation is not a policy-making function of a regulatory agency. Intermountain Rural Elec. Ass'n v. Pub. Utils. Comm'n, 2012 COA 123, -- P.3d --.

Mere legislative formation of agency or authority insufficient. The mere enactment of legislation which permits the formation of a commission, board, agency, or authority does not per se make that body a state agency or authority. James v. Bd. of Comm'rs, 200 Colo. 28, 611 P.2d 976 (1980).

Section does not apply to political subdivisions. Bagby v. Sch. Dist. No. 1, 186 Colo. 428, 528 P.2d 1299 (1974); James v. Bd. of Comm'rs, 42 Colo. App. 27, 595 P.2d 262 (1978), aff'd, 200 Colo. 28, 611 P.2d 976 (1980).

Local licensing authority of city was an arm of a political subdivision of the state rather than a state agency and thus was not subject to open meetings law with regard to license suspension revocation proceeding. Lasterka Corp. v. Buckingham, 739 P.2d 925 (Colo. App. 1987).

Nor to urban renewal authority. Rather than being a state agency or authority, an urban renewal authority is an arm or agency of the municipality which creates it, and, therefore, this section has no applicability to such an authority. James v. Bd. of Comm'rs, 42 Colo. App. 27, 595 P.2d 262 (1978), aff'd, 200 Colo. 28, 611 P.2d 976 (1980).

Nor to redistricting negotiations held in courthouse under judge's supervision. Combined Communications Corp. v. Finesilver, 672 F.2d 818 (10th Cir. 1982).

Nor to a district attorney's advisory board. A district attorney is not a political subdivision under this section and, therefore, his advisory board is not a local public body. A district attorney is also not a state agency or state authority pursuant to the definition of state public body under this section, therefore, his advisory board is not a state public body. Free Speech Def. Comm. v. Thomas, 80 P.3d 935 (Colo. App. 2003).

Prohibition against making final policy decisions or taking formal action in a closed meeting also prohibits "rubber-stamping" previously decided issues. Bagby v. Sch. Dist. No. 1, 186 Colo. 428, 528 P.2d 1299 (1974); Van Alstyme v. Housing Auth. of City of Pueblo, 985 P.2d 97 (Colo. App. 1999); Walsenburg Sand & Gravel Co. v. City Council of Walsenburg, 160 P.3d 297 (Colo. App. 2007).

Because the purpose of the open meetings law is to require open decision-making, not to permanently condemn a decision made in violation of the statute, a public body may "cure" a previous violation of the law by holding a subsequent complying meeting that is not a mere rubber stamping of an earlier decision. COHVC v. Bd. of Parks & Outdoor Rec., 2012 COA 146, 292 P.3d 1132.

School boards not covered since they are political subdivisions. Bagby v. Sch. Dist. No. 1, 186 Colo. 428, 528 P.2d 1299 (1974).

Section establishes flexible standard of notice. In view of the numerous meetings to which the statutory requirement of full and timely notice is applicable, this section establishes a flexible standard aimed at providing fair notice to the public, so that whether the notice requirement has been satisfied in a given case will depend upon the particular type of meeting involved. Benson v. McCormick, 195 Colo. 381, 578 P.2d 651 (1978); Lewis v. Town of Nederland, 934 P.2d 848 (Colo. App. 1996); Town of Marble v. Darien, 181 P.3d 1148 (Colo. 2008).

Publication of notice of meeting of local public body in newspaper of general circulation in the county in which the meeting is to be held, six days prior to the meeting, satisfies notice requirements of section. Van Alstyne v. Housing Auth. of City of Pueblo, 985 P.2d 97 (Colo. App. 1999).

An emergency necessarily presents a situation in which public notice, and likewise, a public forum would be impracticable or impossible. Lewis v. Town of Nederland, 934 P.2d 848 (Colo. App. 1996).

Procedures contained in a municipal ordinance requiring ratification of action taken at an emergency meeting at either the next board meeting or a special meeting where public notice of the emergency has been given, represent reasonable satisfaction of the "public" conditions of the Open Meetings Law under emergency circumstances. Lewis v. Town of Nederland, 934 P.2d 848 (Colo. App. 1996).

Some overt action must be taken by the board to give notice to the public that a meeting is to be held. At the very minimum, full and timely notice to the public requires that notice of the meeting be posted within a reasonable time prior to the meeting in an area which is open to public view. Hyde v. Banking Bd., 38 Colo. App. 41, 552 P.2d 32 (1976).

The mailing of notice to the persons on the "sunshine list" does not constitute full and timely notice to the public. Hyde v. Banking Bd., 38 Colo. App. 41, 552 P.2d 32 (1976).

Though a copy of the notice mailed to persons on the "sunshine list" is available for public inspection upon request, such a procedure does not constitute sufficient notice to the public under this section. Hyde v. Banking Bd., 38 Colo. App. 41, 552 P.2d 32 (1976).

Full notice requirement satisfied. An ordinary member of the community would understand that notice of an advisory committee update would include consideration of, and possible formal action on, the advisory committee's recommendations. Town of Marble v. Darien, 181 P.3d 1148 (Colo. 2008).

Section does not require a public body to adjourn and re-notify when the action already falls under a topic listed on the notice. The particular notice contained the agenda information available at the time of the notice and, thus, satisfied the requirement that "specific agenda information" be included "where possible". Town of Marble v. Darien, 181 P.3d 1148 (Colo. 2008).

Compliance with subsection (3) is not substitute for compliance with subsection (2). Hyde v. Banking Bd., 38 Colo. App. 41, 552 P.2d 32 (1976).

Action taken without full and timely notice is invalid. This section does not invalidate the formal action of a board for the failure to comply with notice to those persons on the "sunshine list", but it does invalidate an action taken where there is not full and timely notice to the public. Hyde v. Banking Bd., 38 Colo. App. 41, 552 P.2d 32 (1976).

City council's use of anonymous ballot procedure to fill city council vacancies and to appoint municipal judge is not prohibited by section. Section does not impose specific voting procedures on local public bodies let alone one that prohibits the use of anonymous ballots.

Section is silent as to whether the votes taken need to be recorded in a way that identifies which elected official voted for which candidate. Rather, section only requires that the public have access to meetings of local public bodies and be able to observe the decision-making process. Henderson v. City of Fort Morgan, 277 P.3d 853 (Colo. App. 2011).

Subsection (4) invalidates any formal action regarding compensation taken other than at an open meeting, absent prior request by the person affected for an executive session. Lanes v. State Auditor's Office, 797 P.2d 764 (Colo. App. 1990).

District court erred in permitting the redaction of the minutes of a county retirement plan's meetings that were not conducted in an executive session because the plan did not follow the statutory requirements for calling an executive session and the meetings were not actually held in an executive session. Zubeck v. El Paso County Retirement Plan, 961 P.2d 597 (Colo. App. 1998).

If a local public body fails strictly to comply with the requirements set forth to convene an executive session, it may not avail itself of the protections afforded by the executive session exception. Therefore, if an executive session is not properly convened, it is an open meeting subject to the public disclosure requirements of the Open Meetings Law. Gumina v. City of Sterling, 119 P.3d 527 (Colo. App. 2004).

Subsection (9) is not a general grant of standing to any citizen and does not abrogate the requirement that in order to have standing the plaintiff must suffer an injury in fact. Pueblo Sch. Dist. No. 60 v. Colo. High Sch. Activities Assn., 30 P.3d 752 (Colo. App. 2000).

Subsection (9) entitles plaintiffs to an award of attorney fees upon a finding that the governmental entity has violated any of the provisions of law. There is no requirement that the violation be knowing or intentional. Zubeck v. El Paso County Retirement Plan, 961 P.2d 597 (Colo. App. 1998).

Subsection (9) establishes mandatory consequences for a violation of the Open Meetings Law, entitling plaintiffs to their costs and attorney fees incurred in bringing an action to force a public body to comply with the law. Van Alstyne v. Housing Auth. of City of Pueblo, 985 P.2d 97 (Colo. App. 1999).

Where a public body cured an admitted violation before the filing of a complaint, the plaintiff was not a prevailing party and is not entitled to an award of fees and costs. COHVCO v. Bd. of Parks & Outdoor Rec., 2012 COA 146, 292 P.3d 1132.

Code of Colorado Regulations {8 CCR 1507-50}
Colorado Secretary of State
Department of Public Safety
Investigative Services
Colorado Automobile Theft Prevention Authority
8 CCR 1507-50

CATPA 1 AUTHORITY TO ADOPT RULES AND REGULATIONS [Eff. 04/30/2009]

The Executive Director of the Colorado Department of Public Safety is authorized by section 42-5-112(3) (f), C.R.S., to adopt rules and regulations whereby law enforcement agencies or other qualified applicants may apply for grants to assist in improving and supporting motor vehicle theft prevention programs or programs for the enforcement or prosecution of motor vehicle theft crimes through statewide planning and coordination.

CATPA 2 DEFINITIONS [Eff. 04/30/2009]

“Qualified Applicant” – A Colorado law enforcement agency, state agency, local unit of government, independent school district, nonprofit, or for profit organization that can demonstrate its proposed program addresses some aspect of motor vehicle theft prevention.

CATPA 3 REQUIREMENTS FOR AN ENTITY OTHER THAN A LAW ENFORCEMENT AGENCY TO BE A QUALIFIED APPLICANT: [Eff. 04/30/2009]

A. An entity must provide written verification that the proposed program addresses motor vehicle theft prevention, enforcement, prosecution, or offender rehabilitation.

CATPA 4 APPLICABILITY [Eff. 04/30/2009]

These rules and regulations shall apply to all law enforcement agencies and other qualified applicants within the State of Colorado.

CATPA 5 APPLICATION PROCEDURES [Eff. 04/30/2009]

- A. Grant applications shall be in the form required by grant announcements.
- B. The Colorado Automobile Theft Prevention Board (Board) will annually announce the availability of grant funds and the start of the application process. The notice may include notification by mail and internet posting on the website of the State of Colorado, the Department of Public Safety, the Colorado State Patrol, and other agencies and organizations.
- Each application shall, at a minimum, specifically describe the type of motor vehicle theft prevention, enforcement, prosecution, or offender rehabilitation program proposed.
- C. Applications shall be filed with the Colorado Automobile Theft Prevention Board, “Board” , at 710 Kipling Street, Denver, Colorado or as required pursuant to the grant application, notice or instructions.

CATPA 6 SELECTION OF GRANT RECIPIENTS - EVALUATION AND AWARD OF GRANT APPLICATIONS [Eff. 04/30/2009]

- A. The Board shall give priority to applications representing multijurisdictional programs and review each application based upon one or more of the following guidelines:
- Whether the application addresses an auto theft problem that is clearly identified, measurable and is supported by relevant statistical evidence.
 - Whether the application minimizes duplicative or overlapping existing programs.
 - Whether the application provides a design wherein activities and goals are realistic and attainable.
 - Whether the application displays innovation in its concept/design/operation. A project is considered innovative if it provides a new and different strategy or approach that prevents, deters, intervenes, or stops criminal activity from occurring.
 - Whether the application demonstrates a cost structure which is realistic when compared to its goals. (cost vs benefit)
 - Whether the application includes a proposed evaluation design that provides relevant data to measure the effectiveness of the project and a plan for performing such evaluation.

- B. The Board shall ensure that the guidelines are applied equitably to all qualified applicants.
- C. To the extent practical, the Board shall approve grants in a variety of geographic areas of the state.

CATPA 7 CRITERIA FOR DETERMINING THE AMOUNT OF THE GRANT [Eff. 04/30/2009]

- A. Grant amounts shall be predicated upon consideration of the following criteria by the Board:
 - The amount of funds available for the current grant cycle.
 - Existing activities or programs that address the problem.
 - Statistical analyses of auto theft problems in the project area.
 - Cooperation and coordination with other agencies/projects to address auto theft problems.
 - Proposed plan for auto theft crime prevention, education, and training.
 - The number of personnel involved in the project.
 - Applicants' experience, qualifications and past performance which demonstrate a capability to successfully operate the proposed project.

CATPA 8 NOTIFICATION OF GRANT AWARD DECISIONS [Eff. 04/30/2009]

- A. The Board shall give written notification to applicants of the final decisions of the Board approving or denying grant applications.

CATPA 9 PROCEDURES FOR REVIEWING THE EFFECTIVENESS OF GRANT PROGRAMS [Eff. 04/30/2009]

- A. Grant recipients must submit quarterly financial and progress reports for review by the Board for monitoring grant implementation and achievement of objectives.
 1. The Board will provide financial and quarterly reporting forms to grant recipients.
 2. Grant recipients will complete and submit CATPA forms quarterly.
 3. The Board will review quarterly reports based upon identified CATPA goals and objectives.
 4. The Board will give feedback to grant recipients.

PUBLICATIONS AND RULES INCORPORATED BY REFERENCE [Eff. 04/30/2009]

- A. All publications and rules adopted and incorporated by reference in these regulations are on file and available for public inspection by contacting the CATPA Board. This rule does not include later amendments to or editions of any materials incorporated by reference. All publications and rules adopted and incorporated by reference in these regulations may be examined at any state publications depository library.

Editor's Notes

History

Rules CATPA 1-12 eff. 6/30/04.

Rules CATPA 5, CATPA 6, CATPA 7, CATPA 10, and CATPA 11 eff. 5/1/05.

Entire Rule eff. 04/30/2009.

Annotations

Rules CATPA 5, CATPA 6, CATPA 7, CATPA 10, and CATPA 11 (adopted 5/6/04) were not extended by Senate Bill 05-183 and therefore expired 5/15/05; Rules CATPA 5, CATPA 6, CATPA 7, CATPA 10, and CATPA 11 (adopted 3/17/05) were repealed by Senate Bill 05-183 effective 05/15/05.

Department of Regulatory Administration (DORA) Implementation Guide

EXECUTIVE ORDER D 2012-002

“REGULATORY EFFICIENCY REVIEWS”

IMPLEMENTATION GUIDANCE

I. PURPOSE

These guidelines establish protocols and procedures for the periodic review by each principal department and state agency of its existing rules and regulations to evaluate the continuing need for, appropriateness, and cost effectiveness of such rules to determine if they should be continued in their current form, modified or repealed, as directed by Executive Order D 2012-002 (Executive Order).

The Executive Order provides that agencies shall consider whether each rule:

1. is necessary and does not duplicate existing rules;
2. is written in plain language and is easy to understand;
3. has achieved the desired intent and whether more or less regulation is necessary;
4. can be amend to reduce any regulatory burdens while maintaining its benefits; and
5. is implemented in an efficient and effective manner, including the requirements for the issuance of any permits or licenses.

II. PROCESS /PROTOCOL

An efficient regulatory planning and review procedure is necessary to ensure that the process is appropriate for the particular agency and that the review process is embedded as an integral part of each agency's regulatory functions. In order to develop an effective regulatory review program, agencies are encouraged to establish the following procedures, to the extent permitted under law. The goals are: to provide for coordination of regulatory review and any related significant proposed or final form of regulatory action reasonably contemplated to be undertaken or issued by the agency, to identify and resolve potential conflicts at an early stage, and to provide an early opportunity for public consultation and input.

Regulatory Plans

On an annual (calendar year) basis, commencing with 2013, each agency should convene a coordinated annual planning meeting to establish a common understanding of priorities and to coordinate regulatory review efforts to be accomplished during the upcoming year.

Each agency will prepare an agenda and a plan, consistent with its resources and regulatory priorities, of all the regulations the agency reasonably expects to review and evaluate during the year (Regulatory Plan). The Regulatory Plan should include, at a minimum, a statement of the agency's regulatory priorities for the relevant period, and should clearly identify the rules or category of rules to be subject to review, the relevant policy making Board or Commission with jurisdiction over the rules to be reviewed, the proposed schedule of activities, meetings and interim actions, including any internal, statutory or judicial deadlines, and principal staff assignments, including name, address and contact information of the person(s) the public may contact for additional information about, and the status of, the agency's Regulatory Plan. The Regulatory Plan should be reviewed and approved by the Executive Director. In the event the agency must make changes to rules during the year which were not foreseen at the time the Regulatory Plan is finalized, the agency may amend or modify the Regulatory Plan.

Coordination with HB 12-1008 Disclosures

The agency's Regulatory Plan could also be structured to include the information required for its departmental regulatory agenda, under Section 2-7-203 (2)(A)(IV), as amended by HB 12-1008.

Public Posting of Regulatory Plan

Each agency's Regulatory Plan should be posted on the agency's website not later than November 1 of each year, and otherwise made available for public review. With respect to the calendar year 2013, the agency should post and distribute its Regulatory Plan as soon as it is finalized and approved by the Executive Director. The Regulatory Plan should also be shared with other departments and agencies for review, which will provide an opportunity, to the extent practicable, for agencies with overlapping jurisdictions and mandates to collaborate and coordinate their respective Regulatory Plans to avoid conflict or inconsistencies between the agencies' respective body of regulations, and to help reduce adverse regulatory impacts on affected entities.

General Schedule for Rule Reviews

It is generally expected that each existing rule will be subject to review under the directive and protocols of the Executive Order in intervals of at least once every 5-7 years. To the extent an agency's regulatory programs are subject to sunset review, the agency should consider scheduling the review of the implementing regulations for the year following the sunset report and related legislation. This would enable the agency to take into account in the rules review process any changes in the underlying authorizing legislation as a result of the sunset review process.

III. STANDARDS FOR REVIEW

To facilitate the most consistent, thorough and focused review, the agency should develop clearly defined standards, criteria and procedures appropriate for its programs and mission, with adequate tracking, and provisions for appropriate documentation, quality assurance checks and for staff accountability and certification.

Agencies must ensure that the rules to be reviewed are those that are published by the Secretary of State (SOS), which are accessible on its website. Hardcopy manuals and other versions of the rules should not be relied upon. It is necessary that the review be based on the official Code of Colorado Regulations (CCR) as published by the SOS.

The review standards should also require a reasonably detailed analysis of any recommended action with respect to the reviewed rules, such as substantive modification or revision, reorganization for clarity or efficiency or repeal. If the recommendation is continuance of the rule in its current form, the standards should require a supporting analysis or rationale, based on the relevant criteria.

Standards for review should include, at a minimum, the following elements:

- a) confirmation of proper, current statutory authority
- b) confirmation and documentation regarding the continued need for the regulation
- c) determination whether the impact on small businesses and individuals can be minimized. (Review should seek to calibrate the impact to find the correct level of efficiency, effectiveness and risks .)
- d) quality control, i.e. are the review standards being properly and consistently applied across reviewers and programs
- e) assessment of cost effectiveness
- f) identification of duplicative, overlapping, outdated or inconsistent language or provisions
- g) confirmation that the regulation is not inappropriately burdensome in the aggregate
- h) whether there are viable alternatives to accomplish the purpose of the rule, such as moving the substantive content of the rule into agency letters, management directive, policy/procedural or guidance issued by the agency

IV. STAKEHOLDER INPUT

The Executive Order specifically requires that agencies provide an appropriate opportunity for the public to provide input. To provide the opportunity for a more consistent and broad-based outreach, agencies may find it expedient and useful to reach out to all or part of the “representative groups” convened under HB 12-1008 for purposes of input on proposed rulemaking by the agencies. As under HB12-1008, agencies have the flexibility to structure the public input to fit the particular issues and circumstances of the rules under review. Public input should also include a meaningful opportunity to comment on the existing rules under review, in the context of the criteria established by the agency. Information provided to the public should always be in plain, understandable language.

V. DOCUMENTATION

Annual Reports

All department heads will report to the Governor annually, not later than 90 days after the close of each year, on the reviews performed during the year just ended. The report should include the agency's final Regulatory Plan, as amended or modified, the results of the rules review, the action taken by the agency, governing board or commission as a result of the reviews and, as applicable, the pending status of the reviewed rules not acted upon.

Executive Summary

The annual report should include an executive summary appropriate for inclusion in periodic status reports which will be compiled and released to the public.

VI. AGENCY AUTHORITY

Nothing in the Executive Order shall contravene the requirements of the Colorado Administrative Procedures Act, or any other state statute. Nothing in the Executive Order shall be construed to limit, displace or supplant any authority or responsibility vested in any principal department or agency. Any proprietary information provided to an agency by an entity for the purpose of facilitating rules review by the agency shall remain confidential.

The Executive Order and this Implementation Guidance is intended only to improve the internal management of Colorado State Government, and does not create any right or benefit, substantive or procedural, enforceable at law or equity by any person against the State of Colorado, its agencies or instrumentalities, its officers or employees or any other person.

STATE OF COLORADO

OFFICE OF THE GOVERNOR

136 State Capitol
Denver, Colorado 80203
Phone (303) 866-2471
Fax (303) 866-2003

D 2012-002

EXECUTIVE ORDER

Regulatory Efficiency Reviews



John W. Hickenlooper
Governor

Pursuant to the authority vested in the Office of the Governor of the State of Colorado, and in particular section 2 of Article IV of the Colorado Constitution, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order to increase the efficiency and effectiveness of state rules.

I. Background and Purpose

Colorado is committed to making its rulemaking process among the most effective and transparent in the nation. State agencies are required to comply with the State Administrative Procedure Act (C.R.S. § 24-4-101, *et seq.*) in promulgating rules and involve the public, stakeholders, and the regulated community in that process. The rules promulgated through this process are designed to implement laws and achieve a variety of goals such as protecting consumers, promoting responsible business practices, ensuring public safety, and protecting public health and the environment.

After rules are duly promulgated, state agencies should continue to review all rules to ensure that they are effective, efficient, and essential. In that regard, state agencies have already initiated efforts to identify, modify, or repeal unnecessarily cumbersome or obsolete rules. Nevertheless, a periodic review and evaluation of rules should become a core component of an agency's administrative processes. Such a process can help ensure that existing rules identify and use the best, most innovative and least burdensome tools for achieving their goals. The directives in this Executive Order are intended to support those processes.

At the same time, predictability and certainty regarding agency rules are important to provide clarity on what is expected by and required of the regulated community. In order to address this need while performing ongoing review of rules, state agencies should provide early notice and information to the public, regulated entities, and other stakeholders about such reviews and potential changes to rules. As importantly, this notice and outreach will provide the opportunity for earlier consultation and input in the review and evaluation process.

II. Directives

I hereby order state agencies to achieve these actions:

- A. As used in this Executive Order, the term "rule" or "rules" has the meaning as defined in the State Administrative Procedure Act at C.R.S. §24-4-102(15).
- B. Each principal department and state agency shall conduct a review of all of its rules to assess the continuing need for, appropriateness, and cost-effectiveness of its rules to

determine if they should be continued in their current form, modified or repealed.

Agencies shall consider whether each rule:

1. Is necessary and does not duplicate existing rules;
2. Is written in plain language and is easy to understand;
3. Has achieved the desired intent and whether more or less regulation is necessary;
4. Can be amended to reduce any regulatory burdens while maintaining its benefits; and
5. Is implemented in an efficient and effective manner, including the requirements for the issuance of any permits or licenses.

C. Each principal department and agency shall provide public notification of its review of rules under paragraph B of this Order and shall provide an appropriate opportunity for the public to provide input, and shall notify other state agencies that may have jurisdiction over the subject matter of the rules to allow for collaboration.

D. Based on this review, agencies, in consultation with relevant boards and commissions, shall determine whether the existing rules should be continued in their current form, be amended or repealed. If the agency determines that a rule should be amended or repealed, the agency shall comply with the relevant and appropriate provisions of the State Administrative Procedure Act for the amendment or repeal of rules.

E. The Department of Regulatory Agencies is tasked with the development of implementation guidance for this Executive Order.

F. Nothing in this Executive Order shall contravene the requirements of the State Administrative Procedure Act or any other state statute.

III. Duration

This Executive Order will remain in force until further modification or rescission by the Governor.



GIVEN under my hand and the
Executive Seal of the State of
Colorado, this nineteenth day of
January, 2012.

A handwritten signature in black ink, appearing to read "John W. Hickenlooper".

John W. Hickenlooper
Governor

Index

A

agency 15, 16, 20, 22, 23, 24, 25, 27, 34, 36, 44, 55
 applicant 15, 16, 37
 applicants..... 16, 24, 37, 56
 Application procedures16
 applications 15, 55, 56
 arrests16
 authority15, 16, 17, 19, 22, 30, 33, 34, 37
 automobile..... 15, 16, 19, 30, 36, 39, 41, 43
 automobiles36

B

board.. 15, 16, 17, 19, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31,
 32, 44

C

CATPA55, 56
 commissioner 19, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37,
 38, 41
 Company 20, 21, 33, 34
 compensation 15, 20, 28, 32, 42
 Complying policy.....41
 construction equipment16
 corporation..... 20, 33, 34, 35, 41
 crime 15, 16, 40, 56
 crimes..... 15, 16, 55
 criteria.....16, 56

D

defraud.....15
 department of regulatory agencies. 22, 23, 24, 25, 26, 27,
 28, 29, 30, 32
 designee15
 director 15, 16, 23, 28, 29, 30, 31, 32
 donations 16, 17

E

enforcement 15, 16, 55
 Exemptions36

F

farm 16
 fee 19, 22, 34
 first time offenders 16
 four-wheel..... 42
 fraud 16, 29
 fund..... 15, 16, 17, 19, 20, 21, 29, 33
 funds.....16, 20, 55, 56

G

geographic areas..... 16, 56
 geographic jurisdiction 16
 gifts 16, 17
 governor 15, 17
 grants.....15, 16, 17, 42, 55, 56

I

idle 46
 insurance..15, 19, 27, 30, 33, 34, 35, 36, 37, 38, 39, 40, 41,
 42, 43
 insurance companies..... 15, 19
 insurance company..... 33, 35
 insurance corporation 33
 insurance policies15, 39, 40, 43
 insure 19, 43
 insured 19, 34, 35, 36, 37, 39, 40, 41, 42, 43
 insurer 19, 33, 35, 37, 38, 39, 40, 41, 42, 43
 Insurer 34
 insurers19, 33, 37, 38

J

judiciary..... 16

L

law enforcement..... 15, 16, 55

M

members.....15, 24, 35, 39, 41
 moneys 15, 16, 17, 20, 21, 29

motor vehicle. 15, 16, 19, 30, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 45, 55

Motor vehicle rental agreement.....34

Motor vehicle rental company.....34

motor vehicles 16, 19, 34, 38, 46

multi-agency16

Multi-agency15

multijurisdictional.....15, 55

O

offender rehabilitation.....15, 55

off-highway vehicle41

Owner.....35, 41

P

Person41

policy.....19, 28, 35, 36, 39, 40, 41, 42, 43

prevention15, 16, 17, 19, 28, 29, 30, 55, 56

proactive investigative methods15

Procedures.....16

programs..... 15, 16, 21, 22, 28, 29, 55, 56

prosecution..... 15, 16, 55

prosecutors.....16

public awareness.....16

Q

qualified applicants.....16, 55, 56

R

rails 41

Regulations 55

reimbursed..... 15

representative..... 15, 24

representatives15, 16, 24, 44

risk plan..... 36

S

scooter 41

self-insurance..... 36, 38

snowmobile..... 41, 43

state treasurer17, 19, 20, 21

sunset 44

surety bond 38

T

theft 15, 16, 17, 19, 29, 30, 55, 56

thieves 15

toy vehicle 41

training 16, 26, 56

transfer 17, 19, 23

U

unattended 45

V

victimization 16