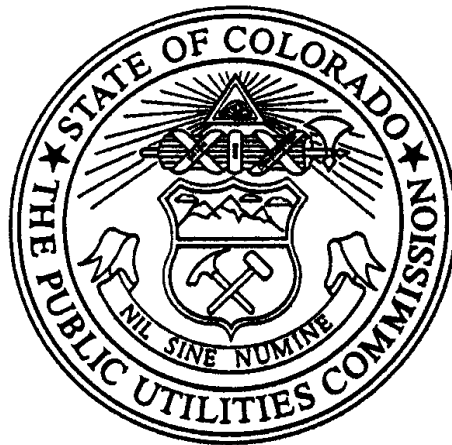


SAFETY RULES
of the
RULES REGULATING TRANSPORTATION
BY MOTOR VEHICLE
723-6-6100.



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COLORADO DEPARTMENT OF REGULATORY AGENCIES
THE PUBLIC UTILITIES COMMISSION
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BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis for and purpose of these rules is to describe the manner of regulation over persons providing transportation services by motor vehicle in or through the state of Colorado. These rules address a wide variety of subject areas including, but not limited to, safety; civil penalties; the issuance, extension, transfer, and revocation of authority to operate as a motor carrier; insurance and permit requirements; tariff and time schedule requirements; the identification, condition, and leasing of motor vehicles; record keeping; and service standards. These rules cover an array of carriers, including common carriers, contract carriers, hazardous materials carriers, towing carriers, movers, limited regulation carriers (charter buses, children's activity buses, luxury limousines, off-road scenic charters, and fire crew transport), and transportation network companies. In addition, these rules cover persons required to register under the Unified Carrier Registration Agreement, pursuant to 49 U.S.C. § 14504a, including motor carriers, motor private carries, freight forwarders, brokers, leasing companies, and other persons.

The statutory authority for the promulgation of these rules can be found at §§ 40-2-108, 40-2-110.5(8), 40-3-101(1), 40-3-102, 40-3-103, 40-3-110, 40-4-101, 40-5-105, 40-7-113(2), 40-10.1-101 through 608; 42-4-235, 42-4-1809(2)(a), 42-4-2108(2)(a), and 42-20-202(1)(a), C.R.S.

SAFETY RULES

6100. Applicability of Safety Rules.

- (a) Rules 6100 through 6199 apply to:
 - (I) regulated intrastate carriers and limited regulation carriers; and
 - (II) drivers (whether as employees or independent contractors), employees, and commercial motor vehicles of the motor carriers listed in subparagraph (a)(I).

6101. Definitions.

In addition to the definitions in rule 6001, and those incorporated from federal law in rule 6102, the following definitions apply to all carriers subject to these safety rules:

- (a) "Commission" means the Public Utilities Commission of the state of Colorado. Any reference to the United States Department of Transportation, the FMCSA, or any other federal agency in any provision of the Code of Federal Regulations adopted by reference in these safety rules shall be construed to refer to the Commission.
- (b) "Commercial motor vehicle" or "motor vehicle" as used in regulations incorporated by reference by rule 6102, means a motor vehicle operated by a regulated intrastate carrier or limited regulation carrier. Notwithstanding the foregoing, for purposes of the incorporated rules found in 49 C.F.R. Part 382 (concerning drug and alcohol testing), the definition of commercial motor vehicle shall be as found in 49 C.F.R. § 382.107; and for purposes of the incorporated rules found in 49 C.F.R. Part 383 (concerning commercial driver's licenses) the definition of commercial motor vehicle shall be as found in 49 C.F.R. § 383.5.
- (c) "Employer" as used in regulations incorporated by reference by rule 6102, means a regulated intrastate carrier or limited regulation carrier, in addition to the definition found in 49 C.F.R. § 390.5.
- (d) "Low-power scooter" means low-power scooter as defined in § 42-1-102(48.5), C.R.S.
- (e) "Motorcycle" means motorcycle as defined in § 42-1-102(55), C.R.S.

6102. Regulations Incorporated by Reference.

- (a) Except as provided in rule 6103 and paragraph (c) of this rule, the Commission incorporates by reference the regulations published in:
 - (I) 49 C.F.R. Parts 40, 382, 383, 390, 391, 392, 393, 395, 396, and 399, as revised on October 1, 2010.
 - (II) 49 C.F.R. Appendix G to Subchapter B of Chapter III, as revised on October 1, 2010.
- (b) No later amendments to or editions of the C.F.R. are incorporated into these rules.

- (c) The following provisions of 49 C.F.R. are not incorporated by reference:
 - (I) §§ 382.507, 383.53, 390.3(a), 390.3(c), 390.3(f)(2), 390.3(f)(6), 390.21(a), 390.21(b), 390.21(e), 390.21(f), 390.37, 391.47, 391.49, 391.68, 391.69, 395.8(e), and 396.9; and
 - (II) The definition of "commercial motor vehicle" in § 390.5.
- (d) The material incorporated by reference may be examined at the offices of the Commission or any state publications library.

6103. Modification of Regulations Incorporated by Reference.

- (a) With regard to qualification and examination of drivers: 49 C.F.R. § 391.11(b)(1), relating to age of drivers, shall not apply to drivers operating solely in intrastate commerce; rather, such drivers shall be at least eighteen years of age. This subparagraph (I) shall not apply to drivers operating motor vehicles used in transporting hazardous materials of a type and quantity that would require the motor vehicle to be marked or placarded under 49 C.F.R. § 177.823.
- (b) With regard to motor vehicle parts and accessories necessary for safe operation:
 - (I) The provisions of 49 C.F.R. § 393.55 shall only apply to a bus with a seating capacity of 16 or more.
 - (II) The provisions of 49 C.F.R. § 393.83(c) and (d), relating to exhaust systems, shall only apply to any bus with a seating capacity of 16 or more or having a GVWR of more than 10,000 pounds, which is manufactured with a side discharge exhaust.
 - (III) The provisions of 49 C.F.R. § 393.89, relating to driveshaft protection, and 393.95, relating to emergency equipment, shall only apply to any bus with a seating capacity of 16 or more or having a GVWR of more than 10,000 pounds.
 - (IV) In addition to the requirements of 49 C.F.R. § 393.93 regarding seat belt assemblies for a bus, a vehicle manufactured with such a system shall be operational and readily accessible to passengers at all times.
- (c) With regard to hours of service of drivers:
 - (I) For a motor carrier of passengers operating a motor vehicle having a seating capacity of 16 or more, or GVWR or GCWR of more than 10,000 pounds, the requirements of 49 C.F.R. §§ 395.5(a)(2) and (b) and 395.8, shall apply.
 - (II) For a motor carrier of passengers operating a motor vehicle having a seating capacity of 15 or less and GVWR or GCWR of less than 10,001 pounds, the requirements of 49 C.F.R. §§ 395.5(a)(2) and 395.8, shall not apply. Additionally, a motor carrier shall neither permit nor require a driver to drive, nor shall any such driver drive, in violation of any of the following:

- (A) At the end of the 16th hour after coming on duty, a driver shall not drive and shall be released from duty, for eight consecutive hours. Drivers may go off duty for any period of time during the 16-hour period, but the 16-hour period shall only be restarted after eight consecutive hours off duty;
 - (B) A driver shall not exceed ten hours maximum driving time, following eight consecutive hours off duty;
 - (C) A driver shall not drive for a minimum period of eight consecutive hours after having been on duty 80 hours in any eight consecutive days. In no instance shall a driver's hours of service exceed 80 hours in any rolling eight consecutive day period; and
 - (D) A motor carrier that employs or retains the driver shall maintain and retain accurate and true time records, including all supporting documents verifying such time records, for a period of six months showing:
 - (i) the time(s) the driver reports for duty each day;
 - (ii) the time(s) the driver is released from duty each day;
 - (iii) the total number of hours the driver is on duty each day; and
 - (iv) for a driver who is off duty for an entire day, an indication to that effect.
- (d) With regard to inspection of drivers and/or motor vehicles:
- (I) A driver receiving a Driver/Vehicle Compliance Report (DVCR) from the Commission shall deliver the DVCR to the motor carrier operating the motor vehicle upon the driver's next arrival at any of the motor carrier's terminals or facilities. If the driver is not scheduled to arrive at a terminal or facility within 24 hours, the driver shall immediately mail the report to the motor carrier operating the motor vehicle.
 - (II) Motor carriers shall examine the DVCR and correct all violations or defects noted thereon. Within 15 days following the date of the inspection, the motor carrier shall:
 - (A) complete the "Carrier Official's Signature, Title, and Date" portions of the DVCR, certifying that all violations on the DVCR have been corrected;
 - (B) return the completed DVCR to the Commission at the address shown on the DVCR; and
 - (C) retain a copy of the DVCR in its records.
 - (III) A motor vehicle that would likely cause an accident or a breakdown due to its mechanical condition as determined by the current out-of-service criteria set forth by the Commercial Vehicle Safety Alliance shall be placed out-of-service.

- (IV) A driver who, by reason of the driver's lack of qualification, sickness or fatigue, violation of hours of service provisions, or violation of drug or alcohol provisions, would likely cause an accident as determined by the current out-of-service criteria set forth by the Commercial Vehicle Safety Alliance shall be placed out-of-service.
 - (V) A DVCR declaring a motor vehicle and/or a motor vehicle driver out-of-service shall constitute an out-of-service order giving notice to the driver and the motor carrier regarding the out-of-service condition.
 - (VI) No motor carrier shall require or permit any person to operate, nor shall any person operate, any motor vehicle declared and ordered out-of-service until all repairs required by the out-of-service order have been satisfactorily completed.
 - (VII) No motor carrier shall require or permit any person declared and ordered out-of-service to operate, nor shall any person operate, any motor vehicle until the person's out-of-service condition has been corrected.
- (e) Motor carriers and drivers shall, upon request by an enforcement official, make available for inspection all records required to be made by these safety rules and all motor vehicles subject to these safety rules.

6104. Motor Vehicle Weight.

An enforcement official may require a motor carrier to have a motor vehicle weighed, if such motor vehicle's structural components, suspension components, wheels, tires, or loading may, in the enforcement official's judgment, create potentially unsafe operations.

6105. Fingerprint-Based Criminal History Record Checks.

- (a) For purposes of this rule only:
- (I) "CBI" means the Colorado Bureau of Investigation.
 - (II) "Driver" means a person who drives or wants to drive for a passenger carrier, regardless of whether such person drives or wants to drive as an employee or independent contractor.
 - (III) "Passenger carrier" means a taxicab carrier and a limited regulation carrier, except for fire crew transport.
 - (IV) "Criminal history record check" means a state and national fingerprint-based criminal history record check.
- (b) This rule applies to passenger carriers and drivers.
- (c) Within ten days of contracting or being employed to drive for a passenger carrier, a driver who is not qualified by the Commission at the time of hire shall submit to the Commission a set of the driver's fingerprints, documentation of any name change from the agency where the change was approved, and payment of the actual cost to conduct a criminal history record check.

- (d) A driver shall re-submit to the Commission a set of the driver's fingerprints, documentation of any name change from the agency where the change was approved, and payment of the actual cost to conduct a criminal history record check within five years after being qualified by the Commission. Qualifications without an expiration date shall expire five years from August 1, 2012.
- (e) The driver shall submit his or her fingerprints on an official Federal Bureau of Investigation form FD-258. The Commission will only accept official forms completed by a law enforcement or state agency in accordance with the instructions available from the Commission or its website.
- (f) Qualification determination based upon moral character or statutory disqualification.
 - (I) Upon the Commission's receipt of a completed criminal history record check, Commission staff shall make a qualification determination regarding the driver's qualification status. In making this determination, Commission staff is authorized to request from the driver, and the driver shall provide, additional information that will assist Commission staff in making the determination regarding the driver's qualification status. If a driver does not provide such additional information requested by Commission staff, or a explain why it is unavailable within 15 days of the request, Commission staff may disqualify the driver.
 - (II) A driver is not of good moral character and shall be disqualified and prohibited from driving, if the driver has:
 - (A) a conviction in the state of Colorado at any time of any class 1 or 2 felony under Title 18, C.R.S.;
 - (B) a conviction in the state of Colorado, within the ten years preceding the date the criminal history record check is completed, of a crime of violence, as defined in § 18-1.3-406(2), C.R.S.;
 - (C) a conviction in the state of Colorado, within the eight years preceding the date the criminal history record check is completed, of any class 3 felony under Title 18, C.R.S.;
 - (D) a conviction in the state of Colorado, within the four years preceding the date the criminal history record check is completed, of any class 4 felony under Articles 2, 3, 3.5, 4, 5, 6, 6.5, 8, 9, 12, or 15 of Title 18, C.R.S.; or
 - (E) an offense in any other state or in the United States that is comparable to any offense listed in subparagraphs (A) through (D) within the same time periods as listed in subparagraphs (A) through (D).
 - (III) Without a determination as to moral character at the time of determination, a driver is disqualified by statute and prohibited from driving if the driver has been:
 - (A) convicted in the state of Colorado at any time of a felony or misdemeanor unlawful sexual offense against a child, as defined in § 18-3-411, C.R.S., or of a comparable offense in any other state or in the United States at any time;

- (B) within the two years preceding the date the criminal history record check is completed, convicted in this state of driving under the influence, as defined in § 42-4-1301(1)(f), C.R.S.; driving with excessive alcoholic content, as described in § 42-4-1301(2)(a), C.R.S.; driving while ability impaired, as defined in § 42-4-1301(1)(g), C.R.S.; or driving while an habitual user of a controlled substance, as described in § 42-4-1301(1)(c), C.R.S.; or
- (C) within the two years preceding the date the criminal history record check is completed, convicted of an offense comparable to those included in subparagraph (III)(B) in any other state or in the United States.
- (IV) For purposes of this rule, a deferred judgment and sentence pursuant to § 18-1.3-102, C.R.S., shall be deemed to be a conviction during the period of the deferred judgment and sentence.
- (g) The Commission and Commission staff may consult and use any commercially or governmentally available information source in conducting criminal history record checks. The Commission may require a name-based criminal history record check of a driver who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unreadable or unclassifiable.
- (h) At any time, Commission staff shall disqualify a previously qualified driver whose subsequent conviction meets the criteria of this rule.
- (i) A passenger carrier shall not permit a driver to drive for the passenger carrier if:
 - (I) the driver has not complied with this rule and § 40-10.1-110, C.R.S., as applicable;
 - (II) the driver is disqualified and prohibited from driving under paragraph (f) of this rule; or
 - (III) the driver's qualification status has expired.
- (j) A passenger carrier shall, as a condition of continued contract or employment, require a driver to submit his or her fingerprints to the Commission for a criminal history record check:
 - (I) at least once every five years; and/or
 - (II) within ten days of becoming aware that the driver has been convicted of the offenses listed in paragraph (f) of this rule.
- (k) Commission staff shall notify the driver of its qualification determination. The Commission will also maintain a password-protected portion of its website where drivers, passenger carriers, and other persons authorized by Commission staff may access the current qualification status of drivers.
- (l) If the driver is disqualified and prohibited from driving, the driver may, within 60 days of Commission staff's notification, file a petition with the Commission for qualification determination.

- (l) Upon the filing of a petition for qualification , Commission staff shall be an indispensable party.
 - (A) If a driver submitting fingerprints is disqualified to drive pursuant to subparagraph (f)(II), the driver shall bear the burden of proving that he is of good moral character based upon all surrounding facts and circumstances or that disqualification is not supported by fact or law.
 - (B) If a driver submitting fingerprints is disqualified to drive pursuant to subparagraph (f)(III), the driver shall bear the burden of proving that disqualification is not supported by fact or law;
 - (C) If a driver is disqualified pursuant to paragraph (h), the Commission staff shall bear the burden of proving all applicable elements.
 - (D) The Commission will consider the petition using the standards set forth in § 24-5-101(2), C.R.S. for disqualifications based on a determination of moral character.
- (m) Commission staff's qualification determination may be relied upon by all persons, unless and until the Commission rules on a driver's qualification.
- (n) If the Commission qualifies a driver upon petition, paragraph (f) shall be waived as to qualification determinations for future fingerprint resubmissions regarding the events upon which Commission staff's disqualification was based.

6106. Safety Violations, Civil Enforcement, and Civil Penalties.

- (a) A person who violates the following provisions may be assessed a civil penalty of up to \$10,000.00 for each violation:

Citation	Violation Description
49 C.F.R. § 392.4(b)	Requiring or permitting a driver to drive while under the influence of, or in possession of, a narcotic drug, amphetamine, or any other substance capable of rendering the driver incapable of safely operating a motor vehicle, per §392.4(a).
49 C.F.R. § 392.5(b)(1)	Requiring or permitting a driver to operate a commercial motor vehicle within four hours of using, while under the influence of, or having in his/her possession, alcohol, per §392.5(a).
49 C.F.R. § 392.5(b)(2)	Requiring or permitting a driver to operate a commercial motor vehicle who shows evidence of, or the general appearance and conduct of, having consumed alcohol within the preceding four hours.
49 C.F.R. § 396.11(c)	Failing to correct out-of-service defects listed by the driver in a driver vehicle inspection report before the vehicle is operated again.
Rule 6103(d)(VII)	Requiring or permitting a driver to operate a motor vehicle during the period the driver was placed out of service.
Rule 6103(d)(VI)	Requiring or permitting the operation of a motor vehicle placed out of service before the required repairs are made but after the motor carrier has received notice of the defect.

- (b) A person who violates the following provisions may be assessed a civil penalty of up to \$2,500.00 for each violation:

Citation	Violation Description
49 C.F.R. § 390.35	Making, or causing to make, fraudulent or intentionally false statements or records and/or reproducing fraudulent records if such action misrepresents a fact that constitutes a violation other than a reporting or recordkeeping violation.
49 C.F.R. § 391.11(a)	Requiring or permitting a driver who is not qualified to drive [§ 391.11(b)(4), (5), and (7)].
49 C.F.R. § 391.15(a)	Using a disqualified driver.
49 C.F.R. § 392.2	Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated.
49 C.F.R. § 392.9(a)(1)	Requiring or permitting a driver to drive without the vehicle's cargo being properly distributed and adequately secured.
49 C.F.R. § 395.5(b)(1)	Requiring or permitting a driver to drive after having been on duty 60 hours in seven consecutive days.
49 C.F.R. § 395.5(b)(2)	Requiring or permitting a driver to drive after having been on duty 70 hours in eight consecutive days.
49 C.F.R. § 395.5(a)(1)	Requiring or permitting a driver to drive more than ten hours.
49 C.F.R. § 395.5(a)(2)	Requiring or permitting a driver to drive after having been on duty 15 hours.
Rule 6103(c)(II)(A)	Requiring or permitting a driver to drive after having been on duty for 16 consecutive hours.
Rule 6103(c)(II)(B)	Requiring or permitting a driver to drive more than ten hours.

Rule 6103(c)(II)(C)	Requiring or permitting a driver to drive after having been on duty 80 hours in eight consecutive days.
49 C.F.R. § 396.17(g)	Failing to promptly repair parts and accessories not meeting minimum periodic inspection standards.
49 C.F.R. § 382.115(a)	Failing to implement an alcohol and/or controlled substances testing program.
49 C.F.R. § 382.201	Using a driver known to have an alcohol concentration of 0.04 or greater.
49 C.F.R. § 382.211	Using a driver who has refused to submit to an alcohol or controlled substances test required under Part 382.
49 C.F.R. § 382.213(b)	Using a driver known to have used a controlled substance.
49 C.F.R. § 382.215	Using a driver known to have tested positive for a controlled substance.
49 C.F.R. § 382.301(a)	Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.
49 C.F.R. § 382.303(a)	Failing to conduct post accident testing on driver for alcohol and/or controlled substances.
49 C.F.R. § 382.305	Failing to implement a random controlled substances and/or an alcohol testing program.
49 C.F.R. § 382.305(b)(1)	Failing to conduct random alcohol testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.
49 C.F.R. § 382.305(b)(2)	Failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.

49 C.F.R. § 382.309(a)	Using a driver who has not undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.
49 C.F.R. § 382.309(b)	Using a driver who has not undergone a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances.
49 C.F.R. § 382.503	Allowing a driver to perform safety sensitive function, after engaging in conduct prohibited by subpart B, without being evaluated by substance abuse professional, as required by § 382.605.
49 C.F.R. § 382.505(a)	Using a driver within 24 hours after being found to have an alcohol concentration of 0.02 or greater but less than 0.04.
49 C.F.R. § 382.605(c)(1)	Using a driver who has not undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 or with verified negative test result, after engaging in conduct prohibited by part 382 subpart B.
49 C.F.R. § 382.605(c)(2)(ii)	Failing to subject a driver who has been identified as needing assistance to at least six unannounced follow-up alcohol and/or controlled substance tests in the first 12 months following the driver's return to duty.
49 C.F.R. § 392.5(a) or (b)	Driving after being placed out of service for 24 hours for violating the alcohol prohibitions.

- (c) A person who violates the following provisions may be assessed a civil penalty of up to \$1,100.00 for each violation:

Citation	Violation Description
49 C.F.R. § 391.45	Allowing a driver to drive who is not medically examined and certified.
49 C.F.R. § 396.17(a)	Using a commercial motor vehicle not periodically inspected.
Rule 6103(d)(VI)	Operating a motor vehicle after the vehicle was placed out of service and before the required repairs are made.

Rule 6103(d)(VII)	Operating a motor vehicle during a period the driver was placed out of service.
Rule 6107	Knowingly falsify, destroy, mutilate, change, or cause falsification, destruction, mutilation, or change, to any record.

- (d) A person who violates the following recordkeeping provisions may be assessed a civil penalty of up to \$500.00 for each violation up to a cumulative maximum of \$10,000.00:

Citation	Violation Description
49 C.F.R. § 392.6	Scheduling a run that would necessitate the vehicle being operated at speeds in excess of those prescribed.
Rule 6103(c)(II)(D)	Failing to maintain and retain accurate and true time records, including all supporting documents verifying such time records.
Rule 6103(d)(II)	Failing to return the written certification of correction as required by the out-of-service order.
49 C.F.R. § 395.8(a)	Failing to require driver to make a record of duty status.
49 C.F.R. § 395.8(i)	Failing to require driver to forward within 13 days of completion, the original of the record of duty status.
49 C.F.R. § 395.8(k)(1)	Failing to preserve driver's record of duty status and supporting documents for six months.
49 C.F.R. § 396.3(b)	Failing to keep minimum records of inspection and vehicle maintenance.
49 C.F.R. § 396.11(a)	Failing to require driver to prepare driver vehicle inspection report.

- (e) A person who violates 49 C.F.R. Part 383, Subparts B, C, E, F, G, or H may be assessed a civil penalty of \$2,750.00 for each violation.
- (f) A person who violates any provision of rule 6105 may be assessed a civil penalty of \$275.00 for each violation.

- (g) Except as provided in paragraphs (a) through (f) of this rule, a person who violates any other rule may be assessed a civil penalty of up to \$250.00 for each violation.
- (h) For each type of recordkeeping violation, a civil penalty may be assessed up to a cumulative maximum of \$10,000.00.
- (i) With the exception of paragraph (f) of this rule, the provisions relating to the doubling and tripling of civil penalty assessments, found in § 40-7-113(3) and (4), and in paragraphs (g) and (h) of rule 6017, shall not apply to the assessment of civil penalties for safety rule violations.
- (j) Civil penalty assessments are in addition to any other penalties provided by law.

6107. Records: Falsification, Reproduction, or Alteration.

No person shall knowingly falsify, destroy, mutilate, change, or cause falsification, destruction, mutilation, or change to any record, subject to inspection by the Commission.

6108. – 6199. [Reserved].
