

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 11-0370.01 Christy Chase

SENATE BILL 11-065

SENATE SPONSORSHIP

Harvey,

HOUSE SPONSORSHIP

Kagan,

Senate Committees
Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ISSUANCE OF A CERTIFICATE OF AUTHORITY TO**
102 **PROVIDE TAXICAB SERVICE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, an applicant for a certificate of public convenience and necessity to operate taxicab service within and between Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, and Jefferson counties must initially prove to the public utilities commission (PUC) that it is operationally and financially fit to provide the service.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Upon meeting its initial burden, there is presumed to be a public need for the proposed taxicab service, unless opponents to the proposed taxicab service are able to prove that either:

- ! Public convenience and necessity does not require granting the application; or
- ! Issuance of the certificate would be detrimental to the public interest.

The bill eliminates the current 2-part analysis of applications and instead requires the PUC to issue a certificate of authority to operate taxicab service in the state to an applicant who can demonstrate the following:

- ! The applicant has at least 50 taxicabs available for service, at least 3% of which are equipped to provide services to persons with disabilities, with one such equipped taxicab in service at all times;
- ! The taxicab service has a 24-hour communications and dispatch system and can operate taxicab services 24 hours a day every day of the year;
- ! The applicant has at least \$500,000 in capital;
- ! The applicant has submitted to a fingerprint-based criminal history record check that did not result in disqualification by the PUC;
- ! The applicant participates in the federal e-verify program to verify the work eligibility status of its drivers and other employees; and
- ! The applicant satisfies financial responsibility requirements in the form of motor vehicle liability coverage or a surety bond.

The bill applies to applications for a certificate of authority submitted on or after the date on which the bill becomes effective.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds, determines, and declares that:

4 (a) Current taxicab regulation in the state stifles entrepreneurs,
5 needlessly limits the entry of new taxicab service providers into the
6 market, prevents technological innovation, limits job creation, and
7 ultimately results in poor taxicab service to consumers;

8 (b) Competitive taxicab markets are beneficial to the public

1 interest of Colorado, and the state should facilitate the creation of new
2 taxicab service providers and increased competition between new and
3 existing taxicab companies;

4 (c) Consumers in Colorado, including visitors to the state, benefit
5 from increased competition among taxicab companies;

6 (d) The state's labor market also benefits from competition among
7 taxicab service providers; and

8 (e) To facilitate competition and improve service for consumers,
9 there should be no limit on the number of authorized taxicab service
10 providers or taxicabs operating in the state.

11 **SECTION 2.** 40-10-105 (1), (2) (a), (2) (b), (2) (d) (I), and (2) (d)
12 (II), Colorado Revised Statutes, are amended to read:

13 **40-10-105. Rules for issuance of certificates - standing to**
14 **protest - judicial review.** (1) The commission ~~has the power to~~ MAY
15 issue a certificate of ~~public convenience and necessity~~ AUTHORITY to a
16 motor vehicle carrier ~~or to~~ IN ACCORDANCE WITH THIS SECTION. THE
17 COMMISSION MAY issue ~~it~~ A CERTIFICATE OF AUTHORITY for the partial
18 exercise only of the privilege sought and may attach to the exercise of the
19 rights granted by ~~said~~ THE certificate ~~such~~ terms and conditions ~~as, in its~~
20 ~~judgment, the public convenience and necessity may require~~ COMMISSION
21 DEEMS NECESSARY.

22 (2) (a) The granting of a certificate of ~~public convenience and~~
23 ~~necessity~~ AUTHORITY to operate a motor vehicle for hire as a taxicab
24 within and between counties with a population of less than seventy
25 thousand, based on the MOST RECENT federal census, ~~conducted in 2000,~~
26 ~~shall be~~ IS governed by the doctrine of regulated monopoly.

27 (b) (I) Except as otherwise provided in subparagraph (II) of this

1 paragraph (b), the granting of a certificate of ~~public convenience and~~
2 ~~necessity~~ AUTHORITY to operate a motor vehicle for hire as a taxicab
3 within and between counties with a population of seventy thousand or
4 greater, based on the MOST RECENT federal census, ~~conducted in 2000;~~
5 ~~shall IS not be deemed to be~~ an exclusive grant or monopoly. ~~and the~~
6 ~~doctrine of regulated competition shall prevail.~~

7 (II) ~~In an application for~~ THE COMMISSION SHALL ISSUE a
8 certificate of ~~public convenience and necessity~~ AUTHORITY AUTHORIZING
9 AN APPLICANT to provide taxicab service within ~~and between the counties~~
10 ~~of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso,~~
11 ~~and Jefferson~~ THE STATE IF THE APPLICANT DEMONSTRATES, AND THE
12 STAFF OF THE COMMISSION IS ABLE TO VERIFY, THE FOLLOWING:

13 (A) ~~The applicant shall have the initial burden of proving that it~~
14 ~~is operationally and financially fit to provide the proposed service. The~~
15 ~~applicant shall not be required to prove the inadequacy of existing taxicab~~
16 ~~service, if any, within the applicant's proposed geographic area of~~
17 ~~operation.~~ THE APPLICANT CAN OPERATE A MINIMUM OF FIFTY TAXICABS;

18 (B) ~~If the applicant sustains the initial burden of proof as set forth~~
19 ~~in sub-subparagraph (A) of this subparagraph (II), there shall be a~~
20 ~~rebuttable presumption of public need for the service, and any party~~
21 ~~opposing the application shall prevail upon proving that the public~~
22 ~~convenience and necessity does not require granting the application or~~
23 ~~that the issuance of the certificate would be detrimental to the public~~
24 ~~interest.~~ AT LEAST THREE PERCENT OF THE APPLICANT'S TAXICABS ARE
25 EQUIPPED WITH RAMPS, LIFTS, OR OTHER SPECIAL DEVICES TO FACILITATE
26 THE LOADING, UNLOADING, OR TRANSPORTATION OF PERSONS WITH
27 DISABILITIES, AND AT LEAST ONE TAXICAB THAT IS SO EQUIPPED CAN AND

1 WILL ALWAYS BE ON DUTY;

2 (C) THE APPLICANT WILL HAVE A TWENTY-FOUR-HOUR
3 COMMUNICATION AND DISPATCH SYSTEM IN PLACE WHEN ITS TAXICAB
4 SERVICE BECOMES OPERATIONAL AND WILL OPERATE THE TAXICAB
5 SERVICE TWENTY-FOUR HOURS A DAY, EVERY DAY OF THE YEAR;

6 (D) THE APPLICANT HAS AT LEAST FIVE HUNDRED THOUSAND
7 DOLLARS IN CAPITAL;

8 (E) THE APPLICANT HAS SUBMITTED TO A FINGERPRINT-BASED
9 CRIMINAL HISTORY RECORD CHECK IN ACCORDANCE WITH SECTION
10 40-10-105.5, AND, UPON REVIEW OF THE RESULTS OF THE RECORD CHECK,
11 THE COMMISSION HAS DETERMINED, IN ACCORDANCE WITH SECTION
12 40-10-105.5 AND ITS RULES, THAT THE APPLICANT IS NOT DISQUALIFIED
13 AND NOT PROHIBITED FROM DRIVING;

14 (F) THE APPLICANT PARTICIPATES IN THE E-VERIFY PROGRAM, AS
15 DEFINED IN SECTION 8-2-124 (1), C.R.S., FOR PURPOSES OF VERIFYING THE
16 WORK ELIGIBILITY STATUS OF ITS DRIVERS AND OTHER EMPLOYEES; AND

17 (G) THE APPLICANT HAS MOTOR VEHICLE LIABILITY COVERAGE OR
18 A SURETY BOND, AS REQUIRED BY SECTION 40-10-110, IN AN AMOUNT AND
19 PROVIDING PROTECTION AS REQUIRED BY COMMISSION RULES.

20 (d) (I) The holder of a certificate of ~~public convenience and~~
21 ~~necessity that contains~~ authority to operate as a taxicab between points in
22 the city and county of Denver ~~shall also be deemed to hold~~ IS
23 AUTHORIZED TO OPERATE taxicab ~~authority~~ SERVICE from points in the
24 city and county of Denver to all points in the state of Colorado.

25 (II) The holder of a certificate of ~~public convenience and necessity~~
26 ~~that contains~~ authority to operate as a taxicab to points in the city and
27 county of Denver ~~shall also be deemed to hold~~ IS AUTHORIZED TO

1 OPERATE taxicab ~~authority~~ SERVICE from points in the city and county of
2 Denver to all points within the motor carrier's base area, defined as that
3 geographic area in which ~~such~~ THE carrier may provide point-to-point
4 taxicab service.

5 **SECTION 3.** 40-7-113 (1) (b), Colorado Revised Statutes, is
6 amended to read:

7 **40-7-113. Civil penalties - fines.** (1) In addition to any other
8 penalty otherwise authorized by law and except as otherwise provided in
9 subsections (3) and (4) of this section, any person who violates any
10 provision of article 10, 10.5, 11, 13, 14, or 16 of this title or any rule
11 promulgated by the commission pursuant to such articles, which provision
12 or rule is applicable to such person, may be subject to fines as specified
13 in the following paragraphs:

14 (b) Any person who operates a motor vehicle for hire as a
15 common carrier without first having obtained a certificate of ~~public~~
16 ~~convenience and necessity~~ AUTHORITY from the commission as required
17 by section 40-10-104 may be assessed a civil penalty of not more than one
18 thousand one hundred dollars.

19 **SECTION 4.** 40-10-104 (1), Colorado Revised Statutes, is
20 amended to read:

21 **40-10-104. Certificate required - exemptions.** (1) (a) ~~No~~ A
22 person shall NOT operate or offer to operate as a motor vehicle carrier for
23 the transportation of passengers ~~upon~~ ON the public highways of this state
24 in intrastate commerce ~~without first having~~ UNLESS THE PERSON HAS
25 obtained from the commission a certificate OF AUTHORITY declaring that
26 the ~~present or future public convenience and necessity requires or will~~
27 ~~require such~~ PERSON IS AUTHORIZED TO ENGAGE IN THE operation. ~~except~~

1 that

2 (b) This subsection (1) ~~shall~~ DOES not apply to THE OPERATION OF
3 hearses, ambulances, or other emergency vehicles ON THE PUBLIC
4 HIGHWAYS OF THE STATE.

5 **SECTION 5.** 40-10-105.5 (1), (2), and (3) and the introductory
6 portion to 40-10-105.5 (4), Colorado Revised Statutes, are amended to
7 read:

8 **40-10-105.5. Criminal history record check - taxicab drivers**
9 **- rules.** (1) An individual who wishes to become employed or who
10 contracts to drive a taxicab for a holder of a certificate of ~~public~~
11 ~~convenience and necessity that contains~~ authority to operate as a taxicab
12 shall submit a set of his or her fingerprints to the commission. The
13 commission shall forward the fingerprints to the Colorado bureau of
14 investigation for the purpose of obtaining a fingerprint-based criminal
15 history record check. Upon receipt of fingerprints and payment for the
16 costs, the Colorado bureau of investigation shall conduct a state and
17 national fingerprint-based criminal history record check utilizing records
18 of the Colorado bureau of investigation and the federal bureau of
19 investigation. The commission ~~shall be~~ IS the authorized agency to
20 receive information regarding the result of a national criminal history
21 record check. The individual whose fingerprints are checked pursuant to
22 this subsection (1) shall bear the actual costs of the state and national
23 fingerprint-based criminal history record check.

24 (2) An individual who, prior to May 30, 2007, drives a taxicab as
25 part of his or her employment or contract with a holder of a certificate of
26 ~~public convenience and necessity that contains~~ authority to operate as a
27 taxicab shall comply with the fingerprinting requirements of subsection

1 (1) of this section within thirty days after May 30, 2007.

2 (3) An individual whose fingerprints are checked pursuant to
3 subsection (1) or (2) of this section may, pending the results of the
4 criminal history record check, drive a taxicab in connection with his or
5 her employment or contract with a holder of a certificate of ~~public~~
6 ~~convenience and necessity~~ AUTHORITY described in subsection (1) of this
7 section for up to ninety days after the commission forwards the
8 fingerprints to the Colorado bureau of investigation or until the
9 commission receives the results of the check, whichever occurs first.
10 Upon the commission's receipt of the results, the individual may resume
11 driving a taxicab for the holder of the certificate ~~so long as~~ IF the driving
12 does not violate applicable law and does not occur while the individual
13 has a criminal conviction on his or her record that disqualifies and
14 prohibits him or her from driving a taxicab pursuant to subsection (4) of
15 this section.

16 (4) An individual whose criminal history record is checked
17 pursuant to this section ~~shall be~~ IS disqualified and prohibited from
18 driving a taxicab for a holder of a certificate of ~~public convenience and~~
19 ~~necessity that contains~~ authority to operate as a taxicab if the criminal
20 history record check reflects that:

21 **SECTION 6.** 40-10-106, Colorado Revised Statutes, is amended
22 to read:

23 **40-10-106. Transfer of certificate.** ~~Any~~ A certificate of ~~public~~
24 ~~convenience and necessity~~ AUTHORITY or rights obtained under any such
25 certificate held, owned, or obtained by ~~any~~ A motor vehicle carrier may
26 be sold, assigned, leased, encumbered, or transferred as other property
27 only upon authorization by the commission. Absent other facts, the fact

1 that a motor vehicle carrier conducts operations with independent
2 contractors shall not in and of itself constitute a lease or transfer of the
3 certificate.

4 **SECTION 7.** 40-10-108, Colorado Revised Statutes, is amended
5 to read:

6 **40-10-108. Penalty for violations - certificate of authority.**

7 (1) ~~Any~~ A person ~~who~~ COMMITS A MISDEMEANOR AND, UPON
8 CONVICTION, SHALL BE PUNISHED BY A FINE AS PROVIDED IN SECTION
9 40-10-113 IF THE PERSON:

10 (a) Uses any public highway in this state for the transportation of
11 passengers as a motor vehicle carrier without first obtaining a certificate
12 of ~~public convenience and necessity or~~ AUTHORITY;

13 (b) OPERATES AS A MOTOR VEHICLE CARRIER in violation of ~~any~~
14 ~~of the terms thereof or who~~ OF A CERTIFICATE OF AUTHORITY;

15 (c) Fails or refuses to make ~~any~~ A return or ~~any~~ report required by
16 the commission; ~~or who~~

17 (d) Denies ~~to~~ the commission access to the books and records of
18 ~~such~~ THE person; or ~~who~~

19 (e) Makes ~~any~~ A false return ~~commits a misdemeanor and, upon~~
20 ~~conviction thereof, shall be punished by a fine as provided in section~~
21 ~~40-10-113~~ TO THE COMMISSION.

22 **SECTION 8.** 40-10-109 (1) and (3), Colorado Revised Statutes,
23 are amended to read:

24 **40-10-109. Filing and issuance fees for certificates.**

25 (1) (a) Except as provided in subsection (3) of this section, the
26 commission shall collect from all motor vehicle carriers the following
27 fees:

1 (I) Filing fee for application for certificate of ~~public convenience~~
2 ~~and necessity~~ AUTHORITY to operate in intrastate commerce, thirty-five
3 dollars;

4 (II) Filing fee for application to register interstate operating rights,
5 fifteen dollars;

6 (III) Filing fee for transfer or lease of a certificate of ~~public~~
7 ~~convenience and necessity~~ AUTHORITY in intrastate commerce, thirty-five
8 dollars; and

9 (IV) Filing fee for transfer of a registration of interstate operating
10 rights, five dollars.

11 (b) In addition, the commission shall charge a fee of five dollars
12 for issuing a certificate of ~~public convenience and necessity~~ AUTHORITY
13 in intrastate commerce or a registration in interstate commerce, or both.

14 (c) THE COMMISSION SHALL TRANSMIT all fees collected under this
15 section ~~shall be transmitted~~ to the state treasurer, who shall credit ~~the~~
16 ~~same~~ THEM to the public utilities commission motor carrier fund.

17 (3) The fee for an application for a certificate of ~~public~~
18 ~~convenience and necessity~~ AUTHORITY to provide ~~taxi~~ TAXICAB service
19 within and between the counties of Adams, Arapahoe, Boulder,
20 Broomfield, Denver, Douglas, El Paso, and Jefferson shall be set
21 administratively by the commission with approval of the executive
22 director of the department of regulatory agencies.

23 **SECTION 9.** 40-10-112 (1) and (3), Colorado Revised Statutes,
24 are amended to read:

25 **40-10-112. Commission may revoke certificate or impose civil**
26 **penalty.** (1) UPON FINDING THAT A HOLDER OF A CERTIFICATE OF
27 AUTHORITY HAS VIOLATED THIS ARTICLE OR HAS VIOLATED OR REFUSED

1 TO COMPLY WITH AN ORDER OR RULE OF THE COMMISSION, the
2 commission, ~~at any time,~~ by order duly entered after hearing upon notice
3 to the holder of ~~any~~ THE certificate of ~~public convenience and necessity~~
4 ~~and when it is established to the satisfaction of the commission that such~~
5 ~~holder has violated any of the provisions of this article or violated or~~
6 ~~refused to observe any of the proper orders, rules, or regulations of the~~
7 ~~commission~~ AUTHORITY, may suspend, revoke, alter, or amend ~~any such~~
8 THE certificate ~~issued under the provisions of this article~~ or may impose
9 a civil penalty as provided in sections 40-7-112 to 40-7-116. ~~but~~ The
10 holder of ~~such~~ THE certificate shall have all the rights of hearing, review,
11 and appeal ~~as to such~~ OF THE order or ruling of the commission as ~~are~~
12 ~~now~~ provided by articles 1 to 7 of this title. No appeal from or review of
13 any order or ruling of the commission ~~shall be construed to supersede or~~
14 ~~suspend such~~ SUPERSEDES OR SUSPENDS THE order or rulings unless upon
15 order of the proper court.

16 (3) Any person may file a complaint pursuant to section 40-6-108
17 against a motor vehicle carrier for a violation of this title or a rule adopted
18 in furtherance of this title. The complainant may request any relief that
19 the commission, in its authority, may grant, including ~~but not limited to,~~
20 an order to cease and desist, suspension or revocation of the motor
21 vehicle carrier's certificate of ~~public convenience and necessity~~
22 AUTHORITY, or assessment of civil penalties. After hearing upon notice
23 of the complaint to the motor vehicle carrier, and upon proof of violation,
24 the commission may issue an order to cease and desist, suspend or revoke
25 the motor carrier's certificate of ~~public convenience and necessity~~
26 AUTHORITY, assess civil penalties as provided in article 7 of this title, or
27 take any other action within its authority. In assessing civil penalties

1 under this subsection (3), the commission shall not be constrained by the
2 procedural requirements of section 40-7-116.

3 **SECTION 10. Applicability.** This act shall apply to applications
4 for a certificate of authority to provide taxicab service submitted on or
5 after the effective date of this act.

6 **SECTION 11. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.