



**Transportation
Legislation
Review
Committee**

**Report to the
COLORADO
GENERAL ASSEMBLY**

**Colorado Legislative Council
Research Publication No. 393
November 1994**

RECOMMENDATIONS FOR 1995

**TRANSPORTATION LEGISLATION
REVIEW COMMITTEE**

**Report to the
Colorado General Assembly**

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ROOM 029 STATE CAPITOL
DENVER, COLORADO 80203-1784

(303) 866-3521 FAX: 866-3855 TDD: 866-3472

November 15, 1994

To Members of the Sixtieth General Assembly:

Submitted herewith is the final report for the Transportation Legislation Review Committee. The committee was reconstituted pursuant to Section 43-2-145, C.R.S. (Senate Bill 36, 1986 Session). The purpose of the committee is "to give guidance and direction to the state Department of Transportation in the development of the state system of highways, and to provide legislative overview of and input into such development"

At its meeting on October 11, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 1995 session was approved.

Respectfully submitted,

/s/ Representative Paul D. Schauer
Chairman
Legislative Council

PDS/eg

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TRANSPORTATION LEGISLATION REVIEW COMMITTEE

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Scott Nachtrieb Senior Fiscal Analyst	

Office of Legislative Legal Services

Helen Baldwin Staff Attorney	Michele Brown Staff Attorney
Laura Beard Staff Attorney	John "Chip" Taylor Staff Attorney

TRANSPORTATION LEGISLATION REVIEW COMMITTEE

Statutory Authority and Responsibilities

The Highway Legislation Review Committee (HLRC) was originally established in 1953 as part of the legislative reorganization of the state highway system which restructured the relationship between state highway, county road, and municipal street systems (Section 43-2-101, C.R.S.). The committee's original charge was to review the implementation and impact of these new highway systems. Currently, the committee is composed of six members of the General Assembly (three from the House and three from the Senate) and five citizen members appointed by the governor. The HLRC was reconstituted in 1986 "to give guidance and direction to the state Department of Highways in the development of the state system of highways and to provide legislative overview of and input into such development."

In 1994, pursuant to the enactment of Senate Bill 94-14, the name was changed to the Transportation Legislation Review Committee (TLRC) to correspond to the committee's oversight responsibilities for the Department of Transportation. The TLRC's statutory duties remained the same as the former HLRC's duties.

In addition to the existing statutory charges, three additional directives were given to the TLRC in 1994. Two of the statutory charges do not require a report until January 1, 1996. They are 1) review of the driver's license point system, and 2) development of a uniform traffic citation document. The committee focused on the remaining new charge of reviewing the motor carrier registration fee schedule as directed by Senate Bill 94-220. The TLRC is required to recommend to the General Assembly any legislation necessitated by the committee's findings before January 1, 1995.

Committee Activities

Review of Senate Bill 94-220 Concerning Vehicle Registration Fees for Trucks and Truck Tractors. Senate Bill 94-220 directed the TLRC to determine the impact of motor carrier vehicle registration fees on the persons or entities responsible for payment of such registration fees, and the impact of the fees on revenue collections. During the 1994 session, Senate Bill 94-220 was enacted in response to a Colorado Supreme Court ruling which held that Colorado's registration law violated the U.S. Commerce Clause due to the following:

- a) the low-mileage discount provided in the registration fee schedule for intrastate commercial vehicles did not apply to interstate vehicles; and

- b) a disparity existed in the specific ownership tax rates charged for ten year and older interstate commercial vehicles as opposed to the rates charged for similar intrastate commercial vehicles.

The sections of law which were ruled unconstitutional were 42-3-106 (2) and 42-3-123 (13) (b) (II) and (b.3), C.R.S. Absent a statutory change, the Colorado Supreme Court ruled 1) that the registration fee charged to interstate vehicles and intrastate vehicles operated over 30,000 miles annually would have to be applied to all vehicles, and 2) the specific ownership tax rate for commercial vehicles ten years old and older would have to be severed. The Supreme Court's ruling would have resulted in higher registration fees for low-mileage intrastate commercial vehicle drivers and a reduction in specific ownership tax revenues.

Senate Bill 94-220 modified fees for intrastate and interstate trucks and truck tractors with an empty weight in excess of 16,000 pounds, and provided a low-mileage discount for all vehicles operating 30,000 miles or less annually in Colorado. The bill also decreased the specific ownership tax for interstate commercial vehicles ten years old and older to make it equal to the amount of tax charged for intrastate vehicles. As a result of the legislation, registration fees were shifted among vehicles based on weight and mileage, while revenue neutrality was maintained.

The TLRC heard testimony from numerous motor carriers, county clerks, and the Department of Revenue. It was a consensus of opinion that low-mileage vehicle owners, who are usually the smaller carriers, received the largest fee increases due to the implementation of Senate Bill 94-220. Public comment and recommendations on the issue varied extensively. Among the suggestions offered were re-instating the gross ton-mile tax, implementing a single registration fee schedule, implementing a state tax deduction for small motor carrier businesses, and differentiating construction industry vehicles from regular motor carrier vehicles.

In response to testimony and committee discussion, Bill A is recommended. A review of the provisions of that bill is provided on page 7.

Activities of the E-470 Public Highway Authority. The Executive Director of the E-470 Authority presented an update on the progress of Segments 1, 2, and 3 of the E-470 corridor. Segment 1 stretches 5.3 miles between I-25 and Parker Road (State Highway 83) in Douglas County. The remaining construction activity on Segment 1 relates to warranties, and the focus is on operations and ongoing repair and maintenance. The work is being performed by Morrison Knudsen Corporation, which has a contract with the E-470 Authority. The average daily traffic volume exceeds previous estimates and is in excess of 7,000 vehicles per day.

Since August 1992, the authority has attempted to begin construction on Segments 2 and 3 of the corridor. These segments comprise roughly 30 miles extending between Parker Road and 120th Avenue west of Tower Road. Construction efforts have included an extensive process to identify a new alignment due to wildlife mitigation issues, the selection of a project oversight firm, negotiation of a design/build

contract, and the identification of an acceptable plan of finance which includes refinancing the letter of credit for Segment 1. The authority's efforts to begin construction have been delayed due to pending litigation in the Colorado Supreme Court challenging the constitutionality of alignment powers of the authority and the validity of the finance plan under the TABOR amendment. The authority is incurring additional costs, including liquidated damages due to the construction delays. Estimates of the cost increase which were incurred through August 1994 are in excess of \$226 to \$230 million. The estimate is dependent upon eventual right-of-way cost increases. In addition, the authority estimates toll revenue and highway impact fee losses to be in excess \$39.5 million.

In April 1994, the E-470 Authority Board of Directors approved the final terms of the contract for the construction of Segments 2 and 3. However, a "notice to proceed" may not be issued until the litigation is settled. Both of these sections will be completed between 30-34 months from the issuance of a "notice to proceed." Two contractors have been selected; one will oversee road construction, and the other will assume responsibility for the installation of the electronic toll collection system, referred to as the Toll Beltway Management System. Once Segments 2 and 3 are completed, construction of Segment 4 will begin as soon as possible. Segment 4 of the corridor is an extension of the northern part of Segment 2, and is proposed to extend from about 120th Avenue to I-25. Segment 4 may not be completed before 2000 without a financial commitment from the state to help fund the project.

Activities of the Regional Transportation District (RTD). Representatives of the Regional Transportation District (RTD) provided a status report on the lightrail transit project in downtown Denver and the high occupancy vehicle (HOV) lanes on I-25. The central corridor of the lightrail transit project, which began operations on schedule in October 1994, runs 5.3 miles in length and includes 14 stations. Designed to have efficient interface with the bus system, this corridor serves the central business district, including the Auraria campus, the Colorado Convention Center, the 16th Street Mall, and the Five Points business district. The two main terminals are located at I-25/Broadway and 30th Avenue at Downing Street.

Construction of the Southwest corridor of the lightrail project is scheduled to begin in June 1997 and will probably be operational by December 1999. This corridor will extend south from the central business district of Denver, paralleling Santa Fe Drive through the cities of Englewood, Sheridan and Littleton. The estimated cost of construction is \$126.6 million (1992 dollars). The RTD has requested federal funds and reports that alternative financing methods are available if they do not receive the requested funds.

The Downtown Express project in the north corridor will consist of 6.6 miles of bus/carpool (High Occupancy Vehicle (HOV)) lanes in the middle of I-25 from downtown Denver to 70th Avenue. Future plans include expansion of the HOV lanes to 120th Avenue. The project is scheduled to open in three phases. Phase 1 opened in September 1994 and serves users from 53rd Avenue to downtown Denver. This segment currently provides two-way lane operation, and upon completion of Phase 3,

will include reversible lanes during the morning and evening rush hours. Phase 1 is the northwest portion of the corridor which extends from I-25 to Boulder along U.S. 36. Buses and carpools using U.S. 36 have access to the HOV lanes at I-25 and 58th Avenue. By the year 2000, the U.S. 36 HOV lanes will have a direct connection to the Downtown Express. This project has been designed so that it may be easily converted to light rail in the future.

Phase 2, to be completed in the spring of 1995, will extend HOV lanes and include access at 58th and 70th Avenues. Phase 3, to be completed in the fall of 1995, includes plans for a fiber optic system of changeable signs and traffic/access control devices. This Transportation Management System (TMS) will allow lanes to be reversed during the morning and evening rush hours.

Activities of the Denver Regional Council of Governments (DRCOG) Statewide Transportation Task Force. DRCOG is developing a year 2020 Regional Transportation Plan which will replace its 2015 interim Regional Transportation Plan. The 2015 plan was prepared in response to the federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), which required that a fiscally constrained plan be in place by October 1993. The need for a fiscally constrained, long-range transportation plan was also mandated in the federal Clean Air Act Amendments of 1990 (CAA). The interim plan includes projects over the next two decades which are most needed and affordable, using current and reasonably expected funds. The 2020 plan will more closely examine land use and transportation interrelationships, and travel reduction and management activities.

The plans address multimodal systems of transportation for the future and incorporate transit, bicycle, pedestrian, and highway facilities and services. As the Metropolitan Planning Organization (MPO) for the Denver area, DRCOG is charged with developing a transportation plan which will address transportation management strategies, services and facility improvements. The plans are developed in cooperation with the Colorado Department of Transportation (CDOT), RTD, the Regional Air Quality Council (RAQC) and the Department of Public Health and Environment's Air Pollution Control Division (APCD). Each of the plans are required to conform to the State Implementation Plan (SIP) for air quality.

The Executive Director of DRCOG reported that Colorado's highway funding from the federal government has decreased since the enactment of the ISTEA. Local governments are becoming more dependent on other financial sources. He noted that CDOT allocates approximately 32 percent of its federal funds and 26 percent of its state funds to the metropolitan area for a total of 29.7 percent of the total highway funds. However, 55 percent of the state's population resides in the Denver metropolitan area. The director suggested that highway funding needs to be more equitably balanced between metropolitan and rural areas because the metropolitan areas experience more pollution problems due to the demand for new highways and the increase in the number of vehicle miles traveled (VMT).

Highway Projects Affected by the Clean Air Act Amendments of 1990 (CAA).

The CAA required the development of a State Implementation Plan (SIP) which integrates transportation and air quality planning in order to meet National Ambient Air Quality Standards (NAAQS). NAAQS are federal standards developed by the U.S. Environmental Protection Agency (EPA) which set allowable concentration and exposure limits for various pollutants. The NAAQS set limits for the following pollutants: PM-10, which consists of dust from roads, tailpipe emissions, power plant and industry emissions; ozone, which is a secondary pollutant formed when hydrocarbons and nitrogen oxide react in the presence of sunlight; and carbon monoxide, which is formed in large part by incomplete combustion of fuel. In addition, the ISTEA promotes the coordination and implementation of the transportation and air quality planning requirements imposed under the CAA. The CAA and ISTEA provide approaches to decrease transportation-related pollution and have altered state and local transportation planning responsibilities. Decisions concerning transportation planning are now the joint responsibility of local Metropolitan Planning Organizations (MPO) and state departments which are responsible for transportation and air quality planning.

An area of the state is considered a nonattainment area if it does not meet the NAAQS. The EPA can impose sanctions for nonattainment areas, such as withholding federal highway funds. A MPO may not approve any transportation project which does not conform to the SIP. Transportation and air quality planning for rural areas of the state which do not have a MPO are the responsibility of CDOT, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA).

DRCOG, the MPO for the Denver metropolitan area, developed a Transportation Improvement Plan (TIP) which named the area's most needed transportation projects. Some of the metropolitan area projects which are not in compliance with the NAAQS and subject to loss of federal highway funds are the 120th Avenue extension to the Denver International Airport (DIA), the RTD Southwest Corridor Light Rail System, the eastern edge of the E-470 proposed beltway, and construction on U.S. 36 and Washington/38th Avenue. Of the \$234 million in federal highway funds the Denver area is seeking, \$122 million is at risk.

Portions of the Denver, Colorado Springs, Fort Collins, and Greeley metropolitan areas are in noncompliance with the carbon monoxide levels set in the NAAQS. Denver's PM-10 and ozone levels are also in noncompliance with the NAAQS. Some of the rural communities in the state which do not conform to the PM-10 standard are Aspen, Canon City, Lamar, Pagosa Springs, Steamboat Springs, and Telluride.

For those areas of the state which violate the PM-10 standard, CDOT recommends increasing the limit of the emissions budget, which identifies allowable emissions levels, in order to achieve the NAAQS. Currently, transportation agencies have no authority over local land use decisions which create increased VMT and result in increased transportation-related pollution. According to CDOT, state and local governments and air planning agencies must work together to address long-term growth

in the SIP and prevent communities from becoming nonattainment areas. Representatives of CDOT suggest that local governments need to understand that unmitigated growth is a barrier to future transportation projects which may be necessary to serve that growth.

Federal Trucking Regulation Legislation. Testimony was provided concerning the Federal Aviation Administration Authorization Act of 1994 (P.L. 103-305). Included in the P.L. are provisions to 1) discourage diversion of airport revenues for non-airport purposes and excessive landing fee increases; 2) request the development of fee structures to make them self-sustaining; and 3) require the United States Department of Transportation to set up administrative procedures to resolve disputes on the reasonableness of landing fees.

Of greater interest to the committee was a last-minute amendment to the act which provided that air carrier trucking companies such as United Parcel Service or Federal Express be exempted from state trucking regulation. That exemption was further expanded to preempt states from regulating any price, route, and service of an air carrier or carrier affiliated with a direct air carrier, as well as motor carriers with respect to the transportation of property. The act does not affect state jurisdiction with respect to safety regulatory authority, authority to impose controls on size and weight of motor vehicles, or state authority to regulate with respect to minimum amounts of insurance. This preemption takes effect on January 1, 1995, except in Hawaii where it takes effect three years after the enactment of P.L. 103-305.

Concerns regarding the provisions of P.L.103-305 were expressed by representatives of Adams and Son Trucking and HVH Transportation. Several persons suggested that the federal deregulation legislation could have potentially disastrous ramifications. Rural areas will suffer as a result of the lack of availability of services and an increase in cost for delivery of services. Transportation safety could become a problem due to an increase in the number of trucks on the highways. It was also suggested that rate structures will change and force the closure of many small trucking companies.

Representatives of the Public Utilities Commission (PUC) stated that they may propose legislation for the 1995 session which would repeal statutory requirements relating to price and routes of motor carriers and would clarify that transportation safety and insurance issues will remain under the jurisdiction of the PUC.

SUMMARY OF RECOMMENDATIONS

As a result of the committee's activities, the following bills are recommended to the Colorado General Assembly.

Bill A — Vehicle Registration Fees for Trucks and Truck Tractors.

The committee recommends Bill A, which modifies the vehicle registration fees for trucks and truck tractors with an empty weight in excess of 16,000 pounds to provide for lower fees for vehicles that operate 10,000 miles or less annually. The proposed effective date of the bill is January 1, 1996.

A table is attached following Bill A (Attachment A) which compares the registration fees as they were prior to, and as a result of, the enactment of Senate Bill 94-220 and the fees as proposed in Bill A. The cost estimate for two auditors for implementation of Bill A is \$65,488 for FY 95-96, and \$54,550 for FY 1996-97. The Department of Revenue may include the cost of two auditors and a continuation of \$16,351 for operating cost as a decision item in their budget requests.

Though the committee believes that Bill A will not resolve all the inequities in the fee schedule, it will serve to alert the General Assembly that the need exists for an equitable truck taxation system.

Bill B — Unlawful Acts Involving Certain Vehicle Registration Materials

Because it is not currently illegal, the Motor Vehicle Division cannot prosecute persons for stealing license plate tags. The committee recommends Bill B, which amends Section 42-3-133 C.R.S., to make it unlawful to steal, or to offer for sale, a fictitious validation tab or sticker. This bill will allow the department to prosecute such acts as a Class 2 misdemeanor traffic offense. Conviction of a Class 2 misdemeanor traffic offense could result in imposition of a minimum sentence of ten days imprisonment, or a \$10 fine or both, and a maximum sentence of 90 days imprisonment, or a \$300 fine or both.

Bill C — Eminent Domain Authority of the Department of Transportation

Testimony by a representative of the Department of Transportation indicated that to preserve transportation corridors to accommodate future state highway or other transportation project needs, a limited expansion is necessary of the eminent domain authority of the department. Bill C authorizes the department to exercise its powers of eminent domain to acquire abandoned railroad right-of-way corridors. The bill also

allows the department to use its eminent domain powers to acquire land to provide for the construction of office, maintenance, and storage buildings.

Bill D — Restraint of Driving Privileges and Ignition Interlock Device

Bill D authorizes the Department of Revenue to issue a probationary license to any person whose adult driver's license or provisional driver's license has been revoked because of any alcohol-related administrative proceeding if the person leases an approved ignition interlock device. An ignition interlock device is a mechanical device installed on a vehicle which disables the starting mechanism if the driver has alcohol on his or her breath. Such persons would be required to lease the device at their own expense. A person who has had their driving privilege revoked for refusal to submit to testing for alcohol or drugs could not participate in the program. The Department of Human Services and the Department of Revenue are directed by the bill to promulgate applicable rules and regulations.

Bill D creates a criminal penalty (i.e., a Class 1 misdemeanor) for any person who intercepts, bypasses, or interferes with an ignition interlock device or who drives a motor vehicle with knowledge that any person has intercepted, bypassed, or interfered with the ignition interlock device. A person convicted of a Class 1 misdemeanor would be sentenced from a minimum of 6 months imprisonment and a \$500 fine to a maximum of 18 months imprisonment and a \$5,000 fine.

Studies provided to the committee indicate that large numbers of alcohol offenders (particularly repeat offenders) whose drivers' licenses are revoked continue to drive without a license and without insurance. Bill D provides an additional method for keeping convicted drunk drivers off the highways.

MATERIALS AVAILABLE

The materials listed below are available upon request from the Legislative Council staff.

Legislative Council Staff Meeting Summaries

Summaries of 1994 interim TLRC meetings held on July 21, August 9, August 30, September 20, and October 3.

Legislative Council Staff Memoranda

The Transportation Legislation Review Committee, July 1994

Background Information Concerning Senate Bill 94-220, August 11, 1994

Federal Clean Air Act Amendments of 1990: Update of Sanctions for Noncompliance (Colorado and Other States), September 13, 1994

Federal Legislation Concerning Trucking Industry Deregulation, September 13, 1994

Federal Legislation Concerning Trucking Industry, September 15, 1994

Reports

E-470 Public Highway Authority Annual Report to the Transportation Legislation Review Committee, August 1994

1994 Adopted Budget of the Regional Transportation District, January 1994 and Amended Budget, March 1994

Colorado Department of Transportation Report to the Transportation Legislation Review Committee, July 21, 1994

Mobility: A Report on the Status of Transportation in the Denver Region, Denver Regional Council of Governments (DRCOG), 1993

2015 Interim Regional Transportation Plan, DRCOG, October 19, 1993

Second Interim Report to the Governor: Drinking and Driving in Colorado, Colorado DUI System Evaluation Task Force, May 1994

Transportation Legislation Review Committee

A BILL FOR AN ACT

101 CONCERNING VEHICLE REGISTRATION FEES FOR TRUCKS AND TRUCK
102 TRACTORS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Transportation Legislation Review Committee. Modifies the vehicle registration fees for trucks and truck tractors with an empty weight in excess of 16,000 pounds to provide for lower fees for vehicles that operate 10,000 miles or less annually.

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

SECTION 1. 42-3-134 (13) (b), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-3-134. Registration fees - passenger and passenger-mile taxes. (13) The annual registration fee for those trucks and truck tractors operated over the public highways of this state, except trucks which are registered under the provisions of subsections (12) and (25) of this section, shall be as follows:

(b) For each vehicle registered under this subsection (13) having an empty weight exceeding sixteen thousand pounds, the registration fee shall be based upon the declared gross vehicle weight of the vehicle registered and the total number of miles

operated by the vehicle in all jurisdictions during each year, according to the following schedule:

Registration Fee for
Number of Miles Operated
by Vehicle per Year

Declared
Gross Vehicle\$ 30,000 10,000 Over
Weight (Pounds) and Less \$30,000 10,000

9	16,001 but not more than 20,000	\$ 270 250	\$1,490 700
10	20,001 but not more than 24,000	340 290	1,580 800
11	24,001 but not more than 30,000	405 330	1,665 900
12	30,001 but not more than 36,000	475 370	1,755 100
13	36,001 but not more than 42,000	540 410	1,845 1200
14	42,001 but not more than 48,000	610 450	1,930 1300
15	48,001 but not more than 54,000	675 490	2,020 1400
16	54,001 but not more than 60,000	745 530	2,105 1600
17	60,001 but not more than 66,000	810 570	2,195 1700
18	66,001 but not more than 74,000	880 610	2,285 1900
19	Over 74,000	1,015 660	2,370 2100

SECTION 2. Effective date. This act shall take effect January 1, 1996.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Attachment A

REGISTRATION FEE COMPARISON

Declared Gross Vehicle Weight (pounds)	Prior Registration Fee Schedule				Current Law		LLS 94-0047	
	INTRASTATE			INTERSTATE	INTRASTATE and INTERSTATE		INTRASTATE and INTERSTATE	
	Miles Per Year			Over 30,000	30,000 or less	Over 30,000	10,000 or less	Over 10,000
	< 2,500	2,500 to 9,999	10,000 to 30,000	Over 30,000	30,000 or less	Over 30,000	10,000 or less	Over 10,000
16,001 to 20,000	179	260	439	1,225	270	1,490	250	700
20,001 to 24,000	183	281	451	1,282	340	1,580	290	800
24,001 to 30,000	190	336	485	1,397	405	1,665	330	900
30,000 to 36,000	198	388	519	1,454	475	1,755	370	1,100
36,001 to 42,000	204	446	554	1,570	540	1,845	410	1,200
42,001 to 48,000	215	503	693	1,627	610	1,930	450	1,300
48,001 to 54,000	224	528	751	1,744	675	2,020	490	1,400
54,001 to 60,000	233	550	774	1,772	745	2,105	530	1,600
60,000 to 66,000	244	560	843	1,916	810	2,195	570	1,700
66,001 to 74,000	253	568	866	1,974	880	2,285	610	1,900
over 74,000	259	579	947	2,089	1,015	2,370	660	2,100
Total Registration Fees	\$32,403,638				\$32,403,638		\$32,403,638	

Transportation Legislation Review Committee

A BILL FOR AN ACT

101 CONCERNING UNLAWFUL ACTS INVOLVING CERTAIN VEHICLE
102 REGISTRATION MATERIALS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Transportation Legislation Review Committee. Makes it unlawful for any person to offer for sale, display or cause to be displayed, or possess any certificate of title, validation tab, or registration number plate that the person knows is fictitious, stolen, cancelled, revoked, suspended, or altered.

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

2 SECTION 1. 42-3-133 (1) (b), Colorado Revised
3 Statutes, 1993 Repl. Vol., as amended, is amended to read:

4 42-3-133. Violation of registration provisions -
5 penalty. (1) It is unlawful for any person to commit any of the
6 following acts:

7 (b) To display or cause or permit to be displayed, or to
8 have in possession, OR TO OFFER FOR SALE any certificate of title,
9 VALIDATION TAB OR STICKER, or registration number plate
10 knowing the same to be fictitious or to have been STOLEN,
11 cancelled, revoked, suspended, or altered;

1 SECTION 2. Effective date - applicability. This act
2 shall take effect July 1, 1995, and shall apply to offenses
3 committed on or after said date.

4 SECTION 3. Safety clause. The general assembly
5 hereby finds, determines, and declares that this act is necessary
6 for the immediate preservation of the public peace, health, and
safety.

Transportation Legislation Review Committee

A BILL FOR AN ACT

101 CONCERNING THE EMINENT DOMAIN AUTHORITY OF THE
102 DEPARTMENT OF TRANSPORTATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Transportation Legislation Review Committee.
Authorizes the department of transportation to exercise powers of eminent domain for transportation purposes other than construction of a state highway.

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

SECTION 1. 43-1-208 (3), Colorado Revised Statutes, 1993 Repl. Vol., is amended, and the said 43-1-208 is further amended BY THE ADDITION OF A NEW SUBSECTION to read:

43-1-208. State highway - damages - eminent domain.

(1.5) (a) WHEN THE CHIEF ENGINEER DEEMS IT DESIRABLE TO ACQUIRE REAL PROPERTY FOR TRANSPORTATION PROJECTS RELATED TO DEVELOPMENT OF STATEWIDE TRANSPORTATION SYSTEMS AND THE MAINTENANCE AND OPERATION OF STATE HIGHWAYS, THE CHIEF ENGINEER SHALL MAKE A WRITTEN REPORT TO THE COMMISSION DESCRIBING THE PROPOSED ACTION, THE

1 PURPOSE OF SUCH ACTION, AND THE PORTIONS OF LAND OF EACH
2 LANDOWNER TO BE TAKEN FOR THE PURPOSE AND SHALL
3 ACCOMPANY THE REPORT WITH A MAP SHOWING THE PRESENT AND
4 PROPOSED BOUNDARIES OF THE LAND AFFECTED BY SUCH ACTION,
5 TOGETHER WITH AN ESTIMATE OF THE DAMAGES AND BENEFITS
6 ACCRUING TO EACH LANDOWNER WHOSE LAND MAY BE AFFECTED
7 THEREBY.

(b) FOR PURPOSES OF THIS SUBSECTION (1.5),
"TRANSPORTATION PROJECTS RELATED TO DEVELOPMENT OF STATEWIDE TRANSPORTATION SYSTEMS AND THE MAINTENANCE AND OPERATION OF STATE HIGHWAYS" MEANS THE FOLLOWING ACTIVITIES WHICH THE DEPARTMENT MAY LAWFULLY UNDERTAKE:
ACQUISITION OF ABANDONED RAILROAD RIGHT-OF-WAY CORRIDORS.

(3) Any person owning land or having an interest in any land over which any proposed state highway OR OTHER TRANSPORTATION PROJECT extends who is of the opinion that the tender made to ~~him~~ SUCH PERSON by the transportation commission is inadequate, personally or by agent or attorney on or before ten days from the date of such tender, may file a written request addressed to the transportation commission for a jury to ascertain the compensation which ~~he~~ THE PERSON may be entitled to by reason of damages sustained by altering, widening, changing, or laying out such state highway OR BY EXECUTING SUCH TRANSPORTATION PROJECT. Thereupon the transportation commission shall proceed in the acquisition of such premises, under articles 1 to 7 of title 38, C.R.S. The transportation

1 commission also has the power and is authorized to proceed in the
2 acquisition of the lands of private persons for state highway OR
3 OTHER TRANSPORTATION purposes, according to said articles 1 to
4 7 of title 38, C.R.S., without tender or other proceedings under
5 this part 2.

6 **SECTION 2.** 43-1-211, Colorado Revised Statutes,
7 1993 Repl. Vol., is amended to read:

8 **43-1-211. Department to acquire land - buildings.** For
9 the purpose of constructing, maintaining, and supervising the
10 public highways of this state, the department of transportation is
11 authorized to ~~purchase~~ ACQUIRE land BY EMINENT DOMAIN and
12 cause to be erected thereon by a nonprofit corporation or authority
13 buildings suitable for offices or for housing machines, tools, and
14 equipment, or for both of such purposes.

15 **SECTION 3. Safety clause.** The general assembly
16 hereby finds, determines, and declares that this act is necessary
17 for the immediate preservation of the public peace, health, and
safety.

Transportation Legislation Review Committee

A BILL FOR AN ACT

101 CONCERNING THE RESTRAINT OF DRIVING PRIVILEGES, AND, IN
 102 CONNECTION THEREWITH, AUTHORIZING ISSUANCE OF A
 103 PROBATIONARY LICENSE IF A PERSON WHOSE LICENSE IS
 104 REVOKED BECAUSE OF AN ALCOHOL VIOLATION OBTAINS
 105 AN IGNITION INTERLOCK DEVICE AND MAKING AN
 106 APPROPRIATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Transportation Legislation Review Committee.

Authorizes issuance of a probationary license to any person whose adult driver's license or provisional driver's license has been revoked because of any alcohol-related administrative proceeding if the person leases an approved ignition interlock device to avoid driving while intoxicated. Specifies the conditions under which an ignition interlock probationary license may be issued. Requires that any person obtaining a probationary license lease the device at the person's own expense. Prohibits issuance of a probationary license if the person's driving privilege is revoked for refusal to submit to testing for alcohol or drugs. Authorizes the department of human services and department of revenue to promulgate rules and regulations.

Creates a criminal penalty for any person who intercepts, bypasses, or interferes with an ignition interlock device or who drives a motor vehicle with knowledge that any person has intercepted, bypassed, or interfered with the ignition interlock device.

Prohibits suspending the license of a driver when the driver accumulates a sufficient number of points to cause a suspension if the same offense or conviction that caused the driver to obtain the number of points required for suspension also subjected the driver to a license restraint with a determined

reinstatement date; except that the license may be suspended despite the restraint for the same offense or conviction if the person's license or driving privilege was revoked for refusal to submit to testing for alcohol or drugs. Directs that the points that were accumulated shall be utilized by the department of revenue to determine whether to impose any future license suspension if the driver accumulates any additional points against his or her license.

Makes an appropriation to implement the act.

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

SECTION 1. 42-2-126 (7) (a), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-2-126. Revocation of license based on administrative determination. (7) (a) The periods of revocation specified by subsection (6) of this section are intended to be minimum periods of revocation for the described conduct. No license shall be restored under any circumstances, and no probationary license shall be issued during the revocation period; except that:

(I) A person whose privilege to drive a commercial motor vehicle has been revoked because ~~such~~ THE person drove a commercial motor vehicle when ~~such~~ THE person's blood alcohol content was 0.04 or greater, but less than 0.10, grams of alcohol per hundred milliliters of blood or per two hundred ten liters of breath may apply for a probationary license of another class or type for the period during which the privilege to drive a commercial motor vehicle is revoked, as long as there is no other statutory reason to deny ~~such~~ THE person ~~such~~ a license;

1 (II) A PERSON MAY OBTAIN A PROBATIONARY LICENSE IF
2 THE PERSON HAS LEASED AN APPROVED IGNITION INTERLOCK
3 DEVICE PURSUANT TO THE REQUIREMENTS OF SECTION 42-2-126. 1.

4 SECTION 2. Part 1 of article 2 of title 42, Colorado
5 Revised Statutes, 1993 Repl. Vol., as amended, is amended BY
6 THE ADDITION OF THE FOLLOWING NEW SECTIONS to
7 read:

8 42-2-126.1. Probationary licenses for persons
9 convicted of alcohol-related driving offenses - ignition interlock
10 devices - violations of probationary license - repeal. (1) A
11 PERSON WHOSE DRIVER'S LICENSE OR PROVISIONAL DRIVER'S
12 LICENSE HAS BEEN REVOKED BECAUSE OF A VIOLATION OF ANY
13 PROVISION OF SECTION 42-4-1301 (1) OR (2) OR HAS BEEN REVOKED
14 UNDER ANY PROVISION OF SECTION 42-2-126, OTHER THAN
15 SECTION 42-2-126 (2) (a) (II), AFTER SIXTY DAYS HAVE ELAPSED
16 FROM THE BEGINNING OF THE REVOCATION PERIOD, MAY APPLY
17 FOR A PROBATIONARY LICENSE UNDER THE PROVISIONS OF THIS
18 SECTION; EXCEPT THAT ANY PERSON WHO WAS ALSO FOUND TO BE
19 A HABITUAL OFFENDER UNDER SECTION 42-2-202 BECAUSE OF
20 SUCH VIOLATION MAY NOT APPLY FOR A PROBATIONARY LICENSE
21 UNTIL TWO YEARS OF THE REVOCATION PERIOD HAVE ELAPSED.

22 (2) THE DEPARTMENT SHALL HEAR AN APPLICATION BY
23 ANY PERSON FOR A PROBATIONARY LICENSE UNDER THE
24 PROVISIONS OF THIS SECTION AT A PROBATIONARY LICENSE
25 HEARING. THE DEPARTMENT MAY APPROVE THE APPLICATION IF:

26 (a) THE PERSON'S LICENSE REVOCATION WAS IMPOSED
27 PRIMARILY BECAUSE OF ALCOHOL-RELATED OFFENSES;

1 (b) THE PERSON HAS AGREED TO HAVE HIS OR HER
2 LICENSE REVOCATION CONVERTED TO A LICENSE SUSPENSION WITH
3 A PERIOD THAT IS TWICE THE LENGTH OF THE REMAINING LICENSE
4 REVOCATION WITH A MINIMUM SUSPENSION PERIOD OF SIX
5 MONTHS;

6 (c) THE PERSON HAS OBTAINED AT HIS OR HER OWN
7 EXPENSE A SIGNED LEASE AGREEMENT FOR THE INSTALLATION AND
8 USE OF AN APPROVED IGNITION INTERLOCK DEVICE IN THE
9 PERSON'S MOTOR VEHICLE AND THE PERIOD OF THE LEASE
10 EXTENDS THROUGH THE REQUIRED SUSPENSION PERIOD;

11 (d) THE PERSON HAS OBTAINED THE WRITTEN CONSENT
12 OF ANY OTHER OWNER OR CO-OWNER, IF ANY, OF THE MOTOR
13 VEHICLE IN WHICH THE APPROVED IGNITION INTERLOCK DEVICE IS
14 INSTALLED;

15 (e) THE PERSON AGREES THAT, DURING THE PERIOD OF
16 SUSPENSION, HE OR SHE WILL NOT DRIVE ANY MOTOR VEHICLE
17 OTHER THAN THE MOTOR VEHICLE IN WHICH THE APPROVED
18 IGNITION INTERLOCK DEVICE IS INSTALLED AND WILL NOT ALLOW
19 ANY OTHER PERSON TO DRIVE SUCH VEHICLE OTHER THAN
20 ANOTHER OWNER OR CO-OWNER, IF ANY, OF THE VEHICLE;

21 (f) THE PERSON AGREES TO DRIVE ONLY DURING THE
22 HOURS AND UNDER THE TERMS PRESCRIBED BY THE HEARING
23 OFFICER AT THE PROBATIONARY LICENSE HEARING AND THE
24 PERSON IS ENROLLED IN AND AGREES TO COMPLETE AN ALCOHOL
25 EDUCATION AND TREATMENT PROGRAM; AND

26 (g) THE PERSON HAS PROVIDED AND MAINTAINS PROOF
27 OF FINANCIAL RESPONSIBILITY FOR THE FUTURE FOR A PERIOD OF

1 THREE YEARS PURSUANT TO THE REQUIREMENTS OF THE "MOTOR
2 VEHICLE FINANCIAL RESPONSIBILITY ACT", ARTICLE 7 OF THIS
3 TITLE.

4 (3) A PERSON MAY NOT OBTAIN A PROBATIONARY
5 LICENSE IF THE PERSON'S LICENSE IS REVOKED UNDER THE
6 PROVISIONS OF SECTION 42-2-126 (2) (a) (II).

7 (4) THE LEASING AGENCY FOR ANY APPROVED IGNITION
8 INTERLOCK DEVICE SHALL PROVIDE MONTHLY MONITORING
9 REPORTS FOR THE DEVICE TO THE DEPARTMENT IN ORDER TO
10 ALLOW THE DEPARTMENT TO MONITOR COMPLIANCE WITH
11 RESTRICTIONS OF THE PROBATIONARY LICENSE. THE LEASING
12 AGENCY SHALL CHECK THE DEVICE AT LEAST ONCE EVERY SIXTY
13 DAYS TO ENSURE THAT THE DEVICE IS OPERATING AND THAT
14 THERE HAS BEEN NO TAMPERING WITH THE DEVICE.

15 (5) IF ANY PERSON WHO HAS OBTAINED A PROBATIONARY
16 LICENSE UNDER THE PROVISIONS OF THIS SECTION VIOLATES ANY
17 PROVISION OF THIS SECTION OR VIOLATES THE TERMS OF THE
18 PROBATIONARY LICENSE, THE LICENSE SUSPENSION SHALL BECOME
19 A LICENSE REVOCATION WITH A PERIOD EQUAL TO THE REMAINING
20 PERIOD OF THE LICENSE SUSPENSION OR SIX MONTHS, WHICHEVER
21 IS GREATER. THE PERSON SHALL BE ENTITLED TO A HEARING ON
22 THE QUESTION OF WHETHER A LICENSE SUSPENSION SHALL BE
23 CONVERTED TO A LICENSE REVOCATION.

24 (6) THE DEPARTMENT MAY PROMULGATE REGULATIONS
25 TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

26 (7) (a) FOR THE PURPOSES OF THIS SECTION, "APPROVED
27 IGNITION INTERLOCK DEVICE" MEANS A DEVICE APPROVED BY THE

1 DEPARTMENT OF HUMAN SERVICES THAT IS INSTALLED IN A MOTOR
2 VEHICLE AND THAT MEASURES THE BREATH ALCOHOL CONTENT OF
3 THE DRIVER BEFORE A VEHICLE IS STARTED AND THAT
4 PERIODICALLY REQUIRES ADDITIONAL BREATH SAMPLES DURING
5 VEHICLE OPERATION. THE DEVICE MAY NOT ALLOW A MOTOR
6 VEHICLE TO BE STARTED OR TO CONTINUE OPERATION IF THE
7 DEVICE MEASURES AN ALCOHOL LEVEL ABOVE THE LEVEL
8 ESTABLISHED BY THE DEPARTMENT OF HUMAN SERVICES.

9 (b) THE DEPARTMENT OF HUMAN SERVICES MAY
10 PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF
11 THIS SUBSECTION (7) CONCERNING APPROVED IGNITION INTERLOCK
12 DEVICES.

13 (8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1,
14 1998. **42-2-126.3. Tampering with an ignition interlock
15 device.** (1) NO PERSON MAY INTERCEPT, BYPASS, OR INTERFERE
16 WITH OR AID ANY OTHER PERSON IN INTERCEPTING, BYPASSING, OR
17 INTERFERING WITH AN IGNITION INTERLOCK DEVICE FOR THE
18 PURPOSE OF PREVENTING OR HINDERING THE LAWFUL OPERATION
19 OR PURPOSE OF THE IGNITION INTERLOCK DEVICE UNDER SECTION
20 42-2-126.1.

21 (2) NO PERSON MAY DRIVE A MOTOR VEHICLE IN WHICH
22 AN IGNITION INTERLOCK DEVICE IS INSTALLED PURSUANT TO
23 SECTION 42-2-126.1 IF THE PERSON HAS KNOWLEDGE THAT ANY
24 PERSON HAS INTERCEPTED, BYPASSED, OR INTERFERED WITH THE
25 IGNITION INTERLOCK DEVICE.

1 (3) ANY PERSON VIOLATING ANY PROVISION OF THIS
2 SECTION COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE
3 PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

4 **SECTION 2.** 42-2-127 (1) (a), (8), and (9) (a),
5 Colorado Revised Statutes, 1993 Repl. Vol., as amended, are
6 amended to read:

7 **42-2-127. Authority to suspend license - to deny**
8 **license - type of conviction - points.** (1) (a) EXCEPT AS
9 PROVIDED IN PARAGRAPH (b) OF SUBSECTION (8) OF THIS SECTION,
10 the department has the authority to suspend the license of any
11 driver who, in accordance with the schedule of points set forth in
12 this section, has been convicted of traffic violations resulting in
13 the accumulation of twelve points within any twelve consecutive
14 months or eighteen points within any twenty-four consecutive
15 months, or, in the case of a provisional driver, who has
16 accumulated nine points within any twelve consecutive months, or
17 twelve points within any twenty-four consecutive months, or
18 fourteen points within the time period for which the license was
19 issued, or, in the case of a minor driver, who has accumulated
20 more than five points within any twelve consecutive months or
21 more than six points within the time period for which the license
22 was issued; except that the accumulation of points causing the
23 subjection to suspension of the license of a chauffeur who, in the
24 course of employment, has as a principal duty the operation of a
25 motor vehicle shall be sixteen points in one year, twenty-four
26 points in two years, or twenty-eight points in four years, if all
27 ~~such~~ THE points are accumulated while said chauffeur is in the

1 course of employment. Any provision of this section to the
2 contrary notwithstanding, the license of a chauffeur who is
3 convicted of a violation of section 42-4-1301 (1) or (2) or leaving
4 the scene of an accident shall be suspended in the same manner as
5 if the offense occurred outside the course of employment.
6 Whenever a minor driver receives a summons for a traffic
7 violation, the minor's parent or legal guardian or, if the minor is
8 without parents or guardian, the person who signed the minor
9 driver's application for a license shall immediately be notified by
10 the court from which such summons was issued.

11 (8) (a) Except as otherwise provided in subsection (9) of
12 this section, whenever the department's records show that a
13 licensee has accumulated a sufficient number of points to be
14 subject to license suspension, the department shall notify ~~such~~ THE
15 licensee that a hearing will be held not less than twenty days after
16 the date of ~~such~~ THE notice to determine whether the licensee's
17 driver's license should be suspended. ~~Such~~ THE notification shall
18 be given to the licensee in writing by regular mail, addressed to
19 the address of the licensee as shown by the records of the
20 department.

21 (b) (I) IF THE DEPARTMENT'S RECORDS INDICATE THAT
22 A DRIVER HAS ACCUMULATED A SUFFICIENT NUMBER OF POINTS TO
23 CAUSE A SUSPENSION UNDER SUBSECTION (1) OF THIS SECTION AND
24 THE DRIVER IS SUBJECT TO A CURRENT OR PREVIOUS LICENSE
25 RESTRAINT WITH A DETERMINED REINSTATEMENT DATE FOR THE
26 SAME OFFENSE OR CONVICTION THAT CAUSED THE DRIVER TO
27 ACCUMULATE SUFFICIENT POINTS TO WARRANT SUSPENSION, THE

1 DEPARTMENT MAY NOT ORDER A POINT SUSPENSION OF THE
2 LICENSE OF THE DRIVER UNLESS THE LICENSE OR DRIVING
3 PRIVILEGE OF THE DRIVER WAS REVOKED PURSUANT TO SECTION
4 42-2-126 (2) (a) (II).

5 (II) IF THE DEPARTMENT DOES NOT ORDER A POINT
6 SUSPENSION AGAINST THE LICENSE OF A DRIVER BECAUSE OF THE
7 EXISTENCE OF A CURRENT OR PREVIOUS LICENSE RESTRAINT WITH
8 A DETERMINED REINSTATEMENT DATE UNDER THE PROVISIONS OF
9 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE DEPARTMENT
10 SHALL UTILIZE THE POINTS THAT WERE ASSESSED AGAINST THE
11 DRIVER IN DETERMINING WHETHER TO IMPOSE ANY FUTURE
12 LICENSE SUSPENSION IF THE DRIVER ACCUMULATES ANY MORE
13 POINTS AGAINST HIS OR HER LICENSE.

14 (9) (a) Whenever the department receives notice that a
15 person has pled guilty to, or been found guilty by a court or a
16 jury of, a violation of section 42-4-1301 (1) (a), (1) (c), or (2) and
17 receives the license surrendered by ~~such~~ THE person to the court
18 pursuant to section 42-2-129, the department shall immediately
19 suspend the license of ~~such~~ THE person for a period of not less
20 than one year. IF THE DEPARTMENT IS ALSO REQUIRED TO ENTER
21 A LICENSE REVOCATION FOR A PERIOD OF ONE YEAR OR LONGER
22 UNDER ANY PROVISION OF THIS TITLE BASED ON THE SAME
23 CONVICTION, THE SUSPENSION SHALL NOT BE ENTERED.

24 SECTION 3. Appropriation. (1) In addition to any
25 other appropriation, there is hereby appropriated, out of any
26 moneys in the general fund not otherwise appropriated, to the
27 department of revenue, for the fiscal year beginning July 1, 1995,

1 the sum of seventeen thousand thirty-nine dollars (\$17,039), or so
2 much thereof as may be necessary, for the implementation of this
3 act.

4 (2) In addition to any other appropriation, there is
5 hereby appropriated, out of any moneys in the general fund not
6 otherwise appropriated, to the department of human services, for
7 the fiscal year beginning July 1, 1995, the sum of _____
8 dollars (\$), or so much thereof as may be necessary, for the
9 implementation of this act.

10 SECTION 4. Effective date - applicability. Sections
11 3, 4, 5, and 6 of this act shall take effect July 1, 1995, and shall
12 apply to offenses committed on or after said date. Sections 1 and
13 2 of this act shall take effect October 1, 1995, and shall apply to
14 offenses committed on or after said date.

15 SECTION 5. Safety clause. The general assembly
16 hereby finds, determines, and declares that this act is necessary
17 for the immediate preservation of the public peace, health, and
18 safety.