

Transportation Legislation Review Committee

2009 Report to Legislative Council

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Transportation Legislation Review Committee

Committee Charge

Pursuant to Section 43-2-145, C.R.S., the Transportation Legislation Review Committee (TLRC) is authorized to give guidance and direction to:

- the Colorado Department of Transportation (CDOT) in the development of the state transportation system and to provide legislative oversight of such development;
- the Colorado Department of Revenue (DOR) in the licensing of drivers and registration and titling of motor vehicles; and
- any state agency or political subdivision of the state that regulates motor vehicles or traffic, including penalties imposed for violating traffic statutes and rules.

Further, the committee must meet at least once each year to review all transportation, traffic, and motor vehicle legislation, make recommendations for additional legislation as it deems necessary, including recommendations on the financing of the state transportation system. State law authorizes the committee to review any phase of CDOT, public highway authority, or regional transportation authority operations, and allows the committee to require CDOT to prepare and adopt 5-, 10-, and 15-year state transportation system plans.

Committee Activities

The TLRC held four meetings during the 2009 interim. The committee heard wide-ranging presentations from agencies of state and local government, and transportation industry associations. Representatives of the Governor's Transportation Finance and Implementation Panel briefed the committee on the completion of the panel's work. The TLRC heard informational briefings regarding highway construction and finance, disposal of waste tires in Colorado, motor vehicle administration, motor vehicles sales tax collection, traffic safety and energy efficiency. The committee toured the Colorado Energy Recyclers waste tire facility in Midway, Colorado, a concrete plant in Florence that is powered in part with waste tires, and a rail transportation test facility near Pueblo (Transportation Technology Center, Inc).

Highway toll evasion notice process. The TLRC heard testimony from the E-470 Public Highway Authority (E-470 PHA). The E-470 PHA yields \$120 million in total revenue, 84 percent of which is generated through tolls. E-470 is now an all electronic toll road with approximately 600,000 transponders in use. The E-470 PHA also provided Information on toll collections and violations. Current law requires that two notices regarding nonpayment and penalties be sent to a toll violator. Thirty days are provided to remit payment for toll violations. Substantial postage costs are incurred under the existing penalty and nonpayment collection process. As a result of this testimony, the committee recommends Bill A to reduce from two to one the number of notices sent for nonpayment.

Waste tire recycling and reduction methods. The TLRC heard testimony regarding waste tire stockpiles, recycling, and reuse. Studies estimate that approximately 50 million waste tires are located in Colorado. In 2008, approximately 5.7 million new tires were deposited in Colorado waste tire facilities, an estimated 447,415 tires of which were imported from other states. The committee heard from the Department of Local Affairs (DOLA), Division of Local Government,

regarding waste tire grant programs. DOLA reported on grants, eligible recipients, and eligible activities. The DOLA waste tire grants are supported by a \$1.50 per tire fee assessed at the time of purchase. The committee also heard testimony regarding waste tire reduction methods through fuel and energy development processes. The committee visited two sites to gather additional information on waste tire monofills and reuse: the Colorado Energy Recyclers tire monofill at Midway, Colorado and the Holcim Cement Plant at Florence, Colorado. During the visit to the Holcim plant, the committee received a briefing regarding the use of waste tires as an energy source and toured the plant site.

(NOTE: The TLRC adopted a motion on October 21, 2009, to recommend Bill B to the Legislative Council for introduction, with permission for amendments to be made to the bill by its sponsors prior to its distribution to the Legislative Council. As of the time of this mailing, the amended version of Bill B is unavailable. The amended version of Bill B, and a summary of the bill, will be included in a mailing to Legislative Council members on Friday, November 6.)

Disabled parking enforcement. The committee heard testimony that disabled parking tags are being misused in the state, that current enforcement mechanisms for the proper use of such tags is not sufficient, and that steps should be taken to ensure that disabled persons who are eligible to use disabled parking spaces have access to the spaces. The committee heard that there are 300,000 people with disabilities in Colorado and that one-quarter of these persons have mobility impairments. Since there are currently 1.2 million disabled parking tags in circulation, there are more disabled parking tags outstanding than there are disabled persons in the state. As a result of this testimony, the committee recommends Bill C amending laws governing the enforcement of reserved parking for the disabled.

Bill C will authorize the confiscation of misused disabled parking placards, and the towing of vehicles in violation of the statute. The bill will also prohibit the following:

- ✓ use of devices intended to mimic a placard;
- ✓ retaliation against an employee who notifies authorities of disabled parking violations;
- ✓ moving a vehicle to avoid time limits on reserved disabled parking spaces;
- ✓ using reserved disabled parking for commercial purposes unrelated to transacting business with the business the space is intended to serve; and
- ✓ ticketing, towing or booting vehicles parked in a disabled parking space without paying required remuneration unless the method of payment is reasonably accessible to a disabled person.

Driver's license and permit education. The TLRC learned that an existing loophole in state law can serve as an obstacle to minors applying for a driver's license. Minors, age 15 to 16, who apply for a permit yet do not finish behind-the-wheel training requirements are held to fulfill those requirements until age 18 in order to receive a license. For minor drivers who begin, but do not finish, behind-the-wheel training, this requirement prevents such drivers from holding a license even after passing age thresholds that do not carry such requirements.

As a result of this testimony, the committee recommends Bill D, which changes the age at which a minor is required to complete behind-the-wheel training in order to obtain a driver's license from 18 years to 16 and one-half years. The bill will ensure that persons who start but do not finish behind-the-wheel training receive identical treatment under the law.

Highway work zone accident reporting. The committee heard an overview of CDOT measures that have been implemented regarding transportation project work zone safety, including

policies that have been implemented subsequent to recent work zone fatalities. A CDOT representative testified that the department is in compliance with federal safety standards for work zones and that the department has received feedback from workers and contractors relating to work zone safety. The committee also received testimony relating to:

- ✓ the recent upgrading of work zone safety devices;
- ✓ the visibility of apparel worn by employees in work zones, including reflective clothing;
- ✓ CDOT processes to record contractor accidents and the impact of these accidents on future project contract bidding and selection;
- ✓ CDOT lane and road closure strategies, and the enhanced safety of working at night for CDOT crews due to lower traffic volumes;
- ✓ signage to raise the public's awareness relating to transportation worker safety;
- ✓ departmental procedures for employee entrance to and exit from work zones;
- ✓ CDOT efforts to coordinate safety measures with the Colorado State Patrol, and the fact that active law enforcement is the most effective means of ensuring worker safety; and
- ✓ the implementation of mandatory traffic control supervisor training, training for employees who design work zones, and certification of law enforcement officers who work in work zones.

Committee discussion resulted in the recommendation of Bill E which will require the department to provide an annual report to the House and Senate transportation committees addressing fatal accidents in CDOT work zones and measures to prevent such fatalities.

Additional committee discussion. House Bill 09-1230 required that the TLRC review the accuracy and availability of state approved sales tax databases used by automobile dealers and county clerks for the assessment and collection of sales taxes due on automobile purchases. The committee heard testimony from stake holders involved in this process, including representatives of automobile dealers, county clerks, and the Department of Revenue. As a result of these discussions the committee considered legislation addressing the problem of database accuracy. However, the committee determined that legislation ultimately addressing this problem will differ from the proposed draft legislation. Accordingly, the committee declined to recommend the draft legislation for introduction.

Committee Recommendations

As a result of committee deliberations, the TLRC recommends five bills for consideration in the 2010 legislative session.

Bill A — Modify Toll Evasion Notice Process. Bill A amends state law pertaining to toll collections and penalties. Under current law, toll penalties must be paid within 20 days, communicated by an initial penalty assessment notice. Nonpayment results in a second penalty notice sent by certified mail. The bill makes two specific changes:

- ✓ eliminating the requirement that a second notice be sent to persons non-responsive to an initial penalty notice; and
- ✓ increasing the time allowed to pay or respond to an initial penalty assessment notice from 20 days to 30 days.

Bill B — Reduce Waste Tire Stockpile Risks. (NOTE: The TLRC adopted a motion on October 21, 2009, to recommend Bill B to the Legislative Council for introduction, with permission for amendments to be made to the bill by its sponsors prior to its distribution to the Legislative Council. As of the time of this mailing, the amended version of Bill B is unavailable. The amended version of Bill B, and a summary of the bill, will be included in a mailing to Legislative Council members on Friday, November 6.)

Bill C — Reserved Parking Disabled Enforcement. Bill C amends laws governing the enforcement of reserved parking for the disabled. Specifically, the bill:

- ✓ authorizes peace officers to confiscate placards that are being misused. Law enforcement agencies may release the disabled parking placard to a person with a disability to whom it was issued if the person signs a statement under the penalty of perjury that he or she was unaware of the misuse of the placard by the violator;
- ✓ prohibits the creation or use of a device that is intended to give the impression that it is an identifying placard when viewed from outside of the vehicle;
- ✓ prohibits retaliation against an employee for notifying authorities of a violation relating to a possible reserved disabled parking violation;
- ✓ authorizes a peace officer or property owner to remove a vehicle that is violating reserved parking provisions, and requires persons found guilty of violations of the statute to reimburse law enforcement agencies or property owners for the cost of removing the vehicle;
- ✓ prohibits moving a vehicle to another reserved disabled parking space within 100 yards of the original parking space to avoid time limits on the reserved parking spaces;
- ✓ specifies that parking in a time-limited reserved parking space for more than three hours for at least three days a week for at least two weeks is a rebuttable presumption of a violation;
- ✓ prohibits using reserved disabled parking for commercial purposes unrelated to transacting business with the business the space is intended to serve; and
- ✓ prohibits persons and political subdivisions of the state who own, operate, or manage parking spaces from taking adverse action (for example, ticketing, towing or booting) against a person with a disability who parks in a space without paying required remuneration unless the method of payment is reasonably accessible to persons with disabilities.

Bill D — Drivers' License and Permit Education. Bill D lowers from 18 years to 16 and one half years the age at which a minor is required to complete behind-the-wheel training in order to obtain a driver's license. Under existing law, minors, age 15 to 16, who apply for a permit yet do not finish training program requirements are held to those requirements until age 18, despite that they could have successfully applied for a driver's license even without behind-the-wheel training at age 16 and a half. This statutory provision prevents such drivers from obtaining a driver's license even though they are beyond the age at which they would otherwise have been exempt from the requirements. Bill D corrects this loophole.

Bill E — Highway Work Zone Accident Reporting. Bill E requires the Colorado Department of Transportation (CDOT) to report annually (on or before February 15) to the House Transportation and Energy Committee and to the Senate Transportation Committee regarding

accidents in state highway work areas that result in the death. The report to the committees must include:

- ✓ the number of accidents resulting in death and the number of individuals killed;
- ✓ identification of the individuals killed as CDOT employees, employees of CDOT contractors or subcontractors, or other individuals;
- ✓ a copy of the law enforcement report regarding the accident; and
- ✓ a description of ongoing and newly implemented measures taken by CDOT to prevent accidents in state highway work areas that result in death.

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- Addendum -

Bill B — Reduce Waste Tire Stockpile Risks. Bill B amends state law to increase authority over waste tire recycling programs, facilities, and haulers. Specifically, Bill B consolidates authority with the Department of Public Health and Environment (CDPHE) and adds new requirements for waste tire haulers and facilities.

Specific to the waste tire fees, grants, and administration, the bill:

- ✓ ends the transfer of waste tire fees to the Innovative Higher Education Research Authority Program beginning in 2014;
- ✓ ends the transfer of waste tire fees to the Recycling Resources Economic Opportunity Grant Program beginning in 2011;
- ✓ repeals Department of Local Affairs (DOLA) administration of the Waste Tire Cleanup Fund;
- ✓ repeals the Advanced Technology Fund;
- ✓ redistributes revenues generated by the \$1.50 waste tire fee among the following funds: Processors and End Users Fund; Innovative Higher Education Research Fund; Waste Tire Cleanup Fund; Waste Tire Fire Prevention Fund; Recycling Resources Economic Opportunity Fund; Waste Tire Market Development Fund; and Law Enforcement Grant Fund;
- ✓ updates state law regarding the Processors and End Users Fund;
- ✓ recreates the Waste Tire Cleanup Fund;
- ✓ creates the Waste Tire Fire Prevention Fund;
- ✓ creates the Waste Tire Market Development Fund;
- ✓ creates a Waste Tire Fund to support CDPHE program administration costs;
- ✓ increases the maximum reimbursements to processors and end users from \$50 to \$65 per ton of waste tires;
- ✓ conforms "waste tire" definitions in the solid waste and the waste tire fee statutes;
- ✓ creates a Waste Tire Advisory Committee and directs the Department of Regulatory Agencies (DORA) to conduct a sunset review of the committee prior to its repeal on July 1, 2020; and
- ✓ specifies that sales tax is not assessed when the waste tire fee is collected upon new tire sales.

Specific to waste tire haulers, the bill:

- ✓ requires haulers to display decals and complete and retain manifests; and
- ✓ prohibits a hauler from transporting a quantity of waste tires in excess of a limit established by the Solid and Hazardous Waste Commission unless the hauler is registered.

Specific to waste tire facilities, the bill:

- ✓ requires registration of waste tire facilities;
- ✓ requires waste tire monofills to submit to CDPHE a waste tire inventory reduction plan and places processing requirements for certain facilities relative to the number of tires accepted by that facility each year;
- ✓ imposes financial responsibility requirements for closure and reclamation; and
- ✓ establishes fees and provides the Solid and Hazardous Waste Commission general rule-making authority regarding waste tires.