

Resolution #TC19-11-12

Adopt Proposed Changes to the Rules Regarding Travel Restrictions On State Highways, 2 CCR 601-14.

Approved by the Transportation Commission on November 21, 2019

WHEREAS, § 42-4-106(5)(b), C.R.S., authorizes the Transportation Commission of Colorado (“Commission”) to adopt rules that implement § 42-4-106(5), C.R.S.; and

WHEREAS, § 42-4-106(5), C.R.S., provides guidance on the Colorado Department of Transportation’s (“Department”) authority to restrict travel for the protection and safety of the traveling public, including the ability to require traction devices, tire chains, and adequate tires when dangerous driving conditions exist; and

WHEREAS, the Commission adopted rules, 2 CCR 601-14, in June 2019, concerning the Department’s authority to restrict travel and require traction devices, tire chains, and adequate tires when dangerous driving conditions exist; and

WHEREAS, recently the Commission has been presented information by CDOT staff, and has heard from representatives from the Colorado State Patrol (“CSP”), regarding issues CSP officers discovered when analyzing how they will enforce traffic violations stemming from § 42-4-106(5)(b), C.R.S. and 2 CCR 601-14 this coming winter; and

WHEREAS, specifically it has been discovered that the existing rules adopted during June 2019 are arguably inconsistent with the Department interpretation of the rule and with state statute, raising concerns regarding enforcement, especially as it relates to the traction law on 4x4 and all-wheel drive vehicles, determining what are adequate tires, and which tires must have chains or alternative traction control devices on during traction and/or chain law;

WHEREAS, the winter driving season is here and without the emergency rules it will be difficult for law enforcement to enforce the new requirements for passenger vehicles when the Department declares traction and chain law restrictions on state highways and interstates; and

WHEREAS, Colorado State Government rulemaking is generally governed by the Colorado Administrative Procedures Act (APA) and § 24-4-103(6)(a), C.R.S., of the APA outlines the process for the adoption of emergency rules without a rulemaking hearing; and

WHEREAS, §24-4-103(6)(a), C.R.S., allows for emergency rules to be adopted without public notice where circumstances imperatively require and only if the Commission and CDOT find that immediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with the requirements of the APA would be contrary to the public interest; and

WHEREAS, based on concerns raised by CDOT and CSP staff, listed above, the Commission finds that immediate adoption of the changes proposed to 2 CCR 601-14 is imperatively necessary to resolve enforcement concerns and to effectively comply with state law for the preservation of public health, safety and welfare; and

WHEREAS, the Commission understands that these emergency rules may only be in place for one-hundred twenty days unless adopted as permanent rules consistent with §24-4-103(2.5) and (2.7), C.R.S.

NOW THEREFORE BE IT RESOLVED, after review and consideration of the proposed changes to the rules, the Commission adopts the proposed changes to the Rules Regarding Travel Restrictions on State Highways, 2 CCR 601-14 attached as Exhibit A.



Herman Stockinger
Transportation Secretary



Date