

Resolution # TC-2042

Adopt Emergency Rules and Authorize an Administrative Hearing Officer to Conduct a Hearing Following Adoption Pertaining to 2 CCR 601-14, Rules Regarding Travel Restrictions on State Highways (“Chain Law Rules”).

Approved by the Transportation Commission on: November 17, 2011

WHEREAS, § 43-1-106 (8)(k) C.R.S. (2011) directs the Transportation Commission of Colorado (“Commission”) to make all necessary and reasonable orders, rules, and regulations in order to carry out the provisions of § 43-1-101 *et seq.* C.R.S. (2010); and

WHEREAS, § 42-4-106(5)(VII)(b) C.R.S. (2011) authorizes the Commission to promulgate rules concerning the Department’s ability to impose restrictions on highways; and

WHEREAS, the Colorado Administrative Procedure Act, § 24-4-103 (6)(a) authorizes the Commission to adopt emergency rules if the commission finds that immediate adoption of the rules is imperatively necessary for the preservation of public health, safety or welfare and compliance with the permanent rule making requirements would be contrary to the public interest; and

WHEREAS, the proposed amendments to the rules update existing rules effective October 30, 1996 by including in the definition of “Alternative Traction Device” an approved textile traction device that may be used in place of chains when the chain laws are in effect; and

WHEREAS, adopting the rules on an emergency basis would make the rules effective immediately and provide notice to law enforcement officials and drivers that this device is an acceptable alternative to chains under certain conditions and when used in conformance with the manufacturer’s directions; and

WHEREAS, adherence to the permanent rule making requirements in the Administrative Procedure Act would result in an effective date of the rules in spring of 2012, after most of Colorado’s inclement weather has ended; and

WHEREAS, other amendments to the rules will provide notice of the enhanced penalties under § 42-4-106(5)(a)(II), (III) and (IV) for non-compliance with the chain laws; and

WHEREAS, the Commission has the authority to delegate authority to an Administrative Hearing Officer to hold a hearing following adoption of emergency rules.

NOW THEREFORE BE IT RESOLVED, the Commission hereby ADOPTS the recommended amendments concerning 2 CCR 601-14, Rules Regarding Travel Restrictions on State Highways as Emergency Rules; and

BE IT FURTHER RESOLVED, the Commission FINDS as required by the Colorado Administrative Procedure Act that emergency rules are imperatively necessary to preserve the public health, safety and welfare, and compliance with the requirements of the permanent rule making process would be contrary to the public interest; and

BE IT FURTHER RESOLVED, the Commission hereby delegates its authority to conduct the rule making hearing to a CDOT Administrative Hearing Officer to prepare a complete record of the hearing and forward said record and Rules to the Commission for consideration and adoption of the Rules.


Herman Stockinger, Secretary
Transportation Commission of Colorado