

Decision No. C19-1044

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19R-0743TR

IN THE MATTER OF THE TEMPORARY RULES IMPLEMENTING PORTIONS OF
SENATE BILL 19-236 CONCERNING THE REGULATION OF VEHICLE BOOTING
COMPANIES.

DECISION ADOPTING TEMPORARY RULES

Mailed Date: December 30, 2019
Adopted Date: December 27, 2019

I. BY THE COMMISSION

A. Statement

1. By this Decision, we adopt temporary rules to regulate vehicle booting companies in accordance with § 40-10.1-801, C.R.S. That section was added by Senate Bill (SB) 19-236 and prohibits vehicle booting companies from operating in Colorado after January 1, 2020 without a Commission-issued permit. A permanent rulemaking is underway, but it is unlikely that permanent rules will be in effect by January 1, 2020. Therefore, we adopt these temporary rules to protect the public and to avoid an interregnum that could result in booting companies being unable to lawfully operate in Colorado. Because the Commission anticipates the permanent rules will be in place soon, these temporary rules are effective for 210 days from the effective date of this Decision or until the Commission adopts permanent rules.

2. The Commission may adopt a temporary rule without engaging in the processes required for a permanent rule “only if the agency finds 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 this

section [to complete a permanent rulemaking] would be contrary to the public interest and makes such a finding on the record.” See § 24-4-103(6)(a), C.R.S.

3. SB 19-236 requires vehicle booting companies to obtain a permit from the Commission before operating in Colorado. See § 40-10.1-801, C.R.S. The General Assembly through the passage of SB 19-236 indicated a policy of authorizing vehicle booting companies to operate and provide booting services in Colorado effective January 1, 2020. Awaiting completion of a permanent rulemaking under Title 24 to determine the form and manner of a permit application would delay the process for authorizing vehicle booting companies to operate in the state. Adoption of temporary rules therefore will promote the General Assembly’s policy of authorizing vehicle booting companies’ operations.

4. These matters require our immediate attention in order to comply with the requirements of § 40-10.1-801 *et seq.*, C.R.S., and to protect the public safety. We find that waiting for the permanent rulemaking on these issues to conclude would result in delays in setting forth regulations regarding the safe operation of vehicle booting companies, which in turn would pose a risk to the safety and property of Colorado consumers. It could also leave booting companies unable to operate while the permanent rules work their way toward promulgation. Therefore, immediate adoption of temporary rules addressing certain safety requirements is imperatively necessary to preserve public health, safety, and welfare.

5. Because the rulemaking for the permanent rules regulating booting companies has progressed so far,¹ we will turn to the rules proposed by the administrative law judge in the

¹ Stakeholders submitted comments and participated in a hearing held by the administrative law judge assigned to this proceeding. The administrative law judge then issued a recommended decision, Decision No. R19-0961 in Proceeding No. 19R-0485TR on December 3, 2019, that proposes permanent rules considering and incorporating stakeholder feedback.

permanent rulemaking proceeding to use as temporary rules. The permanent rulemaking process will continue and the rules adopted as a result of that process will replace these temporary rules.

6. We therefore adopt the following temporary rules:
 - a) Rules implementing the application process and requiring vehicle booting companies to provide necessary information before the issuance of a permit (§ 40-10.1-801, C.R.S.). Our temporary rules will allow a person to apply for a Vehicle Booting Company permit valid for one calendar year.
 - b) Rules establishing requirements for criminal history checks of principals, including without limitation, directors and officers.
 - c) Rules establishing the minimum equipment and accessories for vehicle booting companies to operate in Colorado.
 - d) Rules establishing authorization requirements between vehicle booting companies and property owners.
 - e) Rules establishing notice, signage and invoice requirements for vehicle booting companies.
 - f) Rules establishing minimum standards for the release and removal of a boot from a vehicle.

7. We take this action in accordance with § 40-2-108(2) and § 24-4-103(6), C.R.S.

8. The temporary rules shall be effective on the mailed date of this Decision and shall remain in effect until permanent rules become effective or for 210 days, whichever period is less.

9. The temporary rules in final version format (Attachment A) and a copy of SB 19-236 are available through the Commission's E-Filings System² at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=19R-0743TR.

² From the *Electronic Filings* (E-Filings) system page (<https://www.dora.state.co.us/pls/efi/EFI.homepage>), the rules can be accessed by selecting "Search" and entering this Proceeding Number (19R-0743TR) in the "Proceeding Number" box and then selecting "Search".

II. ORDER

A. The Commission Orders That:

1. The rules in final version format are available in this proceeding through the Commission’s E-Filings system are hereby adopted as temporary rules consistent with the above discussion.

2. The temporary rules shall be effective on January 1, 2020.

3. The 20-day period provided in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

4. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
December 27, 2019.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners

CHAIRMAN JEFFREY P. ACKERMANN
ABSENT.