

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 17-0947.01 Yelana Love x2295

HOUSE BILL 17-1249

HOUSE SPONSORSHIP

Melton,

SENATE SPONSORSHIP

Tate,

House Committees

Business Affairs and Labor
Appropriations

Senate Committees

Business, Labor, & Technology
Appropriations

A BILL FOR AN ACT

101 CONCERNING THE UNLICENSED SELLING OF MOTOR VEHICLES, AND, IN
102 CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill increases the penalties on unlicensed motor vehicle sales.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 12-6-121 as

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
April 27, 2017

HOUSE
3rd Reading Unamended
April 5, 2017

HOUSE
Amended 2nd Reading
April 4, 2017

1 follows:

2 **12-6-121. Penalty.** (1) EXCEPT AS PROVIDED IN SUBSECTION (2)
3 OF THIS SECTION, any person who willfully violates ~~any of the provisions~~
4 ~~of this part 1~~ or who willfully commits any offense in this part 1 declared
5 to be unlawful commits a class 1 misdemeanor and shall be punished as
6 provided in section 18-1.3-501. ~~C.R.S.; except that~~

7 (2) (a) Any person who WILLFULLY violates ~~the provisions of~~
8 section 12-6-120 (2) BY ACTING AS A MANUFACTURER, DISTRIBUTOR, OR
9 MANUFACTURER REPRESENTATIVE WITHOUT PROPER AUTHORIZATION
10 commits a class 3 misdemeanor and, upon conviction thereof, shall be
11 punished by a fine of not less than one hundred dollars or more than one
12 thousand dollars for each separate offense; except that, if the violator is
13 a corporation, the fine shall be not less than five hundred dollars or more
14 than two thousand five hundred dollars for each separate offense. A
15 second conviction shall be punished by a fine of two thousand five
16 hundred dollars.

17 (b) ANY PERSON WHO WILLFULLY VIOLATES SECTION 12-6-120 (2)
18 BY ACTING AS A MOTOR VEHICLE DEALER, WHOLESALER, USED MOTOR
19 VEHICLE DEALER, BUYER AGENT, WHOLESALE MOTOR VEHICLE AUCTION
20 DEALER, OR MOTOR VEHICLE SALESPERSON WITHOUT PROPER
21 AUTHORIZATION COMMITS A CLASS 3 MISDEMEANOR AND, UPON
22 CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN
23 ONE THOUSAND DOLLARS AND A PENALTY OF TWENTY-FIVE HOURS OF
24 USEFUL PUBLIC SERVICE, NEITHER OF WHICH THE COURT MAY SUSPEND,
25 FOR EACH SEPARATE OFFENSE; EXCEPT THAT, IF THE VIOLATOR IS A
26 CORPORATION, THE CORPORATION SHALL BE PUNISHED BY A FINE OF NOT
27 LESS THAN FIVE THOUSAND DOLLARS NOR MORE THAN TWENTY-FIVE

1 THOUSAND DOLLARS FOR EACH SEPARATE OFFENSE. A SECOND
2 CONVICTION FOR AN INDIVIDUAL SHALL BE PUNISHED BY A FINE OF NOT
3 LESS THAN FIVE THOUSAND DOLLARS NOR MORE THAN TWENTY-FIVE
4 THOUSAND DOLLARS FOR EACH SEPARATE OFFENSE, WHICH THE COURT
5 MAY NOT SUSPEND.

6 **SECTION 2.** In Colorado Revised Statutes, 12-6-120, **amend (2)**
7 as follows:

8 **12-6-120. Unlawful acts. (2)** It is unlawful for any person to act
9 as a motor vehicle dealer, manufacturer, distributor, wholesaler,
10 manufacturer representative, used motor vehicle dealer, buyer agent,
11 wholesale motor vehicle auction dealer, or motor vehicle salesperson
12 unless such person has been duly licensed under the provisions of this
13 part 1, except for:

14 (a) Persons exempt from licensure as a manufacturer pursuant to
15 section 12-6-102 (11); however, such persons shall comply with all other
16 applicable requirements for manufacturers, including, but not limited to,
17 those pertaining to vehicle identification numbers and manufacturers'
18 statements of origin; AND

19 (b) BUSINESS OWNERS SELLING A VEHICLE IF THE VEHICLE HAS
20 BEEN OWNED FOR MORE THAN ONE YEAR, THE VEHICLE HAS BEEN USED
21 EXCLUSIVELY FOR BUSINESS PURPOSES, THE VEHICLE IS TITLED IN THE
22 NAME OF THE BUSINESS, ALL APPLICABLE TAXES RELATED TO THE VEHICLE
23 HAVE BEEN PAID, AND THE TOTAL NUMBER OF VEHICLES SOLD BY A
24 BUSINESS OWNER OVER A TWO-YEAR PERIOD DOES NOT EXCEED TWENTY
25 VEHICLES.

26 **SECTION 3.** In Colorado Revised Statutes, **amend 12-6-121.5**
27 as follows:

1 **12-6-121.5. Fines - disposition - unlicensed sales.** ~~Any~~ OF ANY
2 fine collected for a violation of section 12-6-120 (2), HALF shall be
3 awarded to the law enforcement agency ~~which~~ THAT investigated and
4 issued the citation for ~~said~~ THE violation AND HALF SHALL BE CREDITED
5 TO THE AUTO DEALERS LICENSE FUND CREATED IN SECTION 12-6-123.

6 **SECTION 4.** In Colorado Revised Statutes, 12-6-123, **amend** (1)
7 introductory portion; and **add** (1)(d) as follows:

8 **12-6-123. Disposition of fees - auto dealers license fund -**
9 **creation.** (1) All ~~moneys~~ MONEY received under this part 1, except fines
10 awarded pursuant to section 12-6-121.5, shall be deposited with the state
11 treasurer by the department of revenue, subject to ~~the provisions of~~
12 section 24-35-101, ~~C.R.S.~~, together with a detailed statement of such
13 receipts, and such funds deposited with the state treasurer shall constitute
14 a fund to be known as the auto dealers license fund, which fund is hereby
15 created and which shall be used under the direction of the board in the
16 following manner:

17 (d) TO ENFORCE SECTION 12-6-120 (2).

18 **SECTION 5.** In Colorado Revised Statutes, **amend 12-6-527 as**
19 **follows:**

20 **12-6-527. Penalty.** (1) EXCEPT AS PROVIDED IN SUBSECTION (2)
21 OF THIS SECTION, a person who willfully violates this part 5 commits a
22 class 1 misdemeanor and shall be punished as provided in section
23 18-1.3-501. C.R.S.; except that

24 (2) (a) A person who WILLFULLY violates section 12-6-523 (2) BY
25 ACTING AS A POWERSPORTS VEHICLE MANUFACTURER, POWERSPORTS
26 VEHICLE DISTRIBUTOR, OR POWERSPORTS VEHICLE MANUFACTURER
27 REPRESENTATIVE WITHOUT PROPER AUTHORIZATION commits a class 3

1 misdemeanor and, upon conviction thereof, shall be punished by a fine of
2 not less than one hundred dollars nor more than one thousand dollars for
3 each separate offense, or if the violator is a corporation, the fine shall be
4 not less than five hundred dollars nor more than two thousand five
5 hundred dollars for each separate offense. A second conviction shall be
6 punished by a fine of two thousand five hundred dollars.

7 (b) A PERSON WHO WILLFULLY VIOLATES SECTION 12-6-523 (2) BY
8 ACTING AS A WHOLESALER, POWERSPORTS VEHICLE DEALER, USED
9 POWERSPORTS VEHICLE DEALER, OR POWERSPORTS VEHICLE SALESPERSON
10 WITHOUT PROPER AUTHORIZATION COMMITS A CLASS 3 MISDEMEANOR
11 AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT
12 LESS THAN ONE THOUSAND DOLLARS AND A PENALTY OF TWENTY-FIVE
13 HOURS OF USEFUL PUBLIC SERVICE, NEITHER OF WHICH THE COURT MAY
14 SUSPEND, FOR EACH SEPARATE OFFENSE; EXCEPT THAT, IF THE VIOLATOR
15 IS A CORPORATION, THE CORPORATION SHALL BE PUNISHED BY A FINE OF
16 NOT LESS THAN FIVE THOUSAND DOLLARS NOR MORE THAN TWENTY-FIVE
17 THOUSAND DOLLARS FOR EACH SEPARATE OFFENSE. A SECOND
18 CONVICTION FOR AN INDIVIDUAL SHALL BE PUNISHED BY A FINE OF NOT
19 LESS THAN FIVE THOUSAND DOLLARS NOR MORE THAN TWENTY-FIVE
20 THOUSAND DOLLARS FOR EACH SEPARATE OFFENSE, WHICH THE COURT
21 MAY NOT SUSPEND.

22 **SECTION 6. Appropriation.** For the 2017-18 state fiscal year,
23 \$8,000 is appropriated to the department of revenue. This appropriation
24 is from the auto dealers license fund created in section 12-6-123 (1),
25 C.R.S. To implement this act, the department may use this appropriation
26 for tax administration IT system (GenTax) support.

27 **SECTION 7. Act subject to petition - effective date -**

1 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
2 the expiration of the ninety-day period after final adjournment of the
3 general assembly (August 9, 2017, if adjournment sine die is on May 10,
4 2017); except that, if a referendum petition is filed pursuant to section 1
5 (3) of article V of the state constitution against this act or an item, section,
6 or part of this act within such period, then the act, item, section, or part
7 will not take effect unless approved by the people at the general election
8 to be held in November 2018 and, in such case, will take effect on the
9 date of the official declaration of the vote thereon by the governor.

10 (2) This act applies to offenses committed on or after the
11 applicable effective date of this act.