



HOUSE BILL 21-1024

BY REPRESENTATIVE(S) Snyder and Van Winkle, Amabile, Bernett, Duran, Exum, Gray, Mullica, Titone, Valdez A., Woodrow, Hooton, Pico, Ricks, Williams, Garnett;
also SENATOR(S) Winter and Priola, Rankin.

CONCERNING REQUIREMENTS RELATING TO THE TRANSFER OF AN
OFF-HIGHWAY VEHICLE, AND, IN CONNECTION THEREWITH, MAKING
AN APPROPRIATION.

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

SECTION 1. Legislative declaration. The general assembly hereby declares that this act is not intended to affect the regulation of new or used powersports or motor vehicle manufacturers, distributors, wholesalers, dealers, buyer's agents, or salespersons under article 20 of title 44, Colorado Revised Statutes, vessels under article 13 of title 33, Colorado Revised Statutes, or off-highway vehicles under article 14.5 of title 33, Colorado Revised Statutes.

SECTION 2. In Colorado Revised Statutes, 39-26-706, **add** (6) as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

39-26-706. Miscellaneous sales and use tax exemptions - internet access - refractory materials - precious metal bullion and coins. (6) THE FOLLOWING ARE EXEMPT FROM TAXATION UNDER PART 1 OF THIS ARTICLE 26:

(a) THE SALE, USE, STORAGE, OR CONSUMPTION OF AN OFF-HIGHWAY VEHICLE, AS DEFINED IN SECTION 42-6-102 (11.5), ON OR AFTER JULY 1, 2014, AND BEFORE JULY 1, 2023, BETWEEN INDIVIDUALS WHEN NEITHER OF THE INDIVIDUALS IS A MOTOR VEHICLE DEALER OR AN OFF-HIGHWAY VEHICLE DEALER, AS DEFINED IN SECTION 42-6-102 (11.7); OR

(b) THE SALE, USE, STORAGE, OR CONSUMPTION OF AN OFF-HIGHWAY VEHICLE, AS DEFINED IN SECTION 42-6-102 (11.5), THAT WAS FIRST SOLD OR TRANSFERRED BEFORE JULY 1, 2014, AND IS BEING ISSUED ITS FIRST CERTIFICATE OF TITLE ON OR AFTER THIS DATE.

SECTION 3. In Colorado Revised Statutes, 42-6-102, **amend** (11.5)(a)(I), (11.5)(b)(I) introductory portion, and (11.5)(b)(I)(B); and **add** (13.5) as follows:

42-6-102. Definitions. As used in this part 1, unless the context otherwise requires:

(11.5) (a) "Off-highway vehicle" means a self-propelled vehicle that is:

(I) (A) Designed to travel on wheels or tracks in contact with the ground; OR

(B) A PERSONAL WATERCRAFT USED TO TRAVEL OVER WATER.

(b) (I) Except as described in subsection (11.5)(b)(II) of this section, "off-highway vehicle" includes vehicles commonly known as all-terrain vehicles, snowmobiles, PERSONAL WATERCRAFT, and surplus military vehicles but does not include:

(B) Vehicles, OTHER THAN PERSONAL WATERCRAFT, designed and used primarily for travel on, over, or in the water;

(13.5) "PERSONAL WATERCRAFT" MEANS A MOTORBOAT THAT IS

DESIGNED TO BE OPERATED BY A PERSON SITTING, STANDING, OR KNEELING ON THE VESSEL, RATHER THAN THE CONVENTIONAL MANNER OF SITTING OR STANDING INSIDE THE VESSEL, THAT IS DESIGNED PRIMARILY FOR USE OFF OF THE PUBLIC HIGHWAYS, AND THAT USES EITHER OF THE FOLLOWING AS THE PRIMARY SOURCE OF MOTIVE POWER:

- (a) AN INBOARD MOTOR POWERING A WATER JET PUMP; OR
- (b) AN OUTBOARD MOTOR-DRIVEN PROPELLER.

SECTION 4. In Colorado Revised Statutes, 42-6-103, **amend** (2)(a) as follows:

42-6-103. Application. (2) This part 1 does not apply to an off-highway vehicle that:

- (a) Was first sold or transferred before July 1, 2014, until:
 - (I) The off-highway vehicle is sold or transferred to a powersports vehicle dealer after July 1, 2014; or
 - (II) THE OFF-HIGHWAY VEHICLE IS TRANSFERRED TO ANY PERSON ON OR AFTER JULY 1, 2023; OR

SECTION 5. In Colorado Revised Statutes, 42-6-110, **amend** (1.7)(a), (1.7)(b), and (1.7)(c) as follows:

42-6-110. Certificate of title - transfer - department records - rules. (1.7) (a) The department shall allow an insurer, as defined in section 10-1-102 and that is regulated under title 10, an agent of the insurer, a salvage pool that is licensed as a used motor vehicle dealer, a motor vehicle dealer licensed under article 20 of title 44, a used motor vehicle dealer licensed under article 20 of title 44, AN OFF-HIGHWAY VEHICLE DEALER LICENSED UNDER ARTICLE 20 OF TITLE 44, or any person approved by the department to use the electronic systems created in section 42-4-2103 (3)(c)(III) to access owner and lienholder information of a motor OR OFF-HIGHWAY vehicle in the department's records if:

- (I) The motor OR OFF-HIGHWAY vehicle is the subject of an insurance claim being processed by the insurer;

(II) The motor OR OFF-HIGHWAY vehicle is possessed by a salvage pool;

(III) The access is related to a motor OR OFF-HIGHWAY vehicle transaction with a motor vehicle dealer, or A used motor vehicle dealer, OR AN OFF-HIGHWAY VEHICLE DEALER; or

(IV) The access is authorized by section 24-72-204 (7).

(b) The department shall ensure that the information available to the insurer, the insurer's agent, the salvage pool, a motor vehicle dealer, a used motor vehicle dealer, AN OFF-HIGHWAY VEHICLE DEALER, or a person approved by the department is correct and is limited to the information needed to verify and contact the owner and lienholder of the motor vehicle.

(c) The department may charge the insurer, the insurer's agent, the salvage pool, a motor vehicle dealer, a used motor vehicle dealer, AN OFF-HIGHWAY VEHICLE DEALER, or a person approved by the department a fee in an amount not to exceed the lesser of five dollars or the direct and indirect costs of implementing this subsection (1.7). The department shall deposit the fee in the special purpose account created in section 42-1-211.

SECTION 6. In Colorado Revised Statutes, 42-6-148, **amend** (1)(a), (1)(b) introductory portion, and (1)(d) as follows:

42-6-148. Off-highway vehicles - sales. (1) (a) Unless the owner has obtained a certificate of title for an off-highway vehicle under this ~~article~~ ARTICLE 6, a person shall not sell the off-highway vehicle and a ~~vehicle dealer~~ PERSON shall not purchase the off-highway vehicle; except that ~~the~~ A MOTOR VEHICLE DEALER OR AN OFF-HIGHWAY VEHICLE dealer may purchase an off-highway vehicle without a certificate of title if the vehicle has never been titled and was originally purchased in:

(I) (A) Colorado before July 1, 2014; or

(B) COLORADO BEFORE JULY 1, 2023, FROM AN INDIVIDUAL WHO IS NOT A MOTOR VEHICLE DEALER OR AN OFF-HIGHWAY VEHICLE DEALER;

(II) A foreign jurisdiction that does not or did not issue certificates of title to off-highway vehicles when purchased; OR

(III) COLORADO OR A FOREIGN JURISDICTION AND THE VEHICLE WAS USED EXCLUSIVELY FOR AGRICULTURAL PURPOSES ON PRIVATE LAND.

(b) If an off-highway vehicle DEALER OR A MOTOR VEHICLE dealer purchases an off-highway vehicle without a certificate of title, the dealer shall before finalizing the purchase require the seller to sign an affidavit that:

(d) To obtain a title for an off-highway vehicle that an off-highway vehicle dealer OR A MOTOR VEHICLE DEALER purchased without a certificate of title, the dealer must present to the department an affidavit as described in ~~paragraph (b) of this subsection (1)~~ SUBSECTION (1)(b) OF THIS SECTION, signed by the seller from whom the off-highway vehicle dealer OR MOTOR VEHICLE DEALER acquired the off-highway vehicle. THE AUTHORIZED AGENT SHALL ACCEPT AN AFFIDAVIT THAT WAS PROPERLY EXECUTED UNDER THIS SUBSECTION (1) UNLESS THE AUTHORIZED AGENT HAS REASON TO BELIEVE THE AFFIDAVIT CONTAINS A MATERIAL MISSTATEMENT OR OMISSION.

SECTION 7. Appropriation. (1) For the 2021-22 state fiscal year, \$45,887 is appropriated to the department of revenue for use by the division of motor vehicles. This appropriation is from the Colorado DRIVES vehicle services account in the highway users tax fund created in section 42-1-211 (2)(b)(I), C.R.S. To implement this act, the division may use this appropriation as follows:

(a) \$20,480 for personal services related to vehicle services, which amount is based on an assumption that the division will require an additional 0.5 FTE;

(b) \$7,407 for operating expenses related to vehicle services; and

(c) \$18,000 for DRIVES maintenance and support.

(2) For the 2021-22 state fiscal year, \$53,422 is appropriated to the department of public safety for use by the Colorado state patrol. This appropriation is from the vehicle identification number inspection fund created in section 42-5-204 (2)(a), C.R.S. To implement this act, the Colorado state patrol may use this appropriation for civilians.

SECTION 8. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to applications for certificates of title made or the issuance of certificates of title on or after the applicable effective date of this act.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

VELO

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

DISAPPROVED and vetoed July 2, 2021 at 9:05 am
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO