



**Colorado
Legislative
Council
Staff**

SB16-140

**REVISED
FISCAL NOTE**

(replaces fiscal note dated March 18, 2016)

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0686 **Date:** April 27, 2016
Prime Sponsor(s): Sen. Sonnenberg **Bill Status:** House Transportation and Energy
Rep. Kraft-Tharp **Fiscal Analyst:** Matt Kiszka (303-866-6275)

BILL TOPIC: MOTOR VEHICLE DEALER CERTIFICATE OF TITLE

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	Minimal decrease.	
State Expenditures	Minimal workload increase.	
TABOR Impact		Minimal decrease.
Appropriation Required: None.		
Future Year Impacts: Ongoing minimal revenue decrease and minimal workload increase.		

Summary of Legislation

Under current law, a motor vehicle dealer has 30 days following a sale to deliver or facilitate the delivery of the vehicle's certificate of title. At the time of sale, the dealer issues a temporary registration plate so that the vehicle can be driven by the purchaser before the title is received and the vehicle can be registered.

In any disciplinary hearing, action, or order of the Department of Revenue's (DOR's) Motor Vehicle Dealer Board, the **reengrossed** bill provides an affirmative defense that a dealer has taken reasonable action to deliver or facilitate the delivery of the certificate of title within 30 days if the dealer has, at a minimum:

- processed and mailed any required loan payoffs in a reasonable amount of time;
- contacted the prior lender and taken the necessary action to obtain the vehicle's title or duplicate title, which must be free of liens;
- taken any action necessary to obtain information or signatures from the prior owner necessary to have a new certificate of title issued for the motor vehicle;
- submitted all paperwork that the dealer has obtained to the county clerk and that is necessary to have a new certificate of title issued for the motor vehicle; and
- corrected any errors in any filings with the DOR in a reasonable amount of time.

In addition, the dealer may issue a second temporary registration plate to the owner if every reasonable action necessary has been taken by the dealer to facilitate delivery of the title.

Background

Motor Vehicle Dealer Board. The Colorado Motor Vehicle Dealer Board processes and reviews automobile dealer license applications. The board also generally enforces the laws regarding licensees, including holding hearings, ordering corrective actions, and resolving consumer complaints. The board does not have jurisdiction over private parties who are not licensees. There are currently 2,310 licensed dealers in Colorado, including franchisees (603), used vehicle dealers (1362), and wholesale dealers (345). The Motor Vehicle Dealer Board currently revokes about five dealer licenses a year, with such revocations always being for the most serious of violations of law or regulation and usually for multiple violations of law or regulation.

Current title and registration process. When a motor vehicle dealer sells an individual a car, the dealer submits the certificate of title or application for certificate of title, bill of sale, and all other required documents to the purchaser, the holder of a mortgage or lien on the motor vehicle, or the county clerk within its jurisdiction, and also transmits the applicable taxes and fees it collects.

If a vehicle is sold outside of the dealer's jurisdiction, payment of sales tax in the purchaser's home county is required to complete the new title application process and must be collected by the dealer or the county. If the dealer does not collect the appropriate amount of sales tax and remit it to the county, the county must contact the purchaser to request the balance due in order to complete the application. The most common practice is for the county to notify the customer and allow 30 days for payment of the outstanding taxes.

Once the county clerk receives the required documentation, taxes, and fees for a motor vehicle, and approves and processes the application for title, it documents the date of acceptance. If the documentation is incomplete or inaccurate, it is returned to the dealer to be corrected. If the vehicle is financed, county clerks are required to document when the security agreement is received as the date of acceptance.

At the end of the 60-day temporary registration period, the customer is contacted by the lienholder, or contacts or visits their county clerk. If the paperwork has been processed, the vehicle purchaser may secure their title, if applicable, registration, and license plates. If the paperwork has not been processed, the county of residence will verify the status of the paperwork and issue another temporary permit for a fee of \$6.22. Of this fee, \$4.00 (Clerk Hire Fee) and \$1.60 (County Registration Fee) are retained by the county. In addition, \$0.40 (State Registration Fee) and \$0.22 (Material Fee) are distributed to the DOR for deposit in the Highway Users Tax Fund (HUTF) and License Plate Cash Fund (LPCF), respectively.

Senate Bill 15-090 required the Department of Revenue (DOR) to implement a temporary plate system that motor vehicle dealers can access and use to issue temporary plates to a customer at the dealership; this system is anticipated to be fully implemented by July 1, 2016. The new system will allow for a dealer to enter a reason for issuing a second temporary registration permit and will allow the DOR and county clerks to access these reasons for auditing and tracking purposes.

State Revenue

Beginning in FY 2016-17, this bill is expected to minimally decrease fee revenue collected by the state.

Temporary plate fees. Beginning in FY 2016-17, revenue from fees to the HUTF and the LPCF will minimally decrease in the DOR. To the extent that second temporary plates are obtained by motor vehicle purchasers directly from their dealers instead of county clerks, there will be a decrease in revenue to the DOR from state fees (\$0.62 per transaction) collected for temporary plates. This amount has not been quantified, but is expected to be minimal.

Motor Vehicle Dealer Board. While the bill's provision of an affirmative defense related to title delivery could result in a decrease in dealer license revocations administered by the Motor Vehicle Dealer Board, it is not anticipated to change the number of license revocations due to current board practices for revocation.

TABOR Impact

This bill will reduce state fee revenue, which will reduce the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund.

State Expenditures

Beginning FY 2016-17, the DOR is anticipated to have a minimal increase in workload for training county clerks, DOR staff, dealers, law enforcement, and other entities affected by the bill. DOR rules, forms, manuals, and websites will also require updating. This workload is expected to be minimal and can be accomplished within existing appropriations.

The Motor Vehicle Dealer Board is also anticipated to have a minimal increase in workload for processing affirmative defenses from dealers. This workload is expected to be minimal and can be accomplished within existing appropriations.

Local Government Impact

County clerks. To the extent that purchasers of motor vehicles from dealers are confused about where to obtain a second temporary registration permit, county clerks may experience an increase in workload from additional phone calls and in-person visits to respond to customer inquiries. In addition, any second temporary registration permits obtained by purchasers directly from their dealers will result in a decrease in revenue for county clerks, with a corresponding decrease in workload for clerks to process and provide these permits.

HUTF. The bill is expected to minimally reduce HUTF revenue, which will minimally reduce HUTF distributions to cities and counties.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Clerk and Recorder
Municipalities
Sheriffs

Counties
Public Safety

Information Technology
Revenue