

CHAPTER 366

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 17-1249

BY REPRESENTATIVE(S) Melton, Hansen, Herod, Hooton, Jackson, Lontine, Mitsch Bush, Becker J., Buckner, Gray, Willett;
also SENATOR(S) Tate, Kefalas.

AN ACT

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

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

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

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

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

(b) ANY PERSON WHO WILLFULLY VIOLATES SECTION 12-6-120 (2) BY ACTING AS A MOTOR VEHICLE DEALER, WHOLESALER, USED MOTOR VEHICLE DEALER, BUYER AGENT, WHOLESALE MOTOR VEHICLE AUCTION DEALER, OR MOTOR VEHICLE SALESPERSON WITHOUT PROPER AUTHORIZATION COMMITS A CLASS 3 MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS AND A PENALTY OF TWENTY-FIVE HOURS OF USEFUL

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

PUBLIC SERVICE, NEITHER OF WHICH THE COURT MAY SUSPEND, FOR EACH SEPARATE OFFENSE; EXCEPT THAT, IF THE VIOLATOR IS A CORPORATION, THE CORPORATION SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIVE THOUSAND DOLLARS NOR MORE THAN TWENTY-FIVE THOUSAND DOLLARS FOR EACH SEPARATE OFFENSE. A SECOND CONVICTION FOR AN INDIVIDUAL SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIVE THOUSAND DOLLARS NOR MORE THAN TWENTY-FIVE THOUSAND DOLLARS FOR EACH SEPARATE OFFENSE, WHICH THE COURT MAY NOT SUSPEND.

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

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

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

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

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

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

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

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

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

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

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

(2) (a) A person who WILLFULLY VIOLATES SECTION 12-6-523 (2) BY ACTING AS A POWERSPORTS VEHICLE MANUFACTURER, POWERSPORTS VEHICLE DISTRIBUTOR, OR POWERSPORTS VEHICLE MANUFACTURER REPRESENTATIVE WITHOUT PROPER AUTHORIZATION COMMITS A CLASS 3 MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS FOR EACH SEPARATE OFFENSE, OR IF THE VIOLATOR IS A CORPORATION, THE FINE SHALL BE NOT LESS THAN FIVE HUNDRED DOLLARS NOR MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH SEPARATE OFFENSE. A SECOND CONVICTION SHALL BE PUNISHED BY A FINE OF TWO THOUSAND FIVE HUNDRED DOLLARS.

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

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

SECTION 7. 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 (August 9, 2017, if adjournment sine die is on May 10, 2017); 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 2018 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 offenses committed on or after the applicable effective date of this act.

Approved: June 6, 2017