

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

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

LLS NO. 21-0509.01 Jery Payne x2157

HOUSE BILL 21-1024

HOUSE SPONSORSHIP

Snyder and Van Winkle, Amabile, Bernett, Duran, Exum, Gray, Mullica, Titone, Valdez A., Woodrow

SENATE SPONSORSHIP

Winter and Priola, Rankin

House Committees

Transportation & Local Government
Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING REQUIREMENTS RELATING TO THE TRANSFER OF AN**
102 **OFF-HIGHWAY VEHICLE, AND, IN CONNECTION THEREWITH,**
103 **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>.)

Current law requires an off-highway vehicle to have a certificate of title in order to be transferred unless:

- The off-highway vehicle was first transferred before July 1, 2014, and not subsequently transferred to an off-highway vehicle dealer; or

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

SENATE
3rd Reading Unamended
May 24, 2021

SENATE
Amended 2nd Reading
May 21, 2021

HOUSE
3rd Reading Unamended
April 29, 2021

HOUSE
Amended 2nd Reading
April 28, 2021

- The off-highway vehicle was used exclusively for agricultural purposes on private land.

Section 2 of the bill requires all off-highway vehicle transfers on or after July 1, 2022, to have a certificate of title, but the agricultural exemption is not changed.

Section 1 exempts private transfers of off-highway vehicles from sales tax if the transfer occurred on or after July 1, 2014, and before July 1, 2022.

Current law authorizes motor vehicle dealers, salvage pools, and insurers to electronically access the department of revenue's ownership and lienholder records to verify motor vehicle ownership and lienholding information to prevent fraud. **Section 3** authorizes off-highway vehicle dealers to access this system to verify the same information on off-highway vehicles for the same reasons.

Notwithstanding the requirement that an off-highway vehicle have a title to be purchased by a dealer, current law authorizes a dealer to purchase an off-highway vehicle that was initially sold before July 1, 2014, and was never titled. The dealer must obtain an affidavit from the owner and then use the affidavit to obtain a title. **Section 4** extends this authorization and procedure to off-highway vehicles:

- Privately transferred on or after July 1, 2014, and before July 1, 2022; or
- Used exclusively for agricultural purposes on private land.

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

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

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

11 **39-26-706. Miscellaneous sales and use tax exemptions -**
12 **internet access - refractory materials - precious metal bullion and**

1 **coins. (6) THE FOLLOWING ARE EXEMPT FROM TAXATION UNDER PART 1**
2 **OF THIS ARTICLE 26:**

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

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

13 **SECTION 3.** In Colorado Revised Statutes, 42-6-102, **amend**
14 **(11.5)(a)(I), (11.5)(b)(I) introductory portion, and (11.5)(b)(I)(B); and**
15 **add (13.5) as follows:**

16 **42-6-102. Definitions.** As used in this part 1, unless the context
17 otherwise requires:

18 (11.5) (a) "Off-highway vehicle" means a self-propelled vehicle
19 that is:

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

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

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

27 (B) Vehicles, OTHER THAN PERSONAL WATERCRAFT, designed and

1 used primarily for travel on, over, or in the water;

2 (13.5) "PERSONAL WATERCRAFT" MEANS A MOTORBOAT THAT IS
3 DESIGNED TO BE OPERATED BY A PERSON SITTING, STANDING, OR
4 KNEELING ON THE VESSEL, RATHER THAN THE CONVENTIONAL MANNER OF
5 SITTING OR STANDING INSIDE THE VESSEL, THAT IS DESIGNED PRIMARILY
6 FOR USE OFF OF THE PUBLIC HIGHWAYS, AND THAT USES EITHER OF THE
7 FOLLOWING AS THE PRIMARY SOURCE OF MOTIVE POWER:

8 (a) AN INBOARD MOTOR POWERING A WATER JET PUMP; OR

9 (b) AN OUTBOARD MOTOR-DRIVEN PROPELLER.

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

12 **42-6-103. Application.** (2) This part 1 does not apply to an
13 off-highway vehicle that:

14 (a) Was first sold or transferred before July 1, 2014, until:

15 (I) The off-highway vehicle is sold or transferred to a powersports
16 vehicle dealer after July 1, 2014; or

17 (II) THE OFF-HIGHWAY VEHICLE IS TRANSFERRED TO ANY PERSON
18 ON OR AFTER JULY 1, 2023; OR

19 **SECTION 5.** In Colorado Revised Statutes, 42-6-110, **amend**
20 (1.7)(a), (1.7)(b), and (1.7)(c) as follows:

21 **42-6-110. Certificate of title - transfer - department records -**
22 **rules.** (1.7) (a) The department shall allow an insurer, as defined in
23 section 10-1-102 and that is regulated under title 10, an agent of the
24 insurer, a salvage pool that is licensed as a used motor vehicle dealer, a
25 motor vehicle dealer licensed under article 20 of title 44, a used motor
26 vehicle dealer licensed under article 20 of title 44, AN OFF-HIGHWAY
27 VEHICLE DEALER LICENSED UNDER ARTICLE 20 OF TITLE 44, or any person

1 approved by the department to use the electronic systems created in
2 section 42-4-2103 (3)(c)(III) to access owner and lienholder information
3 of a motor OR OFF-HIGHWAY vehicle in the department's records if:

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

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

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

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

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

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

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

26 **42-6-148. Off-highway vehicles - sales.** (1) (a) Unless the owner
27 has obtained a certificate of title for an off-highway vehicle under this

1 ~~article~~ ARTICLE 6, a person shall not sell the off-highway vehicle and a
2 ~~vehicle dealer~~ PERSON shall not purchase the off-highway vehicle; except
3 that ~~the~~ A MOTOR VEHICLE DEALER OR AN OFF-HIGHWAY VEHICLE dealer
4 may purchase an off-highway vehicle without a certificate of title if the
5 vehicle has never been titled and was originally purchased in:

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

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

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

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

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

17 (d) To obtain a title for an off-highway vehicle that an
18 off-highway vehicle dealer OR A MOTOR VEHICLE DEALER purchased
19 without a certificate of title, the dealer must present to the department an
20 affidavit as described in ~~paragraph (b) of this subsection (1)~~ SUBSECTION
21 (1)(b) OF THIS SECTION, signed by the seller from whom the off-highway
22 vehicle dealer OR MOTOR VEHICLE DEALER acquired the off-highway
23 vehicle. The authorized agent shall accept an affidavit that was properly
24 executed under this subsection (1) unless the authorized agent has reason
25 to believe the affidavit contains a material misstatement or omission.

26 **SECTION 7. Appropriation.** (1) For the 2021-22 state fiscal
27 year, \$45,887 is appropriated to the department of revenue for use by the

1 division of motor vehicles. This appropriation is from the Colorado
2 DRIVES vehicle services account in the highway users tax fund created
3 in section 42-1-211 (2)(b)(I), C.R.S. To implement this act, the division
4 may use this appropriation as follows:

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

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

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

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

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

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