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Final Fiscal Note

Drafting Number: LLS 21-0509 **Date:** August 26, 2021
Prime Sponsors: Rep. Snyder; Van Winkle **Bill Status:** Vetoed by Governor
 Sen. Winter; Priola **Fiscal Analyst:** Will Clark | 303-866-4720
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Bill Topic: TITLE CERTIFICATES OFF-HIGHWAY VEHICLE TRANSFERS

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill would have made changes to titling procedures and sales tax requirements for the transfer of off-highway vehicles, and granted off-highway vehicle dealers access to the Department of Revenue's vehicle services portal. It would have increased state and local revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2021-22, the bill would have required appropriations of \$45,887 to the Department of Revenue and \$53,422 to the Department of Public Safety.

Fiscal Note Status: This fiscal note reflects the enrolled bill. This bill was vetoed by the Governor; therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under HB 21-1024**

		Budget Year	Out Year
		FY 2021-22	FY 2022-23
Revenue	Cash Funds	\$87,613	\$350,450
	Total Revenue	\$87,613	\$350,450
Expenditures	Cash Funds	\$99,309	\$286,018
	Centrally Appropriated	\$6,853	\$23,145
	Total Expenditures	\$106,162	\$309,163
	Total FTE	0.5 FTE	1.7 FTE
Transfers		-	-
TABOR Refund	General Fund	\$87,613	\$350,450

Summary of Legislation

The bill makes changes to titling procedures and sales tax requirements for the transfer of off-highway vehicles (OHV), and grants OHV dealers access to the Department of Revenue's (DOR) vehicle services portal.

Certificate of title. Current law requires an OHV to have a certificate of title unless it was first sold or transferred before July 1, 2014, and any subsequent transfers occurred between private parties, or if the vehicle is exclusively used for agricultural purposes on private land. The bill requires all OHV transfers to have a certificate of title on or after July 1, 2023, and continues the current agricultural exemption.

Sales tax requirements. The bill exempts private transfers of OHVs from state and local sales tax if the transfer occurred between July 1, 2014, and July 1, 2023.

Off-highway vehicle dealers. The bill authorizes licensed OHV dealers to electronically access the DOR's vehicle services portal to verify information under certain circumstances. DOR may charge a fee to OHV dealers to access the vehicle services portal.

The bill also allows a motor vehicle or OHV dealer to purchase an OHV without a title if the vehicle was originally purchased in Colorado between July 1, 2014, and July 1, 2023, from a private individual, or if the vehicle was used exclusively for agricultural purposes.

Personal watercraft. The bill changes the statutory definition of OHVs to include personal watercraft. This includes motorboats that are designed to be operated in a sitting, standing, or kneeling position, and that use an inboard motor powering a water jet pump or an outboard motor-driven propeller.

Background

Currently, OHV owners may elect, but are not required, to title their vehicle. If OHV owners elect to title their vehicle, owners must provide ownership documents and proof of sales tax paid, unless the transfer occurred before July 1, 2014.

Owners that purchased an OHV before July 1, 2014, that sell or trade the OHV to an OHV dealer, do not need a certificate of title, but instead must complete an affidavit. OHV dealers may then use the affidavit to obtain a certificate of title. If the OHV is already titled, or was purchased after June 30, 2014, the transfer of ownership is completed on the certificate of title.

OHVs currently include motorcycles, dirt bikes, three-wheelers, ATVs, surplus military vehicles, and dune buggies that are operated on public lands and trails in Colorado. OHVs must be registered with Colorado Parks and Wildlife (CPW) in the Department of Natural Resources. All OHVs owned and operated in Colorado must display current registration stickers when in an OHV staging area or operated on designated trails and routes.

Data and Assumptions

Number of OHVs. CPW registered 197,972 OHVs in FY 2018-19, and 203,873 OHVs in FY 2019-20. Around 22 percent of these CPW registrations are for out-of-state OHVs. The totals do not include OHVs operated exclusively on private property; however, it is assumed that nearly all OHVs operated exclusively on private lands qualify for the agricultural exemption from titling. It is assumed that the number of OHVs registered in Colorado will increase at a rate of 3 percent per year based on current trends, and that 25 percent of OHVs in Colorado are not registered with CPW. Given these assumptions, the fiscal note estimates that there are currently 205,350 OHVs owned by Colorado residents, which are not personalized watercraft.

Number of personalized watercraft. CPW registered 13,504 personalized watercraft in FY 2019-20. This fiscal note assumes that all of the registrations are for Colorado residents; that the number of personalized watercraft registered in Colorado will increase at a rate of 3 percent per year similar to other OHVs; and that 25 percent of personalized watercraft are not registered with CPW. Given these assumptions, this fiscal note estimates that there are currently around 17,500 personalized watercraft in Colorado that meet the new definition of being an OHV under this bill.

OHV titling. In total, the fiscal note estimates that around 63,000 OHVs will require a new title each year, including both current types of OHVs and personal watercraft.

According to data from the DOR, there are currently 81,331 OHVs with a certificate of title. Based on data and assumptions about the number of OHVs in-state, there are approximately 124,000 OHVs in Colorado without a certificate of title. Additionally, it is assumed that 30 percent of OHVs, or 61,600, will be sold or transferred each year, and that 37,200 will require a new title and 24,400 are already titled based on the transfer trends for motor vehicles.

Under the bill, personalized watercraft will be subject to the new titling requirement for other OHVs. This fiscal note assumes that personalized watercraft will be transferred at the same rate as these other OHVs, 30 percent or 5,500 in FY 2022-23, and that all will require a new title.

OHV VIN and HIN inspections. Lastly, it is assumed that approximately 10 percent of OHV owners will have a certified Vehicle Identification Number (VIN) or Hull Identification Number (HIN) inspection conducted by the Colorado State Patrol to obtain a certificate of title. This is about 4,280 inspections per year.

OHV dealers. There are 228 OHV dealers licensed in Colorado, according to Auto Industry Division in DOR.

State Revenue

The bill will increase state cash fund revenue by \$87,613 in FY 2021-22 and \$350,450 in FY 2022-23. It may also increase revenue from a fee on OHV dealerships and decrease state sales tax collections. These impacts are described below.

Fee impact on OHV owners. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. By requiring OHVs to be titled in order to privately transfer starting on July 1, 2023, the bill will increase fee revenue from titling and VIN and HIN inspections by \$130,350 in FY 2021-22 and \$521,401 in FY 2022-23. Titling activity is assumed to begin in the first year as OHV owners take advantage of the sales tax exemption allowed by this bill, however, this fiscal note assumes that only 25% of OHV transfers will apply for a title in the first year.

In FY 2021-22 \$87,613 of this amount is state revenue, and \$42,738 is retained by counties. In FY 2022-23, \$350,450 is state revenue and \$170,951 is retained by counties. These fee impacts are shown in Table 2 and Table 3, and described in more detail below.

- *OHV title fees.* To obtain a certificate of title for an OHV, individuals are charged a fee of \$7.20, of which \$4.00 is retained by the county clerk where the OHV is registered and \$3.20 is transferred to the DRIVES Cash Fund in the DOR.
- *VIN inspection fees.* The Colorado State Patrol charges a fee of \$50 to conduct a certified VIN inspection. This revenue is credited to the VIN Inspections Cash Fund in the Department of Public Safety.

**Table 2
Annual Fee Impact on OHV Owners for FY 2021-22**

Type of Fee	Fee Amount	Owners	Fee Impact
Certificate of Title	\$7.20	10,684	\$76,928
Certified VIN Inspection	\$50.00	1,068	\$53,422
<u>FY 2021-22 Total</u>			<u>\$130,350</u>
<i>VIN Inspections Cash Fund</i>			\$53,422
<i>DRIVES Cash Fund</i>			\$34,190
<i>Counties</i>			\$42,738

**Table 3
Annual Fee Impact on OHV Owners for FY 2022-23**

Type of Fee	Fee Amount	Owners	Fee Impact
Certificate of Title	\$7.20	42,738	\$307,712
Certified VIN Inspection	\$50.00	4,274	\$213,689
<u>FY 2022-23 Total</u>			<u>\$521,401</u>
<i>VIN Inspections Cash Fund</i>			\$213,689
<i>DRIVES Cash Fund</i>			\$136,761
<i>Counties</i>			\$170,951

Dealer Vehicle Services fee. DOR may collect a fee on OHV dealerships for access to the Vehicle Services database. This amount has not been estimated.

Sales tax revenue. The bill's exemption of private transfers of OHVs from state and local sales tax in FY 2021-22 and FY 2022-23 may decrease tax collections. It is indeterminate and depends on how OHV owners act as a result of this legislation.

State Expenditures

The bill increases state expenditures by up to \$106,162 and 0.5 FTE in FY 2021-22 and up to \$309,163 and 1.7 FTE in FY 2022-23, as shown in Table 4 and discussed below.

**Table 4
Expenditures Under HB 21-1024**

Cost Components	FY 2021-22	FY 2022-23
Department of Revenue		
Personal Services	\$20,480	\$67,906
Operating Expenses	\$675	\$2,295
Capital Outlay Costs	\$6,200	-
DRIVES Computer Programming	\$18,000	-
Secure Title Paper	\$532	\$2,128
Centrally Appropriated Costs ¹	\$6,853	\$23,145
FTE – Personal Services	0.5 FTE	1.7 FTE
DOR Subtotal	\$52,740	\$95,474
Department of Public Safety		
Certified VIN and HIN Inspections	\$53,422	\$213,689
DPS Subtotal	\$53,422	\$213,689
Total	\$106,162	\$309,163
Total FTE	0.5 FTE	1.7 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Revenue. Expenditures in the DOR will increase by \$52,740 in FY 2021-22, and by \$95,474 in FY 2022-23 and future years.

- *Staffing costs.* Based on the assumption that approximately 30 percent of untitled OHVs will be transferred per year, but that only a quarter of these transfers will apply for a title, the DOR will require an additional 0.4 FTE beginning in FY 2021-22 to review and verify the ownership of OHVs. The DOR also requires 0.1 FTE in FY 2021-22 only to set up OHV dealer accounts in DOR's vehicle service portal. DOR will require 1.7 FTE in FY 2022-23 to review and verify the ownership of OHVs.

- *DRIVES computer programming.* The DOR is expected to have costs of \$18,000 in FY 2021-22 to update the Colorado Driver License, Record, Identification and Vehicle Enterprise Solution (DRIVES) system. This will include 80 hours of work at \$225 an hour to make programming updates for new titling activity, create a new vehicle classification for personalized watercraft, create a new field to gather HIN for personalized watercraft, add new temporary exemptions and make other detailed changes to OHV registration.
- *Secure paper.* Colorado certificates of title are printed on secure paper that costs approximately 50 cents per page. Expenditures will increase by \$532 to produce an additional 10,684 certificates of title starting in FY 2021-22. In FY 2022-23, expenditures will include \$2,128 for 42,738 certificates of title.
- *Other workload impacts.* The bill will also increase workload in DOR to complete a number of tasks, including updating rules, forms, manuals, and websites to reflect the change in law and providing training to county clerks, OHV dealers, the Vehicle Services section, law enforcement, and other entities affected by the bill. This workload can be accomplished within existing appropriations.

Department of Public Safety. The bill increases expenditures from the VIN Inspections Cash Fund in the Department of Public Safety. The bill is expected to result in approximately 1,068 additional certified VIN and HIN inspections in FY 2021-22 and 4,274 additional certified VIN and HIN inspections in FY 2022-23.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$6,853 in FY 2021-22 and \$23,145 in FY 2022-23.

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. TABOR refunds are paid from the General Fund. This estimate is based on the June 2021 LCS revenue forecast, which incorporates the revenue impacts of bills passed during the 2021 session. A forecast of state revenue subject to TABOR is not available beyond FY 2022-23.

Federal ARPA funds. This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

Local Government

Similar to the state, the bill will increase revenue and workload for county clerks' offices beginning in FY 2021-22. As shown in Tables 2 and 3, county clerks retain \$4.00 of every \$7.20 title fee collected to process and issue a certificate of title. As such, the bill is expected to increase statewide revenue to county clerks by \$42,738 in FY 2021-22 and \$170,951 in FY 2022-23. Correspondingly, the bill will increase workload in county clerks' offices to process the new certificate of title transactions for OHVs. Similar to the state, additional titling of OHVs is expected to have an indeterminate impact on local sales tax collections starting in FY 2021-22.

Effective Date

The bill was vetoed by the Governor on July 2, 2021.

State Appropriations

For FY 2021-22, the bill would have required the following appropriations:

- \$45,887 from the DRIVES Cash Fund to the Department of Revenue, with 0.5 FTE; and
- \$53,422 from the VIN Inspections Cash Fund to the Department of Public Safety.

Currently, the bill includes appropriations of \$27,887 to DOR and \$53,422 to DPS.

Departmental Difference

The DOR estimates that it will have costs of \$331,056 in FY 2021-22 and \$243,858 in FY 2022-23. DOR assumes that its first-year costs should be paid with General Fund. The DOR estimate includes additional costs associated with OHV titling with the assumption that 93,050 additional OHV titles will be processed in FY 2021-22 as a result of the bill. The fiscal note does not include General Fund, as most of DOR's costs can be paid using cash funds generated through fees for the services required under the bill. In addition, the fiscal note estimate reflects lower costs for OHV related duties, with the assumption that 10,684 additional OHV owners will register in FY 2021-22 as a result of the bill.

State and Local Government Contacts

Counties	County Clerks	Information Technology
Natural Resources	Public Safety	Revenue
Transportation		