



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated February 26, 2021)

Drafting Number: LLS 21-0509 **Date:** April 8, 2021
Prime Sponsors: Rep. Snyder; Van Winkle **Bill Status:** House Finance
Fiscal Analyst: Will Clark | 303-866-4720
Will.Clark@state.co.us

Bill Topic: TITLE CERTIFICATES OFF-HIGHWAY VEHICLE TRANSFERS

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input 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 makes changes to titling procedures and sales tax requirements for the transfer of off-highway vehicles, and grants off-highway vehicle dealers access to the Department of Revenue's vehicle services portal. The bill increases state and local revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$36,224 to the Department of Revenue, and \$79,100 to the Department of Public Safety.

Fiscal Note Status: This revised fiscal note reflects the introduced bill, as amended by the House Transportation and Local Government Committee. The personalized watercraft information is preliminary, and will be updated as more information becomes available.

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

		Budget Year	Out Year
		FY 2021-22	FY 2022-23
Revenue	Cash Funds	\$129,725	\$518,898
	Total Revenue	\$129,725	\$518,898
Expenditures	Cash Funds	\$115,324	\$422,083
	Centrally Appropriated	\$9,560	\$33,972
	Total Expenditures	\$124,884	\$456,055
	Total FTE	0.7 FTE	2.5 FTE
Transfers		-	-
TABOR Refund		-	-

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. Preliminarily, this fiscal note assumes there are currently 85,000 personalized watercraft registered in Colorado that meet the new definition of being an OHV under this bill, and that this number will increase by 640 each year.

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 26,000, and that all will require a new title.

OHV VIN inspections. Lastly, it is assumed that approximately 10 percent of OHV owners will have a certified VIN inspection conducted by the Colorado State Patrol to obtain a certificate of title. This is about 6,320 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 \$129,725 in FY 2021-22 and \$518,898 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 inspections by \$193,005 in FY 2021-22 and \$772,019 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 \$129,725 of this amount is state revenue, and \$63,280 is retained by counties. In FY 2022-23, \$518,898 is state revenue and \$253,121 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	15,820	\$113,904
Certified VIN Inspection	\$50.00	1,582	\$79,100
<u>FY 2021-22 Total</u>			<u>\$193,005</u>
<i>VIN Inspections Cash Fund</i>			\$79,100
<i>DRIVES Cash Fund</i>			\$50,624
<i>Counties</i>			\$63,280

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	63,280	\$455,618
Certified VIN Inspection	\$50.00	6,328	\$316,401
<u>FY 2022-23 Total</u>			<u>\$772,019</u>
<i>VIN Inspections Cash Fund</i>			\$316,401
<i>DRIVES Cash Fund</i>			\$202,497
<i>Counties</i>			\$253,121

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 \$124,884 and 0.7 FTE in FY 2021-22 and up to \$456,055 and 2.5 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	\$28,291	\$99,156
Operating Expenses	\$945	\$3,375
Capital Outlay Costs	\$6,200	-
Secure Title Paper	\$788	\$3,151
Centrally Appropriated Costs ¹	\$9,560	\$33,972
FTE – Personal Services	0.7 FTE	2.5 FTE
DOR Subtotal	\$45,784	\$139,654
Department of Public Safety		
Certified VIN Inspections	\$79,100	\$316,401
DPS Subtotal	\$79,100	\$316,401
Total	\$124,884	\$456,055
Total FTE	0.7 FTE	2.5 FTE

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

Department of Revenue. Expenditures in the DOR will increase by \$45,784 in FY 2021-22, and by \$139,654 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 0.6 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 2.5 FTE in FY 2022-23 to review and verify the ownership of OHVs.
- *Secure paper.* Colorado certificates of title are printed on secure paper that costs approximately 50 cents per page. Expenditures will increase by \$788 to produce an additional 15,820 certificates of title starting in FY 2021-22. In FY 2022-23, expenditures will include \$3,151 for 63,280 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 1,582 additional certified VIN inspections in FY 2021-22 and 6,328 additional certified VIN 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 \$9,560 in FY 2021-22 and \$33,972 in FY 2022-23.

TABOR refunds. The bill increases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the General Fund in FY 2023-24.

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 \$63,280 in FY 2021-22 and \$253,121 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 takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2021-22, the bill requires the following appropriations:
\$36,224 from the DRIVES Cash Fund to the Department of Revenue, and 0.7 FTE; and
\$79,100 from the VIN Inspections Cash Fund to the Department of Public Safety.

Departmental Difference

The DOR estimates that it will have costs of \$334,386 in FY 2021-22 and \$313,513 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, as well as costs for new duties for the Auto Industry Division concerning boat manufacturers and dealers. The fiscal note does not include General Fund, as 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 assumes lower costs for OHV related duties, and does not foresee impacts to the Auto Industry Division based on the LCS interpretation of the bill.

State and Local Government Contacts

Counties
Natural Resources
Transportation

County Clerks
Public Safety

Information Technology
Revenue