

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 11-0075.02 Jery Payne

HOUSE BILL 11-1093

HOUSE SPONSORSHIP

Bradford, Sonnenberg

SENATE SPONSORSHIP

Cadman,

House Committees
Transportation

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PAYMENT OF SPECIFIC OWNERSHIP TAX ON SPECIAL**
102 **MOBILE MACHINERY.**

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://www.leg.state.co.us/billsummaries>.)

Currently, farm equipment meeting the definition of special mobile machinery must be registered as Class F personal property if it is used for any purpose other than agricultural production for more than 24 hours. **Section 1** of the bill extends the period to 72 hours. **Section 2** changes the specific ownership tax on special mobile machinery that is at least 10

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

HOUSE
3rd Reading Unamended
February 9, 2011

HOUSE
Amended 2nd Reading
February 8, 2011

years old to \$5.

Currently, the penalty for failure to register or reregister special mobile machinery is the greater of \$500 or double the amount of tax due. **Section 3** changes the penalty to the lesser of those amounts.

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

2 **SECTION 1.** 42-3-106 (2) (e), Colorado Revised Statutes, is
3 amended to read:

4 **42-3-106. Tax imposed - classification - taxable value.** (2) For
5 the purpose of imposing graduated annual specific ownership taxes, the
6 personal property specified in section 6 of article X of the state
7 constitution is classified as follows:

8 (e) Every item of special mobile machinery, except power takeoff
9 equipment, that is required to be registered under this article is Class F
10 personal property. If a farm tractor, meeting the definition of special
11 mobile machinery, is used for any purpose other than agricultural
12 production for more than a ~~twenty-four-hour~~ SEVENTY-TWO-HOUR period
13 at the site where it is used for nonagricultural purposes, it is Class F
14 personal property, but it ~~shall be~~ IS granted a prorated registration under
15 section 42-3-107 to cover ~~such~~ THE use. The authorized agent shall notify
16 the owner of the farm tractor of the prorated registration. Storing a farm
17 tractor at a site does not give rise to a presumption that the tractor was
18 used for the same purposes that other equipment is used for at the site.

19 **SECTION 2.** 42-3-107 (16) (b), (16) (c), (16) (d), and (17) (e)
20 (II), Colorado Revised Statutes, are amended to read:

21 **42-3-107. Taxable value of classes of property - rate of tax -**
22 **when and where payable - department duties - apportionment of tax**
23 **collections - definitions.** (16) (b) AN OWNER SHALL OBTAIN

1 authorization for payment of TO PAY THE specific ownership tax under
2 this subsection (16) shall be obtained from the authorized agent ONLY in
3 the county in which the owner's principal place of business is located.
4 The owner shall also apply for an identifying decal for each item of
5 equipment to be rented or leased that THE OWNER shall be affixed AFFIX
6 to the item when it is rented or leased. The owner shall keep records of
7 each identifying decal issued and a description of the item of equipment
8 to which it is affixed. The fee for each identifying decal shall be five
9 dollars, paid upon application to the authorized agent. An identifying
10 decal shall expire EXPIRES when the registration of the special mobile
11 machinery to which it is affixed expires pursuant to UNDER section
12 42-3-114. THE AUTHORIZED AGENT SHALL NOT ISSUE an identifying decal
13 shall not be issued to special mobile machinery unless the machinery is
14 registered, but a decal may be issued concurrently with the registration
15 and shall expire EXPIRES pursuant to section 42-3-114. The owner shall
16 be required to remove an identifying decal upon the sale or change of
17 ownership of such item of equipment. The fee of five dollars for each
18 identifying decal as required by this section shall be IS distributed as
19 follows:

20 (I) Two dollars shall be IS retained by the authorized agent issuing
21 such decal; and

22 (II) Three dollars shall be IS available upon appropriation by the
23 general assembly to fund the administration and enforcement of this
24 section.

25 (c) Upon receiving authorization pursuant to paragraph (b) of this
26 subsection (16), the owner shall collect from the user the specific
27 ownership tax in the amount equivalent to two percent of the amount of

1 the rental or lease payment. No later than the twentieth day of each
2 month JANUARY OF EACH YEAR, the owner shall submit a report, using
3 forms furnished by the department, to the authorized agent in the county
4 in which the equipment is used REGISTERED, together with the remittance
5 for all taxes collected for the preceding month YEAR. A copy of each
6 report shall be submitted simultaneously by the owner to the department.

7 (d) ~~Such~~ THE OWNER SHALL MAKE THE reports ~~shall be made~~
8 ~~monthly~~ ANNUALLY to the department and to the authorized agent in the
9 county where the equipment is located with a user REGISTERED, even if
10 no specific ownership taxes were collected by the owner in the previous
11 month YEAR. Failure to make ~~such~~ THE reports in a period of sixty days
12 ~~shall be~~ IS grounds for the termination of ~~such~~ THE owner's right to pay
13 the specific ownership taxes on the owner's Class F personal property in
14 ~~the manner provided~~ under this subsection (16). If the owner fails to
15 remit specific ownership taxes received from a renter or lessee during
16 ~~such~~ THE sixty-day period, the authorized agent may proceed to collect
17 ~~such~~ THE delinquent taxes in the manner authorized in subsection (21) of
18 this section. █

19 (17) (e) (II) ~~No owner may~~ A PERSON SHALL NOT operate special
20 mobile machinery in Colorado unless the owner has paid the specific
21 ownership tax assessed pursuant to this article, ~~nor~~ AND A PERSON shall
22 ~~any owner~~ NOT operate special mobile machinery in Colorado after the
23 expiration of the period for which the specific ownership tax was assessed
24 PAID. A person who violates ~~the provisions of~~ this subparagraph (II) shall
25 ~~be~~ IS subject to, in addition to any other ~~applicable~~ penalty, an
26 administrative penalty of THE LESSER OF five hundred dollars or double
27 the amount of the specific ownership tax. ~~whichever is greater. Such~~ THE

1 penalty may be levied by a peace officer ~~as described in section~~
2 ~~16-2.5-101, C.R.S., and authorized~~ UNDER THE AUTHORITY GRANTED by
3 section 42-8-104 (2). ~~Such~~ THE violation ~~shall be~~ IS TO BE determined by,
4 paid to, and retained by the municipality or county ~~in which such~~ WHERE
5 THE motor vehicle is or should have been registered, subject to judicial
6 review pursuant to rule 106 (a) (4) of the Colorado rules of civil
7 procedure.

8 **SECTION 3. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.