

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0985.01 Jery Payne x2157

HOUSE BILL 20-1320

HOUSE SPONSORSHIP

Van Winkle and Snyder,

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING REQUIREMENTS THAT OFF-HIGHWAY VEHICLES HAVE A
102 CERTIFICATE OF TITLE TO BE TRANSFERRED.

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 to be transferred unless:

- ! It was first transferred before July 1, 2014, and not subsequently transferred to an off-highway vehicle dealer;
- or
- ! It was used exclusively for agricultural purposes on private

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.

land.

Section 2 of the bill requires all off-highway vehicle transfers to have a certificate of title on or after July 1, 2021, 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, 2021.

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, 2021.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-26-113, **amend**
3 (8) as follows:

4 **39-26-113. Collection of sales tax - motor vehicles -**
5 **off-highway vehicles - exemption - process for motor vehicles sold at**
6 **auction - exception - definition.** (8) (a) Subsections (1) and (2) of this
7 section do not apply to:

8 (I) The ~~sale or~~ transfer of off-highway vehicles before July 1,
9 2014; OR

10 (II) THE TRANSFER OF AN OFF-HIGHWAY VEHICLE ON OR AFTER
11 JULY 1, 2014, AND BEFORE JULY 1, 2021, BETWEEN INDIVIDUALS WHEN
12 NEITHER OF THE INDIVIDUALS IS A MOTOR VEHICLE DEALER OR
13 OFF-HIGHWAY VEHICLE DEALER.

14 (b) ~~For an off-highway vehicle that was first purchased or~~

1 transferred before July 1, 2014, and is being issued its first certificate of
2 title for the first time after this date, The department shall not verify that
3 the person paid any tax due on: ~~the vehicle.~~

4 (I) AN OFF-HIGHWAY VEHICLE THAT WAS FIRST TRANSFERRED
5 BEFORE JULY 1, 2014, AND IS BEING ISSUED ITS FIRST CERTIFICATE OF
6 TITLE FOR THE FIRST TIME AFTER THIS DATE; OR

7 (II) AN OFF-HIGHWAY VEHICLE THAT WAS FIRST TRANSFERRED ON
8 OR AFTER JULY 1, 2014, AND BEFORE JULY 1, 2021, BETWEEN INDIVIDUALS
9 WHEN NEITHER OF THE INDIVIDUALS IS A MOTOR VEHICLE DEALER OR
10 OFF-HIGHWAY VEHICLE DEALER.

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

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

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

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

18 (II) THE OFF-HIGHWAY VEHICLE IS TRANSFERRED TO ANY PERSON
19 ON OR AFTER JULY 1, 2021; OR

20 **SECTION 3.** In Colorado Revised Statutes, 42-6-110, **amend**
21 (1.7)(a), (1.7)(b), and (1.7)(c) as follows:

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

1 VEHICLE DEALER LICENSED UNDER ARTICLE 20 OF TITLE 44, or any person
2 approved by the department to use the electronic systems created in
3 section 42-4-2103 (3)(c)(III) to access owner and lienholder information
4 of a motor OR POWERSPORTS vehicle in the department's records if:

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

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

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

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

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

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

25 **SECTION 4.** In Colorado Revised Statutes, 42-6-148, **amend**
26 (1)(a), (1)(b) introductory portion, and (1)(d) as follows:

27 **42-6-148. Off-highway vehicles - sales.** (1) (a) Unless the owner

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

- 7 (I) (A) Colorado before July 1, 2014; OR
- 8 (B) COLORADO BEFORE JULY 1, 2021, FROM AN INDIVIDUAL WHO
9 IS NOT A MOTOR VEHICLE DEALER OR OFF-HIGHWAY VEHICLE DEALER; or
- 10 (II) A foreign jurisdiction that does not or did not issue certificates
11 of title to off-highway vehicles when purchased.

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

16 (d) To obtain a title for an off-highway vehicle that an
17 off-highway vehicle dealer OR MOTOR VEHICLE DEALER purchased
18 without a certificate of title, the dealer must present to the department an
19 affidavit as described in ~~paragraph (b) of this subsection (1)~~ SUBSECTION
20 (1)(b) OF THIS SECTION, signed by the seller from whom the off-highway
21 vehicle dealer acquired the off-highway vehicle. THE AUTHORIZED AGENT
22 SHALL ACCEPT AN AFFIDAVIT THAT WAS PROPERLY EXECUTED UNDER THIS
23 SUBSECTION (1) UNLESS THE AUTHORIZED AGENT HAS REASON TO BELIEVE
24 THE AFFIDAVIT CONTAINS A MATERIAL MISSTATEMENT OF OR OMISSION OF
25 FACT.

26 **SECTION 5. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly (August
2 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
3 referendum petition is filed pursuant to section 1 (3) of article V of the
4 state constitution against this act or an item, section, or part of this act
5 within such period, then the act, item, section, or part will not take effect
6 unless approved by the people at the general election to be held in
7 November 2020 and, in such case, will take effect on the date of the
8 official declaration of the vote thereon by the governor.