

CHAPTER 293

GOVERNMENT - STATE

HOUSE BILL 17-1296

BY REPRESENTATIVE(S) Nordberg and Kraft-Tharp, Saine, Winter, Hansen, Mitsch Bush, Rankin, Valdez, Van Winkle, Young;
 also SENATOR(S) Smallwood and Jahn, Donovan, Neville T., Cooke, Gardner, Hill, Holbert, Lambert, Lundberg, Marble, Martinez Humenik, Moreno, Priola, Scott, Tate, Todd, Grantham.

AN ACT

CONCERNING THE ASSIGNMENT OF STATE-OWNED MOTOR VEHICLES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **amend** 24-30-1112 as follows:

24-30-1112. Permanent assignment of vehicles - state agency - verification of minimum mileage - revocation. (1) A STATE-OWNED MOTOR VEHICLE THAT IS PART OF THE STATE MOTOR VEHICLE FLEET ESTABLISHED PURSUANT TO SECTION 24-30-1104 (2) MAY BE ASSIGNED BY THE DIVISION TO A STATE AGENCY PURSUANT TO THIS SECTION. IN ADDITION, ANY STATE-OWNED MOTOR VEHICLE THAT IS ASSIGNED TO A STATE AGENCY MAY BE FURTHER ASSIGNED BY THE EXECUTIVE DIRECTOR OF THE STATE AGENCY OR BY THE EXECUTIVE DIRECTOR'S DESIGNEE TO AN OFFICER OR EMPLOYEE OF THE STATE AGENCY PURSUANT TO SECTION 24-30-1113.

(+) (2) Unless ~~an~~ A STATE agency can justify to the division the need for permanent assignment of A VEHICLE because of ~~the~~ ITS unique use, ~~of a vehicle,~~ THE DIVISION MAY PERMANENTLY ASSIGN a state-owned ~~passenger~~ motor vehicle ~~shall not be permanently assigned~~ to A STATE AGENCY ONLY IF THE USE OF THE VEHICLE BY THE STATE AGENCY IS LIKELY TO MEET THE MINIMUM REQUIRED MILEAGE ESTABLISHED BY THE DEPARTMENT OF PERSONNEL FOR THE UTILIZATION CLASSIFICATION ASSOCIATED WITH THE VEHICLE'S INTENDED WORK FUNCTION AND THE USE OF SUCH VEHICLE BY THE STATE AGENCY COMPLIES WITH ANY ADDITIONAL CRITERIA ESTABLISHED BY THE DIVISION IN RULES. A VEHICLE THAT IS ASSIGNED TO A STATE AGENCY MUST BE PARKED AT A STATE FACILITY, AS DEFINED BY RULE,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

WHEN THE VEHICLE IS NOT IN USE UNLESS THE VEHICLE HAS BEEN ASSIGNED TO AN OFFICER OR EMPLOYEE OF THE STATE AGENCY PURSUANT TO SECTION 24-30-1113.

~~(a) Any agency, state officer, or state employee, if the use of such vehicle is not likely to meet the minimum required mileage established by the department of personnel for the utilization classification associated with the vehicle's intended work function unless:~~

~~(I) The state officer's or employee's duties are routinely related to public safety; and~~

~~(II) The state officer's or employee's duties are likely to expose such officer or employee routinely to life-threatening situations.~~

~~(2) (3) The division shall establish a program and adopt rules and regulations providing for annual verification that each permanently assigned STATE-OWNED motor vehicle PERMANENTLY ASSIGNED TO A STATE AGENCY has met the minimum required mileage based on the appropriate utilization classification. If verification establishes that a vehicle has not met the minimum annual mileage rate AND OTHER CRITERIA ESTABLISHED IN RULES and if the responsible state agency cannot justify such lower mileage OR FAILURE TO MEET OTHER CRITERIA, THE DIVISION SHALL REVOKE THE permanent assignment shall be revoked OF THE VEHICLE immediately.~~

~~(3) (4) The division shall adopt rules and regulations governing the procedure for revocation of assignment of state-owned motor vehicles THAT HAVE BEEN PERMANENTLY ASSIGNED TO A STATE AGENCY. Revocation of assignment shall occur when it has been determined THE DIVISION DETERMINES that:~~

~~(a) The vehicle has been used for other than official business or HAS BEEN USED FOR COMMUTING without the state agency executive director's approval as provided in BEING ASSIGNED TO AN OFFICER OR EMPLOYEE OF THE STATE AGENCY PURSUANT TO section 24-30-1113;~~

~~(b) (I) Required reports have not been filed or reports which have been filed THE STATE AGENCY HAS NOT SUBMITTED REPORTS OR OTHER DOCUMENTATION TO THE DIVISION THAT IT IS REQUIRED TO SUBMIT PURSUANT TO RULES ADOPTED BY THE DIVISION; OR~~

~~(II) ANY REPORTS OR OTHER DOCUMENTATION THAT THE STATE AGENCY HAS SUBMITTED fail to meet the standards established in rules and regulations adopted by the division for the filing SUBMISSION of such reports AND DOCUMENTATION and such deficiencies are not cured THE STATE AGENCY HAS NOT CURED THE DEFICIENCIES within thirty days after receiving notification from the division of such deficiency;~~

~~(c) THE STATE AGENCY HAS KNOWINGLY AND WILLFULLY SUPPLIED false information has knowingly and willfully been supplied on an application for permanent assignment, commuting reimbursement form, or other required report or form TO THE DIVISION REGARDING THE PERMANENT ASSIGNMENT OF THE MOTOR VEHICLE TO THE STATE AGENCY;~~

~~(d) An individual required to do so fails to sign all reports or forms submitted for vehicles permanently assigned and fails to cure the deficiency within thirty days after receiving notification from the division of such deficiency;~~

~~(e)~~ (d) That a state-owned motor vehicle has been abused; or

~~(f)~~ (e) That a violation of other rules or regulations promulgated by the division has occurred which warrants revocation of assignment to the STATE AGENCY as specified in the rules and regulations adopted by the division.

~~(4)~~ (5) THE DIVISION SHALL NOT HONOR new requisitions for assignment of vehicle following the revocation of assignment ~~shall not be honored~~ until the division is assured that the violation for which a vehicle was previously revoked will not recur.

SECTION 2. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 24-30-1113 as follows:

24-30-1113. Assignment of vehicles to state agency officers or employees - report to legislative audit committee - definition - repeal.

(1) NOTWITHSTANDING SECTION 24-30-1102 (5), AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "STATE AGENCY" MEANS THE STATE OR ANY DEPARTMENT, BOARD, BUREAU, COMMISSION, INSTITUTION, OR OTHER AGENCY OF THE STATE; EXCEPT THAT "STATE AGENCY" DOES NOT INCLUDE ANY STATE INSTITUTION OF HIGHER EDUCATION, THE AURARIA HIGHER EDUCATION CENTER, OR THE LEGISLATIVE AND JUDICIAL BRANCHES OF STATE GOVERNMENT. AS USED IN THIS SECTION, "STATE AGENCY" DOES INCLUDE THE STATE BOARD OF STOCK INSPECTION COMMISSIONERS, CREATED IN SECTION 35-41-101.

(2) (a) THE EXECUTIVE DIRECTOR OF A STATE AGENCY OR THE EXECUTIVE DIRECTOR'S DESIGNEE MAY ASSIGN A STATE-OWNED MOTOR VEHICLE THAT HAS BEEN ASSIGNED TO THE STATE AGENCY PURSUANT TO SECTION 24-30-1112 TO AN OFFICER OR EMPLOYEE OF THE STATE AGENCY FOR CONDUCTING STATE BUSINESS AND COMMUTING. COMMUTING INCLUDES TRAVELING FROM AN OFFICER'S OR EMPLOYEE'S PERSONAL RESIDENCE TO ONE OR MORE REGULAR PLACES OF BUSINESS. A STATE-OWNED MOTOR VEHICLE MAY BE PARKED AT THE PERSONAL RESIDENCE OF AN OFFICER OR EMPLOYEE OF A STATE AGENCY FOR MORE THAN ONE DAY PER MONTH ONLY IF THE STATE AGENCY HAS ASSIGNED THE VEHICLE TO THE OFFICER OR EMPLOYEE PURSUANT TO THIS SECTION. THE ASSIGNMENT OF A STATE-OWNED MOTOR VEHICLE PURSUANT TO THIS SECTION MUST COMPLY WITH THE REQUIREMENTS OF SECTION 24-30-1112.

(b) THE EXECUTIVE DIRECTOR OF A STATE AGENCY OR THE EXECUTIVE DIRECTOR'S DESIGNEE MUST AUTHORIZE THE ASSIGNMENT OF A VEHICLE IN WRITING AND SUBMIT THE AUTHORIZATION AND ANY SUPPORTING DOCUMENTATION TO THE DIRECTOR OF THE DIVISION FOR FINAL APPROVAL. THE EXECUTIVE DIRECTOR OF A STATE AGENCY OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL AUTHORIZE THE ASSIGNMENT OF A VEHICLE ONLY IF:

(I) ASSIGNMENT OF THE VEHICLE IS NECESSARY TO CONDUCT OFFICIAL AND LEGITIMATE STATE BUSINESS;

(II) ASSIGNMENT OF THE VEHICLE SATISFIES AT LEAST ONE OF THE FOLLOWING REQUIREMENTS:

(A) THE VEHICLE MEETS THE FEDERAL INTERNAL REVENUE SERVICE DEFINITION OF QUALIFIED NONPERSONAL USE, AS SPECIFIED IN 26 CFR 1.274-5 (k); OR

(B) THE ASSIGNMENT OF THE VEHICLE IS THE MOST COST-EFFICIENT MEANS OF TRANSPORTATION, AS DEFINED IN RULES ADOPTED BY THE DEPARTMENT OF PERSONNEL, TO THE STATE AGENCY; AND

(III) ASSIGNMENT OF THE VEHICLE COMPLIES WITH ANY ADDITIONAL CRITERIA ESTABLISHED IN RULES ADOPTED BY THE DEPARTMENT OF PERSONNEL.

(c) AN EXECUTIVE DIRECTOR OF A STATE AGENCY OR THE EXECUTIVE DIRECTOR'S DESIGNEE WHO AUTHORIZES THE ASSIGNMENT OF A STATE-OWNED MOTOR VEHICLE TO AN OFFICER OR EMPLOYEE OF THE STATE AGENCY SHALL MAINTAIN DOCUMENTATION OF THE ASSIGNMENT, INCLUDING THE EXECUTIVE DIRECTOR'S JUSTIFICATION FOR AUTHORIZING THE ASSIGNMENT OF THE VEHICLE. AT LEAST ANNUALLY, THE EXECUTIVE DIRECTOR OF A STATE AGENCY OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL REVIEW EACH ASSIGNMENT OF A VEHICLE TO ENSURE THAT THE ASSIGNMENT COMPLIES WITH THE REQUIREMENTS OF THIS SECTION.

(3) THE DIRECTOR OF THE DIVISION OR THE STATE CONTROLLER, OR THE DESIGNEE OF EITHER OFFICIAL, AS APPLICABLE, SHALL REVIEW ANY ASSIGNMENT OF A STATE-OWNED MOTOR VEHICLE TO AN OFFICER OR EMPLOYEE OF A STATE AGENCY. THE DIRECTOR OF THE DIVISION OR THE STATE CONTROLLER, OR THE DESIGNEE OF EITHER OFFICIAL, AS APPLICABLE, SHALL VERIFY THAT THE ASSIGNMENT OF THE VEHICLE COMPLIES WITH THE REQUIREMENTS SPECIFIED IN SUBSECTION (2) OF THIS SECTION AND THE REGULATIONS OF THE FEDERAL INTERNAL REVENUE SERVICE. IF THE REVIEW ESTABLISHES THAT THE ASSIGNMENT OF A VEHICLE DOES NOT COMPLY WITH SUCH REQUIREMENTS, THE DIRECTOR OF THE DIVISION SHALL REVOKE THE ASSIGNMENT OF THE VEHICLE.

(4) IN ADDITION TO THE INITIAL APPROVAL REQUIRED BY SUBSECTION (3) OF THIS SECTION, THE DIVISION SHALL ESTABLISH A PROGRAM AND ADOPT RULES PROVIDING FOR ANNUAL REVIEW AND VERIFICATION BY THE DIRECTOR OF THE DIVISION OR THE STATE CONTROLLER, OR THE DESIGNEE OF EITHER OFFICIAL, AS APPLICABLE, THAT EACH STATE-OWNED MOTOR VEHICLE ASSIGNED TO AN OFFICER OR EMPLOYEE OF A STATE AGENCY STILL COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION AND THE REGULATIONS OF THE FEDERAL INTERNAL REVENUE SERVICE. THE REQUIREMENTS OF THIS SUBSECTION (4) APPLY TO ALL STATE-OWNED MOTOR VEHICLES, WHETHER THEY WERE ASSIGNED BEFORE, ON, OR AFTER SEPTEMBER 1, 2017. IF THE VERIFICATION PROCESS ESTABLISHES THAT THE ASSIGNMENT OF A VEHICLE NO LONGER COMPLIES WITH SUBSECTION (2) OF THIS SECTION OR THE REGULATIONS OF THE FEDERAL INTERNAL REVENUE SERVICE, THE DIVISION SHALL REVOKE THE ASSIGNMENT OF THE VEHICLE.

(5) ANY OFFICER OR EMPLOYEE OF A STATE AGENCY WHO IS ASSIGNED A STATE-OWNED MOTOR VEHICLE BECAUSE IT IS THE MOST COST-EFFICIENT MEANS OF TRANSPORTATION AS SPECIFIED IN SUBSECTION (2)(b)(II)(B) OF THIS SECTION IS REQUIRED TO PAY INCOME TAX ON THE VALUE OF THE FRINGE BENEFIT OF THE

VEHICLE. THE STATE CONTROLLER, OR THE STATE CONTROLLER'S DESIGNEE, SHALL CALCULATE AND REPORT AS INCOME THE VALUE OF THE FRINGE BENEFIT OF THE VEHICLE IN ACCORDANCE WITH THE REGULATIONS OF THE FEDERAL INTERNAL REVENUE SERVICE. THE STATE CONTROLLER SHALL PROMULGATE RULES REGARDING HOW THE VALUE OF THE FRINGE BENEFIT WILL BE CALCULATED AND REPORTED.

(6) THE DIRECTOR OF THE DIVISION, OR THE DIRECTOR'S DESIGNEE, AND THE STATE CONTROLLER, OR STATE CONTROLLER'S DESIGNEE, SHALL PROMULGATE RULES AS REQUIRED IN THIS SECTION AND MAY PROMULGATE ADDITIONAL RULES DEEMED NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION. SUCH RULES SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE 24.

(7) (a) ON OR BEFORE SEPTEMBER 1, 2019, THE DEPARTMENT OF PERSONNEL SHALL REPORT TO THE LEGISLATIVE AUDIT COMMITTEE REGARDING THE IMPLEMENTATION AND ENFORCEMENT OF THIS SECTION. THE DEPARTMENT MAY MAKE RECOMMENDATIONS REGARDING FURTHER MODIFICATIONS TO THE CRITERIA AND REQUIREMENTS FOR THE ASSIGNMENT OF A STATE-OWNED MOTOR VEHICLE TO AN OFFICER OR EMPLOYEE OF A STATE AGENCY.

(b) THIS SUBSECTION (7) IS REPEALED, EFFECTIVE JULY 1, 2020.

SECTION 3. In Colorado Revised Statutes, 24-30-1115, **amend** (1) as follows:

24-30-1115. Motor fleet management fund - creation. (1) There is hereby created a fund to be known as the motor fleet management fund, which shall be administered by the department of personnel and which shall consist of all moneys which may be transferred thereto in accordance with section 24-30-1104 (2)(k). ~~or 24-30-1113 (4).~~

SECTION 4. Appropriation - adjustments to 2017 long bill. (1) To implement this act, appropriations made in the annual general appropriation act for the 2017-18 state fiscal year to the department of personnel are adjusted as follows:

(a) The FTE related to the cash funds appropriation from the department of personnel revolving fund created in section 24-30-1108 (1), C.R.S., for personal services related to integrated document solutions is decreased by 2.0 FTE.

(2) For the 2017-18 state fiscal year, \$196,235 is appropriated to the department of personnel. This appropriation is from the motor fleet management fund created in section 24-30-1115 (1), C.R.S. To implement this act, the program may use this appropriation as follows:

(a) \$185,119 for personal services related to the fleet management program and motor pool services, which amount is based on an assumption that the program will require an additional 1.8 FTE; and

(b) \$11,116 for operating expenses related to the fleet management program and motor pool services.

SECTION 5. Effective date. This act takes effect September 1, 2017.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 2, 2017