

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0258.01 Jery Payne x2157

SENATE BILL 16-010

SENATE SPONSORSHIP

Baumgardner,

HOUSE SPONSORSHIP

Becker J.,

Senate Committees
Transportation

House Committees
Transportation & Energy

A BILL FOR AN ACT

101 **CONCERNING THE PURCHASE OF AN OFF-HIGHWAY VEHICLE BY A**
102 **DEALER.**

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>.)

Current law requires an owner to obtain a certificate of title before selling an off-highway vehicle. The bill exempts off-highway vehicles that have never been titled and were sold either in a jurisdiction that does not issue titles to off-highway vehicles or in Colorado before off-highway vehicles were titled. If a dealer purchases an off-highway vehicle without a certificate of title the dealer must:

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.

SENATE
3rd Reading Unamended
February 1, 2016

SENATE
2nd Reading Unamended
January 29, 2016

- ! Contact law enforcement where the dealer is located and, using the vehicle identification number, verify that the off-highway vehicle has not been reported stolen;
- ! Contact the county clerk in the county where the dealer is located to determine if the off-highway vehicle is subject to a security interest; and
- ! Require the seller to sign an affidavit under the penalty of perjury that the seller owns the off-highway vehicle and how long the seller has owned it.

To obtain a certificate of title, the dealer must present the affidavit to the department of revenue.

Current law allows an off-highway vehicle registration to serve as proof of ownership. The bill limits this to vehicles purchased before July 1, 2014, that have been registered for one year.

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

2 **SECTION 1.** In Colorado Revised Statutes, 42-6-102, **add** (11.7)
 3 as follows:

4 **42-6-102. Definitions.** As used in this part 1, unless the context
 5 otherwise requires:

6 (11.7) "OFF-HIGHWAY VEHICLE DEALER" MEANS BOTH OF THE
 7 FOLLOWING AS DEFINED IN SECTION 12-6-502, C.R.S.:

- 8 (a) A POWERSPORTS VEHICLE DEALER; AND
- 9 (b) A USED POWERSPORTS VEHICLE DEALER.

10 **SECTION 2.** In Colorado Revised Statutes, 42-6-148, **amend** (1)
 11 and (2) as follows:

12 **42-6-148. Off-highway vehicles - sales.** (1) (a) Unless the owner
 13 has obtained a certificate of title for an off-highway vehicle under this
 14 article, a person shall not sell the off-highway vehicle and ~~an off-highway~~
 15 A vehicle dealer shall not purchase the off-highway vehicle; EXCEPT THAT
 16 THE DEALER MAY PURCHASE AN OFF-HIGHWAY VEHICLE WITHOUT A
 17 CERTIFICATE OF TITLE IF THE VEHICLE HAS NEVER BEEN TITLED AND WAS

1 ORIGINALLY PURCHASED IN:

2 (I) COLORADO BEFORE JULY 1, 2014; OR

3 (II) A FOREIGN JURISDICTION THAT DOES NOT OR DID NOT ISSUE
4 CERTIFICATES OF TITLE TO OFF-HIGHWAY VEHICLES WHEN PURCHASED.

5 (b) IF AN OFF-HIGHWAY VEHICLE DEALER PURCHASES AN
6 OFF-HIGHWAY VEHICLE WITHOUT A CERTIFICATE OF TITLE, THE DEALER
7 SHALL BEFORE FINALIZING THE PURCHASE REQUIRE THE SELLER TO SIGN
8 AN AFFIDAVIT THAT:

9 (I) IS MADE UNDER PENALTY OF PERJURY;

10 (II) STATES WHETHER THE VEHICLE IS SUBJECT TO A LIEN
11 INTEREST, AND IF THERE IS A LIEN HOLDER, THE NAME OF THE LIEN
12 HOLDER;

13 (III) STATES THAT THE SELLER OWNS THE OFF-HIGHWAY VEHICLE;

14 (IV) INDICATES HOW LONG THE SELLER HAS OWNED THE
15 OFF-HIGHWAY VEHICLE; AND

16 (V) CONTAINS A WARNING TO THE SELLER THAT FALSIFYING THE
17 AFFIDAVIT IS PERJURY BECAUSE THE AFFIDAVIT IS SUBMITTED TO A PUBLIC
18 OFFICIAL.

19 (c) UPON BEING CONTACTED BY A POWERSPORTS VEHICLE DEALER,
20 A LAW ENFORCEMENT AGENCY SHALL CHECK THE COLORADO CRIME
21 INFORMATION CENTER COMPUTER SYSTEM TO ASCERTAIN IF THE
22 OFF-HIGHWAY VEHICLE HAS BEEN REPORTED STOLEN. IF THE
23 OFF-HIGHWAY VEHICLE HAS BEEN STOLEN, THE AGENCY SHALL RECOVER
24 AND SECURE THE VEHICLE AND NOTIFY ITS RIGHTFUL OWNER. UPON THE
25 RELEASE OF THE OFF-HIGHWAY VEHICLE TO THE OWNER OR LIENHOLDER,
26 THE AGENCY SHALL ADJUST OR DELETE THE ENTRY IN THE COLORADO
27 CRIME INFORMATION CENTER COMPUTER SYSTEM.

1 (d) TO OBTAIN A TITLE FOR AN OFF-HIGHWAY VEHICLE THAT AN
2 OFF-HIGHWAY VEHICLE DEALER PURCHASED WITHOUT A CERTIFICATE OF
3 TITLE, THE DEALER MUST PRESENT TO THE DEPARTMENT AN AFFIDAVIT AS
4 DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1), SIGNED BY THE
5 SELLER FROM WHOM THE OFF-HIGHWAY VEHICLE DEALER ACQUIRED THE
6 OFF-HIGHWAY VEHICLE.

7 (e) A sale or purchase made in violation of this subsection (1) is
8 void.

9 (2) A current off-highway vehicle registration issued under article
10 14.5 of title 33, C.R.S., is sufficient evidence of ownership to issue a
11 certificate of title under this part 1 IF THE OFF-HIGHWAY VEHICLE WAS
12 FIRST PURCHASED IN COLORADO BEFORE JULY 1, 2014, AND HAS BEEN
13 REGISTERED FOR AT LEAST ONE YEAR.

14 **SECTION 3. Act subject to petition - effective date -**
15 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
16 the expiration of the ninety-day period after final adjournment of the
17 general assembly (August 10, 2016, if adjournment sine die is on May 11,
18 2016); except that, if a referendum petition is filed pursuant to section 1
19 (3) of article V of the state constitution against this act or an item, section,
20 or part of this act within such period, then the act, item, section, or part
21 will not take effect unless approved by the people at the general election
22 to be held in November 2016 and, in such case, will take effect on the
23 date of the official declaration of the vote thereon by the governor.

24 (2) This act applies to off-highway vehicle purchases made on or
25 after the applicable effective date of this act.