

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**PREAMENDED**

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

LLS NO. 17-0947.01 Yelana Love x2295

**HOUSE BILL 17-1249**

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**HOUSE SPONSORSHIP**

**Melton,**

**SENATE SPONSORSHIP**

**Tate,**

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**House Committees**

Business Affairs and Labor  
Appropriations

**Senate Committees**

Business, Labor, & Technology  
Appropriations

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**A BILL FOR AN ACT**

101 **CONCERNING THE UNLICENSED SELLING OF MOTOR VEHICLES, AND, IN**  
102 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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**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>.)*

The bill increases the penalties on unlicensed motor vehicle sales.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 12-6-121 as

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  
April 5, 2017

HOUSE  
Amended 2nd Reading  
April 4, 2017

1 follows:

2 **12-6-121. Penalty.** (1) EXCEPT AS PROVIDED IN SUBSECTION (2)  
3 OF THIS SECTION, any person who willfully violates ~~any of the provisions~~  
4 ~~of this part 1~~ or who willfully commits any offense in this part 1 declared  
5 to be unlawful commits a class 1 misdemeanor and shall be punished as  
6 provided in section 18-1.3-501. ~~C.R.S.; except that~~

7 (2) (a) Any person who WILLFULLY violates ~~the provisions of~~  
8 section 12-6-120 (2) BY ACTING AS A MANUFACTURER, DISTRIBUTOR, OR  
9 MANUFACTURER REPRESENTATIVE WITHOUT PROPER AUTHORIZATION  
10 commits a class 3 misdemeanor and, upon conviction thereof, shall be  
11 punished by a fine of not less than one hundred dollars or more than one  
12 thousand dollars for each separate offense; except that, if the violator is  
13 a corporation, the fine shall be not less than five hundred dollars or more  
14 than two thousand five hundred dollars for each separate offense. A  
15 second conviction shall be punished by a fine of two thousand five  
16 hundred dollars.

17 (b) ANY PERSON WHO WILLFULLY VIOLATES SECTION 12-6-120 (2)  
18 BY ACTING AS A MOTOR VEHICLE DEALER, WHOLESALER, USED MOTOR  
19 VEHICLE DEALER, BUYER AGENT, WHOLESALE MOTOR VEHICLE AUCTION  
20 DEALER, OR MOTOR VEHICLE SALESPERSON WITHOUT PROPER  
21 AUTHORIZATION COMMITS A CLASS 3 MISDEMEANOR AND, UPON  
22 CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN  
23 ONE THOUSAND DOLLARS AND A PENALTY OF TWENTY-FIVE HOURS OF  
24 USEFUL PUBLIC SERVICE, NEITHER OF WHICH THE COURT MAY SUSPEND,  
25 FOR EACH SEPARATE OFFENSE; EXCEPT THAT, IF THE VIOLATOR IS A  
26 CORPORATION, THE CORPORATION SHALL BE PUNISHED BY A FINE OF NOT  
27 LESS THAN FIVE THOUSAND DOLLARS NOR MORE THAN TWENTY-FIVE

1 THOUSAND DOLLARS FOR EACH SEPARATE OFFENSE. A SECOND  
2 CONVICTION FOR AN INDIVIDUAL SHALL BE PUNISHED BY A FINE OF NOT  
3 LESS THAN FIVE THOUSAND DOLLARS NOR MORE THAN TWENTY-FIVE  
4 THOUSAND DOLLARS FOR EACH SEPARATE OFFENSE, WHICH THE COURT  
5 MAY NOT SUSPEND.

6 **SECTION 2.** In Colorado Revised Statutes, 12-6-120, **amend (2)**  
7 as follows:

8 **12-6-120. Unlawful acts. (2)** It is unlawful for any person to act  
9 as a motor vehicle dealer, manufacturer, distributor, wholesaler,  
10 manufacturer representative, used motor vehicle dealer, buyer agent,  
11 wholesale motor vehicle auction dealer, or motor vehicle salesperson  
12 unless such person has been duly licensed under the provisions of this  
13 part 1, except for:

14 (a) Persons exempt from licensure as a manufacturer pursuant to  
15 section 12-6-102 (11); however, such persons shall comply with all other  
16 applicable requirements for manufacturers, including, but not limited to,  
17 those pertaining to vehicle identification numbers and manufacturers'  
18 statements of origin; AND

19 (b) BUSINESS OWNERS SELLING A VEHICLE IF THE VEHICLE HAS  
20 BEEN OWNED FOR MORE THAN ONE YEAR, THE VEHICLE HAS BEEN USED  
21 EXCLUSIVELY FOR BUSINESS PURPOSES, THE VEHICLE IS TITLED IN THE  
22 NAME OF THE BUSINESS, ALL APPLICABLE TAXES RELATED TO THE VEHICLE  
23 HAVE BEEN PAID, AND THE TOTAL NUMBER OF VEHICLES SOLD BY A  
24 BUSINESS OWNER OVER A TWO-YEAR PERIOD DOES NOT EXCEED TWENTY  
25 VEHICLES.

26 **SECTION 3.** In Colorado Revised Statutes, **amend 12-6-121.5**  
27 as follows:

1           **12-6-121.5. Fines - disposition - unlicensed sales.** ~~Any~~ OF ANY  
2 fine collected for a violation of section 12-6-120 (2), HALF shall be  
3 awarded to the law enforcement agency ~~which~~ THAT investigated and  
4 issued the citation for ~~said~~ THE violation AND HALF SHALL BE CREDITED  
5 TO THE AUTO DEALERS LICENSE FUND CREATED IN SECTION 12-6-123.

6           **SECTION 4.** In Colorado Revised Statutes, 12-6-123, **amend** (1)  
7 introductory portion; and **add** (1)(d) as follows:

8           **12-6-123. Disposition of fees - auto dealers license fund -**  
9 **creation.** (1) All ~~moneys~~ MONEY received under this part 1, except fines  
10 awarded pursuant to section 12-6-121.5, shall be deposited with the state  
11 treasurer by the department of revenue, subject to ~~the provisions of~~  
12 section 24-35-101, ~~C.R.S.~~, together with a detailed statement of such  
13 receipts, and such funds deposited with the state treasurer shall constitute  
14 a fund to be known as the auto dealers license fund, which fund is hereby  
15 created and which shall be used under the direction of the board in the  
16 following manner:

17           (d) TO ENFORCE SECTION 12-6-120 (2).

18           **SECTION 5. In Colorado Revised Statutes, amend 12-6-527 as**  
19 **follows:**

20           **12-6-527. Penalty.** (1) EXCEPT AS PROVIDED IN SUBSECTION (2)  
21 OF THIS SECTION, a person who willfully violates this part 5 commits a  
22 class 1 misdemeanor and shall be punished as provided in section  
23 18-1.3-501. C.R.S.; except that

24           (2) (a) A person who WILLFULLY violates section 12-6-523 (2) BY  
25 ACTING AS A POWERSPORTS VEHICLE MANUFACTURER, POWERSPORTS  
26 VEHICLE DISTRIBUTOR, OR POWERSPORTS VEHICLE MANUFACTURER  
27 REPRESENTATIVE WITHOUT PROPER AUTHORIZATION commits a class 3

1 misdemeanor and, upon conviction thereof, shall be punished by a fine of  
2 not less than one hundred dollars nor more than one thousand dollars for  
3 each separate offense, or if the violator is a corporation, the fine shall be  
4 not less than five hundred dollars nor more than two thousand five  
5 hundred dollars for each separate offense. A second conviction shall be  
6 punished by a fine of two thousand five hundred dollars.

7 (b) A PERSON WHO WILLFULLY VIOLATES SECTION 12-6-523 (2) BY  
8 ACTING AS A WHOLESALER, POWERSPORTS VEHICLE DEALER, USED  
9 POWERSPORTS VEHICLE DEALER, OR POWERSPORTS VEHICLE SALESPERSON  
10 WITHOUT PROPER AUTHORIZATION COMMITS A CLASS 3 MISDEMEANOR  
11 AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT  
12 LESS THAN ONE THOUSAND DOLLARS AND A PENALTY OF TWENTY-FIVE  
13 HOURS OF USEFUL PUBLIC SERVICE, NEITHER OF WHICH THE COURT MAY  
14 SUSPEND, FOR EACH SEPARATE OFFENSE; EXCEPT THAT, IF THE VIOLATOR  
15 IS A CORPORATION, THE CORPORATION SHALL BE PUNISHED BY A FINE OF  
16 NOT LESS THAN FIVE THOUSAND DOLLARS NOR MORE THAN TWENTY-FIVE  
17 THOUSAND DOLLARS FOR EACH SEPARATE OFFENSE. A SECOND  
18 CONVICTION FOR AN INDIVIDUAL SHALL BE PUNISHED BY A FINE OF NOT  
19 LESS THAN FIVE THOUSAND DOLLARS NOR MORE THAN TWENTY-FIVE  
20 THOUSAND DOLLARS FOR EACH SEPARATE OFFENSE, WHICH THE COURT  
21 MAY NOT SUSPEND.

22 **SECTION 6. Appropriation.** For the 2017-18 state fiscal year,  
23 \$8,000 is appropriated to the department of revenue. This appropriation  
24 is from the auto dealers license fund created in section 12-6-123 (1),  
25 C.R.S. To implement this act, the department may use this appropriation  
26 for tax administration IT system (GenTax) support.

27 **SECTION 7. Act subject to petition - effective date -**

1     **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
2     the expiration of the ninety-day period after final adjournment of the  
3     general assembly (August 9, 2017, if adjournment sine die is on May 10,  
4     2017); except that, if a referendum petition is filed pursuant to section 1  
5     (3) of article V of the state constitution against this act or an item, section,  
6     or part of this act within such period, then the act, item, section, or part  
7     will not take effect unless approved by the people at the general election  
8     to be held in November 2018 and, in such case, will take effect on the  
9     date of the official declaration of the vote thereon by the governor.

10           (2) This act applies to offenses committed on or after the  
11     applicable effective date of this act.