A BILL FOR AN ACT

CONCERNING ELECTRONIC DOCUMENTS RELATED TO THE OWNERSHIP

OF A VEHICLE THAT IS REGULATED BY THE DEPARTMENT OF

REVENUE.

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 creates a framework for the department of revenue to establish electronic processing for issuing certificates of title, filing or releasing liens, or registering vehicles, subject to the department promulgating rules:

Vendors are authorized to electronically register vehicles;
County clerks continue to receive registration fees; the department may maintain titling information electronically and may produce paper titles only upon request of a party; the department may accept electronic signatures; notarization requirements are eliminated; the vendor may order, manage, and distribute license plate inventory to a client; the vendor may access, print, and distribute the registration information to a client on demand; the vendor is an agent of the department, so the vendor must collect and remit taxes and fees; and the vendor may perform these services only for business entities. The department's approval of a third-party provider to register a vehicle, file or release liens, or issue any type of certificate of title must be evidenced by an agreement between the department and the third-party provider. The vendor may charge a fee. A vendor is authorized to give the department gifts, grants, and donations to implement electronic transactions. Current law prohibits denying legal effect or enforceability of an electronic document to issue a certificate of title. The bill expands this provision to cover vehicle registration, clarifies that this includes electronic signatures, and clarifies that this applies to a court of law. Currently, tow carriers, insurers, and salvage pools use an electronic system to access department records to ascertain the motor vehicle's owner and lienholder. The bill allows motor vehicle dealers and other businesses approved by the department to use the same system to determine a motor vehicle's owner and lienholder for purposes authorized by current law. Current law requires a manufacturer's certificate of origin to issue a certificate of title for a vehicle. The bill allows a motor vehicle rental company to obtain title without a manufacturer's certificate of origin if the business:

1. Presents an electronic manufacturer's statement of origin to the department within 90 days after being issued a certificate of title; and
2. Submits a signed affidavit attesting that the motor vehicle is new and has not been issued a certificate of title and that the business is entitled to be issued a certificate of title for the motor vehicle.

Be it enacted by the General Assembly of the State of Colorado:
SECTION 1. In Colorado Revised Statutes, 42-1-102, amend (24); and add (90.5) and (102.8) as follows:

42-1-102. Definitions. As used in articles 1 to 4 of this title 42, unless the context otherwise requires:

(24) "Department" means the department of revenue of this state acting directly or through its A duly authorized officers and agents OFFICER, AGENT, OR THIRD-PARTY PROVIDER.

(90.5) (a) "SIGNATURE" MEANS EITHER A WRITTEN SIGNATURE OR AN ELECTRONIC SIGNATURE.

(b) "ELECTRONIC SIGNATURE" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-71-101.

(102.8) "THIRD-PARTY PROVIDER" MEANS AN ELECTRONIC VEHICLE REGISTRATION, LIEN, OR TITLING SERVICE PROVIDER THAT IS APPROVED BY THE DEPARTMENT TO PERFORM THE REGISTRATION, LIEN, AND TITLING FUNCTIONS SET FORTH IN ARTICLES 1 TO 6 OF THIS TITLE 42.

SECTION 2. In Colorado Revised Statutes, 42-1-210, amend (1)(a)(II) as follows:


(1) (a) (II) An authorized agent may appoint and employ such motor vehicle registration and license clerks as are actually necessary in the issuance of motor vehicle licenses and may retain for the purpose of defraying such THESE expenses, including mailing, a sum equal to four dollars per paid motor vehicle registration and registration requiring a license plate or plates; individual temporary registration number plates; or a validation tab, sticker, decal, or certificate as provided in sections 42-3-201 and 42-3-203. This fee of four dollars applies to every registration of a motor vehicle except motor vehicles that are specifically
exempted from payment of any registration fee by article 3 of this title 42, and is required in addition to the annual registration fee prescribed by law for a motor vehicle. The fee of four dollars, when collected by the department shall be credited when collected by the department COLLECTS THE FEE, THE DEPARTMENT SHALL TRANSFER THE FEE TO THE STATE TREASURER, WHO SHALL CREDIT IT TO THE same fund as registration fees collected by the department COLORADO DRIVES VEHICLE SERVICES ACCOUNT CREATED IN SECTION 42-1-211; except that, if the fee is collected by a third-party provider, the department shall transmit the fee to the authorized agent WHERE THE VEHICLE IS REGISTERED. Authorized agents serve under this part 2 without additional remuneration or fees, except as otherwise provided in articles 1 to 6 of this title 42.

SECTION 3. In Colorado Revised Statutes, add with amended and relocated provisions 42-1-233 as follows:

42-1-233. [Formerly 42-3-113.5] Electronic vehicle registration and titling - electronic transmission of vehicle lien information - authority - rules - cash fund - gifts, grants, and donations. (1) (a) The department may establish a system to allow the electronic transmission of registration, lien, and titling information for motor or off-highway vehicles. EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, the department may adopt rules necessary for the implementation of this section, if the department promulgates a rule requiring lien and title documents to be filed electronically, a financial institution with less than fifty transactions per year need not file electronically. INCLUDING RULES TO ALLOW THE DEPARTMENT TO:

(I) MAINTAIN TITLING INFORMATION ELECTRONICALLY AND TO PRODUCE PAPER TITLES ONLY UPON REQUEST OF A PARTY;
(II) Accept electronic signatures on any documents, including title transfers, odometer disclosures, and powers of attorney, required to issue a certificate of title to a new owner;

(III) Eliminate any notarization requirements for document signatures;

(IV) Allow all parties to electronically file and release lien information;

(V) Authorize approved third-party providers to:
  (A) Electronically process registration, lien, and titling information and transmit the information to the department on behalf of a client;
  (B) Order, manage, and distribute the department's license plate inventory to a client; and
  (C) Access, print, and distribute the department's registration information to a client on demand.

(b) The department's approval of a third-party provider to register a vehicle, file or release liens, or issue any type of certificate of title must be evidenced by an agreement between the department and the third-party provider.

(c) In registering a vehicle, filing or releasing liens, or issuing any type of certificate of title, the third-party provider is acting as an agent of the department. The third-party provider shall collect and remit to the department all taxes and fees imposed by law to issue any type of certificate of title, file or release a lien, or to register the vehicle.

(d) A third-party provider may charge its clients a fee for each electronic registration transaction, lien transaction, or
titling transaction. The client may charge a consumer the fee the client paid to the third-party provider if the fee charged to the consumer does not exceed the fee charged to the client.

(e) A third-party provider shall not issue any type of certificate of title, file or release a lien, or register a vehicle unless the owner is a business entity.

(2) (a) The department is authorized to seek and accept gifts, grants, or donations from private or public sources, including from third-party providers, for the purposes of this section; except that the department may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this section or any other law of the state. The department shall ensure that any funds contributed to the department for the implementation of the system for the electronic transmission of registration, lien, and titling information for motor and off-highway vehicles are tracked separately and used only for the implementation of the system.

(b) Repealed.

(c) No vendor who responds to a request for proposal from the department concerning a system for the electronic transmission of registration, lien, and titling information for motor and off-highway vehicles may contribute a gift, grant, or donation for the purposes of this section.

(3) (a) The department need not promulgate rules, under subsection (1) of this section, that implement electronic transactions until the department receives adequate gifts, grants, or donations to implement the promulgated rules. The department may, upon receiving adequate gifts, grants, or
DONATIONS, PHASE-IN IMPLEMENTATION OF THIS SECTION AS REASONABLE. THE DEPARTMENT SHALL NOT USE MONEY FROM THE GENERAL FUND TO IMPLEMENT THIS SECTION.

(b) THIS SUBSECTION (3) DOES NOT AFFECT ANY RULES PROMULGATED, OR APPROPRIATIONS MADE, BEFORE JULY 1, 2019.

SECTION 4. Repeal of provisions being relocated in this act.

In Colorado Revised Statutes, repeal 42-3-113.5.

SECTION 5. In Colorado Revised Statutes, add with amended and relocated provisions 42-1-234 as follows:

42-1-234. [Formerly 42-6-102 (5)(b)] Electronic records, documents, and signatures. A record covered by this article ARTICLE 3 OR 6 OF THIS TITLE 42, INCLUDING A CERTIFICATE OF TITLE, A DOCUMENT NECESSARY TO ISSUE A CERTIFICATE OF TITLE, OR A SIGNATURE ON THE RECORD OR DOCUMENT, may not be denied legal effect, validity, or enforceability solely because it is in the form of an electronic record, DOCUMENT, OR SIGNATURE. Except as otherwise provided in this article ARTICLE 3 OR 6 OF THIS TITLE 42, if a rule of law requires a record to be in writing or provides consequences if it is not, an electronic record satisfies that rule of law. THIS SECTION APPLIES TO AND IN A COURT OF LAW.

SECTION 6. In Colorado Revised Statutes, 42-6-102, amend (3); repeal (5)(b); and add (5.5) as follows:

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

(3) "Department" means the department of revenue ACTING DIRECTLY OR THROUGH A DULY AUTHORIZED OFFICER, AGENT, OR THIRD-PARTY PROVIDER.
(5) (b) A record covered by this article may not be denied legal
effect, validity, or enforceability solely because it is in the form of an
electronic record. Except as otherwise provided in this article, if a rule of
law requires a record to be in writing or provides consequences if it is not,
an electronic record satisfies that rule of law.

(5.5) "ELECTRONIC SIGNATURE" HAS THE SAME MEANING AS SET
FORTH IN SECTION 24-71-101.

SECTION 7. In Colorado Revised Statutes, 42-6-110, amend
(1.7) as follows:

42-6-110. Certificate of title - transfer - department of records
- rules. (1.7) (a) The department shall allow an insurer, as defined in
section 10-1-102 and that is regulated under title 10, or a salvage pool that
is licensed as a used motor vehicle dealer, a MOTOR VEHICLE DEALER
LICENSED UNDER ARTICLE 20 OF TITLE 44, a USED MOTOR VEHICLE DEALER
LICENSED UNDER ARTICLE 20 OF TITLE 44, or any person approved by
the department to use the electronic systems created in section
42-4-2103 (3)(e)(III) to access owner and lienholder information of a
motor vehicle in the department's records if: the motor vehicle is:

(I) The MOTOR VEHICLE IS subject of an insurance claim being
processed by the insurer; or

(II) THE MOTOR VEHICLE IS possessed by a salvage pool;

(III) THE ACCESS IS RELATED TO A MOTOR VEHICLE TRANSACTION
WITH A MOTOR VEHICLE DEALER OR USED MOTOR VEHICLE DEALER; OR

(IV) THE ACCESS IS AUTHORIZED BY SECTION 24-72-204 (7).

(b) The department shall ensure that the information available to
the insurer, or the salvage pool, a MOTOR VEHICLE DEALER, a USED
MOTOR VEHICLE DEALER, or a person approved by the department
is correct and is limited to the information needed to verify and contact
the owner and lienholder of the motor vehicle.

(c) The department may charge the insurer, or the salvage pool,
A MOTOR VEHICLE DEALER, A USED MOTOR VEHICLE DEALER, OR A PERSON
APPROVED BY THE DEPARTMENT a fee in an amount not to exceed the
lesser of five dollars or the direct and indirect costs of implementing this
subsection (1.7). The department shall deposit the fee in the special
purpose account created in section 42-1-211.

(d) THE DEPARTMENT MAY PROMULGATE RULES ESTABLISHING
STANDARDS FOR VERIFYING:

(I) THE IDENTITY OF THE PERSON ACCESSING THE RECORDS; AND

(II) THAT THE ACCESS IS AUTHORIZED BY SECTION 24-72-204 (7).

SECTION 8. In Colorado Revised Statutes, 42-6-110.5, amend
(2)(a) introductory portion, (2)(b), (3) introductory portion, and (4); and
repeal (1)(a)(V) as follows:

42-6-110.5. Certificates of title - arrangements for transfer of
title upon death - beneficiary designation forms - definitions.
(1) (a) On and after August 10, 2016, the division shall make available
a beneficiary designation form that allows the owner or joint owners of
a vehicle to arrange for the transfer of the vehicle's title to a named
beneficiary upon the death of the owner or upon the death of all joint
owners of the vehicle. At a minimum, the form must include fields for the
following information:

(V) The signature and seal of a registered notary.

(2) (a) Upon the death of the owner, or of the last surviving joint
owner, of a vehicle for which a beneficiary designation form has been
properly executed, and notarized, as described in subsection (1)(a) of this
section, the beneficiary shall present the form to the division and request a new title of ownership of the vehicle in the beneficiary's name. The form must be accompanied by:

(b) Upon the presentation of a properly executed and notarized beneficiary designation form and accompanying documents, as described in subsection (2)(a) of this section, the division, subject to any security interest, shall issue a new certificate of title to the beneficiary. For the purposes of this subsection (2)(b), the division may rely on a death certificate, record, or report that constitutes prima facie evidence of death.

(3) During the lifetime of the owner of a vehicle for which a beneficiary designation form has been properly executed and notarized, or before the death of the last surviving joint owner of such a vehicle:

(4) Upon the death of the owner or upon the death of the last surviving joint owner of a vehicle for which a beneficiary designation form has been properly executed, and notarized, the interest of the beneficiary in the vehicle is subject to any contract of sale, assignment, or ownership or security interest to which the owner or joint owners of the vehicle were subject during their lifetime.

SECTION 9. In Colorado Revised Statutes, 42-6-113, add (4) as follows:

42-6-113. New vehicles - bill of sale - certificate of title - rental businesses - rules. (4) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, THE DEPARTMENT MAY, UPON PRESENTATION OF A MANUFACTURER'S INVOICE, ISSUE A BUSINESS THAT RENTS MOTOR VEHICLES A CERTIFICATE OF TITLE FOR A NEW MOTOR VEHICLE IF THE BUSINESS SUBMITS A SIGNED AFFIDAVIT OR A TITLE APPLICATION ATTESTING THAT THE MOTOR VEHICLE IS NEW AND HAS NOT BEEN ISSUED
A CERTIFICATE OF TITLE AND THAT THE BUSINESS IS ENTITLED TO BE
ISSUED A CERTIFICATE OF TITLE FOR THE MOTOR VEHICLE. UPON REQUEST
OF THE DEPARTMENT, THE BUSINESS SHALL MAKE AVAILABLE A SCANNED
IMAGE OF THE FRONT OF THE MANUFACTURER'S CERTIFICATE OF ORIGIN
FOR UP TO ONE PERCENT OF THE REGISTERED VEHICLES OF THE BUSINESS
FOR ANY GIVEN MONTH.

SECTION 10. In Colorado Revised Statutes, 42-6-115, amend
(3)(b)(I) as follows:

42-6-115. Furnishing bond for certificates. (3) (b) (I) If a
vehicle is twenty-five years old or older, the applicant has had a certified
vehicle identification number inspection performed on the vehicle, and
the applicant presents a notarized bill of sale within twenty-four months
after the sale with the title application, the applicant need not furnish
surety under this subsection (3). To be excepted from the surety
requirement, an applicant must submit an affidavit to the department that
is sworn to under penalty of perjury and that states that the required
documents submitted are true and correct.

SECTION 11. In Colorado Revised Statutes, amend 42-6-134 as
follows:

42-6-134. Where application for certificates of title made.
Except as otherwise provided in this part 1, a person shall apply for
recording of a certificate of title upon the sale or transfer of a motor or
off-highway vehicle with the authorized agent of the county where the
vehicle will be registered and licensed for operation. IF THE CERTIFICATE
OF TITLE APPLICATION IS MADE THROUGH A THIRD-PARTY PROVIDER, THE
APPLICANT NEED NOT BE PHYSICALLY PRESENT IN THE COUNTY WHERE THE
VEHICLE WILL BE REGISTERED IF THE THIRD-PARTY PROVIDER APPLIES FOR
A CERTIFICATE OF TITLE IN THE COUNTY WHERE THE VEHICLE WILL BE REGISTERED.

SECTION 12. Act subject to petition - effective date. This act takes effect July 1, 2019; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on July 1, 2019, or on the date of the official declaration of the vote thereon by the governor, whichever is later.