

## CHAPTER 303

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**MOTOR VEHICLES AND TRAFFIC REGULATION**

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**HOUSE BILL 00-1178**

BY REPRESENTATIVES Larson, Alexander, Hoppe, McKay, Miller, and Taylor;  
also SENATORS Musgrave, Arnold, Blickensderfer, Chlouber, Congrove, Epps, Lamborn, and Reeves.

**AN ACT**

CONCERNING PRORATION OF PAYMENTS REQUIRED FOR SPECIAL MOBILE MACHINERY, AND MAKING AN  
APPROPRIATION IN CONNECTION THEREWITH.

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

**SECTION 1.** 42-3-107 (7), Colorado Revised Statutes, is amended, and the said 42-3-107 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**42-3-107. Taxable value of classes of property - rate of tax - when and where payable - department duties - apportionment of tax collections.** (7) The department shall transmit all ~~annual~~ specific ownership taxes collected on items of Class A AND CLASS F personal property to the state treasurer and shall advise the treasurer ~~semiannually~~, on the last ~~days~~ DAY of ~~March and September~~ of each year, MONTH of the amounts apportioned to each county and city and county from collections made during the preceding ~~six-month periods ending on the last days of June and December~~ MONTH, and shall thereupon pay over such amounts to the respective treasurers of the counties and cities and counties entitled thereto.

(16.5) (a) FOR PURPOSES OF THIS SUBSECTION (16.5), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "OWNER" MEANS AN OWNER, AS DEFINED IN SECTION 42-1-102 (66), THAT OWNS AN ITEM OF SPECIAL MOBILE MACHINERY. THE TERM INCLUDES ANY PERSON AUTHORIZED TO ACT ON THE OWNER'S BEHALF.

(II) "PRORATED SPECIFIC OWNERSHIP TAX" MEANS THE PRORATED SPECIAL MOBILE MACHINERY SPECIFIC OWNERSHIP TAX ASSESSED PURSUANT TO THIS SUBSECTION (16.5).

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

(III) "SPECIAL MOBILE MACHINERY" MEANS EVERY ITEM OF CLASS F PERSONAL PROPERTY DESCRIBED IN SECTION 42-3-106 (1) (e) THAT IS REQUIRED TO BE REGISTERED UNDER THE PROVISIONS OF SECTION 42-3-103.

(b) IN LIEU OF PAYMENT OF THE ANNUAL SPECIFIC OWNERSHIP TAX IN THE MANNER PROVIDED IN SUBSECTION (15) OF THIS SECTION, AN OWNER MAY APPLY FOR PRORATED SPECIFIC OWNERSHIP TAX IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBSECTION (16.5).

(c) TO BE ELIGIBLE FOR PRORATED SPECIFIC OWNERSHIP TAX, AN OWNER SHALL HAVE ENTERED INTO A WRITTEN CONTRACT TO PERFORM A SERVICE REQUIRING USE OF THE SPECIAL MOBILE MACHINERY FOR WHICH SPECIFIC OWNERSHIP TAX UNDER THIS SECTION IS REQUIRED.

(d) (I) AN OWNER WHO DESIRES PRORATED SPECIFIC OWNERSHIP TAX SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT. THE APPLICATION SHALL INCLUDE THE TERMS OF THE OWNER'S SERVICE, WHICH SHALL BE EVIDENCED BY A COPY OF THE WRITTEN CONTRACT SPECIFIED IN PARAGRAPH (c) OF THIS SUBSECTION (16.5) AND SIGNED BY THE OWNER. THE VALIDITY OF THE CONTRACT SHALL BE EVIDENCED EITHER BY SUFFICIENT DOCUMENTATION TO SUBSTANTIATE ITS VALIDITY OR BY THE FACT THAT SUCH OWNER IS AN ESTABLISHED BUSINESS IN COLORADO, AS SHOWN BY REGISTRATION WITH THE COLORADO SECRETARY OF STATE OR DEPARTMENT OF REVENUE AS REQUIRED BY LAW.

(II) AN OWNER OF SPECIAL MOBILE MACHINERY THAT IS NOT REGISTERED IN COLORADO SHALL SUBMIT THE APPLICATION UPON THE ARRIVAL IN COLORADO OF THE SPECIAL MOBILE MACHINERY FOR WHICH SPECIFIC OWNERSHIP TAX UNDER THIS SECTION IS REQUIRED.

(III) AN OWNER OF SPECIAL MOBILE MACHINERY THAT IS REGISTERED IN COLORADO SHALL SUBMIT THE APPLICATION WHEN THE OWNER RENEWS THE REGISTRATION OF THE SPECIAL MOBILE MACHINERY FOR WHICH SPECIFIC OWNERSHIP TAX UNDER THIS SECTION IS REQUIRED.

(IV) WHEN SATISFIED AS TO THE GENUINENESS AND REGULARITY OF THE APPLICATION SUBMITTED, THE DEPARTMENT SHALL ASSESS, AND THE OWNER SHALL PAY, THE PRORATED SPECIFIC OWNERSHIP TAX IN AN AMOUNT EQUAL TO THE ANNUAL SPECIFIC OWNERSHIP TAX WHICH WOULD OTHERWISE BE IMPOSED PURSUANT TO SUBSECTION (15) OF THIS SECTION, PRORATED BY THE NUMBER OF MONTHS, AS INDICATED BY THE APPLICATION, DURING WHICH THE OWNER IS EXPECTED TO USE THE SPECIAL MOBILE MACHINERY IN COLORADO.

(V) (A) PRORATED SPECIFIC OWNERSHIP TAXES SHALL BE ASSESSED FOR A PERIOD OF NOT LESS THAN TWO MONTHS NOR MORE THAN ELEVEN MONTHS FOR ANY TWELVE-MONTH PERIOD.

(B) AFTER A PRORATED SPECIFIC OWNERSHIP TAX HAS BEEN ASSESSED AND PAID, AN OWNER MAY SEEK TO HAVE THE PRORATED SPECIFIC OWNERSHIP TAX ASSESSMENT PERIOD ADJUSTED FOR BETWEEN TWO AND ELEVEN MONTHS UPON THE OWNER'S REQUEST TO THE DEPARTMENT THAT THE OWNER REQUIRES ADDITIONAL TIME TO

COMPLETE THE CONTRACT REFERRED TO IN PARAGRAPH (c) OF THIS SUBSECTION (16.5) AND UPON PAYMENT OF ANY ADDITIONAL PRORATED SPECIFIC OWNERSHIP TAX PURSUANT TO THIS SUBSECTION (16.5).

(e) (I) ANY PERSON WHO, IN ANY APPLICATION MADE UNDER THIS SUBSECTION (16.5), USES A FALSE OR FICTITIOUS NAME OR ADDRESS, KNOWINGLY MAKES A FALSE STATEMENT, KNOWINGLY CONCEALS A MATERIAL FACT, OR OTHERWISE PERPETRATES A FRAUD, COMMITS A CLASS 2 MISDEMEANOR TRAFFIC OFFENSE. SUCH PERSON CONTINUES TO BE LIABLE FOR ANY UNPAID SPECIFIC OWNERSHIP TAXES.

(II) NO OWNER MAY OPERATE SPECIAL MOBILE MACHINERY IN COLORADO UNLESS THE OWNER HAS PAID THE SPECIFIC OWNERSHIP TAX ASSESSED PURSUANT TO THIS ARTICLE, NOR SHALL ANY OWNER OPERATE SPECIAL MOBILE MACHINERY IN COLORADO AFTER THE EXPIRATION OF THE PERIOD FOR WHICH THE SPECIFIC OWNERSHIP TAX WAS ASSESSED. ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SUBPARAGRAPH (II) SHALL BE SUBJECT TO, IN ADDITION TO ANY OTHER APPLICABLE PENALTY, AN ADMINISTRATIVE PENALTY OF FIVE HUNDRED DOLLARS OR DOUBLE THE AMOUNT OF THE SPECIFIC OWNERSHIP TAX, WHICHEVER IS GREATER. SUCH PENALTY MAY BE LEVIED BY ANY PEACE OFFICER, AS DEFINED IN SECTION 18-1-901 (3) (1), C.R.S., AND AUTHORIZED BY SECTION 42-8-104 (2). SUCH VIOLATION SHALL BE DETERMINED BY, PAID TO, AND RETAINED BY THE MUNICIPALITY OR COUNTY IN WHICH SUCH MOTOR VEHICLE IS OR SHOULD HAVE BEEN REGISTERED, SUBJECT TO JUDICIAL REVIEW PURSUANT TO RULE 106 (a) (4) OF THE COLORADO RULES OF CIVIL PROCEDURE.

**SECTION 2.** 42-8-104 (2), Colorado Revised Statutes, is amended to read:

**42-8-104. Powers and duties.** (2) The personnel of a port of entry weigh station, during the time that they are actually engaged in performing their duties as such and while acting under proper orders or regulations issued by the executive director of the department of revenue, shall have and exercise all the powers invested in peace officers in connection with the enforcement of the provisions of this article, articles 2 and 20 of this title, part 5 of article 4 of this title, SECTION 42-3-107 (16.5), and section 42-4-235; except that they shall not have the power to serve civil writs and process and, in the exercise of their duties, such personnel shall have the authority to restrain and detain persons or vehicles and may impound any vehicle until any tax or license fee imposed by law is paid or until compliance is had with any tax or regulatory law or regulation issued thereunder.

**SECTION 3.** 42-3-109, Colorado Revised Statutes, is amended to read:

**42-3-109. Tax for registration period.** Except as provided in ~~section~~ SECTIONS 42-3-109.5 AND 42-3-134 (13), there shall be paid upon any vehicle subject to registration under this article which is purchased during any registration period the prescribed fee for a twelve-month registration. In no event shall the specific ownership tax collected on any classified personal property be less than one dollar and fifty cents.

**SECTION 4.** 42-3-134 (13) (b) (III) (C), Colorado Revised Statutes, is amended, and the said 42-3-134 (13) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**42-3-134. Registration fees - passenger and passenger-mile taxes - repeal.**

(13) (b) (III) (C) ~~The department may adopt rules that allow a vehicle owner or a vehicle owner's agent who applies for apportioned registration, regardless of the base jurisdiction, to register directly with the department a vehicle that is used in interstate commerce and that qualifies for the registration fees provided in this subparagraph (HH), if the department determines in its discretion that such direct registration is necessary or suitable for the administration of this paragraph (b).~~

(1) THE DEPARTMENT SHALL ADOPT RULES THAT ALLOW A VEHICLE OWNER OR A VEHICLE OWNER'S AGENT TO APPLY FOR APPORTIONED REGISTRATION FOR A VEHICLE THAT IS USED IN INTERSTATE COMMERCE AND THAT QUALIFIES FOR THE REGISTRATION FEES PROVIDED IN THIS SUBSECTION (13). IN ESTABLISHING THE AMOUNT OF SUCH APPORTIONED REGISTRATION, SUCH RULES SHALL TAKE INTO ACCOUNT THE LENGTH OF TIME SUCH ITEM MAY BE OPERATED IN COLORADO OR THE NUMBER OF MILES SUCH ITEM MAY BE DRIVEN IN COLORADO. THE APPORTIONED REGISTRATION, IF BASED UPON THE LENGTH OF TIME SUCH ITEM MAY BE OPERATED IN COLORADO, SHALL BE VALID FOR A PERIOD OF BETWEEN TWO AND ELEVEN MONTHS. SUCH RULES SHALL ALSO ALLOW FOR EXTENSIONS OF APPORTIONED REGISTRATION PERIODS. DURING SUCH RULE-MAKING, THE DEPARTMENT SHALL CONFER WITH ITS AUTHORIZED AGENTS REGARDING ENHANCED COMMUNICATIONS WITH THE AUTHORIZED AGENTS AND THE COORDINATION OF ENFORCEMENT EFFORTS.

**SECTION 5. Appropriation - adjustment in 2000 long bill.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2000, the sum of eighty-four thousand seven hundred dollars (\$84,700), or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, appropriations made in the annual general appropriations act for the fiscal year beginning July 1, 2000, shall be adjusted as follows:

(a) The general fund appropriation to the capital construction fund outlined in section 3 (1) (f) is reduced by eighty-four thousand seven hundred dollars (\$84,700).

(b) The capital construction fund exempt appropriation to the department of transportation, construction projects, is reduced by eighty-four thousand seven hundred dollars (\$84,700).

**SECTION 6. Effective date.** This act shall take effect July 1, 2001, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, shall take effect on the specified date only if approved by the people.

Approved: May 31, 2000