

CHAPTER 320

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 10-1172

BY REPRESENTATIVE(S) Bradford, Nikkel, Sonnenberg, Tipton, King S., Liston, McFadyen, Murray, Priola, Todd, Looper, Vigil;
also SENATOR(S) Cadman.

AN ACT

CONCERNING THE REGISTRATION OF MOBILE MACHINERY IN ORDER TO PAY SPECIFIC OWNERSHIP TAX, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 42-1-102 (33), (41), (54), and (60), Colorado Revised Statutes, are amended, and the said 42-1-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

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

(33) "Farm tractor" means every ~~motor vehicle~~ IMPLEMENT OF HUSBANDRY designed and used primarily as a farm implement for drawing plows and mowing machines and other implements of husbandry.

(41) "Gross dollar volume" means the total contracted cost of work performed or put in place in a given county by the owner or operator of SPECIAL mobile machinery.

(54) ~~"Mobile machinery" or "self-propelled construction equipment" means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally operated or moved over the public~~

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

~~highways. This definition includes but is not limited to wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells, and the digging of ditches.~~

~~(60) "Mounted equipment" means any item of tangible personal property weighing more than five hundred pounds which THAT is rigidly PERMANENTLY mounted on or attached to a vehicle, subsequent to its manufacture and which, when so mounted on or attached to a vehicle, becomes an integral part thereof essential to the operation of such vehicle in carrying out and accomplishing the purpose for which such vehicle is being used INCLUDING MOUNTING BY MEANS SUCH AS WELDING OR BOLTING THE EQUIPMENT TO A VEHICLE.~~

(93.5) (a) "SPECIAL MOBILE MACHINERY" MEANS MACHINERY THAT IS PULLED, HAULED, OR DRIVEN OVER A HIGHWAY AND IS EITHER:

(I) A VEHICLE OR EQUIPMENT THAT IS NOT DESIGNED PRIMARILY FOR THE TRANSPORTATION OF PERSONS OR CARGO OVER THE PUBLIC HIGHWAYS; OR

(II) A MOTOR VEHICLE THAT MAY HAVE BEEN ORIGINALLY DESIGNED FOR THE TRANSPORTATION OF PERSONS OR CARGO OVER THE PUBLIC HIGHWAYS, AND HAS BEEN REDESIGNED OR MODIFIED BY THE ADDITION OF MOUNTED EQUIPMENT OR MACHINERY, AND IS ONLY INCIDENTALLY OPERATED OR MOVED OVER THE PUBLIC HIGHWAYS.

(b) "SPECIAL MOBILE MACHINERY" INCLUDES VEHICLES COMMONLY USED IN THE CONSTRUCTION, MAINTENANCE, AND REPAIR OF ROADWAYS, THE DRILLING OF WELLS, AND THE DIGGING OF DITCHES.

SECTION 2. 42-3-102 (1) (b) (II), Colorado Revised Statutes, is amended to read:

42-3-102. Periodic registration - rules. (1) The department may establish by rule a periodic vehicle registration program whereby certain vehicles shall be registered at:

(b) Five-year intervals upon payment of a five-year registration fee and any five-year specific ownership tax that may be due. An owner of any of the following motor vehicles may elect a five-year registration pursuant to this paragraph (b), which registration shall expire on the last day of the last month of each five-year registration period:

(II) SPECIAL mobile machinery.

SECTION 3. 42-3-103 (1) (a), Colorado Revised Statutes, is amended to read:

42-3-103. Registration required - exemptions. (1) (a) Within sixty days after purchase, every owner of a motor vehicle, trailer, semitrailer, or vehicle that is primarily designed to be operated or drawn upon any highway of this state or any owner of a trailer coach or of SPECIAL mobile machinery whether or not it is operated on the highways, shall register such vehicle with the department. A person who violates this subsection (1) commits a class B traffic infraction.

SECTION 4. 42-3-104 (3) (e) and (3) (f), Colorado Revised Statutes, are amended to read:

42-3-104. Exemptions - specific ownership tax - registration - domicile and residency - rules - definitions. (3) Registration shall not be required for the following:

(e) SPECIAL mobile machinery ~~and self-propelled construction equipment~~ used solely on property owned or leased by the owner of such machinery and equipment and not operated on the public highways of the state, if ~~such~~ THE owner lists all of ~~such~~ THE machinery or equipment for assessment and taxation under part 1 of article 5 of title 39, C.R.S.;

(f) SPECIAL mobile machinery ~~and self-propelled construction equipment~~ not operated on the highways of this state owned by a public utility and taxed under article 4 of title 39, C.R.S.

SECTION 5. 42-3-106 (2) (e), Colorado Revised Statutes, is amended, and the said 42-3-106 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

42-3-106. Tax imposed - classification - taxable value. (2) For the purpose of imposing graduated annual specific ownership taxes, the personal property specified in section 6 of article X of the state constitution is classified as follows:

(e) Every item of SPECIAL mobile machinery ~~and self-propelled construction equipment~~ required to be registered under this article shall be Class F personal property. IF A FARM TRACTOR, MEETING THE DEFINITION OF SPECIAL MOBILE MACHINERY, IS USED FOR ANY PURPOSE OTHER THAN AGRICULTURAL PRODUCTION FOR MORE THAN A TWENTY-FOUR HOUR PERIOD AT THE SITE WHERE IT IS USED FOR NONAGRICULTURAL PURPOSES, IT IS CLASS F PERSONAL PROPERTY, BUT IT SHALL BE GRANTED A PRORATED REGISTRATION UNDER SECTION 42-3-107 TO COVER SUCH USE. THE AUTHORIZED AGENT SHALL NOTIFY THE OWNER OF THE FARM TRACTOR OF THE PRORATED REGISTRATION. STORING A FARM TRACTOR AT A SITE DOES NOT GIVE RISE TO A PRESUMPTION THAT THE TRACTOR WAS USED FOR THE SAME PURPOSES THAT OTHER EQUIPMENT IS USED FOR AT THE SITE.

(6) (a) IF A VEHICLE AND THE EQUIPMENT MOUNTED ON THE VEHICLE ARE THE SAME MODEL YEAR:

(I) THE OWNER OF THE VEHICLE AND THE MOUNTED EQUIPMENT MAY REGISTER BOTH AS CLASS F PERSONAL PROPERTY; OR

(II) THE OWNER OF THE VEHICLE MAY REGISTER THE VEHICLE AS CLASS A, CLASS B, CLASS C, OR CLASS D PERSONAL PROPERTY AND THE MOUNTED EQUIPMENT MAY BE REGISTERED AS CLASS F PERSONAL PROPERTY.

(b) IF A VEHICLE AND THE EQUIPMENT MOUNTED ON THE VEHICLE ARE DIFFERENT MODEL YEARS:

(I) THE OWNER OF THE VEHICLE SHALL REGISTER THE VEHICLE AS CLASS A,

CLASS B, CLASS C, OR CLASS D PERSONAL PROPERTY; AND

(II) THE OWNER OF THE VEHICLE SHALL REGISTER THE MOUNTED EQUIPMENT AS CLASS F PERSONAL PROPERTY.

SECTION 6. 42-3-107 (16) (a), the introductory portion to 42-3-107 (16) (b), and 42-3-107 (16) (e), (17) (b), (18) (b), and (25), Colorado Revised Statutes, are amended to read:

42-3-107. Taxable value of classes of property - rate of tax - when and where payable - department duties - apportionment of tax collections - definitions.

(16) (a) In lieu of payment of the annual specific ownership tax in the manner provided in subsection (15) of this section, the owner of ~~any~~ SPECIAL mobile machinery ~~or self-propelled construction equipment~~ who is an equipment dealer regularly engaged in the sale or rental of SPECIAL mobile machinery ~~or self-propelled construction equipment~~ and who rents or leases such equipment to another person in which the owner has not held an interest for at least thirty days may elect to pay specific ownership tax as prescribed in this subsection (16).

(b) Authorization for payment of specific ownership tax under this subsection (16) shall be obtained from the authorized agent in the county in which the owner's principal place of business is located. The owner shall also apply for an identifying decal for each item of equipment to be rented or leased ~~Such identifying decal shall be affixed to the item of equipment at the time it is rented or leased~~ THAT SHALL BE AFFIXED TO THE ITEM WHEN IT IS RENTED OR LEASED. The owner shall keep records of each IDENTIFYING decal issued and a description of the item of equipment to which it is affixed. The fee for each identifying decal shall be five dollars, ~~which shall be paid when applying~~ UPON APPLICATION to the authorized agent. ~~Decals expire at the end of each calendar year, and application for new decals shall be made for each calendar year or portion thereof~~ AN IDENTIFYING DECAL SHALL EXPIRE WHEN THE REGISTRATION OF THE SPECIAL MOBILE MACHINERY TO WHICH IT IS AFFIXED EXPIRES PURSUANT TO SECTION 42-3-114. AN IDENTIFYING DECAL SHALL NOT BE ISSUED TO SPECIAL MOBILE MACHINERY UNLESS THE MACHINERY IS REGISTERED, BUT A DECAL MAY BE ISSUED CONCURRENTLY WITH THE REGISTRATION AND SHALL EXPIRE PURSUANT TO SECTION 42-3-114. The owner shall be required to remove ~~such~~ AN identifying decal upon the sale or change of ownership of such item of equipment. The fee of five dollars for each identifying decal as required by this section shall be distributed as follows:

(e) The owner of an item of SPECIAL mobile machinery ~~or self-propelled construction equipment~~ that is required to be registered for highway use under section 42-3-304 (14) shall be exempt from payment of the specific ownership tax at the time of registration if such tax is collected and remitted under this subsection (16).

(17) (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 AND PAY prorated specific ownership tax in accordance with this subsection (17).

(18) (b) (I) The owner of any Class F personal property shall, within sixty days after the purchase of new or used Class F personal property, apply for registration

with the authorized agent.

(II) NO PERSON SHALL OPERATE CLASS F PERSONAL PROPERTY UNLESS THE PROPERTY IS REGISTERED WITH THE AUTHORIZED AGENT OR EXEMPT FROM REGISTRATION PURSUANT TO SECTION 42-3-104 (3).

(25) A credit shall be allowed for taxes paid on any item of Class A, Class B, Class C, Class D, or Class F personal property if the owner disposes of the vehicle during the registration period ~~Such~~ OR IF THE OWNER CONVERTS THE VEHICLE FROM ANY CLASS OF PERSONAL PROPERTY TO CLASS F PROPERTY. THE credit may apply to payments of taxes on a subsequent application by ~~such~~ THE owner for registration of an item of Class A, Class B, Class C, Class D, or Class F personal property made during the ~~said~~ registration period or may be assigned by ~~such~~ THE owner to the transferee of the property for which taxes were paid; except that, when the transferee is a dealer in new or used vehicles, ~~such~~ THE transferee shall account to the owner for any assignment of the credit. The credit shall be prorated based on the number of months remaining in the registration period after the transfer and disposal of the vehicle. The calculation for the credit shall be determined by using the period beginning with the first day of the month following the date of transfer through the last day of the month for the period for which the vehicle was registered. Specific ownership tax credit will be allowed only if the total ownership tax credit due exceeds ten dollars.

SECTION 7. 42-3-116, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

42-3-116. Manufacturers or dealers. (7) (a) A PERSON WHO SELLS SPECIAL MOBILE MACHINERY IN THE ORDINARY COURSE OF BUSINESS MAY SUBMIT AN APPLICATION FOR A DEMONSTRATION PLATE.

(b) (I) THE DEPARTMENT SHALL ISSUE A DEMONSTRATION PLATE UPON PAYMENT OF THE FEE SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) AND UPON APPLICATION OF A MOTOR VEHICLE DEALER OR WHOLESALER ACCOMPANIED BY SATISFACTORY EVIDENCE THAT THE APPLICANT IS ENTITLED TO THE PLATE IN ACCORDANCE WITH THIS SUBSECTION (7).

(II) THE DEPARTMENT SHALL ESTABLISH AND ADJUST THE ANNUAL FEE FOR A DEMONSTRATION PLATE BASED ON THE AVERAGE OF SPECIFIC OWNERSHIP TAXES AND REGISTRATION FEES PAID FOR ITEMS OF SPECIAL MOBILE MACHINERY THAT ARE SEVEN MODEL YEARS OLD OR NEWER DURING THE PREVIOUS YEAR.

(III) A DEMONSTRATION PLATE SHALL BE VALID FOR ONE YEAR.

(IV) THE OWNER OF A DEMONSTRATION PLATE SHALL RETURN THE PLATE TO THE DEPARTMENT WITHIN TEN DAYS AFTER THE SALE OR CLOSURE OF THE BUSINESS THAT SELLS SPECIAL MOBILE MACHINERY IN THE ORDINARY COURSE OF BUSINESS.

(c) NO PERSON SHALL OPERATE SPECIAL MOBILE MACHINERY WITH A DEMONSTRATION PLATE UNLESS THE MACHINERY IS OFFERED FOR SALE AND BEING DEMONSTRATED FOR THE PURPOSES OF A SALE. THE OWNER MAY TRANSFER THE PLATE FROM ONE ITEM OF SPECIAL MOBILE MACHINERY TO ANOTHER AND WITHOUT

REPORTING THE TRANSFER TO THE DEPARTMENT.

(d) A PERSON WHO VIOLATES THIS SUBSECTION (7) IS GUILTY OF A CLASS 2 MISDEMEANOR, PUNISHABLE PURSUANT TO SECTION 18-1.3-501, C.R.S.

SECTION 8. Part 1 of article 3 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-3-127. Sale of special mobile machinery. A PERSON WHO SELLS SPECIAL MOBILE MACHINERY IN THE ORDINARY COURSE OF BUSINESS SHALL NOTIFY IN WRITING THE BUYER OF THE MACHINERY THAT THE MACHINERY IS REQUIRED TO BE REGISTERED UNDER THIS ARTICLE. A PERSON WHO VIOLATES THIS SECTION COMMITS A CLASS B TRAFFIC INFRACTION FOR EACH ITEM OF SPECIAL MOBILE MACHINERY SOLD WITHOUT SUCH A NOTICE.

SECTION 9. 42-3-201 (1) (a) (I) (E), Colorado Revised Statutes, is amended to read:

42-3-201. Number plates furnished - style - periodic reissuance - tabs - rules. (1) (a) (I) The department shall issue to every owner whose vehicle is registered two number plates; except that the department shall issue one number plate for the following:

(E) An item of SPECIAL mobile machinery. ~~or self-propelled construction equipment.~~

SECTION 10. 42-3-202 (1) (a), Colorado Revised Statutes, is amended to read:

42-3-202. Number plates to be attached. (1) (a) Number plates assigned to a self-propelled vehicle other than a motorcycle or street rod vehicle shall be attached thereto, one in the front and the other in the rear. The number plate assigned to a motorcycle, street rod vehicle, trailer, semitrailer, other vehicle drawn by a motor vehicle, or SPECIAL mobile machinery ~~or self-propelled construction equipment~~ shall be attached to the rear thereof. Number plates shall be so displayed during the current registration year, except as otherwise provided in this article.

SECTION 11. 42-3-304 (14) and (15), Colorado Revised Statutes, are amended to read:

42-3-304. Registration fees - passenger and passenger-mile taxes - clean screen fund. (14) (a) The owner or operator of SPECIAL mobile machinery ~~or self-propelled construction equipment~~ having an empty weight not in excess of sixteen thousand pounds that the owner or operator desires to operate over the public highways of this state shall register such vehicle under section 42-3-305 (5) (a).

(b) The owner or operator of SPECIAL mobile machinery ~~or self-propelled construction equipment~~ with an empty weight exceeding sixteen thousand pounds that ~~such~~ THE owner or operator desires to operate over the public highways of this state shall register ~~such~~ THE vehicle under section 42-3-305 (5) (b).

(15) The owner of SPECIAL mobile machinery, except that mentioned in sections 42-1-102 (44) and 42-3-104 (3), ~~or self-propelled construction equipment~~ that is not registered for operation on the highway shall pay a fee of one dollar and fifty cents, which shall not be subject to any quarterly reduction.

SECTION 12. 42-3-305 (12) (a), Colorado Revised Statutes, is amended to read:

42-3-305. Registration fees - passenger and passenger-mile taxes - fee schedule for years of TABOR surplus revenue - applicability. (12) (a) In lieu of registration under section 42-3-304 (14) (a), the owner or operator of SPECIAL mobile machinery ~~or self-propelled construction equipment~~ that ~~such~~ THE owner or operator desires to operate over the public highways of this state may elect to pay an annual fee to the department computed at the rate of one dollar and ninety cents per ton of vehicle weight or two dollars and twenty-five cents, whichever is greater, for operation not to exceed a distance of two thousand five hundred miles in any registration period.

SECTION 13. 42-3-306 (12) (a), Colorado Revised Statutes, is amended to read:

42-3-306. Registration fees - passenger and passenger-mile taxes - fee schedule for years in which TABOR surplus revenue is insufficient. (12) (a) In lieu of registration under section 42-3-304 (14), the owner or operator of SPECIAL mobile machinery ~~or self-propelled construction equipment~~ that ~~such~~ THE owner or operator desires to operate over the public highways of this state may elect to pay an annual fee computed at the rate of two dollars and fifty cents per ton of vehicle weight for operation not to exceed a distance of two thousand five hundred miles in any registration period.

SECTION 14. 42-3-310 (4), Colorado Revised Statutes, is amended to read:

42-3-310. Additional registration fees - apportionment of fees. (4) Two dollars and fifty cents of each annual vehicle registration fee imposed by sections 42-3-304 to 42-3-306, exclusive of the annual registration fees prescribed for motorcycles, trailer coaches, SPECIAL mobile machinery, ~~and self-propelled construction equipment~~, and trailers having an empty weight of two thousand pounds or less and exclusive of a registration fee paid for a fractional part of a year, shall not be transmitted to the department but shall be paid over by the authorized agent, as collected, to the county treasurer, who shall credit the same to an account entitled "apportioned vehicle registration fees". On the tenth day of each month, the county treasurer shall apportion the balance in ~~such~~ THE account existing on the last day of the immediately preceding month between the county and the cities and incorporated towns located within the boundaries of the county on the basis of the record of rural and urban registrations that indicates the place of residence of each vehicle owner.

SECTION 15. 42-4-202 (4) (a), Colorado Revised Statutes, is amended to read:

42-4-202. Unsafe vehicles - penalty - identification plates. (4) (a) Upon its approval, the department shall issue an identification plate for each vehicle, motor vehicle, trailer, or item of SPECIAL mobile machinery, ~~or self-propelled construction equipment~~, or similar implement of equipment, used in any type of construction

business which shall, when said plate is affixed, exempt any such item of equipment, machinery, trailer, or vehicle from all or part of this section and sections 42-4-204 to 42-4-231 and part 3 of this article.

SECTION 16. 42-3-203 (3) (a), Colorado Revised Statutes, is amended to read:

42-3-203. Standardized plates - rules. (3) (a) (I) The department may issue individual temporary registration number plates, tags, or certificates good for a period not to exceed sixty days upon application by ~~any~~ AN OWNER OF A MOTOR VEHICLE or the owner's agent and the payment of a registration fee of two dollars, one dollar and sixty cents ~~thereof~~ to be retained by the authorized agent or department issuing the plates, tags, or certificates and the remainder to be remitted monthly to the department to be transmitted to the state treasurer for credit to the highway users tax fund.

(II) THE AUTHORIZED AGENT MAY ISSUE INDIVIDUAL TEMPORARY REGISTRATION NUMBER PLATES, TAGS, OR CERTIFICATES GOOD FOR A PERIOD NOT TO EXCEED SIXTY DAYS UPON APPLICATION BY AN OWNER OF SPECIAL MOBILE MACHINERY OR THE OWNER'S AGENT AND THE PAYMENT OF A REGISTRATION FEE OF TWO DOLLARS, ONE DOLLAR AND SIXTY CENTS TO BE RETAINED BY THE AUTHORIZED AGENT OR DEPARTMENT ISSUING THE PLATES, TAGS, OR CERTIFICATES AND THE REMAINDER TO BE REMITTED MONTHLY TO THE DEPARTMENT TO BE TRANSMITTED TO THE STATE TREASURER FOR CREDIT TO THE HIGHWAY USERS TAX FUND.

(III) It is unlawful for a person to use such number plate, tag, or certificate after it expires. A person who violates any provision of this paragraph (a) commits a class B traffic infraction.

SECTION 17. 42-6-102 (10) (d), Colorado Revised Statutes, is amended to read:

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

(10) "Motor vehicle" means any self-propelled vehicle that is designed primarily for travel on the public highways and is generally and commonly used to transport persons and property over the public highways, including trailers, semitrailers, and trailer coaches, without motive power. "Motor vehicle" does not include the following:

(d) SPECIAL mobile machinery ~~self-propelled construction equipment~~, or industrial machinery not designed primarily for highway transportation.

SECTION 18. 14-10-122 (1.5) (d) (II), Colorado Revised Statutes, is amended to read:

14-10-122. Modification and termination of provisions for maintenance, support, and property disposition - automatic lien - repeal. (1.5) (d) **Lien on motor vehicles.** (II) For purposes of this subsection (1.5), "motor vehicle" means any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways, trailers, semitrailers, and trailer coaches, without motive

power; that has a net equity value based upon the loan value identified for such vehicle in the national automobile dealers' association car guide of not less than five thousand dollars at the time of the filing of the notice of lien and that meets such additional conditions as the state board of human services may establish by rule; and on which vehicle a lien already exists that is filed for public record and noted accordingly on the owner's certificate of title. "Motor vehicle" does not include low-power scooters, as defined in section 42-1-102, C.R.S.; vehicles that operate only upon rails or tracks laid in place on the ground or that travel through the air or that derive their motive power from overhead electric lines; farm tractors, farm trailers, and other machines and tools used in the production, harvesting, and care of farm products; and SPECIAL mobile machinery ~~self-propelled construction equipment~~; or industrial machinery not designed primarily for highway transportation. "Motor vehicle" does not include a vehicle that has a net equity value based upon the loan value identified for such vehicle in the national automobile dealers' association car guide of less than five thousand dollars at the time of the filing of the notice of lien and does not include a vehicle that is not otherwise encumbered by a lien or mortgage that is filed for public record and noted accordingly on the owner's certificate of title.

SECTION 19. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the license plate cash fund created in section 42-3-301 (1) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for allocation to the division of motor vehicles, driver and vehicle services, for the fiscal year beginning July 1, 2010, the sum of five hundred sixty dollars (\$560) cash funds, or so much thereof as may be necessary, for the implementation of this act.

SECTION 20. Act subject to petition - specified effective date - applicability.
(1) This act shall take effect October 1, 2010; 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 shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act shall apply to offenses committed and applications submitted on or after the applicable effective date of this act.

Approved: May 27, 2010