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HOUSE BILL 18-1299

BY REPRESENTATIVE(S) Bridges and Neville P., Buckner, Lewis, Michaelson Jenet, Rosenthal, Saine, Wist;
also SENATOR(S) Scott and Zenzinger, Cooke, Hill, Jahn, Lambert, Marble, Martinez Humenik, Neville T., Smallwood, Tate, Todd.

CONCERNING ELECTRONIC DOCUMENTS RELATED TO THE OWNERSHIP OF A VEHICLE THAT IS REGULATED BY THE DEPARTMENT OF REVENUE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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.

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

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

(102.8) "THIRD-PARTY PROVIDER" MEANS AN ELECTRONIC VEHICLE OR SPECIAL MOBILE MACHINERY 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, 42-1-206, **amend** (1)(b)(I) introductory portion, (1)(b)(I)(B), and (5) as follows:

42-1-206. Records open to inspection - furnishing of copies - rules. (1) (b) (I) For purposes of subsections (1) to (3) and (5) of this section, "law" ~~shall mean~~ MEANS the federal "Driver's Privacy Protection Act of 1994", 18 U.S.C. sec. 2721 et seq., the federal "Fair Credit Reporting Act", 15 U.S.C. sec. 1681 et seq., part 2 of article 72 of title 24, ~~C.R.S.~~, PART 21 OF ARTICLE 30 OF TITLE 24, and this section. The department shall prepare a requester release form and make ~~such~~ THE form available to the department's authorized agents. The form ~~shall~~ MUST include the following:

(B) A warning that any person using motor vehicle or driver records, or obtaining, reselling, or transferring ~~the same~~ THESE RECORDS, for purposes prohibited by law may be subject to civil OR CRIMINAL penalties under federal and state law; and

(5) ~~Any~~ A person who willfully and knowingly obtains, resells, transfers, or uses information in violation of law:

(a) ~~shall be~~ Is liable to any injured party for treble damages, reasonable attorney fees, and costs;

(b) IS SUBJECT TO BEING DENIED ACCESS TO THE RECORDS BY THE DEPARTMENT. THE DEPARTMENT MAY TEMPORARILY OR PERMANENTLY DENY ACCESS TO OR PLACE RESTRICTIONS ON THE ACCESS OF A PERSON WHO VIOLATES THIS SUBSECTION (5).

SECTION 3. In Colorado Revised Statutes, 42-1-210, **amend** (1)(a)(II) as follows:

42-1-210. Authorized agents - legislative declaration - fee.

(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~~ 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 OR SPECIAL MOBILE MACHINERY 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 4. In Colorado Revised Statutes, **add with amended and relocated provisions** 42-1-234 as follows:

42-1-234. [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~~ VEHICLES, off-highway vehicles, OR SPECIAL MOBILE MACHINERY. 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 AS AUTHORIZED BY THE DEPARTMENT;

(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 OR SPECIAL MOBILE MACHINERY, 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 OR SPECIAL MOBILE MACHINERY, 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 OR SPECIAL MOBILE MACHINERY.

(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) THE DEPARTMENT SHALL ENSURE THAT THE ADDRESSES OF PROGRAM PARTICIPANTS UNDER PART 21 OF ARTICLE 30 OF TITLE 24 ARE NOT RELEASED TO THIRD-PARTY PROVIDERS OR THE CLIENTS OF THIRD-PARTY PROVIDERS.

(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 VEHICLES, off-highway vehicles, AND SPECIAL MOBILE MACHINERY 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 or 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 5. Repeal of provisions being relocated in this act. In

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

SECTION 6. In Colorado Revised Statutes, **add with amended and relocated provisions** 42-1-235 as follows:

42-1-235. [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 7. 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 8. 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)(c)(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).

(e) IN ALLOWING ACCESS TO THE ELECTRONIC SYSTEM UNDER THIS SUBSECTION (1.7), THE DEPARTMENT SHALL ENSURE THAT THE ADDRESSES

OF PROGRAM PARTICIPANTS UNDER PART 21 OF ARTICLE 30 OF TITLE 24 ARE NOT RELEASED.

SECTION 9. 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 10. 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 OR SPECIAL MOBILE MACHINERY A CERTIFICATE OF TITLE FOR A NEW MOTOR VEHICLE OR SPECIAL MOBILE MACHINERY IF THE BUSINESS SUBMITS A SIGNED AFFIDAVIT OR A TITLE APPLICATION ATTESTING THAT THE MOTOR VEHICLE OR SPECIAL MOBILE MACHINERY 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 OR SPECIAL MOBILE MACHINERY. 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 11. 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 12. 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 13. In Colorado Revised Statutes, 42-6-137, **amend** (1)(a) and (2) as follows:

42-6-137. Fees. (1) (a) Upon filing with the authorized agent an application for a certificate of title, the applicant shall pay to the agent a fee of seven dollars and twenty cents, which shall be in addition to the fees for the registration of such motor vehicle. IF THE ADDITIONAL FEE OF SEVEN DOLLARS AND TWENTY CENTS IS COLLECTED BY A THIRD-PARTY PROVIDER, AS DEFINED IN SECTION 42-1-102, THE PROVIDER SHALL COLLECT AND REMIT THE FEE TO THE DEPARTMENT, WHO SHALL TRANSMIT THE FEE TO THE AUTHORIZED AGENT.

(2) Upon the receipt by an authorized agent of a mortgage for filing under section 42-6-121, 42-6-125, or 42-6-129, the filer shall pay the authorized agent the fees that are imposed by law for the filing of like instruments in the office of the county clerk and recorder and, in addition, a fee of seven dollars and twenty cents for the issuance or recording of the certificate of title and the notation of the existence of the mortgage. IF THE ADDITIONAL FEE OF SEVEN DOLLARS AND TWENTY CENTS IS COLLECTED BY A THIRD-PARTY PROVIDER, AS DEFINED IN SECTION 42-1-102, THE PROVIDER SHALL COLLECT AND REMIT THE FEE TO THE DEPARTMENT, WHO SHALL TRANSMIT THE FEE TO THE AUTHORIZED AGENT.

SECTION 14. Appropriation. (1) For the 2018-19 state fiscal year, \$1,187,502 is appropriated to the department of revenue. This appropriation is from gifts, grants, and donations deposited in the Colorado DRIVES vehicle services account in the highway users tax fund created in section 42-1-211 (2)(b)(I), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$100,312 for use by the division of motor vehicles for personal services related to vehicle services, which amount is based on an assumption that the division will require an additional 1.7 FTE;

(b) \$9,140 for use by the division of motor vehicles for operating expenses related to vehicle services;

(c) \$72,546 for use by the executive director's office for personal services, which amount is based on an assumption that the office will require an additional 1.4 FTE;

(d) \$7,914 for use by the executive director's office for operating expenses;

(e) \$981,000 for use by the division of motor vehicles for DRIVES maintenance and support; and

(f) \$16,590 for the purchase of information technology services.

(2) For the 2018-19 state fiscal year, \$16,590 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of revenue under subsection (1)(f) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of revenue.

SECTION 15. 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.

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO