

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

DRAFT
10.20.15

BILL 4

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Transportation Legislation Review Committee\Bill Drafts\TLRC Bill 4 -Third Party DMV.wpd*

LLS NO. 16-366.01 Jery Payne x2157

INTERIM COMMITTEE BILL

Transportation Legislation Review Committee

BILL TOPIC: "Private Agent Motor Vehicle Regulation"

A BILL FOR AN ACT

101 **CONCERNING A CERTIFICATION FOR PRIVATE AGENTS TO PERFORM**
102 **CERTAIN DELEGATED MOTOR VEHICLE FUNCTIONS OF THE**
103 **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://www.leg.state.co.us/bills/summaries>.)

Transportation Legislation Review Committee. The bill authorizes the director of the department of revenue to certify private agents to perform many of its motor vehicle functions, such as issuing

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

1 (1) "DELEGATED FUNCTION" MEANS A FUNCTION OF THE
2 DEPARTMENT UNDER THIS ARTICLE OR UNDER ARTICLES 2 TO 4, 6, OR 12
3 OF THIS TITLE, AS DETERMINED APPROPRIATE BY THE DIRECTOR,
4 INCLUDING ISSUING, RENEWING, OR REISSUING DRIVER'S LICENSES; ISSUING
5 CERTIFICATES OF TITLE; REGISTERING MOTOR VEHICLES; AND RENEWING
6 MOTOR VEHICLE REGISTRATIONS.

7 (2) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF
8 REVENUE OR THE DIRECTOR'S DESIGNEE.

9 (3) "PRIVATE AGENT" MEANS AN INDIVIDUAL WHO PERFORMS, OR
10 ATTEMPTS TO PERFORM, A DELEGATED FUNCTION.

11 **42-1-502. Applicability.** THIS PART 5 DOES NOT APPLY TO
12 COMMERCIAL DRIVER'S LICENSE DRIVING TESTERS OR COMMERCIAL
13 DRIVER'S LICENSE TESTING UNITS AS DEFINED IN SECTION 42-2-402,
14 COMMERCIAL DRIVING INSTRUCTORS OR COMMERCIAL DRIVING SCHOOLS
15 AS DEFINED IN SECTION 12-15-101, C.R.S., COUNTY CLERKS, OR OTHER
16 AUTHORIZED AGENTS.

17 **42-1-503. Certification of private agents.** THE DIRECTOR MAY
18 CERTIFY PRIVATE AGENTS TO PERFORM INDIVIDUAL OR MULTIPLE
19 DELEGATED FUNCTIONS.

20 **42-1-504. Delegated functions.** THE DIRECTOR MAY DETERMINE
21 BY RULE WHAT FUNCTIONS TO DELEGATE UNDER THIS PART 5.

22 **42-1-505. Contract with private entities.** THE DIRECTOR MAY
23 CONTRACT WITH PRIVATE ENTITIES TO OPERATE ONE OR MORE LOCATIONS
24 TO EMPLOY CERTIFIED PRIVATE AGENTS TO OFFER DELEGATED FUNCTIONS.

25 **42-1-506. Quality control - rules.** THE DIRECTOR SHALL
26 PROMULGATE RULES ESTABLISHING QUALITY CONTROL PROCEDURES AND
27 REQUIREMENTS FOR PRIVATE AGENTS TO ISSUE DRIVER'S LICENSES AND

1 REGISTER MOTOR VEHICLES.

2 **42-1-507. Fees. (1) Certification.** (a) THE DIRECTOR MAY
3 ESTABLISH AND CHARGE A FEE TO:

- 4 (I) CERTIFY A PRIVATE AGENT;
- 5 (II) RENEW THE CERTIFICATION OF A PRIVATE AGENT; AND
- 6 (III) REINSTATE AN EXPIRED CERTIFICATION.

7 (b) THE FEES ESTABLISHED BY THE DIRECTOR MUST NOT EXCEED
8 THE DIRECT AND INDIRECT COST OF ISSUING, RENEWING, OR REINSTATING
9 A CERTIFICATION.

10 (2) **Private agent services.** IN ADDITION TO THE FEES AND TAXES
11 IMPOSED UNDER THIS ARTICLE AND TRANSFERRED TO THE DEPARTMENT,
12 A PRIVATE AGENT MAY COLLECT AND RETAIN A FEE FOR ANY
13 TRANSACTION AUTHORIZED BY THE DIRECTOR. THE PRIVATE AGENT SHALL
14 NOT COLLECT A FEE THAT IS MORE THAN ____ PERCENT OF THE TOTAL
15 TAXES AND FEES IMPOSED ON THE TRANSACTION BY THIS TITLE; EXCEPT
16 THAT, IF THE FEE CALCULATED BY PERCENTAGE IS LESS THAN FOUR
17 DOLLARS, THE PRIVATE AGENT MAY CHARGE FOUR DOLLARS PER
18 TRANSACTION.

19 **42-1-508. Minimum certification standards - background**
20 **check - bond. (1) Qualifications - application.** IF THE DIRECTOR
21 DELEGATES A FUNCTION TO A PRIVATE AGENT, THE DIRECTOR SHALL
22 ESTABLISH THE FOLLOWING MINIMUM STANDARDS FOR CERTIFICATION:

23 (a) TO BE VALID, AN APPLICATION FOR CERTIFICATION TO PROVIDE
24 DRIVER'S LICENSE PROCESSING OR MOTOR VEHICLE REGISTRATION
25 PROCESSING MUST CONTAIN DOCUMENTATION THAT THE APPLICANT:

- 26 (I) IS QUALIFIED TO DETECT FRAUDULENT DOCUMENTS; AND
- 27 (II) UNDERSTANDS THE LEGAL STANDARDS FOR ISSUING ANY

1 DOCUMENT THE APPLICANT WOULD ISSUE IF CERTIFIED.

2 (b) (I) WITH THE SUBMISSION OF AN APPLICATION FOR A
3 CERTIFICATION UNDER THIS PART 5, EACH APPLICANT SHALL SUBMIT A
4 COMPLETE SET OF FINGERPRINTS TO THE DIRECTOR. THE DIRECTOR SHALL
5 FORWARD THE FINGERPRINTS TO THE COLORADO BUREAU OF
6 INVESTIGATION FOR THE PURPOSE OF CONDUCTING A STATE AND NATIONAL
7 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING THE
8 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE
9 FEDERAL BUREAU OF INVESTIGATION.

10 (II) THE COLORADO BUREAU OF INVESTIGATION SHALL TRANSFER
11 THE RESULTS OF THE NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY
12 RECORD CHECK TO THE DIRECTOR.

13 (III) THE APPLICANT SHALL PAY THE COSTS ASSOCIATED WITH THE
14 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK TO THE
15 COLORADO BUREAU OF INVESTIGATION.

16 (c) A PRIVATE AGENT WHO IS CERTIFIED TO PROCESS DRIVER'S
17 LICENSE TRANSACTIONS SHALL OBTAIN AND MAINTAIN A PERFORMANCE
18 BOND IN THE AMOUNT OF AT LEAST FIFTY THOUSAND DOLLARS. TO
19 COMPLY WITH THIS SECTION, THE BOND MUST:

20 (I) BE ISSUED BY A SURETY COMPANY AUTHORIZED TO TRANSACT
21 BUSINESS IN THIS STATE;

22 (II) NAME THE PRIVATE AGENT AS PRINCIPAL OBLIGOR ON THE
23 BOND AND THE STATE AS OBLIGEE;

24 (III) BE CONDITIONED UPON THE PRIVATE AGENT'S FAITHFUL
25 COMPLIANCE WITH THIS ARTICLE AND ARTICLES 2 TO 4, 6, AND 12 OF THIS
26 TITLE THAT GOVERN THE DELEGATED FUNCTION THE AGENT IS CERTIFIED
27 TO PERFORM;

1 (IV) BE NONCANCELLABLE WITHOUT AT LEAST SIXTY DAYS' PRIOR
2 WRITTEN NOTICE TO THE DIRECTOR;

3 (V) INURE TO THE BENEFIT OF ANY PERSON WHO SUFFERS LOSS
4 BECAUSE OF THE PRIVATE AGENT'S FAILURE TO:

5 (A) TRANSFER TO THE DEPARTMENT ANY FEE OR TAX IMPOSED BY
6 THIS TITLE PAID TO THE PRIVATE AGENT BY A CUSTOMER; OR

7 (B) COMPLY WITH THIS PART 5 OR ANY RULE PROMULGATED
8 UNDER THIS PART 5.

9 (2) **Criminal history.** THE DIRECTOR MAY DENY AN APPLICATION
10 FOR CERTIFICATION UNDER THIS PART 5 IF THE CRIMINAL HISTORY RECORD
11 CHECK SHOWS ANY OF THE FOLLOWING:

12 (a) THAT THE APPLICATION CONTAINS A MATERIAL OMISSION,
13 MISREPRESENTATION, OR MISSTATEMENT OF FACT; OR

14 (b) THAT THE APPLICANT HAS BEEN CONVICTED OR SERVED A
15 SENTENCE WITHIN THE IMMEDIATELY PRECEDING TEN YEARS FOR ANY
16 CRIME INVOLVING THEFT OF MORE THAN TWO HUNDRED FIFTY DOLLARS,
17 FRAUD INVOLVING MORE THAN TWO HUNDRED FIFTY DOLLARS, FORGERY,
18 BRIBERY, OR PERJURY.

19 **42-1-509. Denial of application. (1) Statement of denial.** IF THE
20 DIRECTOR DENIES AN APPLICATION FOR CERTIFICATION, THE APPLICANT
21 MAY REQUEST THAT THE DIRECTOR EXPLAIN THE BASIS OF THE DECISION
22 IN WRITING. IF THE REQUEST IS MADE WITHIN FIVE WORKING DAYS AFTER
23 THE DENIAL, THE DIRECTOR SHALL PROVIDE THE APPLICANT A STATEMENT
24 IN WRITING OF THE REASONS FOR THE DENIAL.

25 (2) **Hearings.** WITHIN THIRTY DAYS AFTER A DENIAL, AN
26 APPLICANT WHO IS DENIED CERTIFICATION MAY REQUEST A HEARING ON
27 THE APPLICATION. THE HEARING AND ALL PROCEDURES ARE GOVERNED BY

1 ARTICLE 4 OF TITLE 24, C.R.S. IF THE APPLICANT DOES NOT REQUEST A
2 HEARING WITHIN THIRTY DAYS, THE DENIAL IS FINAL.

3 **42-1-510. Expiration of certification. (1) Schedule set by**
4 **director.** ALL CERTIFICATES EXPIRE IN ACCORDANCE WITH A SCHEDULE
5 ESTABLISHED BY THE DIRECTOR.

6 (2) **Failure to renew.** IF A PERSON FAILS TO RENEW A
7 CERTIFICATION IN ACCORDANCE WITH THE SCHEDULE ESTABLISHED BY THE
8 DIRECTOR, THE CERTIFICATE EXPIRES. A PERSON WHOSE CERTIFICATE HAS
9 EXPIRED IS NO LONGER AUTHORIZED TO PERFORM DELEGATED FUNCTIONS
10 AND IS SUBJECT TO A DELINQUENCY FEE FOR REINSTATEMENT.

11 **42-1-511. Records - transactions. (1) Processing.** THE
12 DIRECTOR MAY AUTHORIZE PRIVATE AGENTS TO USE ELECTRONIC
13 PROCESSING OF DOCUMENTS, EVIDENCE, AND PAYMENTS.

14 (2) **Records maintained.** THE DEPARTMENT SHALL REQUIRE A
15 PRIVATE AGENT TO MAINTAIN RECORDS OF ALL DELEGATED FUNCTIONS
16 PERFORMED FOR AT LEAST THREE YEARS.

17 **42-1-512. Notice.** EACH PRIVATE AGENT THAT PROVIDES SERVICES
18 TO THE PUBLIC UNDER THIS PART 5 SHALL POST A CONSPICUOUS SIGN IN A
19 CONSPICUOUS LOCATION IN EACH FACILITY OF THE PRIVATE AGENT THAT
20 STATES THE AMOUNT CHARGED FOR EACH TRANSACTION PERFORMED BY
21 THE PRIVATE AGENT AND HOW TO FILE A COMPLAINT WITH THE DIRECTOR
22 ABOUT THE PRIVATE AGENT.

23 **42-1-513. Enforcement - investigations, audits, and discipline.**

24 (1) **Compliance.** THE DIRECTOR MAY:

25 (a) CONDUCT INVESTIGATIONS AND AUDITS OF PRIVATE AGENTS
26 AND BUSINESSES THAT EMPLOY PRIVATE AGENTS TO ENSURE COMPLIANCE
27 WITH THIS ARTICLE AND ARTICLES 2 TO 4, 6, AND 12 OF THIS TITLE AND

1 RULES PROMULGATED UNDER THOSE ARTICLES.

2 (b) MAKE ON-SITE INSPECTIONS DURING REGULAR BUSINESS HOURS
3 AT ANY LOCATION WHERE:

- 4 (I) DRIVER'S LICENSES ARE PROCESSED;
5 (II) MOTOR VEHICLE REGISTRATIONS ARE PROCESSED; OR
6 (III) RECORDS OF TRANSACTIONS ARE HELD.

7 (2) **Discipline.** IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24,
8 C.R.S., THE DIRECTOR MAY DENY AN APPLICANT OR SUSPEND OR CANCEL
9 A CERTIFICATION OR ISSUE A REMEDIAL ORDER IF A PRIVATE AGENT HAS:

10 (a) MADE A MATERIAL OMISSION, MISREPRESENTATION, OR
11 MISSTATEMENT OF FACT IN THE APPLICATION FOR CERTIFICATION;

12 (b) VIOLATED A LAW OF THIS STATE;

13 (c) VIOLATED A RULE ADOPTED BY THE DIRECTOR;

14 (d) FAILED TO KEEP AND MAINTAIN RECORDS REQUIRED BY THIS
15 PART 5;

16 (e) IMPROPERLY DISCLOSED PERSONAL INFORMATION;

17 (f) FAILED TO TRANSFER ALL TAXES AND FEES IMPOSED BY THIS
18 TITLE TO THE DIRECTOR;

19 (g) ENGAGED IN A PATTERN OF INAPPROPRIATE CONDUCT; OR

20 (h) FAILED TO MAINTAIN THE BOND REQUIRED BY SECTION
21 42-1-508.

22 (3) **Summary suspension.** IF THE DIRECTOR HAS REASONABLE
23 GROUNDS TO BELIEVE THAT A PRIVATE AGENT HAS COMMITTED ONE OF
24 THE FOLLOWING VIOLATIONS, THE DIRECTOR MAY ORDER A SUMMARY
25 SUSPENSION OF THE PRIVATE AGENT'S CERTIFICATION PENDING FORMAL
26 PROCEEDINGS FOR NO LONGER THAN SIXTY DAYS:

27 (a) TITLE OR REGISTRATION FRAUD;

- 1 (b) TAX FRAUD OR EVASION;
2 (c) LICENSE OR IDENTIFICATION CARD FRAUD;
3 (d) IMPROPER DISCLOSURE OF PERSONAL INFORMATION;
4 (e) BRIBERY;
5 (f) THEFT;
6 (g) PERJURY; OR
7 (h) ANY PATTERN OF ILLEGAL ACTS IN THE PERFORMANCE OF
8 DELEGATED FUNCTIONS.

9 **42-1-514. Violations.** (1) A PERSON WHO DOES ANY OF THE
10 FOLLOWING COMMITS A CLASS 1 MISDEMEANOR:

11 (a) PROCESSES A DRIVER'S LICENSE OR MOTOR VEHICLE
12 REGISTRATION WITHOUT HOLDING THE CERTIFICATION FROM THE
13 DIRECTOR NECESSARY TO PERFORM THE DELEGATED FUNCTION OR DURING
14 ANY PERIOD WHEN THE CERTIFICATION IS SUSPENDED, REVOKED, OR
15 EXPIRED;

16 (b) AUTHORIZES A PERSON WHO DOES NOT HOLD A CERTIFICATION
17 FROM THE DIRECTOR TO PROCESS A DRIVER'S LICENSE OR MOTOR VEHICLE
18 REGISTRATION; OR

19 (c) USES THE AUTHORITY GRANTED IN A CERTIFICATION ISSUED
20 UNDER THIS PART 5 TO KNOWINGLY VIOLATE OR AID ANOTHER PERSON TO
21 VIOLATE ANY STATUTE IN THIS ARTICLE OR ARTICLES 2 TO 4, 6, OR 12 OF
22 THIS TITLE OR ANY RULE PROMULGATED UNDER THOSE ARTICLES.

23 **SECTION 2. Act subject to petition - effective date -**
24 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
25 the expiration of the ninety-day period after final adjournment of the
26 general assembly (August 10, 2016, if adjournment sine die is on May 11,
27 2016); except that, if a referendum petition is filed pursuant to section 1

1 (3) of article V of the state constitution against this act or an item, section,
2 or part of this act within such period, then the act, item, section, or part
3 will not take effect unless approved by the people at the general election
4 to be held in November 2016 and, in such case, will take effect on the
5 date of the official declaration of the vote thereon by the governor.

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