

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0284.01 Duane Gall x4335

SENATE BILL 12-095

SENATE SPONSORSHIP

Lundberg,

HOUSE SPONSORSHIP

(None),

Senate Committees
Transportation

House Committees

A BILL FOR AN ACT

101 CONCERNING REQUIREMENTS FOR THE VALID TRANSFER OF TITLE TO
102 A MOTOR VEHICLE.

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/billssummaries>.)

The bill clarifies the requirements for transfer of title to a motor vehicle when the certificate of title is not available by specifying that:

- ! A bill of sale or other unspecified evidence of ownership is not a valid substitute for the certificate of title; except
- ! Regardless of the age of the vehicle, if the applicant has

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

had a certified vehicle identification number inspection performed on the vehicle, and the applicant presents a bill of sale within 24 months after the sale with the title application, together with an affidavit under penalty of perjury that the documents submitted are true and correct, then the applicant need not furnish a surety bond as would otherwise be required.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 42-6-109 as
3 follows:

4 **42-6-109. Sale or transfer of vehicle.** (1) Except as provided in
5 section 42-6-113, ~~no~~ A person shall NOT sell or otherwise transfer a motor
6 vehicle to a purchaser or transferee without delivering to ~~such~~ THE
7 purchaser or transferee a certificate of title ~~which may be electronic~~, to
8 ~~such~~ THE vehicle duly transferred in the manner prescribed in section
9 42-6-110. EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, THE
10 CERTIFICATE OF TITLE MAY BE IN AN ELECTRONIC FORMAT. EXCEPT AS
11 PROVIDED IN SECTION 42-6-115, no purchaser or transferee shall acquire
12 any right, title, or interest in and to a motor vehicle purchased by ~~such~~
13 THE purchaser or transferee unless and until he or she obtains from the
14 transferor the certificate of title duly transferred in accordance with this
15 part 1. A lienholder may request either a paper or electronic version of a
16 certificate of title.

17 (2) EXCEPT AS PROVIDED IN SECTION 42-6-115, a paper copy of a
18 certificate of title ~~shall be~~ IS necessary for any transaction in which:

- 19 (a) Either party to the transaction is located outside Colorado; or
20 (b) The purchaser pays for a motor vehicle entirely with cash.

21 **SECTION 2.** In Colorado Revised Statutes, **amend** 42-6-115 as
22 follows:

1 **42-6-115. Furnishing bond for certificates.** (1) (a) If the
2 applicant for a certificate of title to a motor vehicle is unable to provide
3 the director or the authorized agent with a certificate of title duly
4 transferred to ~~such~~ THE applicant, ~~a bill of sale, or other evidence of~~
5 ~~ownership that satisfies the director that the applicant owns the vehicle;~~
6 THE DIRECTOR OR THE AUTHORIZED AGENT MAY FILE a certificate of title
7 for ~~such~~ THE vehicle ~~may be filed by the director or the authorized agent~~
8 ~~upon~~ IF the applicant ~~furnishing~~ FURNISHES the director or the authorized
9 agent with a statement, in ~~such~~ A form ~~as required~~ SPECIFIED by the
10 director, ~~The statement shall contain~~ THAT CONTAINS:

11 (I) A recital of the facts and circumstances by which the applicant
12 acquired the ownership and possession of ~~such~~ THE vehicle;

13 (II) The source of the title to the vehicle; and ~~such~~

14 (III) Other information as the director may require to determine:

15 (A) Whether any liens are attached to ~~such~~ THE motor vehicle;

16 (B) The date of the liens;

17 (C) The amount secured by the vehicle;

18 (D) Where ~~such~~ THE liens are of public record; and

19 (E) The right of the applicant to have a certificate of title filed on
20 behalf of the applicant.

21 (b) The statement ~~shall~~ SPECIFIED IN PARAGRAPH (a) OF THIS
22 SUBSECTION (1) MUST contain or be accompanied by a written declaration
23 that it is made under ~~the penalties~~ PENALTY of perjury in the second
24 degree, as defined in section 18-8-503, C.R.S., and ~~shall~~ MUST
25 accompany the application for the certificate as required in section
26 42-6-116.

27 (c) THE DIRECTOR OR THE AUTHORIZED AGENT MAY MAINTAIN any

1 evidence submitted to ~~and maintained by~~ the director or the authorized
2 agent ~~may be maintained~~ in a paper or electronic version.

3 (2) If the director or the authorized agent finds that the applicant
4 is the same person to whom a certificate of title for the vehicle has
5 previously been issued or filed and to whom a license was issued for the
6 year during which the application for ~~such~~ THE certificate of title is made
7 and that a certificate of title should be filed on behalf of the applicant,
8 ~~such~~ THE DIRECTOR OR AUTHORIZED AGENT MAY FILE THE certificate. ~~may~~
9 ~~be filed and disposition of such certificate shall be made as in other cases.~~

10 (3) (a) Except as provided by paragraph (b) of this subsection (3)
11 or section 42-12-402, the department or an authorized agent shall not file
12 a certificate of title under this section until the applicant furnishes
13 evidence of a savings account, deposit, or certificate of deposit meeting
14 the requirements of section 11-35-101, C.R.S., or a good and sufficient
15 bond with a corporate surety, to the state, in an amount ~~to be~~ fixed by the
16 director, not less than twice the reasonable value of the vehicle
17 determined as of the time of application. The applicant and the applicant's
18 surety shall hold harmless any person who suffers loss or damage by
19 reason of the filing of a certificate under this section.

20 (b) ~~If the vehicle for which the certificate is filed is twenty-five~~
21 ~~years old or older,~~ the applicant has had a certified vehicle identification
22 number inspection performed on the vehicle, and the applicant presents
23 a ~~notarized~~ bill of sale within twenty-four months after the sale with the
24 title application, ~~then~~ the applicant need not furnish surety under this
25 subsection (3). To be excepted from the surety requirement, an applicant
26 shall submit an affidavit to the department that is sworn to under penalty
27 of perjury that states that the required documents submitted are true and

1 correct.

2 (4) If any person suffers loss or damage by reason of the filing of
3 the certificate of title as provided in this section, ~~such~~ THE person ~~shall~~
4 ~~have~~ HAS a right of action against the applicant and the surety on the
5 applicant's bond against either of whom the person damaged may proceed
6 independently of the other.

7 **SECTION 3. Act subject to petition - effective date -**
8 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
9 the expiration of the ninety-day period after final adjournment of the
10 general assembly (August 7, 2012, if adjournment sine die is on May 9,
11 2012); except that, if a referendum petition is filed pursuant to section 1
12 (3) of article V of the state constitution against this act or an item, section,
13 or part of this act within such period, then the act, item, section, or part
14 will not take effect unless approved by the people at the general election
15 to be held in November 2012 and, in such case, will take effect on the
16 date of the official declaration of the vote thereon by the governor.

17 (2) The provisions of this act apply to applications for certificates
18 of title made on or after the applicable effective date of this act.