

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE SELLER OF A USED MOTOR VEHICLE TO  
5 DISCLOSE IN WRITING TO A BUYER ANY KNOWN DEFECTS THAT MIGHT IMPAIR THE VEHICLE'S  
6 SAFETY OR USE; PROVIDING REMEDIES FOR THE VEHICLE'S BUYER AND AFFIRMATIVE DEFENSES FOR  
7 THE VEHICLE'S SELLER; PROVIDING FOR ATTORNEY FEES AND COSTS; PROVIDING THAT  
8 WARRANTIES AND OTHER REMEDIES ARE NOT LIMITED BY THE PROVISIONS OF THIS BILL; AND  
9 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **NEW SECTION. Section 1. Seller disclosure of used motor vehicle defect -- buyer's remedies --**  
14 **affirmative defense -- other warranties.** (1) Any person, including a dealer, that sells a used motor vehicle  
15 shall clearly disclose in writing to a prospective buyer, before the sale is complete, any defect the seller  
16 knows of that may impair the used motor vehicle's safety or substantially impair its use.

17 (2) Failure by a seller to disclose known defects that are subject to the provisions of subsection  
18 (1) entitles a buyer, within 30 days after the sale, to rescind the sale and to a return of the purchase price  
19 less a reasonable amount for any damage not attributable to normal wear and tear.

20 (3) In an action brought by a buyer under this section, if the court finds that the seller has failed  
21 to comply with the requirements of subsection (1) or to return the purchase price pursuant to subsection  
22 (2), the court may award the buyer attorney fees and costs in addition to damages.

23 (4) (a) A seller is entitled to allege as an affirmative defense that the defect does not impair the  
24 used motor vehicle's safety or substantially impair its use or that the defect is the result of the buyer's  
25 negligence or abuse, damage caused by an accident after the sale, vandalism, or an attempt to modify the  
26 vehicle.

27 (b) A court may award a seller attorney fees and costs, in addition to damages, if the seller is  
28 successful in proving an affirmative defense claim.

29 (5) This section may not be construed as limiting the enforceability of any express or implied  
30 warranties that may exist elsewhere in the law or any other rights or remedies available to either a buyer

1 or seller that is subject to the provisions of this section.

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3 NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an  
4 integral part of Title 30, chapter 11, part 2, and the provisions of Title 30, chapter 11, part 2, apply to  
5 [section 1].

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7 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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