EXHIBIT 2
DATE 2-21-07
HB HB 737

DEPARTMENT OF JUSTICE
HB 737: Revising Motor Vehicle Laws

1. **Generally Revising Licensing Requirements for the Sale of Motor Vehicles, Trailers, Campers, Motorboats, Personal Watercraft, Sailboats, Snowmobiles and Off-Highway Vehicles**

- **Section 4** standardizes the design and numbering of "dealer," "demonstrator" and "courtesy" license plates used by dealers, their employees and their customers. It authorizes a uniform numbering system for identification cards used to demonstrate power sport vehicles. It establishes standard expiration date (Dec. 31st) and grace period (last day of February) for use of these plates and cards by dealers who file timely annual reports.

- **Section 34** collapses the current dealer license types into two categories – "new dealer's license" and "used dealer's license" – creates a separate license for brokers, and authorizes use of a standard application process, including collection of the applicant's customer identification number, as defined in **section 16**, for the five types of licenses issued: "new dealer's license," "used dealer's license," "broker's license," "auto auction license," and "wholesaler's license." It also sets the parameters for each license type – page 56, lines 14-29. It retains the current fee structure for license applications and tiered bond requirements based on type of vehicles being sold – page 59, line 19 through page 60, line 5.

- **Section 35** strikes numbering requirements based on type of dealer's license because design and numbering of these plates are now covered in **Section 4**.

- **Section 36** extends the recordkeeping statute that applies to dealers and wholesalers to auto auctions. Brokers are not included because, by definition, they don't maintain vehicle inventories and would not appear in the chain of title for a vehicle as a seller. Separate recordkeeping requirements for brokers are included in **Section 3** – page 3, lines 4-18.

- **Section 41** strikes application language from the statute governing auto auction licenses because **Section 34** creates a common application requirement for dealers, brokers, auto auctions and wholesalers. It also strikes recordkeeping language that is now covered in **Section 36**. It also changes the annual license renewal requirement to an annual report filing requirement – similar to the annual report currently filed by dealers – clarifies the authority of auto auctions to issue temporary registration permits, and explicitly recognizes sale of power sport vehicles and trailers by auto auctions.

- **Section 42** extends the authority of compliance specialists to investigate violations of, and promote compliance with, the vehicle sales regulations to brokers, wholesalers and auto auctions.

- **Section 43** applies the current dealer requirements and restrictions to sale of motor vehicles, power sports vehicle and trailers. It simplifies the procedure that dealers must follow to conduct an authorized off-premises sale. It also clarifies that certain joint commercial off-premise displays (not sales events) may not exceed 90 days in a calendar year. Finally, it provides that if a dealer uses a cellular phone for the dealership, the cell phone number must be posted at the dealer's place of business.

- **Section 44** extends the annual report filing requirement to dealers who sell power sport vehicles and trailers. It also collapses the current $5 filing fee and the current $25 registration fee into a single $30 fee.

- **Section 45** strikes application language from the statute governing wholesalers because **Section 34** creates a common application requirement for dealers, brokers, auto auctions and wholesalers. It also changes the annual license renewal requirement to an annual report filing requirement – similar to the annual report currently filed by dealers, and explicitly recognizes sale of power sport vehicles and trailers by wholesalers.

- **Section 46** adds broker to the statute that governs claims against the bond posted by a licensee (dealer, wholesaler, auto auction) by a customer who has suffered loss or damage due to the licensee's unlawful conduct.

- **Section 47** eliminates references to design of demonstrator plates and grace period following filing of annual report, both of which are now addressed in **Section 4**. It also clarifies use of demonstrator plates by dealers. Demonstrator plates may not be used on power sport vehicles, but may be used, as described in current law, on motor vehicles, travel trailers, and trailers.

- **Section 48** eliminates reference to design of courtesy license plates, now covered under section 4.

- **Sections 50-52** clarify that current law succession requirements only apply to new dealers who must receive approval of franchisor for family member succession to occur.

- **Section 17** extends current law authorizing Internet-based transactions by customers to businesses licensed under chapter 4 – dealers, brokers, wholesalers, auto auctions, vehicle and vessel manufacturers, etc.

- **Section 18** clarifies that auto auctions are subject to the same odometer disclosure recordkeeping requirements as dealers and wholesalers.

2. **Consolidating Motorboat, Personal Watercraft, Snowmobile and Off-Highway Dealer Licensing Under Title 61, MCA.**

- **Section 7** clarifies the definition of "certificate of number" to allow the possibility of a certificate being issued by the Department of Justice, an authorized agent of the Department of Justice, or a county treasurer, and deletes the definition of "dealer" from the Title 23 statutes that govern vessels (watercraft).

- **Section 16** revises the definition of "dealer," "manufacturer," "registration decal," "retail sale," and "wholesaler" to include motorboats, sailboats, snowmobiles or off-highway vehicles.

- **Section 38** makes identification cards, used to demonstrate power sports vehicles, subject to the same withdrawal conditions as dealer and demonstrator plates and temporary registration permit issuance if a dealer's bond or liability insurance is not maintained.

- **Sections 39** adds power sport vehicles to the statutes that set forth the paperwork requirements on a used dealer when selling a used vehicle. Section 39 also clarifies that

used trailers are subject to the same requirements. **Section 40** makes similar changes to the statute that governs sale of new motor vehicles.

- **Section 49** defines "power sports vehicle" to include a motorboat, a personal watercraft, a snowmobile or an off-highway vehicle, and clarifies that a motorcycle or quadricycle not originally equipped for use on a highway must be treated as an off-highway vehicle under dealer law. It also revises the definition of broker to extend to procurement or negotiation of purchase of all enumerated vehicle types, including power sport vehicles.

- **Section 59** repeals the Title 23 sections that currently govern licensing of motorboat, personal watercraft, snowmobile and off-highway vehicle dealers.

3. Authorizing a Separate Broker's License for Certain Vehicle Transactions and Establishing Requirements for a Broker's License.

- **Section 34** authorizes issuance of a broker's license separate from a dealer's license. Brokers would be authorized to negotiate the purchase, sale or exchange of a motor vehicle, power sport vehicle, or trailer from a dealer or another person on behalf of a client, when the broker does not store, display or take ownership of the vehicle.

- **Section 3** explicitly prohibits brokers from displaying a motor vehicle, power sports vehicle, or trailer at the broker's established place of business. Other requirements on brokers include maintaining a telephone service, keeping records on site, filing an annual report similar to those filed by dealers, wholesalers and auto auctions. The filing fee for the annual report is set at the same level ($30) as that for dealers.

- **Section 37** extends the civil administrative enforcement authority to brokers.

4. Revising Requirements for Licensing Certain Vehicle Manufacturers

- **Section 53** eliminates the $15 license fee exemption for manufacturers, distributors, factory branches, etc., of personal watercraft, snowmobiles and off-highway vehicles. The exemption was enacted in 1999 when personal watercraft, snowmobiles and off-highway vehicles were added to franchise laws at the request of dealers selling those products. At the time, CI-75 limitations requiring electoral vote on all fee increases were still in place. CI-75 was later declared unconstitutional.

5. Defining Certain Terms and Revising Other Definitions

- **Section 16** also includes a new definition for "customer identification number," which will be collected when a vehicle is titled or registered in Montana. If the customer is an individual, the customer identification number will either be the individual's driver license or identification card number. If the customer is a business, it will be the business entity's federal employer or tax identification number or, if the business entity does not have an FEIN, the identification number assigned by the secretary of state to a business entity authorized to do business in Montana.

- **Sections 17 and 21** authorize the collection of customer identification numbers incident to vehicle titling and registration. **Section 34** authorizes the collection of customer

identification numbers for licensing those who sell motor vehicles, power sport vehicles and trailers. Collection and use of customer identification numbers will allow the Department to develop customer-centric databases for vehicles and licenses to facilitate Internet-based transactions by customers.

- Section 16 also revises the definition of "motorcycle," "motor vehicle," "off-highway vehicle" and "recreational vehicle." The "motorcycle" and "motor vehicle" definitional changes result from coordination issues that arose from the 2005 session. The concepts reflected in these proposals were passed in 2005 in HB 186. The "off-highway vehicle" definition is a clarification that focuses on original design of vehicle, rather than use. This change does not affect the use-based definition in Title 23.

6. Revising and Clarifying the Titling and Registration Process for Certain Vehicles

- **Section 16** also adds a new definition for "custom-built classic motorcycle" – a motor cycle that is equipped with an engine manufactured 20 years prior to the current calendar year and altered from the manufacturer's original design or an engine manufactured to resemble an engine 20 or more years old and constructed from non-original materials. This definition and the accompanying titling and registration provisions proposed in **Sections 1 and 2** are designed to accommodate an emerging market niche for motorcycle enthusiasts, similar to that for street rods and custom vehicles. These vehicles would have titles that indicate the type and age of the motorcycle's engine and the age of the motorcycle would be determined by age of the engine, rather than the frame.

  Section 26 corrects an inadvertent omission in HB 671 passed in 2005. HB 671 allowed certain street rods and custom vehicles that are not used for general transportation purposes to operate while displaying only a rear license plate. This proposal extends the same privilege, at the same fee, to originally equipped motor vehicles that are more than 30 years old.

7. Clarifying Residency Requirements for Vehicle Registration

- **Section 25** and the amendments proposed in **Section 16** defining the terms "business entity," "domiciled" and "Montana resident," revising the definition of "nonresident," and striking the definition of "county where a vehicle is domiciled" clarify the registration requirements for vehicles owned by business entities, like corporations and limited liability companies.

  As proposed, vehicles must be registered in the county where the owner is domiciled, which for a business entity may be the county where the entity maintains its principal place of business or its registered agent maintains an address. Current law already recognizes that registration may occur in the county where a business entity most frequently uses, dispatches or controls its vehicles. The definition changes make it clear that a business entity that maintains a principal place of business or a registered agent in this state must be treated as a Montana resident.

  Section 19 applies the new language regarding registration of a vehicle where the owner of a vehicle is domiciled to the statute that governs services that may be performed by an authorized agent.

8. Revising the Limitation for Vehicle Transfers from a Small Estate

- **Section 22** raises the limit on transfer of vehicles outside of probate where the value of the entire estate, including vehicles, does not exceed the limit set forth in the small estate statutes. Currently, the Uniform Probate Code small estate transfer limit is $50,000.

9. Clarifying the Authority to Issue Temporary Registration Permits

- **Section 23** clarifies that an authorized agent or county treasurer may issue a temporary registration permit without using the department-approved electronic interface only if authorized by the department. Typically, off-system temporary registration permit issuance occurs because the agent's Internet service provider access is temporarily down.

10. Revising and Clarifying Certain Provisions for the Issuance of License Plates

- **Section 28** clarifies the periodic re-issuance requirement for standard license plates (every 4 years, with next re-issue due in 2010) and applies a similar 4-year re-issue requirement, commencing in January, 2008, to special license plates currently in use, e.g., collegiate license plates, generic specialty license plates, and commemorative license plates. Periodic re-issuance of license plates ensures that license plate reflectivity is maintained.

- **Sections 29, 30 and 31** incorporate the 4-year issuance limitation into statutes governing commemorative and collegiate license plates.

- **Section 27** extends the current $5 new plate fee to special license plates replaced as a result of the proposed 4-year re-issuance requirement.

11. Eliminating Liens for Motor Vehicle Registration Fees

- **Section 32** eliminates the statutory lien for unpaid back taxes on a motor vehicle. This change is prompted by a legislative audit that noted that back taxes were eliminated in 2005 with the passage of HB 671.

12. Clarifying Fees for Permanent Registration of Light Vehicles

- **Section 33** clarifies the fee calculations for permanent registration of a light vehicle when a personalized license plate is being issued or renewed. Current law does not address the circumstance of a person simultaneously electing to permanently register a vehicle and apply for personalized license plates for that vehicle.

13. Revising and Clarifying Procedures for Suspending License Plates and Registration Following Certain Convictions

- **Section 56** changes the process for suspending license plates and registration for vehicles owned by persons who are convicted of a second no-insurance violation. Current law

requires courts to send suspended plates to the department, which must store the plates until expiration of the suspension term and then return them to the offender.

During a recent legislative audit, it was noted that this procedure was not being followed due to the expense of mailing and storing plates. Section 56 proposes that, unless the court elects to retain the plates for the owner, the suspended plates must be destroyed or recycled and the offender must purchase replacement license plates upon conclusion of the suspension period.

14. Revising the Fee for Certain Record Searches

- **Section 58** reduces the per-record fee for searches reporting a change in license status or conviction activity on an individual Montana driving record. The proposed fee reduction – from 8¢ to 6¢ – more closely represents the actual cost incurred in performing these searches and reporting the results.

15. Prohibiting Exhaust Noise in Excess of a Certain Level

- **Section 5** establishes an exhaust noise limitation for motor vehicles based on a standard used by the Society of Automotive Engineers and permits a person who has reasonable grounds to believe a vehicle was not operated in violation of the standard to avoid conviction.

  Because the resource materials used to draft this section contained a typographical error, an incorrect standard was referenced. *An amendment is offered* to refer to the correct standard - j1189 – and to exclude motorcycles and quadricycles operated on the highway, to which the noise standard under section 61-8-419 applies.

- **Sections 6, 18, 24, 54, 55, and 57** amend internal cross-references to statutes that are amended or repealed in this bill. **Sections 8 through 15** renumber internal references throughout Title 23 statutes as result of the repeal of Sections 23-2-513, 23-2-540, 23-2-619, and 23-2-818, the Title 23 dealer statutes.

- **Section 61** proposes a January 1, 2008 effective date for this bill.

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