



AN ACT ALLOWING THE PURCHASER OF A MOTOR VEHICLE SOLD WITHOUT A MANUFACTURER'S CERTIFICATE OF ORIGIN TO TITLE THE VEHICLE UPON PURCHASING A SURETY BOND, EQUIPPING THE MOTOR VEHICLE WITH CERTAIN REQUIRED EQUIPMENT, AND OBTAINING A LAW ENFORCEMENT INSPECTION; AMENDING SECTION 61-3-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 61-3-208, MCA, is amended to read:

"61-3-208. Affidavit and bond for certificate of title. (1) If an applicant for a certificate of title cannot provide the department with the certificate of title that assigns the prior owner's interest in the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile to the applicant, the department may issue a certificate of title if subsection (2) is complied with.

(2) (a) The applicant shall submit an affidavit in a form prescribed by the department that must be signed and sworn to before an officer authorized to administer oaths and affirmations. The affidavit must accompany the application for the certificate of title and must:

(i) include the facts and circumstances through which the applicant acquired ownership and possession of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile;

(ii) disclose security interests, liens, or encumbrances that are known to the applicant and that are outstanding against the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile;

(iii) state that the applicant has the right to have a certificate of title issued.

(b) The application must satisfy one of the following conditions:

(i) The vehicle for which the application is being made must be a camper, off-highway vehicle, motorboat, personal watercraft, sailboat 12 feet in length or longer, or snowmobile, and the loss of the certificate of title must be established by the applicant to the department's satisfaction.

(ii) If application is being made for a certificate of title to a motor vehicle, trailer, semitrailer, or pole trailer with a value of \$500 or less, the applicant shall establish the loss of the certificate of title to the department's satisfaction and either provide evidence of the average trade-in or wholesale value of the motor vehicle, trailer, semitrailer, or pole trailer as determined by the applicable national appraisal guide for the vehicle as of January 1 for the year in which the application is made or, if a national appraisal guide is not available for a motor vehicle, trailer, semitrailer, or pole trailer, the applicant shall certify that the value of the motor vehicle, trailer, semitrailer, or pole trailer is \$500 or less.

(iii) If application is being made for a motor vehicle, trailer, semitrailer, or pole trailer with a value that exceeds \$500, the applicant shall provide a bond, in a form prescribed by the department, issued by a surety company authorized to do business in this state, in an amount equal to the value of the motor vehicle, trailer, semitrailer, or pole trailer for which the application is being made as determined by the applicant, based on information from the applicable national appraisal guide for the motor vehicle, trailer, semitrailer, or pole trailer as of January 1 for the year in which the application is made or, if a national appraisal guide is not available for a motor vehicle, trailer, semitrailer, or pole trailer, according to the applicant's knowledge and belief. The bond is conditioned to indemnify a prior owner, lienholder, subsequent purchaser, secured creditor, or encumbrancer of the motor vehicle, trailer, semitrailer, or pole trailer and any respective successors in interest against expenses, losses, or damages, including reasonable attorney fees, caused by the issuance of the certificate of title or by a defect in or undisclosed security interest upon the right, title, and interest of the applicant in the motor vehicle, trailer, semitrailer, or pole trailer.

(iv) If the application is being made for a motor vehicle sold without a manufacturer's certificate of origin, the applicant shall:

(A) purchase and install all equipment required for the motor vehicle pursuant to Title 61, chapter 9, part 2;

(B) obtain an inspection by a law enforcement agent to verify that all required equipment is present and operational;

(C) provide a bond, in a form prescribed by the department, issued by a surety company authorized to do business in this state, in an amount equal to the full retail price of the motor vehicle for which the application is being made. The bond is conditioned to indemnify a prior owner, lienholder, subsequent purchaser, secured creditor, or encumbrancer of the motor vehicle and any respective successors in interest against expenses,

losses, or damages, including reasonable attorney fees, caused by the issuance of the certificate of title or by a defect in or undisclosed security interest upon the right, title, and interest of the applicant in the motor vehicle.

(3) Any interested person has a right of action to recover on the bond furnished under this section for a breach of its conditions, but the aggregate liability of the surety to all persons may not exceed the amount of the bond.

(4) Unless the department has been notified of a pending action to recover the bond furnished under this section, the department shall return the bond at the earlier of:

(a) 3 years from the date of issuance of the certificate of title; or

(b) the date of surrender of the valid certificate of title to the department if the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile is no longer required to have a certificate of title in this state."

Section 2. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0380, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 380

INTRODUCED BY STAHL, JONES

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