

Information Related to MT SB 14 (2011) HIGHWAYS AND TRANSPORTATION

EXHIBIT NO. 5
DATE: 1-18-2011
BILL NO. SB 14

Good Afternoon Mr. Chairman and committee members,

My name is Peter Scott. I am an attorney with the law firm of Gough Shanahan Johnson & Waterman in Helena. We represent Insurance Auto Auctions. I am here today to provide information on SB 14.

First, Insurance Auto Auctions, founded in 1982, arranges for the sale of total-loss vehicles acquired by insurance companies through the settlement of claims. This includes pick up and storing vehicles, facilitating the transfer of sale documents, and auctioning salvage vehicles for clients. Insurance Auto Auctions has facilities in 48 states. In Montana, facilities are in Billings and Missoula with three full time employees.

The apparent intent of SB 14 is to provide another tool for enforcement against unlicensed wrecking facilities and the like. Specifically the sponsor explained the need for an amendment in order to enforce statutory shielding requirements.

75-10-501(9) "Shielding" means the construction or use of fencing or constructed or natural barriers to conceal junk vehicles from public view.

75-10-505. Shielding and removal of junk vehicles generally. Notwithstanding the provisions of this part, any person possessing one or more junk vehicles, regardless of ownership, shall shield the vehicles from public view or remove the vehicles to a licensed motor vehicle wrecking facility or to a licensed motor vehicle graveyard after the vehicles are released from the owner. Small accumulations of salvageable vehicles or component parts, none of which are offered for sale, retained by active farming or ranching operations for repair and maintenance of vehicles, or agricultural equipment used in their operations, are exempted from this requirement.

Insurance Auto Auctions applauds the effort to enforce legal shielding requirements because abuse gives the whole industry a bad name. While not in opposition to the bill, Insurance Auto Auctions wants the committee to be aware that SB 14 is unnecessarily broad.

As written, SB 14 captures almost any inoperable car with damage or missing parts regardless of the reason for its inoperability. This creates a risk of confusion and unintended consequences.

Some points to consider:

- "Component part" is defined by a non-inclusive list that arguably applies to any part.
- SB 14 creates circular definitions for component parts and various categories of damaged vehicles that may unsettle the law. Specifically, a part is not a "component part" unless it comes from a discarded, ruined, wrecked or dismantled vehicle but a vehicle is not wrecked or dismantled unless component parts are removed or damaged.
- The bill defines "wrecked" and "dismantled" but not "discarded" or "ruined" vehicles.

Insurance Auto Auctions does not oppose this bill, but urges the Committee to encourage further drafting to tighten the bill so that it does not create unintended consequences for other elements of the vehicle industry