

HOUSE BILL NO. 514
INTRODUCED BY P. MORGAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN ALTERNATIVE METHOD OF TRANSFER OF OWNERSHIP FOR A MOTOR VEHICLE 20 YEARS OLD OR OLDER; AUTHORIZING A TRANSFER THROUGH POSSESSION AND BY TRANSFER OF THE CERTIFICATE OF OWNERSHIP OR BY A NOTARIZED BILL OF SALE; PROVIDING THAT THE CERTIFICATE OF OWNERSHIP DOES NOT HAVE TO BE SIGNED BY THE PERSON TO WHOM THE CERTIFICATE OF OWNERSHIP WAS ISSUED; PROVIDING THAT THE POSSESSOR OF THE MOTOR VEHICLE MAY HAVE THE SHERIFF'S OFFICE INSPECT THE VEHICLE IDENTIFICATION NUMBER AND DETERMINE THAT THERE ARE NO REPORTS OF THEFT CONCERNING THE MOTOR VEHICLE; AUTHORIZING THE SHERIFF'S OFFICE TO CHARGE A REASONABLE FEE FOR THE SERVICES PROVIDED; PROVIDING THAT BOND DOES NOT HAVE TO BE POSTED WHEN A CERTIFICATE OF OWNERSHIP IS SOUGHT FOR A MOTOR VEHICLE TRANSFERRED PURSUANT TO THE ALTERNATIVE METHOD; AND AMENDING SECTIONS 61-3-201, 61-3-204, AND 61-3-208, MCA."

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

Section 1. Section 61-3-201, MCA, is amended to read:

"61-3-201. Transfer of interest -- cancellation of erroneous certificate of ownership or registration.

(1) ~~Upon~~ Subject to subsection (9), upon a transfer of any interest in a motor vehicle registered under the provisions of this chapter, the person whose interest is to be transferred shall sign the certificate of ownership issued for the vehicle in the appropriate space provided, and the signature must be acknowledged before the county treasurer, a deputy county treasurer, an elected official authorized to acknowledge signatures, an employee of the department, or a notary public.

(2) Within 20 calendar days after endorsement, the transferee shall forward both the endorsed certificate of ownership with the odometer mileage statement required under 61-3-206 and the certificate of registration, together with the information required under 61-3-202, to the county treasurer, who shall forward them to the department. ~~The~~ Except as provided in subsection (9), the department may not issue a certificate of ownership or certificate of registration until the outstanding certificates are surrendered to that office or their loss is established to its reasonable satisfaction. Failure to make application within the 20-day grace period subjects the transferee to a penalty of \$10. The county treasurer shall collect the penalty at the time of registration and forward

the penalty fee to the department of revenue for deposit in the state general fund. The penalty is in addition to the fees otherwise provided by law. If the transferee does not make application within 25 days, a creditor or secured party may pay the fees for the transfer of title and filing of security interest or lien in order to have title transferred to the transferee and have the security interest or lien filed. The creditor or secured party is not liable for the penalty, registration fees, or taxes. The department shall return the certificate of title to the county treasurer as provided in 61-3-103(1). When the certificate of ownership is returned by the department to the county treasurer, the treasurer shall hold the certificate of ownership until the vehicle is properly registered.

(3) ~~When~~ Subject to subsection (9), in the event of a transfer by operation of law of any interest in a motor vehicle as upon inheritance, devise, or bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in the performance of the terms of a lease or executory sales contract, or otherwise than by voluntary act of the person whose title or interest is transferred, the executor, administrator, receiver, trustee, sheriff, or other representative or successor in interest of the person whose interest is transferred shall forward to the department an application for a certificate of ownership in the form required by the department, together with a verified or certified statement of the transfer of interest. The statement must set forth the reason for the involuntary transfer, the interest transferred, the name of the person to whom the interest is to be transferred, the process of procedure effecting the transfer, and other information requested by the department. ~~Evidence~~ Subject to subsection (9), evidence and instruments otherwise required by law to effect a transfer of legal or equitable title to or an interest in chattels must be furnished with the statement. If the department is satisfied that the transfer is regular and that all formalities required by law have been complied with, it shall send to the owner, conditional sales vendor, lessor, mortgagee, and other lienor, as shown by its records, notice of the intended transfer and, not less than 5 days after sending notice, shall issue a new certificate of ownership and certificate of registration to the transferee. The notice required by this section is complied with by deposit in the U.S. mail of the notice, postage prepaid, addressed to the person at the respective address shown on its records.

(4) ~~When~~ Subject to subsection (9), when the vehicle certificate of ownership that is involuntarily transferred is not registered in this state, the procedure in subsection (3) must be followed in applying for a new certificate of ownership and certificate of registration. However, in lieu of the statement required in subsection (3), the department may accept an affidavit of repossession on the form provided by the state in which a lien has been perfected and the department need not send notice of intended transfer and shall issue a new certificate of ownership and a new certificate of registration to the person entitled to the certificates.

(5) (a) ~~If~~ Subject to subsection (9), if the owner of one or more motor vehicles, trailers, semitrailers, or house trailers registered under this chapter and not exceeding a combined value of \$15,000 dies without leaving

other property necessitating the procuring of letters of administration or letters testamentary, the surviving spouse or other heir unless the property is by will otherwise bequeathed may secure transfer of the decedent's certificate of ownership and the certificate of registration for the vehicle.

(b) ~~The~~ Subject to subsection (9), the person seeking transfer of the certificate of ownership shall file an affidavit with the department setting forth the fact of survivorship and the name and address of any other heirs and other facts as are necessary under subsection (5)(a) to entitle the affiant to a transfer.

(c) The department is authorized to transfer the certificate of ownership and certificate of registration, subject to all security interests shown by its records, upon receipt of an affidavit showing that the affiant is entitled to a transfer under the provisions of subsection (5)(a).

(6) Subsection (5) does not prevent a secured party from assigning the secured party's interest in a motor vehicle registered under the provisions of this chapter to any other person without the consent of and without affecting the interest of the holder of the certificate of ownership and certificate of registration. Upon any assignment by a secured party of the secured party's security interest in any motor vehicle registered under this chapter, a copy of the assignment must be filed with the department and a record of the assignment must be made in its records.

(7) ~~The~~ Subject to subsection (9), the certificate of ownership is valid until canceled by the department upon a transfer of any interest shown in the certificate, and annual renewal is not needed.

(8) (a) Upon its determination that a certificate of ownership or a registration receipt contains an error or that the applicant has paid the required fees and taxes with an insufficient funds check and if the department has been notified of that fact by the county attorney, the department may cancel the certificate of ownership or receipt and, in the case of an error, issue a replacement for the erroneous certificate or receipt if the owner has returned the certificate or receipt to be canceled. If the owner fails to return ~~to the department~~ the certificate of ownership, the registration receipt, or the license plate to the department, the department shall direct a peace officer or department employee to secure and return the certificate, receipt, or license plate to the department.

(b) Any person who fails to return a certificate of ownership or a registration receipt that contains an error or that has been canceled by the department because of an insufficient funds check, as provided in subsection (8)(a), after receiving actual notice of the department's demand for the return of the certificate or receipt, as required by subsection (8)(a), is guilty of a misdemeanor and upon conviction may be fined an amount not to exceed \$500.

(9) A legal transfer of a motor vehicle that is 20 years old or older may be made through possession and by transfer of the certificate of ownership or by a notarized bill of sale. For a motor vehicle described in this

subsection, the certificate of ownership does not have to be signed by the person to whom the certificate of ownership was issued. For the purposes of a transfer pursuant to this subsection, the possessor of the motor vehicle may have the sheriff's office inspect the vehicle identification number and determine that there are no reports of theft concerning the motor vehicle. The sheriff's office may charge a reasonable fee for the services provided."

Section 2. Section 61-3-204, MCA, is amended to read:

"61-3-204. Lost certificates. (1) In the event any certificate of ownership is lost, mutilated, or becomes illegible, the owner shall immediately make application for and obtain a duplicate ~~thereof~~ certificate of ownership, upon furnishing satisfactory evidence of ~~such~~ the appropriate facts and upon payment of a fee of \$3.

(2) The owner of a motor vehicle described in 61-3-201(9) may apply for a certificate of ownership pursuant to this section.

(3) Revenue from ~~this fee~~ fees received under this section must be deposited in the general fund."

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

"61-3-208. Affidavit and bond for certificate. (1) If an applicant for a vehicle certificate of title cannot provide the department with a certificate of title transferred to the applicant, the department may issue a certificate of title for the vehicle if the applicant furnishes an affidavit in a form prescribed by the department.

(2) The affidavit 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 include:

(a) the facts and circumstances through which the applicant acquired ownership and possession of the vehicle;

(b) information as required by the department to enable it to determine what security interests, liens, and encumbrances, if any, are outstanding against the vehicle;

(c) the date and the amount secured by the security interests, liens, and encumbrances, if any; and

(d) a statement that the applicant has the right to have a certificate of title issued.

(3) ~~(a)~~ Except as provided in subsection (3)(b), after examination of the application, affidavit, and any other evidence the department determines that a certificate of title for the vehicle should be issued to the applicant, the department shall require the applicant to file with the department a good and sufficient bond before issuing the certificate of title. The bond must be:

~~(a)~~ (i) in an amount equal to the average trade-in or wholesale value of the vehicle as determined by the

applicable national appraisal guide for the vehicle as of January 1 for the year in which the application for certificate of title is made. When a national appraisal guide is not available for a vehicle, the department shall determine an alternative value for the vehicle.

~~(b)(ii)~~ 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 caused by the issuance of the certificate or by a defect in or undisclosed security interest upon the right, title, and interest of the applicant in the vehicle; and

~~(e)(iii)~~ issued by a surety company authorized to do business in the state.

(b) A bond may not be required for a motor vehicle transferred pursuant to 61-3-201(9).

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

(5) Unless the department has been notified of a pending action to recover the bond, 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 vehicle is no longer registered in this state."

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