

## HOUSE BILL NO. 635

INTRODUCED BY FORRESTER, BOHLINGER, CROMLEY, A. OLSON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO ABANDONED, WRECKED, AND DISABLED VEHICLES; ALLOWING CERTAIN ABANDONED VEHICLES TO BE DISPOSED OF IN THE SAME MANNER AS JUNK VEHICLES; PERMITTING A QUALIFIED TOW TRUCK OPERATOR TO OBTAIN A CERTIFICATE OF RELEASE AND A CERTIFICATE OF OWNERSHIP FOR CERTAIN ABANDONED VEHICLES; PERMITTING A QUALIFIED OPERATOR TO OBTAIN A CERTIFICATE OF OWNERSHIP FOR CERTAIN WRECKED OR DAMAGED VEHICLES; AND AMENDING SECTIONS 61-12-402, 61-12-404, 61-12-405, AND 61-12-406, MCA."

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

**Section 1.** Section 61-12-402, MCA, is amended to read:

**"61-12-402. Notice to owner.** (1) Within 72 hours after a vehicle is removed and held by or at the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the county or the chief of police of the city in which the vehicle is being stored of where and when the vehicle was taken into custody and of where the vehicle is being stored. In addition, the Montana highway patrol shall furnish the sheriff or the chief of police:

(a) a complete description of the vehicle, including year, make, model, serial number, and license number if available;

(b) any costs incurred to that date in the removal, storage, and custody of the vehicle; and

(c) any available information concerning the vehicle's ownership.

(2) The highway patrol shall notify the sheriff of the county or the chief of police of the city in which the vehicle was taken into custody of the location at which the vehicle is being stored if the vehicle was removed to a different county.

(3) The sheriff or the city police in the jurisdiction where the vehicle is being stored shall make reasonable efforts to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle taken into custody under 61-12-401. If a name and address are ascertained, the sheriff or the city police shall notify the owner, lienholder, or person of the location of the vehicle.

(4) If the vehicle is registered in the office of the department, notice is considered to have been given

when a certified letter addressed to the registered owner of the vehicle and lienholder, if any, at the latest address shown by the records in the office of the department, return receipt requested and postage prepaid, is mailed at least 30 days before the vehicle is sold.

(5) If the identity of the last-registered owner cannot be determined, if the registration does not contain an address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the county where the motor vehicle is being stored is sufficient to meet all requirements of notice pursuant to this part. The notice by publication may contain multiple listings of abandoned vehicles. The notice must be provided in the same manner as prescribed in 25-13-701(1)(b).

(6) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed under 75-10-511, the wrecking facility may make the required search to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle and shall give the notices required in subsections (3) through (5). The wrecking facility shall deliver to the sheriff or the city police a certificate describing the efforts made to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle and shall deliver to the sheriff or the city police proof of the notice given.

(7) (a) A vehicle found by law enforcement officials to be a junk vehicle, as defined by 75-10-501, and that has a value of \$500 or less may be directly submitted for disposal in accordance with the provisions of Title 75, chapter 10, part 5, upon a release given by the sheriff or the city police. The county representative designated to implement the county motor vehicle recycling and disposal program pursuant to 75-10-521 for the county where the vehicle is being stored shall determine the value of the vehicle. In the release, the sheriff or the city police shall include a description of the vehicle, including year, make, model, serial number, and license number if available. A release provided by if the vehicle is being stored by a motor vehicle wrecking facility, the sheriff or the city police under this section must be transmitted shall transmit the release to the motor vehicle wrecking facility and must be considered by that the facility shall consider the release to meet the requirements for records under 75-10-512 and 75-10-513. If the vehicle is being stored by a qualified tow truck operator, as defined in 61-8-903, the sheriff or the city police shall transmit the release to the operator. Vehicles described in this section may be submitted for disposal without notice and without a required holding period.

(b) A licensed vehicle that otherwise meets the definition of a junk vehicle, as defined in 75-10-501, and that has a value of \$500 or less may be directly submitted for disposal as provided in subsection (7)(a)."

**Section 2.** Section 61-12-404, MCA, is amended to read:

**"61-12-404. Sale or release of vehicle if not reclaimed.** (1) If a vehicle is not reclaimed, as provided in 61-12-403, within 30 days after notification by certified mail or prescribed publication, the sheriff of the county or the city police of the city in which the vehicle is being stored ~~shall~~ may sell it at public auction in the manner provided in 25-13-701 through 25-13-709.

(2) If the sheriff or city police elect not to sell a vehicle under subsection (1) and the vehicle is being stored by a qualified tow truck operator, as defined in 61-8-903, the sheriff or city police shall release the vehicle to the qualified tow truck operator.

~~(2)(3)~~ After a vehicle has been sold pursuant to subsection (1) or released pursuant to subsection (2), the former owner or person entitled to possession has no further right, title, claim, or interest in or to the vehicle."

**Section 3.** Section 61-12-405, MCA, is amended to read:

**"61-12-405. Certificate of sale or release.** (1) ~~(a) When any~~ If a vehicle is ~~so~~ sold as provided in 61-12-404(1), the sheriff or the city police at the time of the payment of the purchase price shall execute a certificate of sale in duplicate and shall deliver the original certificate to the purchaser and retain the copy.

~~(2)(b)~~ The certificate of sale ~~shall~~ must contain the name and address of the purchaser, the date of sale, the consideration paid, a description of the vehicle, and a stipulation that no warranty is made as to the condition or title of the vehicle.

(2) (a) If a vehicle is released as provided in 61-12-404(2), the sheriff or city police shall execute a certificate of release to the qualified tow truck operator in duplicate and shall deliver the original certificate to the operator and retain the copy.

(b) The certificate of release must contain the name and address of the operator, the date of release, a description of the vehicle, including year, make, model, serial number, and license number if available, and a stipulation that no warranty is made as to the condition or title of the vehicle."

**Section 4.** Section 61-12-406, MCA, is amended to read:

**"61-12-406. Issuing certificate of ownership.** The department shall issue a certificate of ownership upon presentation by the purchaser of the certificate of sale or upon presentation by the operator of a certificate of release and payment of the fees required by law."

**NEW SECTION. Section 5. Notice to owner -- payment of removal and storage costs -- request for reissuance of certificate of ownership.** (1) Within 15 days after the date that a wrecked or disabled vehicle

is removed from a public roadway by a qualified tow truck operator at the request of a law enforcement officer under 61-8-908, the qualified tow truck operator shall send a certified letter to the vehicle owner or lienholder, as shown in the department's records, notifying the owner or lienholder that the vehicle has been towed and is being stored by the qualified tow truck operator. The certified letter must be sent return receipt requested and postage prepaid to the owner or lienholder at the latest address shown in the department's records.

(2) The owner or lienholder of the vehicle may not reclaim the vehicle until the owner, the lienholder, or the owner's or lienholder's insurance provider has paid the costs incurred by the qualified tow truck operator in removing and storing the vehicle.

(3) If the removal and storage costs have not been paid within 60 days after the date that the notice provided for in subsection (1) was postmarked, the qualified tow truck operator may request, on a form provided by the department, that the department cancel the vehicle's certificate of ownership, remove any perfected security interest, and reissue the certificate of ownership to the qualified tow truck operator. In the request, the qualified tow truck operator shall certify that the notice required in subsection (1) was sent and that the owner or lienholder has not made payment as required in subsection (2). A copy of the notice required in subsection (1) must be attached to the request.

(4) Upon receipt of a valid request as provided in subsection (3), the department shall cancel the certificate of ownership to the vehicle and reissue the certificate of ownership to the qualified tow truck operator. The qualified tow truck operator shall pay all required fees on the vehicle. After the department has reissued the certificate of ownership, the former owner or lienholder has no further right, title, claim, or interest in or to the vehicle.

**NEW SECTION. Section 6. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 61, chapter 8, part 9, and the provisions of Title 61, chapter 8, part 9, apply to [section 5].

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