

HOUSE BILL NO. 143  
INTRODUCED BY M. REINHART  
BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE QUARTERLY REPORTING REQUIREMENT LAWS FOR MOTOR VEHICLE WRECKING FACILITIES; TRANSFERRING FROM THE MOTOR VEHICLE WRECKING LAWS TO THE MOTOR VEHICLE LAWS ENFORCEMENT OF THE REQUIREMENT THAT MOTOR VEHICLE WRECKING FACILITIES SEND QUARTERLY REPORTS TO THE DEPARTMENT OF JUSTICE; AND AMENDING SECTIONS 61-3-211, 61-12-402, 75-10-513, AND 75-10-541, MCA."

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

**Section 1.** Section 61-3-211, MCA, is amended to read:

**"61-3-211. Surrender of certificate of title -- issuance of salvage certificate -- salvage retitling requirements.** (1) An insurer acquiring ownership of a motor vehicle that is less than 5 years of age and that the insurer determines to be a salvage vehicle shall surrender the certificate of title to the department within 15 days after acquiring the certificate of title. If the insurer has not sold the salvage vehicle prior to the time of surrendering the certificate of title, the insurer shall apply for a salvage certificate on a form prescribed by the department. If the certificate of title names one or more holders of a perfected security interest in the motor vehicle, the insurer shall secure and deliver to the department a release from each secured party of the secured interest.

(2) Upon receipt of a properly executed certificate of title and a salvage certificate application from an insurer, the department shall issue a salvage certificate to the insurer within 5 working days of the date of receipt of the application. Upon receipt of a salvage certificate issued by the department, an insurer may possess, retain, transport, sell, transfer, or otherwise dispose of the salvage vehicle. The salvage certificate is prima facie evidence of ownership of a salvage vehicle.

(3) If the insurer sells a salvage vehicle within the 15-day period established in subsection (1) prior to surrendering the certificate of title, the insurer shall complete a salvage receipt on a form prescribed by the department. The insurer shall deliver the original salvage receipt to the salvage vehicle purchaser only after obtaining a clear title and lien release. Prior to disposing of the salvage vehicle, the salvage vehicle purchaser shall apply for a salvage certificate by completing the salvage receipt and submitting it to the department. The insurer shall deliver a copy of the salvage receipt with the surrendered certificate of title to the department. Upon

receipt of the certificate of title from the insurer and the application from the salvage vehicle purchaser, the department shall issue a salvage certificate to the salvage vehicle purchaser that is prima facie evidence of ownership.

(4) If an insurer determines that a salvage vehicle will remain with the owner after an agreed settlement, the insurer shall notify the department of the settlement on a form prescribed by the department. Upon receipt of the notice, the department may require the owner to surrender the certificate of title in compliance with this part, regardless of whether ownership of the salvage vehicle was obtained in a jurisdiction not requiring the surrender of the certificate of title or a comparable ownership document.

(5) At the time of surrender of a certificate of title for a salvage vehicle not acquired by an insurer, the department shall issue a salvage certificate to the owner. Upon receipt of a salvage certificate issued by the department to a noninsurer, the owner may possess, retain, transport, sell, transfer, or otherwise dispose of the salvage vehicle. A salvage certificate is prima facie evidence of ownership of a salvage vehicle.

(6) A fee of \$5 must be paid to the department for the issuance of a salvage certificate.

(7) A salvage vehicle owned by or in the inventory of a motor vehicle wrecking facility on October 1, 1991, is exempt from the provisions of this section if the owner of the facility has complied with the provisions of ~~75-10-513(2)~~ [section 5]."

**Section 2.** 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. If the vehicle is being stored by a motor vehicle wrecking facility, the sheriff or the city police shall transmit the release to the motor vehicle wrecking facility and the facility shall consider the release to meet the requirements for records under [section 5] and 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 3.** Section 75-10-513, MCA, is amended to read:

**"75-10-513. Disposal of junk vehicles -- records.** (1) ~~When~~ If a person owning or operating a motor vehicle wrecking facility submits a junk vehicle to the disposal program, the vehicle is then the property of the state.

~~(2) Quarterly, each motor vehicle wrecking facility shall mail to the department of justice, on a form approved by the department of justice, a list of all junk vehicles received by the motor vehicle wrecking facility during the quarter, stating the year, make, and complete identification number of each vehicle. If a certificate of title is received for a junk vehicle on the list, that certificate of title must accompany the list. The department of justice shall issue a receipt for the certificate of title if requested by the licensed facility, and the receipt may serve as an instrument for reclaiming the certificate of title if the vehicle is rebuilt.~~

~~(3)~~(2) A person owning or operating a motor vehicle graveyard shall submit to the department the records, documents, and other information concerning junk vehicles received by it that person that are required by rules of the department."

**Section 4.** Section 75-10-541, MCA, is amended to read:

**"75-10-541. Injunction -- action to collect civil penalty -- authority of department of justice.** (1) The department may sue to enjoin the operation or maintenance of a motor vehicle wrecking facility or graveyard either permanently or until compliance with this part, the rules of the department, or an order issued pursuant to this part has been demonstrated.

(2) The department may sue in district court to collect a civil penalty as provided in 75-10-542.

(3) Upon request of the department, the attorney general or the county attorney of the county in which a motor vehicle wrecking facility or graveyard is located may petition the district court to enjoin further operation or maintenance of a motor vehicle wrecking facility or graveyard or to impose, assess, and recover a civil penalty, as appropriate.

(4) The department of justice, through the attorney general or the county attorney of the county in which a facility is located, may sue in district court to collect a civil penalty as provided in 75-10-542 for violations of 75-10-512 ~~or 75-10-513~~(2) discovered during department of justice inspections."

**NEW SECTION. Section 5. Motor vehicle wrecking facility quarterly reports.** Quarterly, the owner or operator of a motor vehicle wrecking facility, as defined in 75-10-501, shall mail to the department, on a form approved by the department, a list of all junk vehicles, as defined in 75-10-501, received by the owner or operator of the motor vehicle wrecking facility during the quarter, stating the year, make, and complete identification number of each vehicle. If the owner or operator of a motor vehicle wrecking facility received a certificate of title when the owner or operator of the facility received a junk vehicle on the list, that certificate of title must accompany the list. The department shall issue a receipt for the certificate of title if requested by the owner or operator of the facility, and the receipt may serve as an instrument for reclaiming the certificate of title if the vehicle is rebuilt.

**NEW SECTION. Section 6. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 61, chapter 3, part 2, and the provisions of Title 61, chapter 3, part 2, apply to [section 5].

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