

HOUSE BILL NO. 15

INTRODUCED BY W. CURDY

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY MOTOR VEHICLE RECYCLING AND DISPOSAL LAWS; ALLOWING A COUNTY TO DISPOSE OF NONMOTORIZED VEHICLES AND MOBILE HOMES THAT ARE PUBLIC NUISANCES OR CAUSE CONDITIONS OF DECAY; ~~AND ESTABLISHING AN ADVISORY COUNCIL ON JUNK VEHICLES AND JUNK NONMOTORIZED VEHICLES;~~ PROVIDING DEFINITIONS; AMENDING ~~SECTION~~ SECTIONS 61-12-402, 75-10-501, AND 75-10-521, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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

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

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

10 (6) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed under
11 75-10-511, the wrecking facility may make the required search to ascertain the name and address of the owner,
12 lienholder, or person entitled to possession of the vehicle and shall give the notices required in subsections (3)
13 through (5). The wrecking facility shall deliver to the sheriff or the city police a certificate describing the efforts
14 made to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle
15 and shall deliver to the sheriff or the city police proof of the notice given.

16 (7) (a) (i) A vehicle found by law enforcement officials to be a junk vehicle, as defined by in 75-10-501,
17 and that has a value of \$500 or less may be directly submitted for disposal in accordance with the provisions of
18 Title 75, chapter 10, part 5, upon a release given by the sheriff or the city police. The county representative
19 designated to implement the county motor vehicle recycling and disposal program pursuant to 75-10-521 for the
20 county where the vehicle is being stored shall determine the value of the vehicle. In the release, the sheriff or the
21 city police shall include a description of the vehicle, including year, make, model, serial number, and license
22 number if available. If the vehicle is being stored by a motor vehicle wrecking facility, the sheriff or the city police
23 shall transmit the release to the motor vehicle wrecking facility and the facility shall consider the release to meet
24 the requirements for records under 61-3-225 and 75-10-512. If the vehicle is being stored by a qualified tow truck
25 operator, as defined in 61-8-903, the sheriff or the city police shall transmit the release to the operator. Vehicles
26 described in this section may be submitted for disposal without notice and without a required holding period.

27 (ii) A junk nonmotorized vehicle, as defined in 75-10-501, may be submitted for disposal as provided in
28 this subsection (7)(a) pursuant to the same provisions as a junk vehicle if the county has agreed to accept junk
29 nonmotorized vehicles for disposal pursuant to 75-10-521(10).

30 (b) A licensed vehicle that otherwise meets the definition of a junk vehicle, as defined in 75-10-501, and

1 that has a value of \$500 or less may be directly submitted for disposal as provided in subsection (7)(a)."

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3 **SECTION 2. SECTION 75-10-501, MCA, IS AMENDED TO READ:**

4 **"75-10-501. Definitions.** Unless the context requires otherwise, in this part, the following definitions
5 apply:

6 (1) "Board" means the board of environmental review provided for in 2-15-3502.

7 (2) "Component part" means any identifiable part of a discarded, ruined, wrecked, or dismantled motor
8 vehicle, including but not limited to fenders, doors, hoods, engine blocks, motor parts, transmissions, frames,
9 axles, wheels, tires, and passenger compartment fixtures.

10 (3) "Department" means the department of environmental quality provided for in 2-15-3501.

11 (4) "Junk mobile home" means a mobile home as defined in 15-24-201 that is wrecked, ruined,
12 dismantled, or abandoned and is no longer fit for human habitation.

13 (5) "Junk nonmotorized vehicle" means an inoperative vehicle that is not constructed with a motor and
14 that is discarded, ruined, wrecked, or dismantled.

15 ~~(4)(6)~~ (a) "Junk vehicle" means a motor vehicle, including component parts:

16 (i) that is discarded, ruined, wrecked, or dismantled;

17 (ii) that, except as provided in subsection ~~(4)(b)~~ (6)(b), is not lawfully and validly licensed; and

18 (iii) that remains inoperative or incapable of being driven.

19 (b) If a vehicle is permanently registered under 61-3-562 and meets the criteria for a junk vehicle under
20 subsection ~~(4)(a)~~ (6)(a), the vehicle is a junk vehicle.

21 ~~(5)(7)~~ "Motor vehicle graveyard" means a collection point established by a county for junk motor vehicles
22 prior to their disposal.

23 ~~(6)(8)~~ (a) "Motor vehicle wrecking facility" means:

24 (i) a facility buying, selling, or dealing in four or more vehicles a year, of a type required to be licensed,
25 for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of the motor vehicle;

26 or

27 (ii) a facility that buys or sells component parts, in whole or in part, and deals in secondhand motor
28 vehicle parts. A facility that buys or sells component parts of a motor vehicle, in whole or in part, is a motor vehicle
29 wrecking facility whether or not the buying or selling price is based upon weight or any other type of classification.

30 (b) The term does not include a garage where wrecked or disabled motor vehicles are temporarily stored

1 for a reasonable period of time for inspection, repairs, or subsequent removal to a junkyard.

2 ~~(7)~~(9) "Person" means any individual, firm, partnership, company, association, corporation, city, town,
3 local governmental entity, or other governmental or private entity, whether organized for profit or not.

4 ~~(8)~~(10) "Public view" means any point 6 feet above the surface of the center of a public road from which
5 junk vehicles can be seen.

6 ~~(9)~~(11) "Shielding" means the construction or use of fencing or constructed or natural barriers to conceal
7 junk vehicles from public view."

8

9 **Section 3.** Section 75-10-521, MCA, is amended to read:

10 **"75-10-521. Powers and duties of county motor vehicle recycling and disposal programs.** (1) (a)

11 Each county shall acquire, develop, and maintain property for free motor vehicle graveyards. The property may
12 be acquired by purchase, lease, or otherwise.

13 (b) As an alternative, the county may contract for the maintenance and operation of a motor vehicle
14 graveyard or graveyards, but any such contract may be entered into only with a motor vehicle wrecking facility
15 licensed under the provisions of this part.

16 (2) Two or more counties may join to form a district for the purpose stated in this section. If a district is
17 formed, all provisions of this part pertaining to a county also apply to a district formed under this subsection.

18 (3) When there is an accumulation of at least 200 junk vehicles in the graveyard, the county shall notify
19 the department for disposal purposes.

20 (4) The county commissioners of each county shall designate a representative to be responsible for
21 implementing this part.

22 (5) Each county, through its designated representative, shall inspect each licensed motor vehicle
23 wrecking facility within its boundaries, consistent with rules adopted by the department.

24 (6) Each county may sell junk vehicles from the motor vehicle graveyard to licensed motor vehicle
25 wrecking facilities. The sales may be conducted only pursuant to a plan that has been approved by the
26 department for consistency with its rules.

27 (7) A county shall submit to the department for approval a plan for the collection of junk vehicles and the
28 establishment and operation of the motor vehicle graveyard.

29 (8) (a) The county shall submit to the department for approval a proposed budget for the succeeding
30 fiscal year.

1 (b) The budget must be for the amounts required by the county for collection costs, acquisition,
 2 maintenance, and operation of the graveyard, for funding of a motor vehicle recycling and disposal capital
 3 improvement fund established pursuant to subsection (9), if applicable, and for other duties relating to
 4 implementation of this part.

5 (c) Except as provided in subsection ~~(8)(e)~~ (8)(f), up to 10% of the budget may be designated to a motor
 6 vehicle recycling and disposal capital improvement fund established pursuant to subsection (9).

7 ~~(d) A portion~~ IF A COUNTY AGREES TO ACCEPT JUNK NONMOTORIZED VEHICLES OR JUNK MOBILE HOMES FOR
 8 RECYCLING AND DISPOSAL AS PROVIDED IN SUBSECTION (10), NO MORE THAN 20% of the budget may be used to
 9 dispose of JUNK nonmotorized vehicles and JUNK mobile homes that cause a public nuisance as provided in
 10 45-8-111 or cause conditions of community decay as provided in 7-5-2110. County programs are not obligated
 11 to take nonmotorized vehicles and mobile homes for recycling and disposal.

12 ~~(d)(e)~~ (e) Except as provided in subsection ~~(8)(e)~~ (8)(f), at the end of a fiscal year, unspent money may be
 13 transferred to a motor vehicle recycling and disposal capital improvement fund established pursuant to subsection
 14 (9).

15 ~~(e)(f)~~ (f) No allocations pursuant to this section may be made to a county's motor vehicle recycling and
 16 disposal capital improvement fund if the fund balance exceeds \$200,000. The fund may continue to earn interest
 17 and income from investments.

18 ~~(f)(g)~~ (g) Any proposed change in the budget or plan must be approved by the department.

19 (9) (a) A county may establish a motor vehicle recycling and disposal capital improvement fund in
 20 accordance with the provisions of 7-6-616.

21 (b) Money in a motor vehicle recycling and disposal capital improvement fund may be spent only for the
 22 replacement and acquisition of property, capital improvements, and equipment necessary to maintain and
 23 improve the county's motor vehicle recycling and disposal program.

24 (10) (A) A COUNTY MAY ACCEPT FOR RECYCLING AND DISPOSAL JUNK NONMOTORIZED VEHICLES AND JUNK
 25 MOBILE HOMES THAT CAUSE:

26 (I) A PUBLIC NUISANCE AS PROVIDED IN 45-8-111; OR

27 (II) CONDITIONS OF COMMUNITY DECAY AS PROVIDED IN 7-5-2110.

28 (B) IF A COUNTY AGREES TO ACCEPT JUNK NONMOTORIZED VEHICLES OR JUNK MOBILE HOMES PURSUANT TO
 29 SUBSECTION (10)(A):

30 (I) PRIOR TO RECYCLING AND DISPOSAL OF A JUNK NONMOTORIZED VEHICLE, THE JUNK NONMOTORIZED VEHICLE

1 MUST BE RELEASED TO THE COUNTY BY THE OWNER OR BY LAW ENFORCEMENT OFFICIALS IN ACCORDANCE WITH
 2 61-12-402(7)(A); AND

3 (II) PRIOR TO RECYCLING AND DISPOSAL OF A JUNK MOBILE HOME:

4 (A) IF THE JUNK MOBILE HOME IS ON PRIVATE PROPERTY, THE JUNK MOBILE HOME MAY BE RELEASED TO THE
 5 COUNTY ONLY BY WRITTEN CONSENT OF THE OWNER. THE COUNTY MAY DISPOSE OF A JUNK MOBILE HOME ON PRIVATE
 6 PROPERTY ONLY IF THE COUNTY HAS ALSO RECEIVED THE PERMISSION OF THE PROPERTY OWNER WHERE THE JUNK
 7 MOBILE HOME IS LOCATED.

8 (B) IF A JUNK MOBILE HOME IS ABANDONED ON PUBLIC PROPERTY FOR MORE THAN 2 WEEKS, THE COUNTY MAY
 9 DISPOSE OF THE JUNK MOBILE HOME AFTER FIRST SENDING A CERTIFIED LETTER TO THE LAST-KNOWN OWNER OF THE JUNK
 10 MOBILE HOME OR, IF NO OWNER INFORMATION IS AVAILABLE, AFTER NOTICE HAS BEEN PLACED IN A PAPER OF GENERAL
 11 CIRCULATION. IF THE JUNK MOBILE HOME REMAINS ON THE PUBLIC PROPERTY AFTER 2 WEEKS FROM WHEN THE NOTICE
 12 IS SENT OR PUBLISHED, THE COUNTY MAY DISPOSE OF THE JUNK MOBILE HOME. IF AN OWNER CAN BE IDENTIFIED FOR THE
 13 JUNK MOBILE HOME, THE COUNTY MAY REQUIRE THAT THE OWNER REIMBURSE THE COST OF TRANSPORT AND DISPOSAL
 14 OF THE JUNK MOBILE HOME."

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 16 ~~———— **NEW SECTION. SECTION 4. JUNK VEHICLE ADVISORY GROUP -- MEMBERS -- DUTIES.** (1) THE DEPARTMENT~~
 17 ~~SHALL ESTABLISH A JUNK VEHICLE ADVISORY GROUP TO PROVIDE INFORMATION AND ADVICE TO THE DEPARTMENT~~
 18 ~~CONCERNING JUNK VEHICLE AND JUNK NONMOTORIZED VEHICLE RECYCLING AND DISPOSAL.~~

19 ~~———— (2) (A) THE JUNK VEHICLE ADVISORY GROUP CONSISTS OF, AT A MINIMUM:~~

20 ~~———— (i) A REPRESENTATIVE OF A COUNTY JUNK VEHICLE PROGRAM;~~

21 ~~———— (ii) A REPRESENTATIVE OF THE MONTANA TOW TRUCK ASSOCIATION;~~

22 ~~———— (iii) A REPRESENTATIVE OF THE MONTANA ENVIRONMENTAL HEALTH ASSOCIATION;~~

23 ~~———— (iv) A REPRESENTATIVE OF THE MONTANA LEAGUE OF CITIES AND TOWNS; AND~~

24 ~~———— (v) A REPRESENTATIVE OF THE MONTANA ASSOCIATION OF COUNTIES.~~

25 ~~———— (B) THE DEPARTMENT MAY APPOINT OTHER MEMBERS TO THE ADVISORY GROUP. ADVISORY GROUP MEMBERS~~
 26 ~~MUST BE SELECTED FROM A DIVERSE GROUP OF INTERESTS AFFECTED OR REGULATED BY THIS PART.~~

27 ~~———— (3) THE JUNK VEHICLE ADVISORY GROUP SHALL:~~

28 ~~———— (A) EVALUATE THE CHANGES IMPLEMENTED IN [THIS ACT], INCLUDING FINANCIAL IMPACTS ON STATE AND COUNTY~~
 29 ~~FUNDS;~~

30 ~~———— (B) RESEARCH AND ANALYZE WAYS TO ADDRESS RECYCLING AND DISPOSAL OF JUNK MOBILE HOMES AND JUNK~~

1 ~~NONMOTORIZED VEHICLES, INCLUDING POSSIBLE FUNDING MECHANISMS AND STATUTORY CHANGES;~~
 2 ~~——— (C) EVALUATE PAYMENTS TO PRIVATE SECTOR PARTNERS FOR TOWING COSTS ASSOCIATED WITH ABANDONED~~
 3 ~~AND JUNK VEHICLE PROGRAMS; AND~~
 4 ~~——— (D) IN COOPERATION WITH THE DEPARTMENT, PREPARE RECOMMENDATIONS FOR THE DEPARTMENT TO PRESENT~~
 5 ~~TO THE ENVIRONMENTAL QUALITY COUNCIL ESTABLISHED IN 5-16-101.~~
 6 ~~——— (4) THE DEPARTMENT SHALL REPORT THE FINDINGS AND RECOMMENDATIONS OF THE ADVISORY COUNCIL TO THE~~
 7 ~~ENVIRONMENTAL QUALITY COUNCIL BY DECEMBER 31, 2020.~~

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 9 ~~——— NEW SECTION. SECTION 5. CODIFICATION INSTRUCTION. [SECTION 4] IS INTENDED TO BE CODIFIED AS AN~~
 10 ~~INTEGRAL PART OF TITLE 75, CHAPTER 10, PART 5, AND THE PROVISIONS OF TITLE 75, CHAPTER 10, PART 5, APPLY TO~~
 11 ~~[SECTION 4].~~

12

13 NEW SECTION. SECTION 4. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 2019.

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15 NEW SECTION. SECTION 5. TERMINATION. [THIS ACT] TERMINATES JUNE 30, 2021.

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