

1 HOUSE BILL NO. 309

2 INTRODUCED BY J. READ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO ABANDONED
5 VEHICLES; AUTHORIZING A TRIBAL LAW ENFORCEMENT AGENCY TO TAKE AN ABANDONED
6 VEHICLE INTO CUSTODY IN CERTAIN CIRCUMSTANCES; PROVIDING THAT A VEHICLE TAKEN INTO
7 POSSESSION BY LAW ENFORCEMENT BECAUSE A DRIVER WAS ARRESTED MAY BE TREATED AS
8 ABANDONED AFTER 60 DAYS; AND AMENDING SECTIONS 61-12-401, 61-12-402, 61-12-404, AND 61-12-
9 405, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 61-12-401, MCA, is amended to read:

14 **"61-12-401. Taking vehicle into custody.** (1) The following law enforcement agencies may take into
15 custody any vehicle found abandoned for a period of 48 hours or more on a public highway or for a period of 5
16 days or more on a city street, public property, or private property:

17 (a) the Montana highway patrol if the vehicle is on the right-of-way of any public highway other than a
18 county road;

19 (b) the sheriff of the county if the vehicle is on the right-of-way of any county road;

20 (c) the city police if the vehicle is on a city street;

21 (d) a tribal law enforcement agency if the tribal government has entered into a cooperative agreement
22 with the Montana highway patrol, the sheriff of a county, or the city police. When a cooperative agreement for
23 law enforcement has been entered into, the tribal law enforcement agency has the same authority to take a
24 vehicle into custody and is subject to the same requirements under this part as the applicable agency identified
25 in subsections (1)(a) through (1)(c).

26 (2) The Montana highway patrol, sheriff of the county, ~~or city police,~~ or tribal law enforcement agency
27 may use their personnel, equipment, and facilities for the removal and storage of the vehicle or may hire other
28 personnel, equipment, and facilities for those purposes.

1 (3) If the Montana highway patrol, the sheriff of the county, ~~or~~ the chief of police of the city, or the
 2 tribal law enforcement agency of the reservation in which the vehicle is being stored has hired other personnel,
 3 equipment, and facilities to remove and store a vehicle, the Montana highway patrol, sheriff, ~~or~~ chief of police,
 4 or tribal law enforcement agency shall:

5 (a) pay the person hired to remove the vehicle an amount not to exceed the amount for a removal
 6 charge established by rules adopted by the department of environmental quality and may request
 7 reimbursement of the hired removal charge from the motor vehicle recycling and disposal program of the
 8 department of environmental quality in an amount and manner established by rules adopted by the department
 9 of environmental quality for this purpose; or

10 (b) authorize the person hired to remove the vehicle to submit directly to the department of
 11 environmental quality a claim for payment to be made directly to the person hired to remove the vehicle.

12 (4) (a) At the request of the owner or person in lawful possession or control of the private property,
 13 the sheriff of the county in which the vehicle is located ~~or~~, the city police of the city in which the vehicle is
 14 located, or the tribal law enforcement agency of the reservation in which the vehicle is located may remove and
 15 hold it in the manner and upon the conditions provided in subsections (1) and (2).

16 (b) A private landowner owning property considered to be part of ways of this state open to the public,
 17 as defined in 61-8-101, who can demonstrate meeting the 5-day waiting period in subsection (1) by calling one
 18 of the law enforcement agencies listed in subsection (1) at the start of the 5-day period may remove the
 19 abandoned vehicle within the conditions provided for in subsections (1) and (2)."

20

21 **Section 2.** Section 61-12-402, MCA, is amended to read:

22 **"61-12-402. (Temporary) Notice to owner.** (1) Within 72 hours after a vehicle is removed and held
 23 by or at the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the county or
 24 the chief of police of the city in which the vehicle is being stored of where and when the vehicle was taken into
 25 custody and of where the vehicle is being stored. In addition, the Montana highway patrol shall furnish the
 26 sheriff or the chief of police:

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

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

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

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

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

10 (4) If the vehicle is registered in the office of the department, notice is considered to have been given
11 when a certified letter addressed to the registered owner of the vehicle and lienholder, if any, at the latest
12 address shown by the records in the office of the department, return receipt requested and postage prepaid, is
13 mailed at least 30 days before the vehicle is sold as provided in 61-12-404(1)(a) or at least 60 days before the
14 vehicle is sold as provided in 61-12-404(1)(b).

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

21 (6) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed under
22 75-10-511, the wrecking facility may make the required search to ascertain the name and address of the owner,
23 lienholder, or person entitled to possession of the vehicle and shall give the notices required in subsections (3)
24 through (5). The wrecking facility shall deliver to the sheriff or the city police a certificate describing the efforts
25 made to ascertain the name and address of the owner, lienholder, or person entitled to possession of the
26 vehicle and shall deliver to the sheriff or the city police proof of the notice given.

27 (7) (a) (i) A vehicle found by law enforcement officials to be a junk vehicle, as defined in 75-10-501,
28 and that has a value of \$500 or less may be directly submitted for disposal in accordance with the provisions of

1 Title 75, chapter 10, part 5, upon a release given by the sheriff or the city police. The county representative
2 designated to implement the county motor vehicle recycling and disposal program pursuant to 75-10-521 for the
3 county where the vehicle is being stored shall determine the value of the vehicle. In the release, the sheriff or
4 the city police shall include a description of the vehicle, including year, make, model, serial number, and license
5 number if available. If the vehicle is being stored by a motor vehicle wrecking facility, the sheriff or the city
6 police shall transmit the release to the motor vehicle wrecking facility and the facility shall consider the release
7 to meet the requirements for records under 61-3-225 and 75-10-512. If the vehicle is being stored by a qualified
8 tow truck operator, as defined in 61-8-903, the sheriff or the city police shall transmit the release to the
9 operator. Vehicles described in this section may be submitted for disposal without notice and without a required
10 holding period.

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

14 (b) A licensed vehicle that otherwise meets the definition of a junk vehicle, as defined in 75-10-501,
15 and that has a value of \$500 or less may be directly submitted for disposal as provided in subsection (7)(a).
16 (Terminates June 30, 2021--sec. 5, Ch. 427, L. 2019.)

17 **61-12-402. (Effective July 1, 2021) Notice to owner.** (1) Within 72 hours after a vehicle is removed
18 and held by or at the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the
19 county or the chief of police of the city in which the vehicle is being stored of where and when the vehicle was
20 taken into custody and of where the vehicle is being stored. In addition, the Montana highway patrol shall
21 furnish the sheriff or the chief of police:

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

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

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

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

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

5 (4) If the vehicle is registered in the office of the department, notice is considered to have been given
6 when a certified letter addressed to the registered owner of the vehicle and lienholder, if any, at the latest
7 address shown by the records in the office of the department, return receipt requested and postage prepaid, is
8 mailed at least 30 days before the vehicle is sold as provided in 61-12-404(1)(a) or at least 60 days before the
9 vehicle is sold as provided in 61-12-404(1)(b).

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

16 (6) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed under
17 75-10-511, the wrecking facility may make the required search to ascertain the name and address of the owner,
18 lienholder, or person entitled to possession of the vehicle and shall give the notices required in subsections (3)
19 through (5). The wrecking facility shall deliver to the sheriff or the city police a certificate describing the efforts
20 made to ascertain the name and address of the owner, lienholder, or person entitled to possession of the
21 vehicle and shall deliver to the sheriff or the city police proof of the notice given.

22 (7) (a) A vehicle found by law enforcement officials to be a junk vehicle, as defined by 75-10-501,
23 and that has a value of \$500 or less may be directly submitted for disposal in accordance with the provisions of
24 Title 75, chapter 10, part 5, upon a release given by the sheriff or the city police. The county representative
25 designated to implement the county motor vehicle recycling and disposal program pursuant to 75-10-521 for the
26 county where the vehicle is being stored shall determine the value of the vehicle. In the release, the sheriff or
27 the city police shall include a description of the vehicle, including year, make, model, serial number, and license
28 number if available. If the vehicle is being stored by a motor vehicle wrecking facility, the sheriff or the city

1 police shall transmit the release to the motor vehicle wrecking facility and the facility shall consider the release
2 to meet the requirements for records under 61-3-225 and 75-10-512. If the vehicle is being stored by a qualified
3 tow truck operator, as defined in 61-8-903, the sheriff or the city police shall transmit the release to the
4 operator. Vehicles described in this section may be submitted for disposal without notice and without a required
5 holding period.

6 (b) A licensed vehicle that otherwise meets the definition of a junk vehicle, as defined in 75-10-501,
7 and that has a value of \$500 or less may be directly submitted for disposal as provided in subsection (7)(a)."
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9 **Section 3.** Section 61-12-404, MCA, is amended to read:

10 **"61-12-404. Sale or release of vehicle if not reclaimed.** (1) (a) ~~Except as provided in subsection~~
11 (1)(b), if a vehicle is not reclaimed, as provided in 61-12-403, within 30 days after notification by certified mail or
12 prescribed publication, the sheriff of the county or the city police of the city in which the vehicle is being stored
13 may sell it at public auction in the manner provided in 25-13-701 through 25-13-709.

14 (b) When a vehicle is taken into custody as a result of the arrest of the driver of the vehicle, the owner,
15 lienholder, or person entitled to possession of the vehicle has 60 days after notification by certified mail or
16 prescribed publication to reclaim the vehicle as provided in 61-12-403. If the vehicle is not reclaimed within 60
17 days after notification, the vehicle may be considered abandoned and may be sold under the provisions of this
18 section.

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

22 (3) After a vehicle has been sold pursuant to subsection (1)(a) or (1)(b) or released pursuant to
23 subsection (2), the former owner or person entitled to possession has no further right, title, claim, or interest in
24 or to the vehicle."
25

26 **Section 4.** Section 61-12-405, MCA, is amended to read:

27 **"61-12-405. Certificate of sale or release.** (1) (a) If a vehicle is sold as provided in 61-12-404(1)(a)
28 or (1)(b), the sheriff or the city police at the time of the payment of the purchase price shall execute a certificate

1 of sale in duplicate and shall deliver the original certificate to the purchaser and retain the copy.

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

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

8 (b) The certificate of release must contain the name and address of the operator, the date of release,
9 a description of the vehicle, including year, make, model, serial number, and license number if available, and a
10 stipulation that no warranty is made as to the condition or title of the vehicle."
11

12 NEW SECTION. **Section 5. Notification to tribal governments.** The secretary of state shall send a
13 copy of [this act] to each federally recognized tribal government in Montana.

14 - END -