

1 SENATE BILL NO. 79

2 INTRODUCED BY D. KARY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR ISSUANCE OF A SALVAGE CERTIFICATE OR
5 CERTIFICATE OF TITLE TO AN AUTO AUCTION AFTER NOTICE; AND AMENDING SECTION 61-3-211,
6 MCA."

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

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10 **Section 1.** Section 61-3-211, MCA, is amended to read:11 **"61-3-211. Surrender of certificate of title -- issuance of salvage certificate -- salvage retitling**

12 **requirements -- insurer or owner unable to supply title to auto auction dealer.** (1) When an insurer
13 acquires ownership of a motor vehicle that is less than 15 years ~~of age~~ old and that has been determined to be
14 a salvage vehicle, the insurer shall apply for a salvage certificate on a form prescribed by the department. The
15 application must be accompanied by a certificate of title assigned to the insurer unless the application indicates
16 that the insurer was unable to obtain the certificate of title after making at least two attempts to do so following
17 oral or written acceptance by the owner of the salvage vehicle of the settlement offer for the salvage vehicle. If
18 the certificate of title or electronic record of title maintained by the department names one or more holders of a
19 perfected security interest in the motor vehicle, the insurer shall secure and deliver to the department or an
20 authorized agent a release from each secured party of the secured interest.

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

25 (3) If the insurer elects to sell a salvage vehicle before a salvage certificate is obtained under
26 subsections (1) and (2), the insurer shall complete a salvage receipt on a form prescribed by the department.
27 The insurer shall deliver the original salvage receipt to the salvage vehicle purchaser only after a release has
28 been obtained from each secured party of any security interest in the salvage vehicle. The insurer shall then

1 deliver to the department or an authorized agent a copy of the salvage receipt, any security releases, and a
2 certificate of title assigned to the insurer unless the insurer was unable to obtain the certificate of title after
3 making at least two attempts to do so following oral or written acceptance by the owner of the salvage vehicle
4 of the settlement offer for the salvage vehicle. Upon submission of the original salvage receipt by the salvage
5 vehicle purchaser, the department shall issue a salvage certificate to the salvage vehicle purchaser that is
6 prima facie evidence of ownership. A salvage certificate must be obtained before the salvage vehicle purchaser
7 disposes of the salvage vehicle.

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

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

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

19 (7) A salvage vehicle owned by or in the inventory of a motor vehicle wrecking facility on October 1,
20 1991, is exempt from the provisions of this section if the owner of the facility has complied with the provisions of
21 61-3-225.

22 (8) (a) When an auto auction dealer is in possession of a salvage vehicle that was subject to an
23 insurance claim and the insurer did not obtain a salvage certificate or certificate of title as a result of the
24 insurance claim, the insurer shall provide a claim release statement to the auto auction dealer.

25 (b) Upon receiving a claim release statement from an insurer, the auto auction dealer shall send
26 notice to the owner and any lienholder of the vehicle. The notice shall inform the owner and any lienholder of
27 outstanding charges owed to the auto auction and the requirement to pay applicable charges and pick up the
28 vehicle within 30 days after the date of the notice. Notice under this subsection (8) must be sent by certified

1 mail to the owner and lienholder address on record with the department.

2 (c) The owner, lienholder, or insurance provider of the vehicle may not reclaim the vehicle until the
3 owner, the lienholder, or the owner's or lienholder's insurance provider has paid the costs incurred by the auto
4 auction dealer in removing and storing the vehicle.

5 (d) If the removal and storage costs are not paid within 30 days after the notice in subsection (8)(b)
6 was postmarked, the auto auction dealer may, on a form prescribed by the department, request that a salvage
7 certificate or certificate of title be issued. The request must certify that the notice required in subsection (8)(b)
8 was sent and that the owner or lienholder has not made payment as required in subsection (8)(b).

9 (e) Upon receipt of a valid request as provided in subsection (8)(d), the department shall cancel the
10 vehicle's certificate to title, remove any perfected security interest, and issue to the auto auction dealer a
11 salvage certificate for vehicles less than 15 years old or a certificate of title for vehicles 15 years old or older.
12 After the department has issued a salvage certificate or certificate of title under this section, the former owner or
13 lienholder or insurance provider has no further right, title, claim, or interest in or to the vehicle."

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