

SENATE BILL 106

Introduced by Gage

1/16	Introduced
1/16	Referred to Judiciary
1/16	First Reading
1/16	Fiscal Note Requested
1/21	Hearing
1/22	Fiscal Note Printed
1/22	Tabled in Committee

Senate BILL NO. 106

INTRODUCED BY

T. Bushnell A. Bush

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAW ON REMOVAL AND SALE OF ABANDONED VEHICLES; INCLUDING TRAILER IN THE DEFINITION OF "MOTOR VEHICLE"; REQUIRING THE HIGHWAY PATROL, COUNTY SHERIFF, OR CITY POLICE TO RETAIN A PRIVATE TOWING SERVICE TO REMOVE ABANDONED VEHICLES; CREATING A MOTOR VEHICLE POSSESSORY LIEN FOR TOWING AND STORAGE OF AN ABANDONED VEHICLE; AND AMENDING SECTIONS 61-12-401, 61-12-402, 61-12-403, AND 61-12-404, MCA."

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

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

"61-12-401. Taking "Motor vehicle" to include trailer -- taking vehicle into custody. (1) As used in this part, "motor vehicle" includes a trailer.

{1}(2) The following law enforcement agencies may take into custody any a motor vehicle found abandoned for a period of 48 hours or more on any a public highway, or for a period of 5 days or more on any a city street, public property, or private property:

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

(b) the sheriff of the county if the vehicle is upon the right-of-way of any a county road within the county;

(c) the city police if the vehicle is upon a city street within the city.

{2}(3) The if a motor vehicle is taken into custody as provided in subsection (2), the Montana highway patrol, sheriff of the county, or the city police may use its or his personnel, equipment, and facilities for the removal and storage of the vehicle, or may hire other;

(a) shall retain private personnel, equipment, and facilities for those purposes to remove the motor vehicle from the public highway, county road, or street;

(b) may use the agency's personnel, equipment, and facilities or retain private sector personnel, equipment, and facilities for the storage of the vehicle; and

(c) may in an emergency use any equipment immediately available.

{3}(4) At the request of the owner or person in lawful possession or control of the private property, the sheriff of the county in which the vehicle is located or the city police of the city in which the vehicle is located may remove and hold it in the manner and upon the conditions provided in subsections {1} and (2) and (3)."

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

"61-12-402. Notice to owner. (1) Within 72 hours after

1 any a vehicle is removed and held by or at the direction of
 2 the Montana highway patrol, the highway patrol shall notify
 3 the sheriff of the county in which the vehicle was located
 4 at the time it was taken into custody and the place where
 5 the vehicle is being held. In addition the Montana highway
 6 patrol shall furnish the sheriff a complete description of
 7 the vehicle to include year, make, model, serial number, and
 8 license number if available, any costs incurred to that date
 9 in the removal, storage, and custody of the vehicle, and any
 10 available information concerning its ownership.

11 (2) The sheriff or the city police shall make
 12 reasonable efforts to ascertain the name and address of the
 13 owner, lienholder, or person entitled to possession of the
 14 vehicle taken into custody under 61-12-401. If such the name
 15 and address are ascertained, the sheriff or the city police
 16 shall notify such the owner and lienholder or person of the
 17 location of the vehicle.

18 (3) If the vehicle is registered in the office of the
 19 department, notice ~~shall-be-deemed~~ is considered given when
 20 a registered or certified letter addressed to the registered
 21 owner of the vehicle and lienholder, if any, at the latest
 22 address shown by the records in the office of the
 23 department, return receipt requested and postage prepaid
 24 thereon, is mailed at least 30 days before the vehicle is
 25 sold as hereinafter provided in 61-12-404.

1 (4) If the identity of the last registered owner cannot
 2 be determined, or if the registration contains no address
 3 for the owner, or if it is impossible to determine with
 4 reasonable certainty the identity and addresses of all
 5 lienholders, notice by one publication in one newspaper of
 6 general circulation in the county where the motor vehicle
 7 was abandoned ~~shall---be~~ is sufficient to meet all
 8 requirements of notice ~~pursuant-to~~ under this part section.
 9 ~~Such~~ The notice by publication can contain multiple listings
 10 of abandoned vehicles. ~~Any--such~~ The notice ~~shall~~ must be
 11 provided ~~in---the---same---manner~~ as prescribed in
 12 25-13-701(1)(b).

13 (5) If the abandoned vehicle is in the possession of a
 14 motor vehicle wrecking facility licensed under 75-10-511 or
 15 a towing or storage facility, the wrecking, towing, or
 16 storage facility;

17 (a) may make the required search to ascertain the name
 18 and address of the owner, lienholder, or person entitled to
 19 possession of the vehicle and shall give the notices
 20 required in subsections (2) through (4); ~~The--wrecking~~
 21 facility; and

22 (b) shall deliver to the sheriff or the city police a
 23 certificate describing the efforts made to ascertain the
 24 name and address of the owner, lienholder, or person
 25 entitled to possession of the vehicle and shall deliver to

1 the sheriff or the city police proof of the notice given.

2 (6) A vehicle found by law enforcement officials to be
3 a "junk vehicle" as defined by 75-10-501 and certified as
4 having an appraised value of \$100 or less as determined by
5 the county assessor in accordance with the rules of the
6 department of revenue may be directly submitted for disposal
7 in accordance with the provisions of part 5 of chapter 10,
8 Title 75, upon a release given by the sheriff or the city
9 police. In the release the sheriff or the city police shall
10 include a description of the vehicle including year, make,
11 model, serial number, and license number if available. A
12 release provided by the sheriff or the city police under
13 this section ~~shall~~ must be transmitted to the motor vehicle
14 wrecking facility and ~~shall~~ must be considered by that
15 facility to meet the requirements for records under
16 75-10-512 and 75-10-513. Vehicles described in this section
17 may be submitted without notice and without a required
18 holding period.

19 (7) (a) The owner of a vehicle that was towed and
20 stored under the authorization of a public agency is
21 entitled to an administrative hearing to determine the
22 necessity for and the validity of the towing and storage if
23 the owner requests a hearing within 10 days after receipt of
24 the notification required in subsection (3).

25 (b) The public agency that authorized the towing or the

1 other entity authorized to hold a public hearing shall
2 conduct the public hearing within 3 working days after the
3 public agency receives the request for the public hearing.

4 (c) The owner of the vehicle that was towed and stored
5 may obtain possession of the vehicle pending the outcome of
6 the hearing by depositing with the hearing officer an amount
7 of money equal to the total charges for towing and storage
8 plus the costs of the hearing and the costs of the
9 administrative procedures."

10 **Section 3.** Section 61-12-403, MCA, is amended to read:

11 "61-12-403. Reclaiming Motor vehicle possessory lien --
12 reclaiming vehicle. (1) A person or firm regularly engaged
13 in the towing or storage business that lawfully comes into
14 possession of a motor vehicle has a motor vehicle possessory
15 lien on the vehicle and its contents, as long as possession
16 is retained, for all reasonable charges for towing, storage,
17 and administrative procedures required to process the lien
18 and its foreclosure.

19 (2) The owner, lienholder, or person entitled to
20 possession of the vehicle may reclaim it and extinguish the
21 motor vehicle possessory lien created by subsection (1) at
22 any time after it the vehicle is taken into custody and
23 before it is sold--He shall present by:

24 (a) presenting to the sheriff of the county or the city
25 police of the city in which the vehicle was located at the

1 time it was taken into custody satisfactory proof of
2 ownership or right to possession; and pay

3 (b) paying the costs and expenses incurred in the
4 removal, storage, and custody of the vehicle. He ~~shall~~ may
5 not be required to pay storage charges for a period longer
6 than 90 days."

7 **Section 4.** Section 61-12-404, MCA, is amended to read:

8 "61-12-404. Sale of vehicle if not reclaimed --
9 foreclosure of motor vehicle possessory lien. (1) If a
10 vehicle is not reclaimed as provided in 61-12-403 within 30
11 days after notification by registered or certified mail or
12 prescribed publication, the sheriff of the county or the
13 city police of the city in which it is located at the time
14 it was taken into custody shall sell it at public auction in
15 the manner provided in 25-13-701 through 25-13-709.

16 (2) A motor vehicle possessory lien created by
17 61-12-403(1) is foreclosed by the application of the
18 proceeds of the sale provided in subsection (1).

19 ~~(2)~~(3) After any a vehicle has been so sold as provided
20 in subsection (1), the former owner or person formerly
21 entitled to possession has no further right, title, claim,
22 or interest in or to the vehicle."

23 **NEW SECTION. Section 5.** Motor vehicle towing and
24 storage lien. A person who is regularly engaged in the
25 business of towing or storage of motor vehicles is entitled

1 to a motor vehicle possessory lien as provided in 61-12-403
2 and 61-12-404.

3 **NEW SECTION. Section 6.** Codification instruction.

4 [Section 5] is intended to be codified as an integral part
5 of Title 71, chapter 3, part 15, and the provisions of Title
6 71, chapter 3, apply to [section 5].

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0106, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


A bill to generally revise the law on removal and sale of abandoned vehicles and creating a motor vehicles possessory lien for towing and storage.

ASSUMPTIONS:

1. All abandoned vehicles will be hauled by private personnel.
2. All abandoned "junk vehicles" will be retained by private facilities and will not enter the junk vehicle program for disposal.
3. The abandoned "junk vehicles" normally hauled by county junk vehicle programs will not be replaced by other vehicles released by owners.
4. 7% (490 out of 7000) of all vehicles recycled by the junk vehicle program are abandoned "junk vehicles".
5. Average weight of vehicle entering junk vehicle program is 1.06 tons.
6. Average price per ton received by program for vehicle recycling is \$38.11.
7. Average per vehicle cost of hauling is \$50.00.
8. Approximately 111 abandoned vehicles are hauled by county junk vehicle programs and are eventually returned to owner or sold at auction.
9. Average reimbursement to program for hauling abandoned vehicles which are returned to owner or sold at auction is \$35.00 per vehicle.


FISCAL IMPACT:

see next page


ROD SUNDSTED, BUDGET DIRECTOR

DATE

Office of Budget and Program Planning


THOMAS BECK, PRIMARY SPONSOR

DATE

Fiscal Note for SB0106, as introduced.

SB 106

FISCAL IMPACT:

Department of Health:

	<u>FY '92</u>			<u>FY '93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
County grant for hauling abandoned "junk vehicles" (02)	24,500	0	(24,500)	24,500	0	(24,500)
<u>Revenues:</u>						
Scrap metal revenue from abandoned "junk vehicles" (02)	19,800	0	(19,800)	19,800	0	(19,800)
Towing fee revenue for abandoned vehicles hauled but not released to program. (02)	3,900	0	(3,900)	3,900	0	(3,900)
<u>Net Impact:</u>						
State Special Revenue (02)	(800)	0	800	(800)	0	800

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

None