

1 *Senate* BILL NO. *169*
 2 INTRODUCED BY *Deputy for Governor Van Valkenburg Bob Brown*
 3 BY REQUEST OF THE DEPARTMENT OF JUSTICE *HARD*
 4 *John Jagg*

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS
 6 RELATING TO AUTOMOBILE THEFT AND CONSUMER FRAUD; AUTHORIZING
 7 INSURERS TO RELEASE CERTAIN INFORMATION RELATING TO MOTOR
 8 VEHICLE THEFT OR MOTOR VEHICLE INSURANCE FRAUD TO AUTHORIZED
 9 GOVERNMENTAL AGENCIES AND LIENHOLDERS; PROVIDING FOR
 10 CONFIDENTIALITY OF INFORMATION AND IMMUNITY FOR EXCHANGE OF
 11 INFORMATION; PROVIDING A PROCEDURE FOR ASSIGNMENT OF SPECIAL
 12 IDENTIFICATION NUMBERS FOR VEHICLES WITH ALTERED,
 13 OBLITERATED, OR MISSING SERIAL NUMBERS; INCREASING THE
 14 PENALTY FOR UNLAWFULLY ALTERING A MOTOR VEHICLE
 15 IDENTIFICATION NUMBER AND FOR TAMPERING WITH AN ODOMETER OR
 16 VIOLATING ODOMETER STATEMENT REQUIREMENTS; REQUIRING
 17 REVOCATION OF A MOTOR VEHICLE DEALER'S LICENSE UPON
 18 CONVICTION OF VIOLATING THE ODOMETER STATEMENT REQUIREMENTS;
 19 ELIMINATING PROBATIONARY LICENSES FOR MOTOR VEHICLE DEALERS;
 20 AND AMENDING SECTIONS 61-3-106, 61-3-107, 61-3-604, AND
 21 61-3-607, MCA."

22
 23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 24 **Section 1.** Section 61-3-106, MCA, is amended to read:
 25 "61-3-106. Report of stolen and recovered motor

1 vehicles -- accessibility -- insurance fraud and theft
 2 reporting -- immunity. (1) It shall be the duty of the
 3 sheriff of every county of the state and of the chief of
 4 police or commissioner of police of every city to make an
 5 immediate entry regarding each vehicle theft or recovery
 6 into the state automated stolen vehicle file maintained by
 7 the law enforcement network system (LENS). Failure on the
 8 part of any officer shall be considered to be misfeasance in
 9 office and shall constitute grounds for removal. Upon entry
 10 of such information, LENS and the national crime information
 11 center must be allowed immediate access to the state
 12 automated stolen vehicle file. It shall also be the duty of
 13 LENS to file reports of stolen and recovered motor vehicles
 14 reported to it from other states.

15 (2) The state automated stolen vehicle file must be
 16 made available to the secretary of state or other proper
 17 official in each state of the United States through access
 18 to the national crime information center. Before issuing a
 19 certificate of ownership, the department shall check the
 20 vehicle identification number on the motor vehicle to be
 21 registered against the state automated stolen vehicle file.

22 (3) Upon written request to an insurer by an authorized
 23 governmental agency or upon an insurer's own initiative to
 24 notify a specific lienholder, an insurer or an agent
 25 authorized by an insurer to act on its behalf shall release

1 to the requesting agency or lienholder relevant information
 2 in the insurer's possession relating to any specific motor
 3 vehicle theft or motor vehicle insurance fraud.

4 (4) (a) Except as otherwise provided by law,
 5 information furnished pursuant to this section is privileged
 6 and may not become part of a public record. The evidence or
 7 information is not subject to a subpoena duces tecum in a
 8 civil or criminal proceeding unless the court determines
 9 after reasonable notice to the parties listed in subsection
 10 (4)(b) and a hearing that the public interest and any
 11 ongoing investigation by the parties listed in subsection
 12 (4)(b) will not be jeopardized by compliance with the
 13 subpoena duces tecum.

14 (b) The notice required by subsection (4)(a) must be
 15 sent to an insurer, an agent authorized by an insurer to act
 16 on its behalf, an authorized governmental agency that has an
 17 interest in the information, and a specific lienholder.

18 (5) An authorized governmental agency provided with
 19 information pursuant to this section may release or provide
 20 the information to any other authorized governmental agency.

21 (6) An insurer, an agent authorized by an insurer to
 22 act on its behalf, or an employee of an insurer or agent is
 23 not subject to civil or criminal liability in any cause of
 24 action for releasing or receiving information under this
 25 section.

1 (7) As used in this section, the following definitions
 2 apply:

3 (a) "Authorized governmental agency" means any duly
 4 constituted criminal investigative department or agency of
 5 the United States; the state department of justice; the
 6 state auditor's office; a peace officer of the state or a
 7 political subdivision of the state; or a prosecuting
 8 attorney of any state, of any political subdivision of any
 9 state, or of the United States or any district of the United
 10 States.

11 (b) "Relevant information" includes but is not limited
 12 to:

13 (i) insurance policy information related to any motor
 14 vehicle theft or motor vehicle insurance fraud under
 15 investigation, including an application for a policy;

16 (ii) available policy premium payment records;

17 (iii) the history of previous claims made by the
 18 insured; and

19 (iv) information relating to the investigation of any
 20 motor vehicle theft or motor vehicle insurance fraud,
 21 including statements of any person, proof of loss and notice
 22 of loss, and any information that an insurer knows or
 23 reasonably believes reveals or may reveal the identity of a
 24 person who it has reason to believe committed a criminal or
 25 fraudulent act relating to a motor vehicle theft or motor

1 vehicle insurance claim or has knowledge of an act that has
 2 not been reported to an authorized governmental agency.

3 (c) "Specific lienholder" means a person or firm that
 4 holds a security interest in a motor vehicle involved in a
 5 specific motor vehicle theft or motor vehicle insurance
 6 fraud."

7 **Section 2.** Section 61-3-107, MCA, is amended to read:

8 "61-3-107. Identification number for trailers and other
 9 vehicles. Any (1) A trailer, semitrailer, or housetrailer
 10 which that does not have a manufacturer's or other
 11 identifying number thereon shall must be assigned an
 12 identification number by the department. ~~upon--registration~~
 13 ~~of-such-motor-vehicle--The-owner-or-other-person-lawfully-in~~
 14 ~~possession--of-such-motor-vehicle-shall-stamp-such-number-so~~
 15 ~~assigned-by-the-department-upon-the--principal--right--frame~~
 16 ~~member--of--said--motor--vehicle--near-the-front-end-thereof~~
 17 ~~where-it-may-be-clearly-and-readily-seen,-and-said--stamping~~
 18 ~~shall--be-promptly-accomplished-after-notice-of-the-assigned~~
 19 ~~number--by--the--department.--The--department--may--withhold~~
 20 ~~registration-until-satisfactory-proof-by-affidavit--of--such~~
 21 ~~stamping-is-filed-with-it.~~

22 (2) The department may not issue a certificate of
 23 ownership or reissue a certificate of ownership covering a
 24 vehicle on which the identification number has been altered,
 25 removed, obliterated, defaced, omitted, or is otherwise

1 absent unless the owner or other person lawfully in
 2 possession of the vehicle files an application with the
 3 department, accompanied by a fee of \$5. The application must
 4 be on a form provided by the department and must contain
 5 information required by the department for the assignment of
 6 a special identification number for a vehicle. Upon receipt
 7 of the application and if the department is satisfied that
 8 the applicant is entitled to the assignment of an
 9 identification number, the department shall designate a
 10 special identification number for the vehicle. The
 11 department shall note the special identification number on
 12 the application and on records to be kept by the department.
 13 This assigned identification number must be stamped or
 14 securely attached in a conspicuous position on the vehicle
 15 in the manner and form prescribed by the department.

16 (3) In a case where the true identity of a vehicle can
 17 be established by restoring the original manufacturer's
 18 serial number or other distinguishing numbers or
 19 identification marks, the department may not assign a
 20 special identification number and shall replace the
 21 vehicle's identification mark by duplicating the
 22 manufacturer's full numeric or alphanumeric identification
 23 sequence. The department may replace an identification mark
 24 only after conducting an inquiry to determine that ownership
 25 of the vehicle bearing a restored identification mark has

1 been lawfully transferred to the applicant. The applicant
 2 shall apply for and the department shall replace the
 3 identification mark on the vehicle as required under
 4 subsection (2).

5 (4) Upon receipt by the department of a certificate of
 6 inspection completed by a peace officer or authorized member
 7 of the department verifying that the identification number
 8 has been stamped or securely attached in a conspicuous
 9 position upon the vehicle, accompanied by an application for
 10 a certificate of ownership and the required fee, the
 11 department shall use the number as the numeric or
 12 alphanumeric identification mark for the vehicle in any
 13 certificate of ownership that may be issued."

14 **Section 3.** Section 61-3-604, MCA, is amended to read:

15 **"61-3-604. Penalty for altering identification number.**

16 (1) A person who willfully removes or falsifies an
 17 identification number of a motor vehicle or motor vehicle
 18 engine is guilty-of-a-misdemeanor punishable by a fine of
 19 not more than \$5,000 or imprisonment in the state prison for
 20 a period of not more than 10 years, or both.

21 (2) Any person or persons, firm, or corporation which
 22 sells or offers for sale in this state a vehicle the
 23 original vehicle identification number of which has been
 24 destroyed, removed, altered, covered, or defaced, with the
 25 exception of electrically propelled vehicles and vehicles

1 bearing a state-assigned identification number in accordance
 2 with 61-3-107, is guilty--of--a--misdemeanor---and---upon
 3 conviction--thereof--shall-be-punished punishable by a fine of
 4 not less than \$200 or more than \$500 and by imprisonment in
 5 the county jail for a term of not less than 30 days or more
 6 than 180 days. Upon a second or subsequent conviction under
 7 this subsection, the punishment shall be imprisonment in the
 8 state prison for a term of not less than 1 year or more than
 9 5 years or a fine in an amount not to exceed \$50,000, or
 10 both such-fine-and-imprisonment."

11 **Section 4.** Section 61-3-607, MCA, is amended to read:

12 **"61-3-607. Penalty for tampering with odometer or**
 13 **violating odometer statement requirements. (1) It is**
 14 **unlawful for a person to tamper with the odometer of a motor**
 15 **vehicle. It is considered tampering if a person removes,**
 16 **turns back, or changes the reading on the odometer, except**
 17 **when repairing or replacing a defective odometer and setting**
 18 **it anew to show the true mileage, or if a person sells,**
 19 **offers for sale, uses, installs, or causes to be installed**
 20 **any device that causes the odometer to register a mileage**
 21 **reading other than the true mileage for the purpose of**
 22 **deceiving a prospective purchaser. For purposes of this**
 23 **section, the true mileage is that driven by the vehicle as**
 24 **registered by the odometer within the manufacturer's**
 25 **designed tolerance.**

1 (2) A person who purposely or knowingly violates the
2 provisions of 61-3-206 or subsection (1) of this section is
3 ~~guilty of a misdemeanor punishable by a fine of not more~~
4 ~~than \$5,000 or imprisonment in the state prison for a period~~
5 ~~of not more than 10 years, or both.~~ If that person is a
6 motor vehicle dealer, the department shall ~~place the dealer~~
7 ~~in a 1-year probationary license status upon a first~~
8 ~~conviction. For a second or subsequent conviction of a~~
9 ~~violation of 61-3-206 or subsection (1) of this section, the~~
10 ~~department may suspend or~~ revoke the dealer's license.
11 Action by the department under this subsection must conform
12 to the contested case procedures in Title 2, chapter 4."

-End-

APPROVED BY COMM. ON BUSINESS & INDUSTRY

1 *Senate* BILL NO. *169*
 2 INTRODUCED BY *Deputy* *Jim* *Van Valkenburg* *Bob Braun*
 3 BY REQUEST OF THE DEPARTMENT OF JUSTICE *HRC*
 4 *St. Jaffe*

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22 (3) Upon written request to an insurer by an authorized
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1 to the requesting agency or lienholder relevant information
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16 (ii) available policy premium payment records;

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 18 insured; and

19 (iv) information relating to the investigation of any
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 21 including statements of any person, proof of loss and notice
 22 of loss, and any information that an insurer knows or
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 13 of-such-motor-vehicle--The-owner-or-other-person-lawfully-in
 14 possession--of-such-motor-vehicle-shall-stamp-such-number-so
 15 assigned-by-the-department-upon-the--principal--right--frame
 16 member--of--said--motor--vehicle--near-the-front-end-thereof
 17 where-it-may-be-clearly-and-readily-seen,-and-said--stamping
 18 shall--be-promptly-accomplished-after-notice-of-the-assigned
 19 number--by--the--department.--The--department--may--withhold
 20 registration-until-satisfactory-proof-by-affidavit--of--such
 21 stamping-is-filed-with-it.

22 (2) The department may not issue a certificate of
 23 ownership or reissue a certificate of ownership covering a
 24 vehicle on which the identification number has been altered,
 25 removed, obliterated, defaced, omitted, or is otherwise

1 absent unless the owner or other person lawfully in
 2 possession of the vehicle files an application with the
 3 department, accompanied by a fee of \$5. The application must
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 7 of the application and if the department is satisfied that
 8 the applicant is entitled to the assignment of an
 9 identification number, the department shall designate a
 10 special identification number for the vehicle. The
 11 department shall note the special identification number on
 12 the application and on records to be kept by the department.
 13 This assigned identification number must be stamped or
 14 securely attached in a conspicuous position on the vehicle
 15 in the manner and form prescribed by the department.

16 (3) In a case where the true identity of a vehicle can
 17 be established by restoring the original manufacturer's
 18 serial number or other distinguishing numbers or
 19 identification marks, the department may not assign a
 20 special identification number and shall replace the
 21 vehicle's identification mark by duplicating the
 22 manufacturer's full numeric or alphanumeric identification
 23 sequence. The department may replace an identification mark
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 25 of the vehicle bearing a restored identification mark has

1 been lawfully transferred to the applicant. The applicant
 2 shall apply for and the department shall replace the
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 4 subsection (2).

5 (4) Upon receipt by the department of a certificate of
 6 inspection completed by a peace officer or authorized member
 7 of the department verifying that the identification number
 8 has been stamped or securely attached in a conspicuous
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14 **Section 3.** Section 61-3-604, MCA, is amended to read:

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 16 (1) A person who willfully removes or falsifies an
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 18 engine is ~~guilty-of-a-misdemeanor~~ punishable by a fine of
 19 not more than \$5,000 or imprisonment in the state prison for
 20 a period of not more than 10 years, or both.

21 (2) Any person or persons, firm, or corporation which
 22 sells or offers for sale in this state a vehicle the
 23 original vehicle identification number of which has been
 24 destroyed, removed, altered, covered, or defaced, with the
 25 exception of electrically propelled vehicles and vehicles

1 bearing a state-assigned identification number in accordance
 2 with 61-3-107, is guilty--of--a--misdemeanor---and---upon
 3 conviction--thereof--shall--be--punished punishable by a fine of
 4 not less than \$200 or more than \$500 and by imprisonment in
 5 the county jail for a term of not less than 30 days or more
 6 than 180 days. Upon a second or subsequent conviction under
 7 this subsection, the punishment shall be imprisonment in the
 8 state prison for a term of not less than 1 year or more than
 9 5 years or a fine in an amount not to exceed \$50,000, or
 10 both ~~such-fine-and-imprisonment.~~"

11 **Section 4.** Section 61-3-607, MCA, is amended to read:

12 **"61-3-607. Penalty for tampering with odometer or**
 13 **violating odometer statement requirements.** (1) It is
 14 unlawful for a person to tamper with the odometer of a motor
 15 vehicle. It is considered tampering if a person removes,
 16 turns back, or changes the reading on the odometer, except
 17 when repairing or replacing a defective odometer and setting
 18 it anew to show the true mileage, or if a person sells,
 19 offers for sale, uses, installs, or causes to be installed
 20 any device that causes the odometer to register a mileage
 21 reading other than the true mileage for the purpose of
 22 deceiving a prospective purchaser. For purposes of this
 23 section, the true mileage is that driven by the vehicle as
 24 registered by the odometer within the manufacturer's
 25 designed tolerance.

1 (2) A person who purposely or knowingly violates the
2 provisions of 61-3-206 or subsection (1) of this section is
3 ~~guilty of a misdemeanor punishable by a fine of not more~~
4 ~~than \$5,000 or imprisonment in the state prison for a period~~
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6 motor vehicle dealer, the department shall ~~place the dealer~~
7 ~~in a 1-year probationary license status upon a first~~
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11 Action by the department under this subsection must conform
12 to the contested case procedures in Title 2, chapter 4."

-End-

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 3 BY REQUEST OF THE DEPARTMENT OF JUSTICE *HARD*
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 14 possession--of--such--motor--vehicle--shall--stamp--such--number--so
 15 assigned--by--the--department--upon--the--principal--right--frame
 16 member--of--said--motor--vehicle--near--the--front--end--thereof
 17 where--it--may--be--clearly--and--readily--seen,--and--said--stamping
 18 shall--be--promptly--accomplished--after--notice--of--the--assigned
 19 number--by--the--department.--The--department--may--withhold
 20 registration--until--satisfactory--proof--by--affidavit--of--such
 21 stamping--is--filed--with--it.

22 (2) The department may not issue a certificate of
 23 ownership or reissue a certificate of ownership covering a
 24 vehicle on which the identification number has been altered,
 25 removed, obliterated, defaced, omitted, or is otherwise

1 absent unless the owner or other person lawfully in
 2 possession of the vehicle files an application with the
 3 department, accompanied by a fee of \$5. The application must
 4 be on a form provided by the department and must contain
 5 information required by the department for the assignment of
 6 a special identification number for a vehicle. Upon receipt
 7 of the application and if the department is satisfied that
 8 the applicant is entitled to the assignment of an
 9 identification number, the department shall designate a
 10 special identification number for the vehicle. The
 11 department shall note the special identification number on
 12 the application and on records to be kept by the department.
 13 This assigned identification number must be stamped or
 14 securely attached in a conspicuous position on the vehicle
 15 in the manner and form prescribed by the department.

16 (3) In a case where the true identity of a vehicle can
 17 be established by restoring the original manufacturer's
 18 serial number or other distinguishing numbers or
 19 identification marks, the department may not assign a
 20 special identification number and shall replace the
 21 vehicle's identification mark by duplicating the
 22 manufacturer's full numeric or alphanumeric identification
 23 sequence. The department may replace an identification mark
 24 only after conducting an inquiry to determine that ownership
 25 of the vehicle bearing a restored identification mark has

1 been lawfully transferred to the applicant. The applicant
 2 shall apply for and the department shall replace the
 3 identification mark on the vehicle as required under
 4 subsection (2).

5 (4) Upon receipt by the department of a certificate of
 6 inspection completed by a peace officer or authorized member
 7 of the department verifying that the identification number
 8 has been stamped or securely attached in a conspicuous
 9 position upon the vehicle, accompanied by an application for
 10 a certificate of ownership and the required fee, the
 11 department shall use the number as the numeric or
 12 alphanumeric identification mark for the vehicle in any
 13 certificate of ownership that may be issued."

14 **Section 3.** Section 61-3-604, MCA, is amended to read:

15 ***61-3-604. Penalty for altering identification number.**

16 (1) A person who willfully removes or falsifies an
 17 identification number of a motor vehicle or motor vehicle
 18 engine is ~~guilty of a misdemeanor punishable by a fine of~~
 19 not more than \$5,000 or imprisonment in the state prison for
 20 a period of not more than 10 years, or both.

21 (2) Any person or persons, firm, or corporation which
 22 sells or offers for sale in this state a vehicle the
 23 original vehicle identification number of which has been
 24 destroyed, removed, altered, covered, or defaced, with the
 25 exception of electrically propelled vehicles and vehicles

1 bearing a state-assigned identification number in accordance
 2 with 61-3-107, is ~~guilty of a misdemeanor and upon~~
 3 conviction thereof shall be punished punishable by a fine of
 4 not less than \$200 or more than \$500 and by imprisonment in
 5 the county jail for a term of not less than 30 days or more
 6 than 180 days. Upon a second or subsequent conviction under
 7 this subsection, the punishment shall be imprisonment in the
 8 state prison for a term of not less than 1 year or more than
 9 5 years or a fine in an amount not to exceed \$50,000, or
 10 both ~~such fine and imprisonment."~~

11 **Section 4.** Section 61-3-607, MCA, is amended to read:

12 ***61-3-607. Penalty for tampering with odometer or**
 13 **violating odometer statement requirements.** (1) It is
 14 unlawful for a person to tamper with the odometer of a motor
 15 vehicle. It is considered tampering if a person removes,
 16 turns back, or changes the reading on the odometer, except
 17 when repairing or replacing a defective odometer and setting
 18 it anew to show the true mileage, or if a person sells,
 19 offers for sale, uses, installs, or causes to be installed
 20 any device that causes the odometer to register a mileage
 21 reading other than the true mileage for the purpose of
 22 deceiving a prospective purchaser. For purposes of this
 23 section, the true mileage is that driven by the vehicle as
 24 registered by the odometer within the manufacturer's
 25 designed tolerance.

1 (2) A person who purposely or knowingly violates the
2 provisions of 61-3-206 or subsection (1) of this section is
3 guilty of a misdemeanor punishable by a fine of not more
4 than \$5,000 or imprisonment in the state prison for a period
5 of not more than 10 years, or both. If that person is a
6 motor vehicle dealer, the department shall ~~place the dealer~~
7 ~~in a one-year probationary license status upon a first~~
8 ~~conviction. For a second or subsequent conviction of a~~
9 ~~violation of 61-3-206 or subsection (1) of this section, the~~
10 ~~department may suspend or~~ revoke the dealer's license.
11 Action by the department under this subsection must conform
12 to the contested case procedures in Title 2, chapter 4."

-End-

SENATE STANDING COMMITTEE REPORT

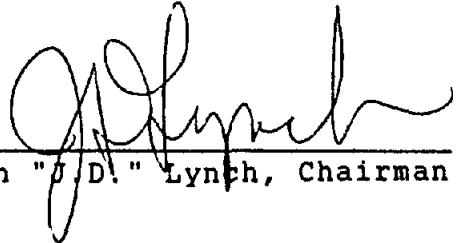
Page 1 of 1
March 18, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 169 (third reading copy -- blue), respectfully report that House Bill No. 169 be amended and as so amended be concurred in:

1. Page 11, line 7.
Strike: "1993"
Insert: "1995"

Signed: _____


John "J.D." Lynch, Chairman

MC 3-18-91
Amd. Coord.

SB 3-18 2:25
Sec. of Senate

SENATE
HB 169

1 SENATE BILL NO. 169

2 INTRODUCED BY DOHERTY, PINSONEAULT, VAN VALKENBURG,

3 B. BROWN, STRIZICH, O'KEEFE, FAGG, HARP

4 BY REQUEST OF THE DEPARTMENT OF JUSTICE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS
7 RELATING TO AUTOMOBILE THEFT AND CONSUMER FRAUD; AUTHORIZING
8 INSURERS TO RELEASE CERTAIN INFORMATION RELATING TO MOTOR
9 VEHICLE THEFT OR MOTOR VEHICLE INSURANCE FRAUD TO AUTHORIZED
10 GOVERNMENTAL AGENCIES AND LIENHOLDERS; PROVIDING FOR
11 CONFIDENTIALITY OF INFORMATION AND IMMUNITY FOR EXCHANGE OF
12 INFORMATION; PROVIDING A PROCEDURE FOR ASSIGNMENT OF SPECIAL
13 IDENTIFICATION NUMBERS FOR VEHICLES WITH ALTERED,
14 OBLITERATED, OR MISSING SERIAL NUMBERS; INCREASING THE
15 PENALTY FOR UNLAWFULLY ALTERING A MOTOR VEHICLE
16 IDENTIFICATION NUMBER AND FOR TAMPERING WITH AN ODOMETER OR
17 VIOLATING ODOMETER STATEMENT REQUIREMENTS; REQUIRING
18 REVOCATION OF A MOTOR VEHICLE DEALER'S LICENSE UPON
19 CONVICTION OF VIOLATING THE ODOMETER STATEMENT REQUIREMENTS;
20 ELIMINATING PROBATIONARY LICENSES FOR MOTOR VEHICLE DEALERS;
21 AND AMENDING SECTIONS 61-3-106, 61-3-107, 61-3-604, AND
22 61-3-607, MCA."

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25 **Section 1.** Section 61-3-106, MCA, is amended to read:

1 "61-3-106. Report of stolen and recovered motor
2 vehicles -- accessibility -- insurance fraud and theft
3 reporting -- immunity. (1) It shall be the duty of the
4 sheriff of every county of the state and of the chief of
5 police or commissioner of police of every city to make an
6 immediate entry regarding each vehicle theft or recovery
7 into the state automated stolen vehicle file maintained by
8 the law enforcement network system (LENS). Failure on the
9 part of any officer shall be considered to be misfeasance in
10 office and shall constitute grounds for removal. Upon entry
11 of such information, LENS and the national crime information
12 center must be allowed immediate access to the state
13 automated stolen vehicle file. It shall also be the duty of
14 LENS to file reports of stolen and recovered motor vehicles
15 reported to it from other states.

16 (2) The state automated stolen vehicle file must be
17 made available to the secretary of state or other proper
18 official in each state of the United States through access
19 to the national crime information center. Before issuing a
20 certificate of ownership, the department shall check the
21 vehicle identification number on the motor vehicle to be
22 registered against the state automated stolen vehicle file.

23 (3) Upon written request to an insurer by an authorized
24 governmental agency or upon an insurer's own initiative to
25 notify a specific lienholder, an insurer or an agent

1 authorized by an insurer to act on its behalf shall release
 2 to the requesting agency or lienholder relevant information
 3 in the insurer's possession relating to any specific motor
 4 vehicle theft or motor vehicle insurance fraud.

5 (4) (a) Except as otherwise provided by law,
 6 information furnished pursuant to this section is privileged
 7 and may not become part of a public record. The evidence or
 8 information is not subject to a subpoena duces tecum in a
 9 civil or criminal proceeding unless the court determines
 10 after reasonable notice to the parties listed in subsection
 11 (4)(b) and a hearing that the public interest and any
 12 ongoing investigation by the parties listed in subsection
 13 (4)(b) will not be jeopardized by compliance with the
 14 subpoena duces tecum.

15 (b) The notice required by subsection (4)(a) must be
 16 sent to an insurer, an agent authorized by an insurer to act
 17 on its behalf, an authorized governmental agency that has an
 18 interest in the information, and a specific lienholder.

19 (5) An authorized governmental agency provided with
 20 information pursuant to this section may release or provide
 21 the information to any other authorized governmental agency.

22 (6) An insurer, an agent authorized by an insurer to
 23 act on its behalf, or an employee of an insurer or agent is
 24 not subject to civil or criminal liability in any cause of
 25 action for releasing or receiving information under this

1 section.

2 (7) As used in this section, the following definitions
 3 apply:

4 (a) "Authorized governmental agency" means any duly
 5 constituted criminal investigative department or agency of
 6 the United States; the state department of justice; the
 7 state auditor's office; a peace officer of the state or a
 8 political subdivision of the state; or a prosecuting
 9 attorney of any state, of any political subdivision of any
 10 state, or of the United States or any district of the United
 11 States.

12 (b) "Relevant information" includes but is not limited
 13 to:

14 (i) insurance policy information related to any motor
 15 vehicle theft or motor vehicle insurance fraud under
 16 investigation, including an application for a policy;

17 (ii) available policy premium payment records;

18 (iii) the history of previous claims made by the
 19 insured; and

20 (iv) information relating to the investigation of any
 21 motor vehicle theft or motor vehicle insurance fraud,
 22 including statements of any person, proof of loss and notice
 23 of loss, and any information that an insurer knows or
 24 reasonably believes reveals or may reveal the identity of a
 25 person who it has reason to believe committed a criminal or

1 fraudulent act relating to a motor vehicle theft or motor
 2 vehicle insurance claim or has knowledge of an act that has
 3 not been reported to an authorized governmental agency.

4 (c) "Specific lienholder" means a person or firm that
 5 holds a security interest in a motor vehicle involved in a
 6 specific motor vehicle theft or motor vehicle insurance
 7 fraud."

8 **Section 2.** Section 61-3-107, MCA, is amended to read:

9 **"61-3-107. Identification number for trailers and other**
 10 **vehicles. Any (1) A trailer, semitrailer, or housetrailer**
 11 **which that does not have a manufacturer's or other**
 12 **identifying number thereon shall must be assigned an**
 13 **identification number by the department, upon--registration**
 14 **of-such-motor-vehicle--The-owner-or-other-person-lawfully-in**
 15 **possession--of-such-motor-vehicle-shall-stamp-such-number-so**
 16 **assigned-by-the-department-upon-the--principal--right--frame**
 17 **member--of--said--motor--vehicle--near-the-front-end-thereof**
 18 **where-it-may-be-clearly-and-readily-seen, and-said--stamping**
 19 **shall-be-promptly-accomplished-after-notice-of-the-assigned**
 20 **number--by--the--department.--The--department--may--withhold**
 21 **registration-until-satisfactory-proof-by-affidavit--of--such**
 22 **stamping-is-filed-wich-it.**

23 (2) The department may not issue a certificate of
 24 ownership or reissue a certificate of ownership covering a
 25 vehicle on which the identification number has been altered,

1 removed, obliterated, defaced, omitted, or is otherwise
 2 absent unless the owner or other person lawfully in
 3 possession of the vehicle files an application with the
 4 department, accompanied by a fee of \$5. The application must
 5 be on a form provided by the department and must contain
 6 information required by the department for the assignment of
 7 a special identification number for a vehicle. Upon receipt
 8 of the application and if the department is satisfied that
 9 the applicant is entitled to the assignment of an
 10 identification number, the department shall designate a
 11 special identification number for the vehicle. The
 12 department shall note the special identification number on
 13 the application and on records to be kept by the department.
 14 This assigned identification number must be stamped or
 15 securely attached in a conspicuous position on the vehicle
 16 in the manner and form prescribed by the department.

17 (3) In a case where the true identity of a vehicle can
 18 be established by restoring the original manufacturer's
 19 serial number or other distinguishing numbers or
 20 identification marks, the department may not assign a
 21 special identification number and shall replace the
 22 vehicle's identification mark by duplicating the
 23 manufacturer's full numeric or alphanumeric identification
 24 sequence. The department may replace an identification mark
 25 only after conducting an inquiry to determine that ownership

1 of the vehicle bearing a restored identification mark has
 2 been lawfully transferred to the applicant. The applicant
 3 shall apply for and the department shall replace the
 4 identification mark on the vehicle as required under
 5 subsection (2).

6 (4) Upon receipt by the department of a certificate of
 7 inspection completed by a peace officer or authorized member
 8 of the department verifying that the identification number
 9 has been stamped or securely attached in a conspicuous
 10 position upon the vehicle, accompanied by an application for
 11 a certificate of ownership and the required fee, the
 12 department shall use the number as the numeric or
 13 alphanumeric identification mark for the vehicle in any
 14 certificate of ownership that may be issued."

15 **Section 3.** Section 61-3-604, MCA, is amended to read:

16 **"61-3-604. Penalty for altering identification number.**

17 (1) A person who willfully removes or falsifies an
 18 identification number of a motor vehicle or motor vehicle
 19 engine is ~~guilty of a misdemeanor~~ punishable by a fine of
 20 not more than \$5,000 or imprisonment in the state prison for
 21 a period of not more than 10 years, or both.

22 (2) Any person or persons, firm, or corporation which
 23 sells or offers for sale in this state a vehicle the
 24 original vehicle identification number of which has been
 25 destroyed, removed, altered, covered, or defaced, with the

1 exception of electrically propelled vehicles and vehicles
 2 bearing a state-assigned identification number in accordance
 3 with 61-3-107, is ~~guilty of a misdemeanor and upon~~
 4 conviction thereof shall be punished punishable by a fine of
 5 not less than \$200 or more than \$500 and by imprisonment in
 6 the county jail for a term of not less than 30 days or more
 7 than 180 days. Upon a second or subsequent conviction under
 8 this subsection, the punishment shall be imprisonment in the
 9 state prison for a term of not less than 1 year or more than
 10 5 years or a fine in an amount not to exceed \$50,000, or
 11 ~~both such fine and imprisonment."~~

12 **Section 4.** Section 61-3-607, MCA, is amended to read:

13 **"61-3-607. Penalty for tampering with odometer or**
 14 **violating odometer statement requirements.** (1) It is
 15 unlawful for a person to tamper with the odometer of a motor
 16 vehicle. It is considered tampering if a person removes,
 17 turns back, or changes the reading on the odometer, except
 18 when repairing or replacing a defective odometer and setting
 19 it anew to show the true mileage, or if a person sells,
 20 offers for sale, uses, installs, or causes to be installed
 21 any device that causes the odometer to register a mileage
 22 reading other than the true mileage for the purpose of
 23 deceiving a prospective purchaser. For purposes of this
 24 section, the true mileage is that driven by the vehicle as
 25 registered by the odometer within the manufacturer's

SB 0169/02

1 designed tolerance.

2 (2) A person who purposely or knowingly violates the
3 provisions of 61-3-206 or subsection (1) of this section is
4 ~~guilty-of-a-misdemeanor~~ punishable by a fine of not more
5 ~~than \$5,000 or imprisonment in the state prison for a period~~
6 ~~of not more than 10 years, or both.~~ If that person is a
7 motor vehicle dealer, the department shall ~~place-the--dealer~~
8 ~~in--a--1-year--probationary--license--status--upon--a--first~~
9 ~~conviction--For--a--second--or--subsequent--conviction-of-a~~
10 ~~violation-of-61-3-206-or-subsection-(1)-of-this-section, the~~
11 ~~department-may--suspend--or~~ revoke the dealer's license.
12 Action by the department under this subsection must conform
13 to the contested case procedures in Title 2, chapter 4."

-End-