

SENATE BILL 258

Introduced by T. Beck

2/01	Introduced
2/01	Referred to Business & Industry
2/02	First Reading
2/08	Hearing
2/21	Tabled in Committee

1 *Senate* BILL NO. 258
 2 INTRODUCED BY T. Beck
 3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
 6 FILING OF SECURITY INTERESTS FOR OFF-HIGHWAY VEHICLES; TO
 7 INCREASE THE FEE FOR CERTIFICATE OF OWNERSHIP; AND AMENDING
 8 SECTION 23-2-811, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 23-2-811, MCA, is amended to read:

12 "23-2-811. Certificate of ownership -- procedure -- fee
 13 -- filing security interest. (1) No off-highway vehicle may
 14 be operated upon any public lands, trails, easements, lakes,
 15 rivers, or streams unless a certificate of ownership has
 16 first been obtained from the department of justice.

17 (2) The owner of an off-highway vehicle shall apply for
 18 a certificate of ownership to the county treasurer of the
 19 county in which the owner resides, on a form furnished by
 20 the department of justice for that purpose. The form must
 21 include:

- 22 (a) the name of the owner;
- 23 (b) the residence of the owner, by town and county;
- 24 (c) the business address or home mailing address of the
- 25 owner;

- 1 (d) the name and address of any lienholder;
- 2 (e) the amount due under any contract, mortgage, or
- 3 lien;
- 4 (f) the name of the manufacturer;
- 5 (g) the model number or name;
- 6 (h) the identification number; and
- 7 (i) the name and address of the dealer or other person
- 8 from whom the off-highway vehicle was acquired.
- 9 (3) The application must be signed by at least one
- 10 owner or by a properly authorized agent of the owner.
- 11 (4) The application for a new certificate of ownership
- 12 must be accompanied by the immediately previous certificate.
- 13 This subsection does not apply to off-highway vehicles that
- 14 are purchased as new and unused machines or that were
- 15 operated before January 1, 1990.
- 16 (5) (a) After the owner completes the application form,
- 17 the county treasurer shall issue to the applicant two copies
- 18 of the completed application, with one marked "file copy",
- 19 and shall forward one copy and the original application to
- 20 the department of justice. The department of justice shall
- 21 enter the information contained in the application upon the
- 22 corresponding records of its office and shall send the
- 23 applicant a certificate of ownership containing a permanent
- 24 ownership number and information from the application
- 25 considered necessary by the department of justice.

1 (b) The certificate of ownership is not required to be
2 renewed annually and is valid as long as the person holding
3 it owns the off-highway vehicle.

4 (6) The owner shall at all times retain possession of
5 the certificate of ownership, except when it is being
6 transmitted to and from the department of justice for
7 endorsement or cancellation.

8 (7) Upon application for a certificate of ownership, a
9 fee of \$4 ~~\$5~~ must be paid to the county treasurer, of which:

10 (a) \$3 ~~\$3.50~~ must be forwarded to the department of
11 justice for deposit in the general fund; and

12 (b) \$1 ~~\$1.50~~ must be retained by the county treasurer
13 for the cost of administering this section.

14 (8) A security interest in an off-highway vehicle is
15 not valid against creditors, subsequent purchasers, or
16 encumbrancers unless a lien notice, showing that a security
17 interest has been created, has been filed with the
18 department of justice as provided in this section on a form
19 approved by the department of justice. The department of
20 justice may not file a security interest or other lien
21 unless it is accompanied by or specified in the application
22 for a certificate of ownership of the encumbered off-highway
23 vehicle. If the lien notice is transmitted to the department
24 of justice, the security agreement or other lien instrument
25 that creates the security interest must be retained by the

1 secured party. A copy of the security agreement is
2 sufficient as a lien notice if it contains the name and
3 address of the debtor and the secured party, a complete
4 description of the off-highway vehicle, the amount of the
5 lien, and the signature of the debtor. The department of
6 justice shall file the security interest or lien by entering
7 the name and address of the secured party upon the face of
8 the certificate of ownership. The department of justice
9 shall mail a statement certifying the filing of a security
10 interest or lien to the secured party. The department of
11 justice shall mail the certificate of ownership to the owner
12 at the address given on the certificate. However, if the
13 transfer of ownership and filing of the security interest
14 are paid for by a creditor or secured party, the department
15 of justice shall return the certificate of ownership to the
16 county treasurer of the county where the vehicle is to be
17 registered. The owner of an off-highway vehicle is the
18 person entitled to operate and possess the vehicle.

19 (9) A security interest in an off-highway vehicle held
20 as inventory by a dealer must be perfected in accordance
21 with Title 30, chapter 9, and no endorsement on the
22 certificate of title is necessary for perfection.

23 (10) Whenever a security interest or lien is filed
24 against an off-highway vehicle that is subject to two or
25 more security interests previously perfected by filing under

1 this section, the department of justice shall endorse on the
 2 face of the certificate of ownership: "Notice. This
 3 off-highway vehicle is subject to additional security
 4 interests on file with the Department of Justice." Other
 5 information regarding the additional security interests need
 6 not be endorsed on the certificate.

7 (11) Satisfaction or statements of release filed with
 8 the department of justice under this section must be
 9 retained for a period of 8 years from the date of receipt,
 10 after which they may be destroyed.

11 (12) The filing of a security interest or other lien as
 12 provided in this section perfects a security interest that
 13 has attached at the time the certificate of ownership noting
 14 the interest is issued. Issuance of a certificate of
 15 ownership constitutes constructive notice to subsequent
 16 purchasers or encumbrancers, from the time of filing, of the
 17 existence of the security interest.

18 (13) Upon default under a chattel mortgage or
 19 conditional sales contract covering an off-highway vehicle,
 20 the mortgagee or vendor has the same remedies as in the case
 21 of other personal property. In the case of attachment of an
 22 off-highway vehicle, the provisions of 27-18-413, 27-18-414,
 23 and 27-18-804 are applicable, except that deposits must be
 24 made with the department of justice.

25 (14) A conditional sales vendor, chattel mortgagee, or

1 assignee who fails to file a satisfaction of a chattel
 2 mortgage, assignment, or conditional sale contract within 15
 3 days after receiving final payment shall pay to the
 4 department of justice the sum of \$1 for each day after the
 5 expiration of the 15-day period that he fails to file the
 6 satisfaction.

7 (15) Upon receipt of any liens, notices of liens
 8 dependent on possession, or attachments against the record
 9 of an off-highway vehicle in this state, the department of
 10 justice shall within 24 hours mail to the owner, conditional
 11 sales vendor, mortgagee, or their assignee a notice of the
 12 lien, showing the date of execution of the lien and, in the
 13 case of attachment, the full title of the court, the action,
 14 and the name of the attorney for the plaintiff or the name
 15 of the attaching creditor, or both.

16 (16) It is not necessary to refile with the department
 17 of justice instruments on file in the offices of the county
 18 clerk and recorders at the time this law takes effect.

19 (17) A fee of \$4 must be paid to the department of
 20 justice to file a security interest or other lien against an
 21 off-highway vehicle. The \$4 fee includes and covers the cost
 22 of filing a satisfaction or release of the security interest
 23 and also the cost of entering the satisfaction or release on
 24 the records of the department and deleting the endorsement
 25 of the security interest from the face of the certificate of

LC 1110/01

1 ownership. A fee of \$4 must be paid to the department for
2 issuing a certified copy of a certificate of ownership
3 subject to a security interest or other lien on file in the
4 office of the department, or for filing an assignment of a
5 security interest or other lien on file with the department.
6 All fees provided for in this section must be paid to the
7 county treasurer for deposit in the state general fund in
8 accordance with 15-1-504."

-End-