

1 *Senate* BILL NO. 293
 2 INTRODUCED BY *Shelley Manly Hollen, Mont.*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 5 87A-2-401, R.C.M. 1947, TO ALLOW A SELLER, WHEN A
 6 TRANSACTION INVOLVES INTERSTATE SHIPMENT OF CATTLE, TO ISSUE
 7 A REGULAR TITLE OR BILL OF SALE, OR A TRANSFER OF TITLE THAT
 8 IS CONDITIONAL UNTIL THE SELLER HAS RECEIVED NOTIFICATION
 9 FROM THE BUYERS' BANK THAT THE INSTRUMENT OF PAYMENT HAS
 10 CLEARED THE BANK, SUCH NOTIFICATION TO BE ATTACHED TO THE
 11 BILL OF SALE."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 87A-2-401, R.C.M. 1947, is amended
 15 to read as follows:

16 "87A-2-401. Passing of title--reservation for
 17 security--limited application of this section. Each
 18 provision of this chapter with regard to the rights,
 19 obligations and remedies of the seller, the buyer,
 20 purchasers or other third parties applies irrespective of
 21 title to the goods except where the provision refers to such
 22 title. In so far as situations are not covered by the other
 23 provisions of this chapter and matters concerning title
 24 become material the following rules apply:

25 (1) Title to goods cannot pass under a contract for

1 sale prior to their identification to the contract (section
 2 87A-2-501), and unless otherwise explicitly agreed the buyer
 3 acquires by their identification a special property as
 4 limited by this act. Any retention or reservation by the
 5 seller of the title (property) in goods shipped or delivered
 6 to the buyer is limited in effect to a reservation of a
 7 security interest. Subject to these provisions and to the
 8 provisions of the Chapter on Secured Transactions (Chapter
 9 9), title to goods passes from the seller to the buyer in
 10 any manner and on any conditions explicitly agreed on by the
 11 parties.

12 (2) Unless otherwise explicitly agreed title passes to
 13 the buyer at the time and place at which the seller
 14 completes his performance with reference to the physical
 15 delivery of the goods, despite any reservation of a security
 16 interest and even though a document of title is to be
 17 delivered at a different time or place; and in particular
 18 and despite any reservation of a security interest by the
 19 bill of lading

20 (a) if the contract requires or authorizes the seller
 21 to send the goods to the buyer but does not require him to
 22 deliver them at destination, title passes to the buyer at
 23 the time and place of shipment; but

24 (b) if the contract requires delivery at destination,
 25 title passes on tender there.

1 (3) Unless otherwise explicitly agreed where delivery
2 is to be made without moving the goods,

3 (a) if the seller is to deliver a document of title,
4 title passes at the time when and the place where he
5 delivers such documents; or

6 (b) if the goods are at the time of contracting
7 already identified and no documents are to be delivered,
8 title passes at the time and place of contracting.

9 (4) For transactions involving interstate shipment of
10 cattle the seller may (1) issue a regular title or bill of
11 sale or (2) give a conditional transfer of title or bill of
12 sale. The conditional transfer of title or bill of sale is
13 fully validated and the title passes when the following
14 conditions are met:

15 (a) The bank on which the buyer's warrant, check, or
16 draft was drawn, notifies the seller, or his designated
17 bank, that the instrument of payment has cleared the bank
18 for payment, and

19 (b) a copy of the notification from the buyer's bank
20 is attached to the conditional transfer of title or bill of
21 sale.

22 ~~(4)~~ (5) A rejection or other refusal by the buyer to
23 receive or retain the goods, whether or not justified, or a
24 justified revocation of acceptance reverts title to the
25 goods in the seller. Such reversion occurs by operation of

1 law and is not a "sale."

-End-

Approved by Committee
on Agriculture Livestock
& Irrigation

Senate BILL NO. 293
INTRODUCED BY *Shelton, Manly, Hollen, Patton*

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9 FROM THE BUYERS' BANK THAT THE INSTRUMENT OF PAYMENT HAS
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17 security--limited application of this section. Each
18 provision of this chapter with regard to the rights,
19 obligations and remedies of the seller, the buyer,
20 purchasers or other third parties applies irrespective of
21 title to the goods except where the provision refers to such
22 title. In so far as situations are not covered by the other
23 provisions of this chapter and matters concerning title
24 become material the following rules apply:

25 (1) Title to goods cannot pass under a contract for

1 sale prior to their identification to the contract (section
2 87A-2-501), and unless otherwise explicitly agreed the buyer
3 acquires by their identification a special property as
4 limited by this act. Any retention or reservation by the
5 seller of the title (property) in goods shipped or delivered
6 to the buyer is limited in effect to a reservation of a
7 security interest. Subject to these provisions and to the
8 provisions of the Chapter on Secured Transactions (Chapter
9 9), title to goods passes from the seller to the buyer in
10 any manner and on any conditions explicitly agreed on by the
11 parties.

12 (2) Unless otherwise explicitly agreed title passes to
13 the buyer at the time and place at which the seller
14 completes his performance with reference to the physical
15 delivery of the goods, despite any reservation of a security
16 interest and even though a document of title is to be
17 delivered at a different time or place; and in particular
18 and despite any reservation of a security interest by the
19 bill of lading

20 (a) if the contract requires or authorizes the seller
21 to send the goods to the buyer but does not require him to
22 deliver them at destination, title passes to the buyer at
23 the time and place of shipment; but

24 (b) if the contract requires delivery at destination,
25 title passes on tender there.

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1 (3) Unless otherwise explicitly agreed where delivery
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4 title passes at the time when and the place where he
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6 (b) if the goods are at the time of contracting
7 already identified and no documents are to be delivered,
8 title passes at the time and place of contracting.

9 (4) For transactions involving interstate shipment of
10 cattle the seller may (1) issue a regular title or bill of
11 sale or (2) give a conditional transfer of title or bill of
12 sale. The conditional transfer of title or bill of sale is
13 fully validated and the title passes when the following
14 conditions are met:

15 (a) The bank on which the buyer's warrant, check, or
16 draft was drawn, notifies the seller, or his designated
17 bank, that the instrument of payment has cleared the bank
18 for payment, and

19 (b) a copy of the notification from the buyer's bank
20 is attached to the conditional transfer of title or bill of
21 sale.

22 ~~(4)~~ (5) A rejection or other refusal by the buyer to
23 receive or retain the goods, whether or not justified, or a
24 justified revocation of acceptance revests title to the
25 goods in the seller. Such reversion occurs by operation of

1 law and is not a "sale."

-End-

THIRD READING

MISSING

HOUSE OF REPRESENTATIVES

February 28, 1975

HOUSE COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION AMENDMENT
TO SENATE BILL 293

1. Amend page 3, section 1, line 10.
Following: "may"
Strike: "(1)"

2. Amend page 3, section 1, line 11.
Following: "sale"
Strike: "or (2)"
Insert: ", or"

AS SO AMENDED
BE CONCURRED IN

SENATE BILL NO. 293

INTRODUCED BY GRAHAM, MANLEY, HAZELBAKER, MATHERS

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 87A-2-401, R.C.M. 1947, TO ALLOW A SELLER, WHEN A TRANSACTION INVOLVES INTERSTATE SHIPMENT OF CATTLE, TO ISSUE A REGULAR TITLE OR BILL OF SALE, OR A TRANSFER OF TITLE THAT IS CONDITIONAL UNTIL THE SELLER HAS RECEIVED NOTIFICATION FROM THE BUYERS' BANK THAT THE INSTRUMENT OF PAYMENT HAS CLEARED THE BANK, SUCH NOTIFICATION TO BE ATTACHED TO THE BILL OF SALE."

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(1) Title to goods cannot pass under a contract for

sale prior to their identification to the contract (section 87A-2-501), and unless otherwise explicitly agreed the buyer acquires by their identification a special property as limited by this act. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of the Chapter on Secured Transactions (Chapter 9), title to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.

(2) Unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading

(a) if the contract requires or authorizes the seller to send the goods to the buyer but does not require him to deliver them at destination, title passes to the buyer at the time and place of shipment; but

(b) if the contract requires delivery at destination, title passes on tender there.

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5 delivers such documents; or

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7 already identified and no documents are to be delivered,
8 title passes at the time and place of contracting.

9 (4) For transactions involving interstate shipment of
10 cattle the seller may ~~(2)~~ issue a regular title or bill of
11 sale ~~or-(2)~~, OR give a conditional transfer of title or bill
12 of sale. The conditional transfer of title or bill of sale
13 is fully validated and the title passes when the following
14 conditions are met:

15 (a) the bank on which the buyer's warrant, check, or
16 draft was drawn, notifies the seller, or his designated
17 bank, that the instrument of payment has cleared the bank
18 for payment, and

19 (b) a copy of the notification from the buyer's bank
20 is attached to the conditional transfer of title or bill of
21 sale.

22 ~~(4)~~(5) A rejection or other refusal by the buyer to
23 receive or retain the goods, whether or not justified, or a
24 justified revocation of acceptance reverts title to the
25 goods in the seller. Such reversioning occurs by operation of

1 law and is not a "sale."

-End-