

SENATE BILL NO. 424

Introduced: 02/15/83

Referred to Committee on Judiciary: 02/15/83

Hearing: 2/18/83

Died in Committee.

1 *Senate* BILL NO. *424*
2 INTRODUCED BY *Donner* *Eric* *Landman* *How*
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A LIEN TO
5 SECURE PAYMENT TO SUPPLIERS OF FUEL."
6

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

8 Section 1. Who may have lien -- amount -- definition.

9 (1) Any person who under a contract, express or implied,
10 furnishes gasoline, oil, grease, propane, gasohol, diesel
11 fuel, tractor fuel, heating fuel, or any other petroleum
12 product to a buyer for use in conjunction with machinery,
13 materials, storage tanks, or pumps which use, store, or
14 deliver the products has a lien to secure payment therefor
15 on such machinery, materials, storage tanks, or pumps upon
16 compliance with [this act]. However, the lien may not
17 exceed the reasonable value of the fuel in the particular
18 locality where furnished.

19 (2) For purposes of [this act], unless otherwise
20 indicated, "person" means a legal entity, including but not
21 limited to an individual, corporation, association, or
22 partnership.

23 Section 2. How lien obtained. (1) A person who is
24 entitled to a lien under [section 1] and who wishes to
25 obtain the lien must, within 90 days after the fuel is

1 furnished to the buyer, file with the county clerk and
2 recorder of the county in which the sale is transacted a
3 statement that contains:

4 (a) the amount due for the fuel after allowing all
5 proper credits and offsets;

6 (b) a correct description of the machinery, materials,
7 storage tanks, or pumps which use, store, or deliver the
8 products to be charged with the lien;

9 (c) the price agreed upon for the fuel or, if no price
10 was agreed upon, the reasonable value; and

11 (d) the name of the person to whom the fuel was
12 furnished.

13 (2) The statement must be verified by affidavit of the
14 person claiming the lien or the person's duly authorized
15 agent or attorney having knowledge of the facts.

16 Section 3. Filing with county clerk. The county clerk
17 and recorder must endorse upon the lien the date of its
18 filing and make an abstract, in a properly indexed book kept
19 for that purpose, that contains the date of the filing, the
20 name of the person claiming the lien, the amount of the
21 lien, the name of the person against whom the lien is filed,
22 and a description of the machinery, materials, storage
23 tanks, or pumps which use, store, or deliver the products to
24 be charged.

25 Section 4. Priority. The lien for the fuel furnished

1 does not have priority over an encumbrance for money loaned
2 by a financial institution or production credit association
3 for the current year's purchase of fuel.

4 Section 5. Parties. All persons interested in the
5 matter in controversy or in the property to be charged with
6 the lien or having liens thereon must be made parties to an
7 action for the foreclosure thereof.

8 Section 6. Limitation of actions. All actions for the
9 foreclosure and enforcement of the lien provided for in
10 [this act] must be commenced within 1 year of the filing of
11 the lien.

12 Section 7. Acknowledgment of satisfaction and
13 discharge of lien -- penalty. Whenever the indebtedness that
14 is a lien upon any machinery, materials, storage tanks, or
15 pumps which use, store, or deliver the products is paid and
16 satisfied, the lienor shall acknowledge satisfaction and
17 discharge the lien within 30 days after being requested to
18 do so by a person having a property interest in such
19 machinery, materials, storage tanks, or pumps. If the
20 lienor fails to so acknowledge or discharge, he is liable to
21 any person injured by such failure for damages in the amount
22 of such injury, plus the costs of action.

23 Section 8. Rules of practice. Except as otherwise
24 provided, the provisions of Title 25 are applicable to and
25 constitute the rules of practice for the enforcement and

1 foreclosure of the lien provided for in [this act].

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