

HOUSE BILL NO. 573

INTRODUCED BY PETERSON

BY REQUEST OF THE DEPARTMENT OF JUSTICE,
DIVISION OF MOTOR VEHICLES

IN THE HOUSE

January 30, 1985	Introduced and referred to Committee on Business and Labor.
February 12, 1985	Committee recommend bill do pass as amended. Report adopted.
February 13, 1985	Bill printed and placed on members' desks.
February 16, 1985	Second reading, do pass. Considered correctly engrossed.
February 18, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 19, 1985	Introduced and referred to Committee on Highways and Transportation.
March 21, 1985	Committee recommend bill be concurrred in. Report adopted.
March 23, 1985	Second reading, concurrred in.
March 26, 1985	Third reading, concurrred in. Ayes, 50; Noes, 0. Returned to House.

IN THE HOUSE

March 27, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1 process of procedure effecting such transfer, and other
 2 information requested by the division. Evidence and
 3 instruments otherwise required by law to effect a transfer
 4 of legal or equitable title to or an interest in chattels as
 5 may be required in such cases shall be furnished with the
 6 statement. If the division is satisfied that the transfer is
 7 regular and that all formalities required by law have been
 8 complied with, it shall send to the owner, conditional sales
 9 vendor, lessor, mortgagee, and other lienor, as shown by its
 10 records, notice of the intended transfer and thereafter, but
 11 not less than 5 days thereafter, shall issue a new
 12 certificate of ownership and certificate of registration to
 13 the person entitled thereto. The notice herein required is
 14 complied with by deposit in the post office in Deer Lodge,
 15 Montana, such notice, postage prepaid, addressed to the
 16 person at the respective address shown on its records.

17 (4) When the vehicle certificate of ownership that is
 18 involuntarily transferred is not registered in this state,
 19 the procedure set forth above must be followed in applying
 20 for a new certificate of ownership and certificate of
 21 registration but the division need not send notice of
 22 intended transfer and shall issue a new certificate of
 23 ownership and a new certificate of registration to the
 24 person entitled thereto.

25 (5) (a) In the event of the death of the owner of one

1 or more motor vehicles, trailers, semitrailers, or
 2 housetrailer registered hereunder and not exceeding a
 3 combined value of \$15,000 without leaving other property
 4 necessitating the procuring of letters of administration or
 5 letters testamentary, then the surviving spouse or other
 6 heir unless such property is by will otherwise bequeathed
 7 may secure transfer of the decedent's certificate of
 8 ownership and the certificate of registration for the
 9 vehicle.

10 (b) The person seeking transfer of the certificate of
 11 ownership shall file an affidavit with the division setting
 12 forth the fact of survivorship and the name and address of
 13 any other heirs and such other facts as are hereby made
 14 necessary to entitle the affiant to a transfer.

15 (c) The division is authorized to transfer the
 16 certificate of ownership and certificate of registration,
 17 subject to all security interests shown by its records, upon
 18 receipt of an affidavit showing that the affiant is entitled
 19 to a transfer under the provisions of subsection (5)(a) of
 20 this section.

21 (6) Nothing in subsection (5) shall prevent any
 22 secured party from assigning his interest in a motor vehicle
 23 registered under the provisions of this chapter to any other
 24 person without the consent of and without affecting the
 25 interest of the holder of the certificate of ownership and

1 certificate of registration. Upon any assignment by a
 2 secured party of his security interest in any motor vehicle
 3 registered under this chapter, a copy of such assignment
 4 must be filed with the division and record thereof made upon
 5 its records.

6 (7) The certificates of ownership shall remain valid
 7 until canceled by the division upon a transfer of any
 8 interest shown therein and need not be renewed annually."

9 NEW SECTION. Section 2. Odometer disclosure
 10 requirements. (1) Except as provided in subsection (3),
 11 before executing any transfer of ownership document relating
 12 to a motor vehicle, each seller of a motor vehicle shall
 13 record on the certificate of ownership the odometer reading
 14 at the time of transfer or, if the certificate of ownership
 15 does not provide for the recording of the odometer reading,
 16 furnish to the purchaser a written statement signed by each
 17 seller, containing the following information:

- 18 (a) the odometer reading at the time of transfer;
 19 (b) the date of transfer;
 20 (c) the seller's name and current address;
 21 (d) the purchaser's name and current address;
 22 (e) the vehicle year, make, body style, and
 23 identification number;
 24 (f) one of the following statements or certification:
 25 (i) a certification by the seller that, to the best of

1 his knowledge, the odometer reading reflects the actual
 2 miles or kilometers the vehicle has been driven;

3 (ii) if the seller knows that the odometer reading
 4 reflects the amount of mileage in excess of the designed
 5 mechanical odometer limit of 99,999 miles or kilometers, he
 6 shall include a statement to that effect; or

7 (iii) if the seller knows that the odometer reading
 8 differs from the number of miles or kilometers the vehicle
 9 has actually traveled and that the difference is greater
 10 than that caused by odometer calibration error, he shall
 11 include a statement that the odometer reading is not the
 12 actual mileage and should not be relied upon.

13 (2) The purchaser shall acknowledge receipt of the
 14 disclosure statement by signing it.

15 (3) The seller of the following types of motor
 16 vehicles need not disclose the odometer reading of the
 17 vehicle as required in subsection (1):

- 18 (a) a motor vehicle that is 10 years old or older;
 19 (b) a vehicle that is not self-propelled;
 20 (c) a new motor vehicle transferred between dealers
 21 prior to its first retail sale, unless such vehicle has been
 22 used as a demonstrator.

23 (4) Each motor vehicle dealer shall retain for 4 years
 24 each odometer mileage statement that he receives.

25 NEW SECTION. Section 3. Odometer required. The

1 operator of a self-propelled motor vehicle registered in
 2 this state that is designed and manufactured with an
 3 odometer may not operate the vehicle on the highways of the
 4 state at any time unless the odometer is functioning
 5 properly. A person who violates this section must be issued
 6 a warning for defective equipment as provided in 61-9-501.

7 NEW SECTION. Section 4. Penalty for tampering with
 8 odometer or violating odometer statement requirements. (1)
 9 It is unlawful for a person to tamper with the odometer of a
 10 motor vehicle required under [section 3] to be operable. It
 11 is considered tampering if a person removes, turns back, or
 12 changes the reading on the odometer, except when repairing
 13 or replacing a defective odometer and setting it anew to
 14 show the true mileage, or if a person sells, offers for
 15 sale, uses, installs, or causes to be installed any device
 16 that causes the odometer to register a mileage reading other
 17 than the true mileage for the purpose of deceiving a
 18 prospective purchaser. For purposes of this section, the
 19 true mileage is that driven by the vehicle as registered by
 20 the odometer within the manufacturer's designed tolerance.

21 (2) A person who purposely or knowingly violates the
 22 provisions of [section 2] or subsection (1) of this section
 23 is guilty of a misdemeanor. If that person is a motor
 24 vehicle dealer, the division shall place the dealer in a
 25 1-year probationary license status upon a first conviction.

1 For a second or subsequent conviction of a violation of
 2 [section 2] or subsection (1) of this section, the division
 3 may suspend or revoke the dealer's license. Action by the
 4 division under this subsection must conform to the contested
 5 case procedures in Title 2, chapter 4.

6 NEW SECTION. Section 5. Codification instruction.
 7 (1) Sections 2 and 4 are intended to be codified as an
 8 integral part of Title 61, chapter 3, and the provisions of
 9 Title 61 apply to sections 2 and 4.

10 (2) Section 3 is intended to be codified as an
 11 integral part of Title 61, chapter 9, part 4, and the
 12 provisions of Title 61, chapter 9, apply to section 3.

13 NEW SECTION. Section 6. Extension of authority. Any
 14 existing authority of the department of justice, motor
 15 vehicles division, to make rules on the subject of the
 16 provisions of this act is extended to the provisions of this
 17 act.

-End-

APPROVED BY COMM. ON
BUSINESS AND LABOR

1 HOUSE BILL NO. 573
2 INTRODUCED BY PETERSON
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE,
4 DIVISION OF MOTOR VEHICLES

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6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR ODOMETER
7 DISCLOSURE UPON TRANSFER OF MOTOR VEHICLE OWNERSHIP;
8 ~~REQUIRING--FUNCTIONING---ODOMETERS;~~ PROVIDING PENALTIES;
9 AMENDING SECTION 61-3-201, MCA."

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

12 Section 1. Section 61-3-201, MCA, is amended to read:

13 "61-3-201. Transfer of interest. (1) Upon a transfer
14 of any interest in a motor vehicle registered under the
15 provisions of this chapter, the person whose interest is to
16 be transferred shall write his signature with pen and ink
17 upon the certificate of ownership issued for such vehicle in
18 the appropriate space provided upon the reverse side of the
19 certificate, and his signature shall be acknowledged before
20 a notary public.

21 (2) Within 20 calendar days thereafter, the transferee
22 shall forward both the endorsed certificate of ownership
23 with the odometer mileage statement required under [section
24 2] and the certificate of registration, together with the
25 information required under 61-3-202, to the county

1 treasurer, who shall forward them to the division. No
2 certificate of ownership or certificate of registration may
3 be issued by the division until the outstanding certificates
4 are surrendered to that office or their loss is established
5 to its reasonable satisfaction. Failure to make application
6 within the 20-day grace period subjects the transferee to a
7 penalty of \$10. The penalty is to be collected by the county
8 treasurer at the time of registration and is in addition to
9 the fees otherwise provided by law.

10 (3) In the event of a transfer by operation of law of
11 any interest in a motor vehicle as upon inheritance, devise,
12 or bequest, order in bankruptcy or insolvency, execution
13 sale, repossession upon default in the performance of the
14 terms of a lease or executory sales contract, or otherwise
15 than by voluntary act of the person whose title or interest
16 is transferred, the executor, administrator, receiver,
17 trustee, sheriff, or other representative or successor in
18 interest of the person whose interest is transferred shall
19 forward to the division an application for a certificate of
20 ownership in the form required for an original application
21 for a certificate of ownership, together with a verified or
22 certified statement of the transfer of such interest. The
23 statement shall set forth the reason for the involuntary
24 transfer, the interest so transferred, the name of the
25 person to whom the interest is to be transferred, the

SECOND READING

1 process of procedure effecting such transfer, and other
 2 information requested by the division. Evidence and
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 21 prior to its first retail sale, unless such vehicle has been
 22 used as a demonstrator.

23 ~~(4)--Each-motor-vehicle-dealer-shall-retain-for-4-years~~
 24 ~~each-odometer-mileage-statement-that-he-receives.~~

25 NEW-SECTION:--Section-3--Odometer----required.-----The

~~operator--of--a--self-propelled--motor-vehicle-registered-in
this--state--that--is--designed--and--manufactured--with--an
odometer--may--not--operate--the--vehicle--on--the--highways--of--the
state--at--any--time--unless--the--odometer--is--functioning
properly.--A--person--who--violates--this--section--must--be--issued
a--warning--for--defective--equipment--as--provided--in--61-9-501.~~

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odometer or violating odometer statement requirements. (1)
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 23 with the odometer mileage statement required under [section
 24 2] and the certificate of registration, together with the
 25 information required under 61-3-202, to the county

1 treasurer, who shall forward them to the division. No
 2 certificate of ownership or certificate of registration may
 3 be issued by the division until the outstanding certificates
 4 are surrendered to that office or their loss is established
 5 to its reasonable satisfaction. Failure to make application
 6 within the 20-day grace period subjects the transferee to a
 7 penalty of \$10. The penalty is to be collected by the county
 8 treasurer at the time of registration and is in addition to
 9 the fees otherwise provided by law.

10 (3) In the event of a transfer by operation of law of
 11 any interest in a motor vehicle as upon inheritance, devise,
 12 or bequest, order in bankruptcy or insolvency, execution
 13 sale, repossession upon default in the performance of the
 14 terms of a lease or executory sales contract, or otherwise
 15 than by voluntary act of the person whose title or interest
 16 is transferred, the executor, administrator, receiver,
 17 trustee, sheriff, or other representative or successor in
 18 interest of the person whose interest is transferred shall
 19 forward to the division an application for a certificate of
 20 ownership in the form required for an original application
 21 for a certificate of ownership, together with a verified or
 22 certified statement of the transfer of such interest. The
 23 statement shall set forth the reason for the involuntary
 24 transfer, the interest so transferred, the name of the
 25 person to whom the interest is to be transferred, the

1 process of procedure effecting such transfer, and other
 2 information requested by the division. Evidence and
 3 instruments otherwise required by law to effect a transfer
 4 of legal or equitable title to or an interest in chattels as
 5 may be required in such cases shall be furnished with the
 6 statement. If the division is satisfied that the transfer is
 7 regular and that all formalities required by law have been
 8 complied with, it shall send to the owner, conditional sales
 9 vendor, lessor, mortgagee, and other lienor, as shown by its
 10 records, notice of the intended transfer and thereafter, but
 11 not less than 5 days thereafter, shall issue a new
 12 certificate of ownership and certificate of registration to
 13 the person entitled thereto. The notice herein required is
 14 complied with by deposit in the post office in Deer Lodge,
 15 Montana, such notice, postage prepaid, addressed to the
 16 person at the respective address shown on its records.

17 (4) When the vehicle certificate of ownership that is
 18 involuntarily transferred is not registered in this state,
 19 the procedure set forth above must be followed in applying
 20 for a new certificate of ownership and certificate of
 21 registration but the division need not send notice of
 22 intended transfer and shall issue a new certificate of
 23 ownership and a new certificate of registration to the
 24 person entitled thereto.

25 (5) (a) In the event of the death of the owner of one

1 or more motor vehicles, trailers, semitrailers, or
 2 housetrailer registered hereunder and not exceeding a
 3 combined value of \$15,000 without leaving other property
 4 necessitating the procuring of letters of administration or
 5 letters testamentary, then the surviving spouse or other
 6 heir unless such property is by will otherwise bequeathed
 7 may secure transfer of the decedent's certificate of
 8 ownership and the certificate of registration for the
 9 vehicle.

10 (b) The person seeking transfer of the certificate of
 11 ownership shall file an affidavit with the division setting
 12 forth the fact of survivorship and the name and address of
 13 any other heirs and such other facts as are hereby made
 14 necessary to entitle the affiant to a transfer.

15 (c) The division is authorized to transfer the
 16 certificate of ownership and certificate of registration,
 17 subject to all security interests shown by its records, upon
 18 receipt of an affidavit showing that the affiant is entitled
 19 to a transfer under the provisions of subsection (5)(a) of
 20 this section.

21 (6) Nothing in subsection (5) shall prevent any
 22 secured party from assigning his interest in a motor vehicle
 23 registered under the provisions of this chapter to any other
 24 person without the consent of and without affecting the
 25 interest of the holder of the certificate of ownership and

1 certificate of registration. Upon any assignment by a
 2 secured party of his security interest in any motor vehicle
 3 registered under this chapter, a copy of such assignment
 4 must be filed with the division and record thereof made upon
 5 its records.

6 (7) The certificates of ownership shall remain valid
 7 until canceled by the division upon a transfer of any
 8 interest shown therein and need not be renewed annually."

9 NEW SECTION. Section 2. Odometer disclosure
 10 requirements. (1) Except as provided in subsection (3),
 11 before executing any transfer of ownership document relating
 12 to a motor vehicle, each seller of a motor vehicle shall
 13 record on the certificate of ownership the odometer reading
 14 at the time of transfer or, if the certificate of ownership
 15 does not provide for the recording of the odometer reading,
 16 furnish to the purchaser a written statement signed by each
 17 seller, containing the following information:

- 18 (a) the odometer reading at the time of transfer;
- 19 (b) the date of transfer;
- 20 (c) the seller's name and current address;
- 21 (d) the purchaser's name and current address;
- 22 (e) the vehicle year, make, body style, and
 23 identification number;
- 24 (f) one of the following statements or certification:
- 25 (i) a certification by the seller that, to the best of

1 his knowledge, the odometer reading reflects the actual
 2 miles or kilometers the vehicle has been driven;

3 (ii) if the seller knows that the odometer reading
 4 reflects the amount of mileage in excess of the designed
 5 mechanical odometer limit of 99,999 miles or kilometers, he
 6 shall include a statement to that effect; or

7 (iii) if the seller knows that the odometer reading
 8 differs from the number of miles or kilometers the vehicle
 9 has actually traveled and that the difference is greater
 10 than that caused by odometer calibration error, he shall
 11 include a statement that the odometer reading is not the
 12 actual mileage and should not be relied upon.

13 (2) The purchaser shall acknowledge receipt of the
 14 disclosure statement by signing it.

15 (3) The seller of the following types of motor
 16 vehicles need not disclose the odometer reading of the
 17 vehicle as required in subsection (1):

- 18 (a) a motor vehicle that is ~~10~~ 6 years old or older;
- 19 (b) a vehicle that is not self-propelled;
- 20 (c) a new motor vehicle transferred between dealers
 21 prior to its first retail sale, unless such vehicle has been
 22 used as a demonstrator.

23 ~~(4) Each motor vehicle dealer shall retain for 4 years~~
 24 ~~each odometer mileage statement that he receives.~~

25 NEW SECTION: Section 3. Odometer required. The

1 operator--of--a--self-propelled--motor-vehicle-registered-in
 2 this--state--that--is--designed--and--manufactured--with--an
 3 odometer--may-not-operate-the-vehicle-on-the-highways-of-the
 4 state--at--any--time--unless--the--odometer--is--functioning
 5 properly.--A-person-who-violates-this-section-must-be-issued
 6 a-warning-for-defective-equipment-as-provided--in--61-9-501-

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

21 (2) A person who purposely or knowingly violates the
 22 provisions of [section 2] or subsection (1) of this section
 23 is guilty of a misdemeanor. If that person is a motor
 24 vehicle dealer, the division shall place the dealer in a
 25 1-year probationary license status upon a first conviction.

1 For a second or subsequent conviction of a violation of
 2 [section 2] or subsection (1) of this section, the division
 3 may suspend or revoke the dealer's license. Action by the
 4 division under this subsection must conform to the contested
 5 case procedures in Title 2, chapter 4.

6 NEW SECTION. Section 4. Codification instruction.
 7 ~~{1}~~ Sections 2 and 4 3 are intended to be codified as an
 8 integral part of Title 61, chapter 3, and the provisions of
 9 Title 61 apply to sections 2 and 4 3.

10 ~~{2}~~ Section ~~3~~ is intended to be codified as an
 11 integral part of Title ~~61~~, chapter ~~9~~, part ~~4~~, and the
 12 provisions of Title ~~61~~, chapter ~~9~~, apply to section ~~3~~.

13 NEW SECTION. Section 5. Extension of authority. Any
 14 existing authority of the department of justice, motor
 15 vehicles division, to make rules on the subject of the
 16 provisions of this act is extended to the provisions of this
 17 act.

-End-