HOUSE BILL NO. 606

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INTRODUCED BY CAMPBELL, WALLIN

BY REQUEST OF THE DEPARTMENT OF JUSTICE, MOTOR VEHICLES DIVISION

IN THE HOUSE

February 1, 1985	Introduced and referred to Committee on Business and Labor.
February 13, 1985	Committee recommend bill do pass. Report adopted.
February 14, 1985	Bill printed and placed on members' desks.
February 16, 1985	Second reading, do pass.
February 18, 1985	Considered correctly engrossed.
February 19, 1985	Third reading, passed.
	Transmitted to Senate.
IN THE S	ENATE
February 21, 1985	Introduced and referred to Committee on Business and Industry.
March 21, 1985	Committee recommend bill be concurred in. Report adopted.
March 23, 1985	Second reading, concurred in.
March 26, 1985	Third reading, concurred in. Ayes, 48; Noes, 1.

Returned to House.

IN THE HOUSE

March 27, 1985

Received from Senate. Sent to enrolling. Reported correctly enrolled.

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1	HOUSE BILL NO. 606
2	HOUSE BILL NO. 606 INTRODUCED BY Cample Marching
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE,
4	MOTOR VEHICLES DIVISION
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING
7	THE LAWS PERTAINING TO THE SALE AND DISTRIBUTION OF MOTOR
8	VEHICLES; ESTABLISHING ADMINISTRATIVE PENALTIES; AMENDING
9	SECTIONS 61-4-101 AND 61-4-103 THROUGH 61-4-105, MCA."
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Section 61-4-101, MCA, is amended to read:
13	"61-4-101. Application for dealer's license. (1) Every
14	person, firm, corporation, or association which, for
15	commission or profit, engages in the business of buying,
16	selling, exchanging, or acting as a broker of new motor
17	vehicles, recreational vehicles, used motor vehicles,
18	trailers (except trailers having an unloaded weight of less
19	than 500 pounds), semitrailers, or special mobile equipment
20	as defined in 61-1-104 shall file, by mail or otherwise, in
21	the office of the division a verified application for
22	licensure as a dealer, on a blank to be furnished by the
23	division for that purpose and containing the information
24	required. The application and all of the information
25	contained in it shall be verified by the Montana highway

patrol. Each application must be accompanied by the license 1 2 fee hereinafter specified. A dealer's license must be 3 renewed and paid for annually, and an application for 4 relicensure must be filed not later than January 1 of each 5 year. If an application for renewal of a license has been 6 received by the division prior to the expiration of the 7 license, the dealer may operate his business and display 8 dealer plates under the expired license between January 1 9 and February 15 following expiration.

10 (2) To qualify for licensure and the issuance and use 11 of "D", "UD", "RV", "DTR", or "MCD" plates as hereinafter 12 provided, the applicant must furnish the following 13 information and qualify under the following provisions:

14 (a) To qualify as a new motor vehicle dealer and for15 the use of "D" plates, the applicant must:

16 (i) state the name under which the business is to be
17 conducted and the location of the premises (street address,
18 city, county, and state) where records are kept, sales are
19 made, and stock of motor vehicles is displayed;

20 (ii) state the name and address of all owners or 21 persons having an interest in the business, provided that in 22 the case of a corporation, the names and addresses of the 23 president and secretary are sufficient;

24 (iii) state the name and make of all motor vehicles25 handled and the name and address of the manufacturer,

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importer, or distributor with whom the applicant has a
 written new motor vehicle franchise or sales agreement;

3 (iv) execute a certificate to the effect that the 4 applicant has a permanent building for the display and sale 5 of new motor vehicles at the location of the premises where 6 sales are conducted;

7 (v) execute a certificate to the effect that the
8 applicant has a bona fide service department for the repair,
9 service, and maintenance of motor vehicles; and

10 (vi) execute a certificate to the effect that the 11 applicant is a bona fide dealer in new motor vehicles and 12 that he is recognized by a manufacturer, importer, or 13 distributor as a dealer in new motor vehicles.

(b) To qualify as a used motor vehicle dealer and for
the use of "UD" plates or as a recreational vehicle,
trailer, semitrailer, or special mobile equipment dealer and
for the use of "DTR" plates or as a motorcycle dealer and
for the use of "MCD" plates, the applicant must, in addition
to the matters set forth in subsections (i) and (ii) of
subsection (2)(a) above, provide:

(i) a statement that the applicant has a building or
lot and a sign readable at a minimum distance of 150 feet
and indicating the firm name and--headquarters as the
principal place of business and that vehicles are offered
for sale; and

1 (ii) a certificate to the effect that the applicant is 2 a bona fide dealer in used motor vehicles, recreational 3 vehicles, trailers, semitrailers, special mobile equipment, 4 or motorcycles. An applicant for a recreational vehicle 5 dealer license must also indicate on the same certificate 6 that he is recognized by a manufacturer, importer, or 7 distributor as a dealer in recreational vehicles.

8 (c) To qualify for a used motor vehicle dealer's 9 license, a person must submit an annual application for that 10 license and comply with the provisions of 61-4-102(5) in 11 addition to fulfilling the requirements of subsection (2)(b) 12 above.

13 (d) The provisions of subsection (2)(c) above do not
14 apply to an applicant who is licensed as a motor vehicle
15 wrecking facility under the provisions of Title 75, chapter
16 10, part 5.

17 (3) The applicant for a dealer's license shall also 18 file with his application a good and sufficient bond in the 19 sum of \$5,000, and the bond shall be conditioned that the 20 applicant shall conduct his business in accordance with the 21 requirements of the law. All bonds shall run to the state of 22 Montana and shall be approved by the division and filed in 23 its office and shall be renewed annually."

Section 2. Section 61-4-103, MCA, is amended to read:
"61-4-103. Assignment of dealer plates. (1) Upon the

licensing of a dealer as a new motor vehicle dealer, used 1 motor vehicle dealer, recreational vehicle dealer, or 2 3 trailer, semitrailer, or special mobile equipment dealer, or 4 a dealer of the motorcycle-type vehicle, the division shall 5 assign to such dealer a distinctive serial license number as a dealer and after payment of fees furnish every qualified 6 7 dealer in motor vehicles with such sets of number plates as required according to need, which need shall be justified by 8 9 the dealer with the initial application for license and each 10 renewal. Assigned number plates shall be similar to number plates furnished to owners of motor vehicles but shall bear 11 12 thereon, in addition to the serial number assigned such 13 dealer, the letter "D" if the dealer is authorized to sell new motor vehicles (including trucks and truck trailers); 14 the letters "RV" if the dealer is authorized to sell 15 16 recreational vehicles: the letters "UD" if the dealer is authorized to sell used motor vehicles (including used 17 trucks and used truck trailers); the letters "DTR" if the 18 dealer is authorized to sell trailers, semitrailers, or 19 20 special mobile equipment (new or used); and the letters "MCD" if the dealer is authorized to sell vehicles of the 21 motorcycle type (new or used). 22

(2) With the exception of a dealer authorized to sell
new motor vehicles (including trucks and truck trailers) and
to use the "D" plate or demonstrator plate, no dealer

1 authorized to transact business under the provisions of this 2 section may offer for sale or trade any vehicle described in 3 this section except such vehicles as are authorized by the plates assigned to him. If an applicant wishes to sell more Δ 5 than one type of vehicle, he shall make application for each separate authorization. No plate assigned to a dealer may be 6 7 used on any vehicle other than the type described in this section. A dealer authorized to sell new motor vehicles and 8 9 assigned a "D" plate or demonstrator plate is authorized to 10 sell both new and used motor vehicles (including trucks and 11 truck trailers), and such plates may be displayed on either 12 new or used motor vehicles by a licensed dealer in new 13 vehicles.

(3) The division shall cause to be placed on each set 14 15 of license plates issued to a dealer a serial number assigned to each dealer and the actual number of license 16 17 plates issued to each dealer. The number of the dealer shall 18 follow the prefix of the county, and the number of plates 19 issued the dealer shall follow the prefix of the county and the number of the dealer, the dealer's number to be 20 separated from the county prefix by a dash, and the number 21 of plates issued to a dealer to be separated from the 22 dealer's number by a dash, as follows: dealer number 4 in 23 24 Lewis and Clark County would be numbered 5-4, and if the dealer were issued three sets of plates, they would be 25

1 numbered consecutively as follows, 5-4-1, 5-4-2, and 5-4-3. 2 (4) Dealers properly licensed under this section are authorized to use and display dealer's license plates on any 3 4 motor vehicle held for bona fide sale or used in the conduct 5 of the dealer's business in selling or demonstrating motor vehicles and operated by or under the control of the dealer. 6 7 his officers or employees. For purposes of this provision. "officers and employees" include only such persons listed on 8 9 the manufacturer's franchise agreement or the importer's distribution agreement and their spouses or such other 10 persons upon whom the dealer has paid social security taxes 11 as a full-time employee. No dealer's license plate shall be 12 13 used or displayed on vehicles normally used for hire, lease, or rental or for purposes not incident to the business of a 14 motor vehicle dealer. Each dealer is accountable for each 15 16 plate issued and shall certify quarterly to the division the disposition of each dealer plate assigned to the dealer, 17 including the name, address, and occupation of the person 18 primarily using each plate. 19

(5) If-it-shall-appear--to--the--satisfaction--of--the
division7--from When the division has reasonable cause to
believe, from an investigation made by it or information
furnished to it by the sheriff or any other law enforcement
officer, that any such dealer has been improperly licensed,
has used the dealer's license in a manner other than the one

3 herein authorized, or is not qualified as a dealer under the 2 requirements of this section, the division may revoke such 3 dealer's license. No person, firm, corporation, or 4 association shall, for commission or profit, engage in the business of buying, selling, exchanging, or acting as a 5 6 broker of new motor vehicles, trailers, or semitrailers unless duly licensed in compliance with this section (except 7 8 trailers having an unladen weight of less than 500 pounds)." 9 Section 3. Section 61-4-104, MCA, is amended to read: 10 "61-4-104. Record of purchase or sale. Every dealer 11 licensed under 61-4-101 shall keep a book or record of the 12 purchases, sales or exchanges, or receipts for the purpose 13 of sale of used vehicles and a description of such vehicles. together with the name and address of the seller, of the 14 15 purchaser, and of the alleged owner or other person from whom each vehicle was purchased or received or to whom it 16 17 was sold or delivered, as the case may be. The description 18 in the case of motor vehicles shall also include the engine 19 number, if any, maker's number, if any, chassis number, if 20 any, and such other numbers or identification marks as 21 appear thereon and shall include a statement that a number 22 has been obliterated, defaced, or changed if such is the fact. In the case of a trailer, semitrailer, or special 23 24 mobile equipment, the record shall include the 25 manufacturer's number and such other numbers or

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1 identification marks as appear thereon. The dealer shall also have in his possession a duly assigned certificate of 2 ownership from the owner of the motor vehicle from the time 3 4 the motor vehicle is delivered to him until it has been 5 disposed of by him. An authorized representative of the 6 division, upon presentation of his credentials, may inspect 7 and have access to and copy any records required under this 8 chapter." 9 Section 4. Section 61-4-105, MCA, is amended to read: "61-4-105. Penalty Criminal penalty -- civil penalty 10

imposed by agency. (1) Any person violating the provisions of 61-4-101 through 61-4-104 shall be guilty of a misdemeanor and subject to a fine of not less than \$250 and not more than \$500. For the purposes hereof, every sale of a motor vehicle in violation of the provisions of 61-4-101 through 61-4-104 shall be deemed a separate offense.

(2) In addition to all other penalties created by this 17 part, the division is authorized to take appropriate 18 enforcement action on its own initiative. Any person 19 violating the provisions of 61-4-101 through 61-4-104 may be 20 subject to administrative action, in accordance with the 21 22 contested case procedures of Title 2, chapter 4, as follows: (a) a civil penalty not to exceed \$200 for each 23 24 violation;

25 (b) suspension of the motor vehicle dealer license not

- 1 to exceed 5 working days;
- 2 (c) revocation or denial of the motor vehicle dealer
- 3 license; or
- 4 (d) any combination of subsections (2)(a) through
- 5 <u>(2)(c).</u>"

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APPROVED BY COMM. ON BUSINESS AND LABOR

1	HOUSE BILL NO. 606
2	INTRODUCED BY angli Wulling
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE,
4	MOTOR VEHICLES DIVISION
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING
7	THE LAWS PERTAINING TO THE SALE AND DISTRIBUTION OF MOTOR
8	VEHICLES; ESTABLISHING ADMINISTRATIVE PENALTIES; AMENDING
9	SECTIONS 61-4-101 AND 61-4-103 THROUGH 61-4-105, MCA."
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11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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14	person, firm, corporation, or association which, for
15	commission or profit, engages in the business of buying,
16	selling, exchanging, or acting as a broker of new motor
17	vehicles, recreational vehicles, used motor vehicles,
18	trailers (except trailers having an unloaded weight of less
19	than 500 pounds), semitrailers, or special mobile equipment
20	as defined in 61-1-104 shall file, by mail or otherwise, in
21	the office of the division a verified application for
22	licensure as a dealer, on a blank to be furnished by the
23	division for that purpose and containing the information
24	required. The application and all of the information
25	contained in it shall be verified by the Montana highway

1 patrol. Each application must be accompanied by the license 2 fee hereinafter specified. A dealer's license must be renewed and paid for annually, and an application for 3 4 relicensure must be filed not later than January 1 of each 5 year. If an application for renewal of a license has been received by the division prior to the expiration of the б 7 license, the dealer may operate his business and display 8 dealer plates under the expired license between January 1 9 and February 15 following expiration. 10 (2) To gualify for licensure and the issuance and use 11 of "D", "UD", "RV", "DTR", or "MCD" plates as hereinafter 12 provided, the applicant must furnish the following 13 information and qualify under the following provisions: 14 (a) To qualify as a new motor vehicle dealer and for 15 the use of "D" plates, the applicant must: (i) state the name under which the business is to be 16

17 conducted and the location of the premises (street address, 18 city, county, and state) where records are kept, sales are 19 made, and stock of motor vehicles is displayed; 20 (ii) state the name and address of all owners or 21 persons having an interest in the business, provided that in 22 the case of a corporation, the names and addresses of the

23 president and secretary are sufficient;

24 (iii) state the name and make of all motor vehicles25 handled and the name and address of the manufacturer,

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written new motor vehicle franchise or sales agreement; 2 (iv) execute a certificate to the effect that the 3 applicant has a permanent building for the display and sale 4 of new motor vehicles at the location of the premises where 5 sales are conducted; 6 (v) execute a certificate to the effect that the 7 applicant has a bona fide service department for the repair, 8 service, and maintenance of motor vehicles; and 9 (vi) execute a certificate to the effect that the 10 applicant is a bona fide dealer in new motor vehicles and 11 that he is recognized by a manufacturer, importer, or 12 distributor as a dealer in new motor vehicles. 13 (b) To qualify as a used motor vehicle dealer and for 14 the use of "UD" plates or as a recreational vehicle, 15 trailer, semitrailer, or special mobile equipment dealer and 16 for the use of "DTR" plates or as a motorcycle dealer and 17 for the use of "MCD" plates, the applicant must, in addition 18 to the matters set forth in subsections (i) and (ii) of 19 subsection (2)(a) above, provide: 20

importer, or distributor with whom the applicant has a

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(i) a statement that the applicant has a building or
lot and a sign readable at a minimum distance of 150 feet
and indicating the firm name and--headquarters as the
principal place of business and that vehicles are offered
for sale; and

1 (ii) a certificate to the effect that the applicant is 2 a bona fide dealer in used motor vehicles, recreational 3 vehicles, trailers, semitrailers, special mobile equipment, 4 or motorcycles. An applicant for a recreational vehicle 5 dealer license must also indicate on the same certificate 6 that he is recognized by a manufacturer, importer, or 7 distributor as a dealer in recreational vehicles.

8 (c) To qualify for a used motor vehicle dealer's 9 license, a person must submit an annual application for that 10 license and comply with the provisions of 61-4-102(5) in 11 addition to fulfilling the requirements of subsection (2)(b) 12 above.

(d) The provisions of subsection (2)(c) above do not
apply to an applicant who is licensed as a motor vehicle
wrecking facility under the provisions of Title 75, chapter
10, part 5.

17 (3) The applicant for a dealer's license shall also 18 file with his application a good and sufficient bond in the 19 sum of \$5,000, and the bond shall be conditioned that the 20 applicant shall conduct his business in accordance with the 21 requirements of the law. All bonds shall run to the state of 22 Montana and shall be approved by the division and filed in 23 its office and shall be renewed annually."

Section 2. Section 61-4-103, MCA, is amended to read:
"61-4-103. Assignment of dealer plates. (1) Upon the

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licensing of a dealer as a new motor vehicle dealer, used 1 motor vehicle dealer, recreational vehicle dealer, or 2 trailer, semitrailer, or special mobile equipment dealer, or 3 a dealer of the motorcycle-type vehicle, the division shall 4 assign to such dealer a distinctive serial license number as 5 a dealer and after payment of fees furnish every qualified 6 dealer in motor vehicles with such sets of number plates as 7 required according to need, which need shall be justified by 8 the dealer with the initial application for license and each 9 renewal. Assigned number plates shall be similar to number 10 plates furnished to owners of motor vehicles but shall bear 11 thereon, in addition to the serial number assigned such 12 dealer, the letter "D" if the dealer is authorized to sell 13 new motor vehicles (including trucks and truck trailers); 14 the letters "RV" if the dealer is authorized to sell 15 recreational vehicles; the letters "UD" if the dealer is 16 authorized to sell used motor vehicles (including used 17 trucks and used truck trailers); the letters "DTR" if the 18 dealer is authorized to sell trailers, semitrailers, or 19 special mobile equipment (new or used); and the letters 20 "MCD" if the dealer is authorized to sell vehicles of the 21 motorcycle type (new or used). 22

(2) With the exception of a dealer authorized to sell
 new motor vehicles (including trucks and truck trailers) and
 to use the "D" plate or demonstrator plate, no dealer

authorized to transact business under the provisions of this 1 2 section may offer for sale or trade any vehicle described in 3 this section except such vehicles as are authorized by the plates assigned to him. If an applicant wishes to sell more 4 5 than one type of vehicle, he shall make application for each 6 separate authorization. No plate assigned to a dealer may be used on any vehicle other than the type described in this 7 section. A dealer authorized to sell new motor vehicles and 8 9 assigned a "D" plate or demonstrator plate is authorized to sell both new and used motor vehicles (including trucks and 10 truck trailers), and such plates may be displayed on either 11 12 new or used motor vehicles by a licensed dealer in new 13 vehicles.

(3) The division shall cause to be placed on each set 14 of license plates issued to a dealer a serial number 15 16 assigned to each dealer and the actual number of license plates issued to each dealer. The number of the dealer shall 17 follow the prefix of the county, and the number of plates 18 19 issued the dealer shall follow the prefix of the county and 20 the number of the dealer, the dealer's number to be 21 separated from the county prefix by a dash, and the number of plates issued to a dealer to be separated from the 22 dealer's number by a dash, as follows: dealer number 4 in 23 24 Lewis and Clark County would be numbered 5-4, and if the dealer were issued three sets of plates, they would be 25

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numbered consecutively as follows, 5-4-1, 5-4-2, and 5-4-3. 1 (4) Dealers properly licensed under this section are 2 authorized to use and display dealer's license plates on any 3 motor vehicle held for bona fide sale or used in the conduct 4 of the dealer's business in selling or demonstrating motor 5 vehicles and operated by or under the control of the dealer, 6 his officers or employees. For purposes of this provision, 7 "officers and employees" include only such persons listed on 8 the manufacturer's franchise agreement or the importer's 9 distribution agreement and their spouses or such other 10 persons upon whom the dealer has paid social security taxes 11 as a full-time employee. No dealer's license plate shall be 12 used or displayed on vehicles normally used for hire, lease. 13 or rental or for purposes not incident to the business of a 14 motor vehicle dealer. Each dealer is accountable for each 15 plate issued and shall certify quarterly to the division the 16 disposition of each dealer plate assigned to the dealer, 17 including the name, address, and occupation of the person 18 primarily using each plate. 19

(5) If-it-shall-appear--to--the--satisfaction--of--the
division7--from When the division has reasonable cause to
believe, from an investigation made by it or information
furnished to it by the sheriff or any other law enforcement
officer, that any such dealer has been improperly licensed,
has used the dealer's license in a manner other than the one

1 herein authorized, or is not gualified as a dealer under the requirements of this section, the division may revoke such 2 dealer's license. No person, firm, corporation, or 3 4 association shall, for commission or profit, engage in the business of buying, selling, exchanging, or acting as a 5 broker of new motor vehicles, trailers, or semitrailers 6 unless duly licensed in compliance with this section (except 7 trailers having an unladen weight of less than 500 pounds)." 8 9 Section 3. Section 61-4-104, MCA, is amended to read:

10 "61-4-104. Record of purchase or sale. Every dealer 11 licensed under 61-4-101 shall keep a book or record of the 12 purchases, sales or exchanges, or receipts for the purpose of sale of used vehicles and a description of such vehicles, 13 together with the name and address of the seller, of the 14 15 purchaser, and of the alleged owner or other person from 16 whom each vehicle was purchased or received or to whom it 17 was sold or delivered, as the case may be. The description in the case of motor vehicles shall also include the engine 18 number, if any, maker's number, if any, chassis number, if 19 20 any, and such other numbers or identification marks as 21 appear thereon and shall include a statement that a number 22 has been obliterated, defaced, or changed if such is the 23 fact. In the case of a trailer, semitrailer, or special 24 mobile equipment. the record shall include the manufacturer's number and such other numbers 25 or

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1 identification marks as appear thereon. The dealer shall 2 also have in his possession a duly assigned certificate of 3 ownership from the owner of the motor vehicle from the time the motor vehicle is delivered to him until it has been 4 5 disposed of by him. An authorized representative of the б division, upon presentation of his credentials, may inspect 7 and have access to and copy any records required under this 8 chapter."

9 Section 4. Section 61-4-105, MCA, is amended to read: 10 "61-4-105. Penalty Criminal penalty -- civil penalty 11 imposed by agency. (1) Any person violating the provisions of 61-4-101 through 61-4-104 shall be guilty of a 12 13 misdemeanor and subject to a fine of not less than \$250 and not more than \$500. For the purposes hereof, every sale of a 14 motor vehicle in violation of the provisions of 61-4-101 15 16 through 61-4-104 shall be deemed a separate offense.

17 (2) In addition to all other penalties created by this 18 part, the division is authorized to take appropriate 19 enforcement action on its own initiative. Any person 20 violating the provisions of 61-4-101 through 61-4-104 may be 21 subject to administrative action, in accordance with the 22 contested case procedures of Title 2, chapter 4, as follows: 23 (a) a civil penalty not to exceed \$200 for each 24 violation;

25 (b) suspension of the motor vehicle dealer license not

- 1 to exceed 5 working days;
- 2 (c) revocation or denial of the motor vehicle dealer
- 3 <u>license; or</u>
- 4 (d) any combination of subsections (2)(a) through
- 5 <u>(2)(c).</u>"

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Montana Legislative Council

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HOUSE BILL NO. 606 1 INTRODUCED BY Complet Murth 2 BY REQUEST OF THE DEPARTMENT OF JUSTICE, 3 4 MOTOR VEHICLES DIVISION 5 6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING 7 THE LAWS PERTAINING TO THE SALE AND DISTRIBUTION OF MOTOR 8 VEHICLES: ESTABLISHING ADMINISTRATIVE PENALTIES: AMENDING SECTIONS 61-4-101 AND 61-4-103 THROUGH 61-4-105, MCA." 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 12 Section 1. Section 61-4-101, MCA, is amended to read: "61-4-101. Application for dealer's license. (1) Every 13 14 person, firm, corporation, or association which, for commission or profit, engages in the business of buying, 15 selling, exchanging, or acting as a broker of new motor 16 17 vehicles, recreational vehicles, used motor vehicles, 18 trailers (except trailers having an unloaded weight of less than 500 pounds), semitrailers, or special mobile equipment 19 20 as defined in 61-1-104 shall file, by mail or otherwise, in the office of the division a verified application for 21 licensure as a dealer, on a blank to be furnished by the 22 division for that purpose and containing the information 23 required. The application and all of the information 24 contained in it shall be verified by the Montana highway 25

year. If an application for renewal of a license has been received by the division prior to the expiration of the license, the dealer may operate his business and display dealer plates under the expired license between January 1 and February 15 following expiration. (2) To qualify for licensure and the issuance and use of "D", "UD", "RV", "DTR", or "MCD" plates as hereinafter provided, the applicant must furnish the following information and qualify under the following provisions: (a) To qualify as a new motor vehicle dealer and for the use of "D" plates, the applicant must: (i) state the name under which the business is to be

17 conducted and the location of the premises (street address, 18 city, county, and state) where records are kept, sales are 19 made, and stock of motor vehicles is displayed; 20 (ii) state the name and address of all owners or

patrol. Each application must be accompanied by the license

fee hereinafter specified. A dealer's license must be

renewed and paid for annually, and an application for

relicensure must be filed not later than January 1 of each

21 persons having an interest in the business, provided that in 22 the case of a corporation, the names and addresses of the 23 president and secretary are sufficient;

24 (iii) state the name and make of all motor vehicles25 handled and the name and address of the manufacturer,

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importer, or distributor with whom the applicant has a
 written new motor vehicle franchise or sales agreement;

3 (iv) execute a certificate to the effect that the 4 applicant has a permanent building for the display and sale 5 of new motor vehicles at the location of the premises where 6 sales are conducted;

7 (v) execute a certificate to the effect that the
8 applicant has a bona fide service department for the repair,
9 service, and maintenance of motor vehicles; and

10 (vi) execute a certificate to the effect that the 11 applicant is a bona fide dealer in new motor vehicles and 12 that he is recognized by a manufacturer, importer, or 13 distributor as a dealer in new motor vehicles.

(b) To qualify as a used motor vehicle dealer and for
the use of "UD" plates or as a recreational vehicle,
trailer, semitrailer, or special mobile equipment dealer and
for the use of "DTR" plates or as a motorcycle dealer and
for the use of "MCD" plates, the applicant must, in addition
to the matters set forth in subsections (i) and (ii) of
subsection (2)(a) above, provide:

(i) a statement that the applicant has a building or
lot and a sign readable at a minimum distance of 150 feet
and indicating the firm name and-headquarters as the
principal place of business and that vehicles are offered
for sale; and

1 (ii) a certificate to the effect that the applicant is 2 a bona fide dealer in used motor vehicles, recreational 3 vehicles, trailers, semitrailers, special mobile equipment, 4 or motorcycles. An applicant for a recreational vehicle 5 dealer license must also indicate on the same certificate 6 that he is recognized by a manufacturer, importer, or 7 distributor as a dealer in recreational vehicles.

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13 (d) The provisions of subsection (2)(c) above do not
14 apply to an applicant who is licensed as a motor vehicle
15 wrecking facility under the provisions of Title 75, chapter
16 10, part 5.

17 (3) The applicant for a dealer's license shall also 18 file with his application a good and sufficient bond in the 19 sum of \$5,000, and the bond shall be conditioned that the 20 applicant shall conduct his business in accordance with the 21 requirements of the law. All bonds shall run to the state of 22 Montana and shall be approved by the division and filed in 23 its office and shall be renewed annually."

Section 2. Section 61-4+103, MCA, is amended to read:
"61-4-103. Assignment of dealer plates. (1) Upon the

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licensing of a dealer as a new motor vehicle dealer, used 1 2 motor vehicle dealer, recreational vehicle dealer, or trailer, semitrailer, or special mobile equipment dealer, or 3 4 a dealer of the motorcycle-type vehicle, the division shall assign to such dealer a distinctive serial license number as 5 a dealer and after payment of fees furnish every gualified 6 7 dealer in motor vehicles with such sets of number plates as required according to need, which need shall be justified by 8 9 the dealer with the initial application for license and each renewal. Assigned number plates shall be similar to number 10 plates furnished to owners of motor vehicles but shall bear 11 12 thereon, in addition to the serial number assigned such dealer. the letter "D" if the dealer is authorized to sell 13 new motor vehicles (including trucks and truck trailers); 14 15 the letters "RV" if the dealer is authorized to sell recreational vehicles; the letters "UD" if the dealer is 16 authorized to sell used motor vehicles (including used 17 trucks and used truck trailers); the letters "DTR" if the 18 dealer is authorized to sell trailers, semitrailers, or 19 special mobile equipment (new or used); and the letters 20 "MCD" if the dealer is authorized to sell vehicles of the 21 motorcycle type (new or used). 22

(2) With the exception of a dealer authorized to sell
new motor vehicles (including trucks and truck trailers) and
to use the "D" plate or demonstrator plate, no dealer

1 authorized to transact business under the provisions of this 2 section may offer for sale or trade any vehicle described in 3 this section except such vehicles as are authorized by the plates assigned to him. If an applicant wishes to sell more 4 than one type of vehicle, he shall make application for each 5 6 separate authorization. No plate assigned to a dealer may be used on any vehicle other than the type described in this 7 8 section. A dealer authorized to sell new motor vehicles and 9 assigned a "D" plate or demonstrator plate is authorized to sell both new and used motor vehicles (including trucks and 10 11 truck trailers), and such plates may be displayed on either 12 new or used motor vehicles by a licensed dealer in new 13 vehicles.

14 (3) The division shall cause to be placed on each set 15 of license plates issued to a dealer a serial number 16 assigned to each dealer and the actual number of license 17 plates issued to each dealer. The number of the dealer shall follow the prefix of the county, and the number of plates 18 issued the dealer shall follow the prefix of the county and 19 the number of the dealer, the dealer's number to be 20 21 separated from the county prefix by a dash, and the number of plates issued to a dealer to be separated from the 22 dealer's number by a dash, as follows: dealer number 4 in 23 Lewis and Clark County would be numbered 5-4, and if the 24 25 dealer were issued three sets of plates, they would be

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numbered consecutively as follows, 5-4-1, 5-4-2, and 5-4-3. 1 (4) Dealers properly licensed under this section are 2 authorized to use and display dealer's license plates on any 3 motor vehicle held for bona fide sale or used in the conduct 4 of the dealer's business in selling or demonstrating motor 5 vehicles and operated by or under the control of the dealer, 6 his officers or employees. For purposes of this provision, 7 "officers and employees" include only such persons listed on 8 the manufacturer's franchise agreement or the importer's 9 distribution agreement and their spouses or such other 10 persons upon whom the dealer has paid social security taxes 11 as a full-time employee. No dealer's license plate shall be 12 used or displayed on vehicles normally used for hire, lease, 13 or rental or for purposes not incident to the business of a 14 motor vehicle dealer. Each dealer is accountable for each 15 plate issued and shall certify quarterly to the division the 16 disposition of each dealer plate assigned to the dealer. 17 including the name, address, and occupation of the person 18 primarily using each plate. 19

(5) If-it-shall-appear--to--the--satisfaction--of--the
division--from When the division has reasonable cause to
believe, from an investigation made by it or information
furnished to it by the sheriff or any other law enforcement
officer, that any such dealer has been improperly licensed,
has used the dealer's license in a manner other than the one

· 1 herein authorized, or is not qualified as a dealer under the 2 requirements of this section, the division may revoke such 3 dealer's license. No person, firm, corporation, or association shall, for commission or profit, engage in the 4 business of buying, selling, exchanging, or acting as a 5 broker of new motor vehicles, trailers, or semitrailers 6 unless duly licensed in compliance with this section (except 7 trailers having an unladen weight of less than 500 pounds)." 8 9 Section 3. Section 61-4-104, MCA, is amended to read: "61-4-104. Record of purchase or sale. Every dealer 10 licensed under 61-4-101 shall keep a book or record of the 11 12 purchases, sales or exchanges, or receipts for the purpose 13 of sale of used vehicles and a description of such vehicles, together with the name and address of the seller, of the 14 15 purchaser, and of the alleged owner or other person from whom each vehicle was purchased or received or to whom it 16 17 was sold or delivered, as the case may be. The description 18 in the case of motor vehicles shall also include the engine number, if any, maker's number, if any, chassis number, if 19 20 any, and such other numbers or identification marks as 21 appear thereon and shall include a statement that a number 22 has been obliterated, defaced, or changed if such is the fact. In the case of a trailer, semitrailer, or special 23 24 mobile equipment, the record shall include the manufacturer's 25 number and such other numbers οε

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identification marks as appear thereon. The dealer shall 1 2 also have in his possession a duly assigned certificate of 3 ownership from the owner of the motor vehicle from the time the motor vehicle is delivered to him until it has been 4 disposed of by him. An authorized representative of the 5 division, upon presentation of his credentials, may inspect 6 7 and have access to and copy any records required under this 8 chapter."

9 Section 4. Section 61-4-105, MCA, is amended to read: 10 "61-4-105. Penalty Criminal penalty -- civil penalty imposed by agency. (1) Any person violating the provisions 11 of 61-4-101 through 61-4-104 shall be guilty of a 12 misdemeanor and subject to a fine of not less than \$250 and 13 14 not more than \$500. For the purposes hereof, every sale of a 15 motor vehicle in violation of the provisions of 61-4-101 16 through 61-4-104 shall be deemed a separate offense.

17 (2) In addition to all other penalties created by this part, the division is authorized to take appropriate 18 enforcement action on its own initiative. Any person 19 violating the provisions of 61-4-101 through 61-4-104 may be 20 21 subject to administrative action, in accordance with the contested case procedures of Title 2, chapter 4, as follows: 22 (a) a civil penalty not to exceed \$200 for each 23 24 violation;

25 (b) suspension of the motor vehicle dealer license not

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1 to exceed 5 working days;

2 (c) revocation or denial of the motor vehicle dealer

3 license; or

4 (d) any combination of subsections (2)(a) through

5 (2)(c)."

-End-

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49th Legislature

HB 0606/02

1	HOUSE BILL NO. 606
2	INTRODUCED BY CAMPBELL, WALLIN
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE,
4	MOTOR VEHICLES DIVISION
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING
7	THE LAWS PERTAINING TO THE SALE AND DISTRIBUTION OF MOTOR
8	VEHICLES; ESTABLISHING ADMINISTRATIVE PENALTIES; AMENDING
9	SECTIONS 51-4-101 AND 61-4-103 THROUGH 61-4-105, MCA."
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Section 61-4-101, MCA, is amended to read:
13	"61-4-101. Application for dealer's license. (1) Every
14	person, firm, corporation, or association which, for
15	commission or profit, engages in the business of buying,
16	selling, exchanging, or acting as a broker of new motor
17	vehicles, recreational vehicles, used motor vehicles,
18	trailers (except trailers having an unloaded weight of less .
19	than 500 pounds), semitrailers, or special mobile equipment
20	as defined in 61-1-104 shall file, by mail or otherwise, in
21	the office of the division a verified application for
22	licensure as a dealer, on a blank to be furnished by the
23	division for that purpose and containing the information
24	required. The application and all of the information
25	contained in it shall be verified by the Montana highway

patrol. Each application must be accompanied by the license 1 fee hereinafter specified. A dealer's license must be 2 renewed and paid for annually, and an application for 3 relicensure must be filed not later than January 1 of each 4 year. If an application for renewal of a license has been 5 received by the division prior to the expiration of the 6 license, the dealer may operate his business and display 7 dealer plates under the expired license between January 1 R and February 15 following expiration. 9

10 (2) To qualify for licensure and the issuance and use
11 of "D", "UD", "RV", "DTR", or "MCD" plates as hereinafter
12 provided, the applicant must furnish the following
13 information and qualify under the following provisions:

14 (a) To qualify as a new motor vehicle dealer and for15 the use of "D" plates, the applicant must:

(i) state the name under which the business is to be
conducted and the location of the premises (street address,
city, county, and state) where records are kept, sales are
made, and stock of motor vehicles is displayed;

(ii) state the name and address of all owners or
persons having an interest in the business, provided that in
the case of a corporation, the names and addresses of the
president and secretary are sufficient;

24 (iii) state the name and make of all motor vehicles25 handled and the name and address of the manufacturer,

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importer, or distributor with whom the applicant has a
 written new motor vehicle franchise or sales agreement;

3 (iv) execute a certificate to the effect that the
4 applicant has a permanent building for the display and sale
5 of new motor vehicles at the location of the premises where
6 sales are conducted;

7 (v) execute a certificate to the effect that the
8 applicant has a bona fide service department for the repair,
9 service, and maintenance of motor vehicles; and

10 (vi) execute a certificate to the effect that the 11 applicant is a bona fide dealer in new motor vehicles and 12 that he is recognized by a manufacturer, importer, or 13 distributor as a dealer in new motor vehicles.

14 (b) To qualify as a used motor vehicle dealer and for
15 the use of "UD" plates or as a recreational vehicle,
16 trailer, semitrailer, or special mobile equipment dealer and
17 for the use of "DTR" plates or as a motorcycle dealer and
18 for the use of "MCD" plates, the applicant must, in addition
19 to the matters set forth in subsections (i) and (ii) of
20 subsection (2)(a) above, provide:

(i) a statement that the applicant has a building or
lot and a sign readable at a minimum distance of 150 feet
and indicating the firm name and--headquarters as the
principal place of business and that vehicles are offered
for sale; and

1 (ii) a certificate to the effect that the applicant is 2 a bona fide dealer in used motor vehicles, recreational 3 vehicles, trailers, semitrailers, special mobile equipment, 4 or motorcycles. An applicant for a recreational vehicle 5 dealer license must also indicate on the same certificate that he is recognized by a manufacturer, importer, or 6 7 distributor as a dealer in recreational vehicles. 8 (c) To qualify for a used motor vehicle dealer's 9 license, a person must submit an annual application for that license and comply with the provisions of 61-4-102(5) in 10 addition to fulfilling the requirements of subsection (2)(b) 11 12 above. (d) The provisions of subsection (2)(c) above do not 13 14 apply to an applicant who is licensed as a motor vehicle 15 wrecking facility under the provisions of Title 75, chapter 10, part 5. 16 17 (3) The applicant for a dealer's license shall also file with his application a good and sufficient bond in the 18 sum of \$5,000, and the bond shall be conditioned that the 19 20 applicant shall conduct his business in accordance with the 21 requirements of the law. All bonds shall run to the state of Montana and shall be approved by the division and filed in 22 its office and shall be renewed annually." 23 Section 2. Section 61-4-103, MCA, is amended to read: 24 25 "61-4-103. Assignment of dealer plates. (1) Upon the

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licensing of a dealer as a new motor vehicle dealer, used 1 2 motor vehicle dealer, recreational vehicle dealer, or 3 trailer, semitrailer, or special mobile equipment dealer, or a dealer of the motorcycle-type vehicle, the division shall 4 5 assign to such dealer a distinctive serial license number as 6 a dealer and after payment of fees furnish every gualified 7 dealer in motor vehicles with such sets of number plates as 8 required according to need, which need shall be justified by 9 the dealer with the initial application for license and each 10 renewal. Assigned number plates shall be similar to number 11 plates furnished to owners of motor vehicles but shall bear 12 thereon, in addition to the serial number assigned such 13 dealer, the letter "D" if the dealer is authorized to sell new motor vehicles (including trucks and truck trailers): 14 15 the letters "RV" if the dealer is authorized to sell recreational vehicles: the letters "UD" if the dealer is 16 authorized to sell used motor vehicles (including used 17 18 trucks and used truck trailers); the letters "DTR" if the 19 dealer is authorized to sell trailers, semitrailers, or special mobile equipment (new or used); and the letters 20 21 "MCD" if the dealer is authorized to sell vehicles of the 22 motorcycle type (new or used).

(2) With the exception of a dealer authorized to sell
new motor vehicles (including trucks and truck trailers) and
to use the "D" plate or demonstrator plate, no dealer

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authorized to transact business under the provisions of this 3 section may offer for sale or trade any vehicle described in 2 this section except such vehicles as are authorized by the 3 plates assigned to him. If an applicant wishes to sell more 4 than one type of vehicle, he shall make application for each 5 separate authorization. No plate assigned to a dealer may be 6 used on any vehicle other than the type described in this 7 section. A dealer authorized to sell new motor vehicles and 8 assigned a "D" plate or demonstrator plate is authorized to 9 sell both new and used motor vehicles (including trucks and 10 truck trailers), and such plates may be displayed on either 11 new or used motor vehicles by a licensed dealer in new 12 vehicles. 13

(3) The division shall cause to be placed on each set 14 of license plates issued to a dealer a serial number 15 assigned to each dealer and the actual number of license 16 plates issued to each dealer. The number of the dealer shall 17 follow the prefix of the county, and the number of plates 18 19 issued the dealer shall follow the prefix of the county and the number of the dealer, the dealer's number to be 20 separated from the county prefix by a dash, and the number 21 22 of plates issued to a dealer to be separated from the dealer's number by a dash, as follows: dealer number 4 in 23 Lewis and Clark County would be numbered 5-4, and if the 24 25 dealer were issued three sets of places, they would be

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1 numbered consecutively as follows, 5-4-1, 5-4-2, and 5-4-3. 2 (4) Dealers properly licensed under this section are 3 authorized to use and display dealer's license plates on any 4 motor vehicle held for bona fide sale or used in the conduct 5 of the dealer's business in selling or demonstrating motor 6 vehicles and operated by or under the control of the dealer. 7 his officers or employees. For purposes of this provision, 8 "officers and employees" include only such persons listed on 9 the manufacturer's franchise agreement or the importer's 10 distribution agreement and their spouses or such other 11 persons upon whom the dealer has paid social security taxes 12 as a full-time employee. No dealer's license plate shall be 13 used or displayed on vehicles normally used for hire, lease, 14 or rental or for purposes not incident to the business of a 15 motor vehicle dealer. Each dealer is accountable for each 16 plate issued and shall certify quarterly to the division the 17 disposition of each dealer plate assigned to the dealer, 18 including the name, address, and occupation of the person 19 primarily using each plate.

(5) If-it-shall-appear-to-the-satisfaction-of-the
division7--from When the division has reasonable cause to
believe, from an investigation made by it or information
furnished to it by the sheriff or any other law enforcement
officer, that any such dealer has been improperly licensed,
has used the dealer's license in a manner other than the one

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1 herein authorized, or is not qualified as a dealer under the 2 requirements of this section, the division may revoke such 3 dealer's license. No person, firm, corporation, or association shall, for commission or profit, engage in the 4 business of buying, selling, exchanging, or acting as a 5 broker of new motor vehicles, trailers, or semitrailers б 7 unless duly licensed in compliance with this section (except R trailers having an unladen weight of less than 500 pounds)." 9 Section 3. Section 61-4-104, MCA, is amended to read: 10 "61-4-104. Record of purchase or sale. Every dealer 11 licensed under 61-4-101 shall keep a book or record of the 12 purchases, sales or exchanges, or receipts for the purpose 13 of sale of used vehicles and a description of such vehicles, 14 together with the name and address of the seller, of the 15 purchaser, and of the alleged owner or other person from 16 whom each vehicle was purchased or received or to whom it 17 was sold or delivered, as the case may be. The description 18 in the case of motor vehicles shall also include the engine 19 number, if any, maker's number, if any, chassis number, if 20 any, and such other numbers or identification marks as 21 appear thereon and shall include a statement that a number 22 has been obliterated, defaced, or changed if such is the 23 fact. In the case of a trailer, semitrailer, or special 24 mobile equipment, the record shall include the 25 manufacturer's number and such other numbers or

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1 identification marks as appear thereon. The dealer shall 2 also have in his possession a duly assigned certificate of 3 ownership from the owner of the motor vehicle from the time the motor vehicle is delivered to him until it has been 4 5 disposed of by him. An authorized representative of the 6 division, upon presentation of his credentials, may inspect 7 and have access to and copy any records required under this 8 chapter."

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9 Section 4. Section 61-4-105, MCA, is amended to read: 10 "61-4-105. Penalty Criminal penalty -- civil penalty 11 imposed by agency. (1) Any person violating the provisions 12 of 61-4-101 through 61-4-104 shall be guilty of a 13 misdemeanor and subject to a fine of not less than \$250 and 14 not more than \$500. For the purposes hereof, every sale of a 15 motor vehicle in violation of the provisions of 61-4-101 16 through 61-4-104 shall be deemed a separate offense.

17 (2) In addition to all other penalties created by this 18 part, the division is authorized to take appropriate enforcement action on its own initiative. Any person 19 violating the provisions of 61-4-101 through 61-4-104 may be 20 21 subject to administrative action, in accordance with the 22 contested case procedures of Title_2, chapter 4, as follows: (a) a civil penalty not to exceed \$200 for each 23 24 violation;

25 (b) suspension of the motor vehicle dealer license not

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1	to	exceed	5	working	days;

2 (c) revocation or denial of the motor vehicle dealer

3 license; or

4 (d) any combination of subsections (2)(a) through

5 <u>(2)(c).</u>"

-End-

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