

HOUSE BILL NO. 606

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 SENATE

February 21, 1985	Introduced and referred to Committee on Business and Industry.
March 21, 1985	Committee recommend bill be concurrent 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.

1 importer, or distributor with whom the applicant has a
2 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:

21 (i) a statement that the applicant has a building or
22 lot and a sign readable at a minimum distance of 150 feet
23 and indicating the firm name ~~and--headquarters~~ as the
24 principal place of business and that vehicles are offered
25 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."

24 Section 2. Section 61-4-103, MCA, is amended to read:

25 "61-4-103. Assignment of dealer plates. (1) Upon the

1 licensing of a dealer as a new motor vehicle dealer, used
 2 motor vehicle dealer, recreational vehicle dealer, or
 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
 6 a dealer and after payment of fees furnish every qualified
 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
 14 new motor vehicles (including trucks and truck trailers);
 15 the letters "RV" if the dealer is authorized to sell
 16 recreational vehicles; the letters "UD" if the dealer is
 17 authorized to sell used motor vehicles (including used
 18 trucks and used truck trailers); the letters "DTR" if the
 19 dealer is authorized to sell trailers, semitrailers, or
 20 special mobile equipment (new or used); and the letters
 21 "MCD" if the dealer is authorized to sell vehicles of the
 22 motorcycle type (new or used).

23 (2) With the exception of a dealer authorized to sell
 24 new motor vehicles (including trucks and truck trailers) and
 25 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
 4 plates assigned to him. If an applicant wishes to sell more
 5 than one type of vehicle, he shall make application for each
 6 separate authorization. No plate assigned to a dealer may be
 7 used on any vehicle other than the type described in this
 8 section. A dealer authorized to sell new motor vehicles and
 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.

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
 18 follow the prefix of the county, and the number of plates
 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
 22 of plates issued to a dealer to be separated from the
 23 dealer's number by a dash, as follows: dealer number 4 in
 24 Lewis and Clark County would be numbered 5-4, and if the
 25 dealer were issued three sets of plates, they would be

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.

20 (5) ~~If it shall appear to the satisfaction of the~~
 21 ~~division, from~~ When the division has reasonable cause to
 22 believe, from an investigation made by it or information
 23 furnished to it by the sheriff or any other law enforcement
 24 officer, that any such dealer has been improperly licensed,
 25 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
 4 association shall, for commission or profit, engage in the
 5 business of buying, selling, exchanging, or acting as a
 6 broker of new motor vehicles, trailers, or semitrailers
 7 unless duly licensed in compliance with this section (except
 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,
 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

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
 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:

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
 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 license; or

4 (d) any combination of subsections (2)(a) through
 5 (2)(c)."

-End-

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 6 a dealer and after payment of fees furnish every qualified
 7 dealer in motor vehicles with such sets of number plates as
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 9 the dealer with the initial application for license and each
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 12 thereon, in addition to the serial number assigned such
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3 BY REQUEST OF THE DEPARTMENT OF JUSTICE,

4 MOTOR VEHICLES DIVISION

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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

1 patrol. Each application must be accompanied by the license
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 for
15 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 vehicles
25 handled and the name and address of the manufacturer,

1 importer, or distributor with whom the applicant has a
 2 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:

21 (i) a statement that the applicant has a building or
 22 lot and a sign readable at a minimum distance of 150 feet
 23 and indicating the firm name ~~and--headquarters~~ as the
 24 principal place of business and that vehicles are offered
 25 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."

24 Section 2. Section 61-4-103, MCA, is amended to read:
 25 "61-4-103. Assignment of dealer plates. (1) Upon the

1 licensing of a dealer as a new motor vehicle dealer, used
 2 motor vehicle dealer, recreational vehicle dealer, or
 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
 6 a dealer and after payment of fees furnish every qualified
 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
 14 new motor vehicles (including trucks and truck trailers);
 15 the letters "RV" if the dealer is authorized to sell
 16 recreational vehicles; the letters "UD" if the dealer is
 17 authorized to sell used motor vehicles (including used
 18 trucks and used truck trailers); the letters "DTR" if the
 19 dealer is authorized to sell trailers, semitrailers, or
 20 special mobile equipment (new or used); and the letters
 21 "MCD" if the dealer is authorized to sell vehicles of the
 22 motorcycle type (new or used).

23 (2) With the exception of a dealer authorized to sell
 24 new motor vehicles (including trucks and truck trailers) and
 25 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
 4 plates assigned to him. If an applicant wishes to sell more
 5 than one type of vehicle, he shall make application for each
 6 separate authorization. No plate assigned to a dealer may be
 7 used on any vehicle other than the type described in this
 8 section. A dealer authorized to sell new motor vehicles and
 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.

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
 18 follow the prefix of the county, and the number of plates
 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
 22 of plates issued to a dealer to be separated from the
 23 dealer's number by a dash, as follows: dealer number 4 in
 24 Lewis and Clark County would be numbered 5-4, and if the
 25 dealer were issued three sets of plates, they would be

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.

20 (5) ~~if it shall appear to the satisfaction of the~~
21 ~~division, from~~ When the division has reasonable cause to
22 believe, from an investigation made by it or information
23 furnished to it by the sheriff or any other law enforcement
24 officer, that any such dealer has been improperly licensed,
25 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
4 association shall, for commission or profit, engage in the
5 business of buying, selling, exchanging, or acting as a
6 broker of new motor vehicles, trailers, or semitrailers
7 unless duly licensed in compliance with this section (except
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,
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

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
 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:

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
 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 license; or

4 (d) any combination of subsections (2)(a) through
 5 (2)(c)."

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