

SENATE BILL 15

Introduced by Halligan, et al.

1/02	Introduced
1/02	Referred to Public Health, Welfare & Safety
2/01	Hearing
2/06	Committee Report--Bill Passed as Amended
2/08	2nd Reading Passed
2/10	Taken From 3rd Reading
2/13	2nd Reading Passed as Amended
2/15	3rd Reading Passed

Transmitted to House

2/21	Referred to Human Services & Aging
3/01	Hearing
3/02	Committee Report--Bill Concurred
3/03	2nd Reading Concur as Amended Failed
3/03	Segregated From Committee of Whole Report
3/03	Rereferred to Business & Economic Development
3/09	Hearing
3/14	Tabled in Committee

1                    SENATE    BILL NO. 15  
2    INTRODUCED BY HALLIGAN  
3  
4    A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CERTIFICATION  
5    OF A SMOKE DETECTOR IN A DWELLING OR MOBILE HOME UPON SALE  
6    OR TRANSFER OF OWNERSHIP OF THE DWELLING; AND AMENDING  
7    SECTIONS 15-7-305 AND 61-3-207, MCA."  
8  
9    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
10        **Section 1.** Definitions -- certification of smoke  
11    detectors upon sale of dwellings -- prohibition of recording  
12    transfer without certificate -- liability. (1) In this  
13    section, the following definitions apply:  
14        (a) "Dwelling" means a building or portion thereof  
15    that contains not more than two dwelling units.  
16        (b) "Dwelling unit" means a building or portion  
17    thereof that contains living facilities with provision for  
18    sleeping, eating, cooking, and sanitation for not more than  
19    one family.  
20        (c) "Smoke detector" means a device that detects  
21    visible or invisible particles of combustion.  
22        (2) Upon the sale or transfer of ownership of a  
23    dwelling not otherwise required to have a smoke detector,  
24    the seller shall certify that the dwelling is equipped with  
25    a smoke detector.

1            (3) The certification required under subsection (2)  
2    must be noted upon the realty transfer certificate that is  
3    submitted to the county clerk and recorder with the  
4    instrument transferring title to the dwelling. The  
5    instrument may not be accepted for recording if the  
6    certification is not noted on the realty transfer  
7    certificate.

8            (4) A seller is not liable in a civil action for  
9    failure to comply with, or negligence in complying with, the  
10    requirements of this section. Evidence of such failure or  
11    negligence is not admissible in a civil action.

12           **Section 2.** Section 15-7-305, MCA, is amended to read:

13           "15-7-305. Certificate of county clerk and recorder.  
14        (1) The county clerk and recorder shall cause to be executed  
15    by the parties to the transaction or their agents or  
16    representatives a certificate declaring the consideration  
17    paid or to be paid for the real estate transferred.

18           (2) (a) No instrument or deed evidencing a transfer of  
19    real estate may be accepted for recordation until the  
20    certificate has been received by the county clerk and  
21    recorder. If the property being transferred is a dwelling,  
22    the certificate must contain the certification required by  
23    [section 1].

24           (b) The validity or effectiveness of an instrument or  
25    deed as between the parties to it shall not be affected by

the failure to comply with the provisions in this part.

(3) The form of certificate shall be prescribed by the department of revenue, and the department shall provide an adequate supply of such forms to each county clerk and recorder in the state.

(4) The clerk and recorder shall prepare a like certificate for each contract for deed filed for recording.

(5) The clerk and recorder shall transmit each executed certificate to the department."

**Section 3.** Section 61-3-207, MCA, is amended to read:

"61-3-207. Mobile home or housetrailer -- transfer of interest. Subject to the provisions of [section 1]:

(1) Upon upon a transfer of any interest in a mobile home or housetrailer under the provisions of this chapter, the application for the transfer shall be made through the county treasurer's office in the county in which the mobile home or housetrailer is located at the time of the transfer; and

(2) When when a mobile home or housetrailer is sold under contract or under such conditions that title is not immediately conveyed, the parties to the transaction shall immediately file with the county clerk and recorder a notice of intention to transfer title. The notice must indicate the name of the party who is thereafter responsible for payment of taxes upon the mobile home or housetrailer. The clerk and

recorder shall immediately notify the county assessor of the information in the notice. The penalty provisions of 61-3-201(2) do not apply if the notice of intent to transfer is filed with the county clerk and recorder within 20 days after the transfer."

**Section 4.** Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 39, and the provisions of Title 50, chapter 39, apply to [section 1].

-End-

APPROVED BY COMMITTEE  
ON PUBLIC HEALTH, WELFARE  
& SAFETY

## SENATE BILL NO. 15

INTRODUCED BY HALLIGAN, B. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CERTIFICATION  
OF A SMOKE DETECTOR IN A DWELLING OR MOBILE HOME UPON SALE  
OR TRANSFER OF OWNERSHIP OF THE DWELLING; AND AMENDING  
SECTIONS 15-7-305 AND 61-3-207, MCA."

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

NEW SECTION. **Section 1.** Definitions -- certification  
of smoke detectors upon sale of dwellings -- prohibition of  
recording transfer without certificate -- liability. (1) In  
this section, the following definitions apply:

(a) "Dwelling" means a building or portion thereof  
that contains not more than two dwelling units.

(b) "Dwelling unit" means a building or portion  
thereof that contains living facilities with provision for  
sleeping, eating, cooking, and sanitation for not more than  
one family.

(c) "Smoke detector" means a device that detects  
visible or invisible particles of combustion.

(2) Upon the sale or transfer of ownership of a  
dwelling not otherwise required to have a smoke detector,  
the seller shall certify, BY AFFIDAVIT, that the dwelling is  
equipped with a smoke detector.

(3) The certification AFFIDAVIT required under  
subsection (2) must ~~be--noted--upon~~ ACCOMPANY the realty  
transfer certificate that is submitted to the county clerk  
and recorder with the instrument transferring title to the  
dwelling. ~~The instrument may not be accepted for recording~~  
~~if the certification is not noted on the realty transfer~~  
~~certificate.~~ THE COUNTY CLERK AND RECORDER MAY PRESUME THAT  
THE PROPERTY BEING TRANSFERRED IS NOT A DWELLING IF THE  
AFFIDAVIT REQUIRED UNDER SUBSECTION (2) DOES NOT ACCOMPANY  
THE REALTY TRANSFER CERTIFICATE. THE COUNTY CLERK AND  
RECORDER HAS NO DUTY TO INQUIRE WHETHER OR NOT THE PROPERTY  
BEING TRANSFERRED IS A DWELLING.

(4) A NEITHER THE seller NOR HIS AGENT is ~~not~~ liable  
in a civil action for failure to comply with, or negligence  
in complying with, the requirements of this section.  
Evidence of such failure or negligence is not admissible in  
a civil action.

**Section 2.** Section 15-7-305, MCA, is amended to read:

**"15-7-305. Certificate of county clerk and recorder.**

(1) The county clerk and recorder shall cause to be executed  
by the parties to the transaction or their agents or  
representatives a certificate declaring the consideration  
paid or to be paid for the real estate transferred.

(2) (a) No instrument or deed evidencing a transfer of  
real estate may be accepted for recordation until the

1 certificate has been received by the county clerk and  
 2 recorder. If the property being transferred is a dwelling,  
 3 the certificate must contain---the---certification BE  
 4 ACCOMPANIED BY THE AFFIDAVIT required by [section 1].

5 (b) The validity or effectiveness of an instrument or  
 6 deed as between the parties to it shall not be affected by  
 7 the failure to comply with the provisions in this part.

8 (3) The form of certificate shall be prescribed by the  
 9 department of revenue, and the department shall provide an  
 10 adequate supply of such forms to each county clerk and  
 11 recorder in the state.

12 (4) The clerk and recorder shall prepare a like  
 13 certificate for each contract for deed filed for recording.

14 (5) The clerk and recorder shall transmit each  
 15 executed certificate to the department."

16 **Section 3.** Section 61-3-207, MCA, is amended to read:

17 **"61-3-207. Mobile home or housetrailer -- transfer of**  
 18 **interest. Subject to the provisions of [section 1]:**

19 (1) ~~Upon~~ upon a transfer of any interest in a mobile  
 20 home or housetrailer under the provisions of this chapter,  
 21 the application for the transfer shall be made through the  
 22 county treasurer's office in the county in which the mobile  
 23 home or housetrailer is located at the time of the  
 24 transfer; and

25 (2) ~~When~~ when a mobile home or housetrailer is sold

1 under contract or under such conditions that title is not  
 2 immediately conveyed, the parties to the transaction shall  
 3 immediately file with the county clerk and recorder a notice  
 4 of intention to transfer title. The notice must indicate the  
 5 name of the party who is thereafter responsible for payment  
 6 of taxes upon the mobile home or housetrailer. The clerk and  
 7 recorder shall immediately notify the county assessor of the  
 8 information in the notice. The penalty provisions of  
 9 61-3-201(2) do not apply if the notice of intent to transfer  
 10 is filed with the county clerk and recorder within 20 days  
 11 after the transfer."

12 **NEW SECTION. Section 4.** Codification instruction.  
 13 [Section 1] is intended to be codified as an integral part  
 14 of Title 50, chapter 39, and the provisions of Title 50,  
 15 chapter 39, apply to [section 1].

-End-

## SENATE BILL NO. 15

INTRODUCED BY HALLIGAN, B. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CERTIFICATION OF A SMOKE DETECTOR IN A DWELLING OR MOBILE HOME UPON SALE OR TRANSFER OF OWNERSHIP OF THE DWELLING; AND AMENDING SECTIONS 15-7-305 AND 61-3-207, MCA."

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

NEW SECTION. Section 1. Definitions -- certification of smoke detectors upon sale of dwellings -- prohibition of recording transfer without certificate -- liability. (1) In this section, the following definitions apply:

(a) "Dwelling" means a building or portion thereof that contains not more than two dwelling units.

(b) "Dwelling unit" means a building or portion thereof that contains living facilities with provision for sleeping, eating, cooking, and sanitation for not more than one family.

(c) "Smoke detector" means a device that detects visible or invisible particles of combustion.

(2) Upon the sale or transfer of ownership of a dwelling not otherwise required to have a smoke detector, the seller shall certify, BY AFFIDAVIT, that the dwelling is equipped with a smoke detector.

(3) The certification AFFIDAVIT required under subsection (2) must be--noted--upon ACCOMPANY the realty transfer certificate that is submitted to the county clerk and recorder with the instrument transferring title to the dwelling. ~~The instrument may not be accepted for recording if the certification is not noted on the realty transfer certificate.~~ THE COUNTY CLERK AND RECORDER MAY PRESUME THAT THE PROPERTY BEING TRANSFERRED IS NOT A DWELLING IF THE AFFIDAVIT REQUIRED UNDER SUBSECTION (2) DOES NOT ACCOMPANY THE REALTY TRANSFER CERTIFICATE. THE COUNTY CLERK AND RECORDER HAS NO DUTY TO INQUIRE WHETHER OR NOT THE PROPERTY BEING TRANSFERRED IS A DWELLING.

(4) A NEITHER THE seller NOR HIS AGENT is not liable in a civil action for failure to comply with, or negligence in complying with, the requirements of this section. Evidence of such failure or negligence is not admissible in a civil action.

**Section 2.** Section 15-7-305, MCA, is amended to read:

**"15-7-305. Certificate of county clerk and recorder.**

(1) The county clerk and recorder shall cause to be executed by the parties to the transaction or their agents or representatives a certificate declaring the consideration paid or to be paid for the real estate transferred.

(2) (a) No instrument or deed evidencing a transfer of real estate may be accepted for recordation until the

1 certificate has been received by the county clerk and  
 2 recorder. If the property being transferred is a dwelling,  
 3 the certificate must contain---the---certification BE  
 4 ACCOMPANIED BY THE AFFIDAVIT required by [section 1].

5 (b) The validity or effectiveness of an instrument or  
 6 deed as between the parties to it shall not be affected by  
 7 the failure to comply with the provisions in this part.

8 (3) The form of certificate shall be prescribed by the  
 9 department of revenue, and the department shall provide an  
 10 adequate supply of such forms to each county clerk and  
 11 recorder in the state.

12 (4) The clerk and recorder shall prepare a like  
 13 certificate for each contract for deed filed for recording.

14 (5) The clerk and recorder shall transmit each  
 15 executed certificate to the department."

16 **Section 3.** Section 61-3-207, MCA, is amended to read:

17 "61-3-207. Mobile home or housetrailer -- transfer of  
 18 interest. Subject to the provisions of [section 1]:

19 (1) Upon upon a transfer of any interest in a mobile  
 20 home or housetrailer under the provisions of this chapter,  
 21 the application for the transfer shall be made through the  
 22 county treasurer's office in the county in which the mobile  
 23 home or housetrailer is located at the time of the  
 24 transfer; and

25 (2) When when a mobile home or housetrailer is sold

1 under contract or under such conditions that title is not  
 2 immediately conveyed, the parties to the transaction shall  
 3 immediately file with the county clerk and recorder a notice  
 4 of intention to transfer title. The notice must indicate the  
 5 name of the party who is thereafter responsible for payment  
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 7 recorder shall immediately notify the county assessor of the  
 8 information in the notice. The penalty provisions of  
 9 61-3-201(2) do not apply if the notice of intent to transfer  
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6 OR TRANSFER OF OWNERSHIP OF THE DWELLING; AND AMENDING  
7 SECTIONS 15-7-305 AND 61-3-207, MCA; AND PROVIDING AN  
8 APPLICABILITY DATE."

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12 of smoke detectors upon sale of dwellings -- prohibition of  
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19 sleeping, eating, cooking, and sanitation for not more than  
20 one family.

21 (c) "Smoke detector" means a device that detects  
22 visible or invisible particles of combustion.

23 (2) Upon the sale or transfer of ownership of a  
24 dwelling not otherwise required to have a smoke detector,  
25 the seller shall certify, BY AFFIDAVIT, that the dwelling is

1 equipped with a smoke detector.

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3 subsection (2) must ~~be--noted--upon~~ ACCOMPANY the realty  
4 transfer certificate that is submitted to the county clerk  
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6 dwelling. ~~The--instrument--may--not--be--accepted--for--recording~~  
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9 THE PROPERTY BEING TRANSFERRED IS NOT A DWELLING IF THE  
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13 BEING TRANSFERRED IS A DWELLING.

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15 in a civil action for failure to comply with, or negligence  
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18 a civil action.

19 **Section 2.** Section 15-7-305, MCA, is amended to read:

20 "15-7-305. Certificate of county clerk and recorder.

21 (1) The county clerk and recorder shall cause to be executed  
22 by the parties to the transaction or their agents or  
23 representatives a certificate declaring the consideration  
24 paid or to be paid for the real estate transferred.

25 (2) (a) No instrument or deed evidencing a transfer of

THIRD READING

SB 15

SECOND PRINTING

AS AMENDED



real estate may be accepted for recordation until the certificate has been received by the county clerk and recorder. If the property being transferred is a dwelling, the certificate must contain--the--certification BE ACCOMPANIED BY THE AFFIDAVIT required by [section 1].

(b) The validity or effectiveness of an instrument or deed as between the parties to it shall not be affected by the failure to comply with the provisions in this part.

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NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 39, and the provisions of Title 50, chapter 39, apply to [section 1].

NEW SECTION. SECTION 5. APPLICABILITY CLAUSE. [THIS ACT] APPLIES TO DEEDS EXECUTED AFTER THE EFFECTIVE DATE OF [THIS ACT].

-End-