

SENATE BILL NO. 222

INTRODUCED BY TVEIT, JOHNSON, GILBERT,  
DEVLIN, L. NELSON, STEPPLER, KELLER, HAYNE,  
T. NELSON, ANDERSON, ABRAMS, WEEDING, JERGESON

IN THE SENATE

|                  |   |
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| JANUARY 25, 1989 | INTRODUCED AND REFERRED TO COMMITTEE<br>ON AGRICULTURE, LIVESTOCK & IRRIGATION.<br><br>FIRST READING. |
| FEBRUARY 2, 1989 | COMMITTEE RECOMMEND BILL<br>DO PASS. REPORT ADOPTED.  |
| FEBRUARY 3, 1989 | PRINTING REPORT.  |
| FEBRUARY 4, 1989 | SECOND READING, DO PASS.  |
| FEBRUARY 6, 1989 | ENGROSSING REPORT.  |
| FEBRUARY 7, 1989 | THIRD READING, PASSED.<br>AYES, 50; NOES, 0.<br><br>TRANSMITTED TO HOUSE.                             |

IN THE HOUSE

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| FEBRUARY 7, 1989  | INTRODUCED AND REFERRED TO COMMITTEE<br>ON AGRICULTURE, LIVESTOCK & IRRIGATION. |
| FEBRUARY 20, 1989 | FIRST READING.  |
| MARCH 4, 1989     | COMMITTEE RECOMMEND BILL BE<br>CONCURRED IN. REPORT ADOPTED.                    |
| MARCH 6, 1989     | SECOND READING, CONCURRED IN.   |
| MARCH 7, 1989     | THIRD READING, CONCURRED IN.<br>AYES, 95; NOES, 0.<br><br>RETURNED TO SENATE.   |

IN THE SENATE

MARCH 8, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *222*  
 2 INTRODUCED BY *Traut Johnson*  
 3 *L. Nelson Steppley J. Keller K. Payne J. Nelson*  
 4 *Anderson* A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE  
 5 PROVISIONS FOR PASSING OF TITLE TO CATTLE RELEASED FROM AN  
 6 AUCTION YARD; AND AMENDING SECTION 30-2-401, MCA."

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

9 **Section 1.** Section 30-2-401, MCA, is amended to read:  
 10 "30-2-401. Passing of title -- reservation for  
 11 security -- limited application of this section. Each  
 12 provision of this chapter with regard to the rights,  
 13 obligations and remedies of the seller, the buyer,  
 14 purchasers or other third parties applies irrespective of  
 15 title to the goods except where the provision refers to such  
 16 title. Insofar as situations are not covered by the other  
 17 provisions of this chapter and matters concerning title  
 18 become material the following rules apply:

19 (1) Title to goods cannot pass under a contract for  
 20 sale prior to their identification to the contract  
 21 (30-2-501), and unless otherwise explicitly agreed the buyer  
 22 acquires by their identification a special property as  
 23 limited by this code. Any retention or reservation by the  
 24 seller of the title (property) in goods shipped or delivered  
 25 to the buyer is limited in effect to a reservation of a

1 security interest. Subject to these provisions and to the  
 2 provisions of the Chapter on Secured Transactions (Chapter  
 3 9), title to goods passes from the seller to the buyer in  
 4 any manner and on any conditions explicitly agreed on by the  
 5 parties.

6 (2) Unless otherwise explicitly agreed title passes to  
 7 the buyer at the time and place at which the seller  
 8 completes his performance with reference to the physical  
 9 delivery of the goods, despite any reservation of a security  
 10 interest and even though a document of title is to be  
 11 delivered at a different time or place; and in particular  
 12 and despite any reservation of a security interest by the  
 13 bill of lading:

14 (a) if the contract requires or authorizes the seller  
 15 to send the goods to the buyer but does not require him to  
 16 deliver them at destination, title passes to the buyer at  
 17 the time and place of shipment; but

18 (b) if the contract requires delivery at destination,  
 19 title passes on tender there.

20 (3) Unless otherwise explicitly agreed where delivery  
 21 is to be made without moving the goods,

22 (a) if the seller is to deliver a document of title,  
 23 title passes at the time when and the place where he  
 24 delivers such documents; or

25 (b) if the goods are at the time of contracting

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1 already identified and no documents are to be delivered,  
2 title passes at the time and place of contracting.

3 (4) For transactions involving interstate shipment of  
4 cattle or cattle being released from auction yards for  
5 interstate shipment the seller may issue a regular title or  
6 bill of sale, or give a conditional transfer of title or  
7 bill of sale. The conditional transfer of title or bill of  
8 sale is fully validated and the title passes when the  
9 following conditions are met:

10 (a) the bank on which the buyer's warrant, check, or  
11 draft was drawn, notifies the seller, or his designated  
12 bank, that the instrument of payment has cleared the bank  
13 for payment, and

14 (b) a copy of the notification from the buyer's bank  
15 is attached to the conditional transfer of title or bill of  
16 sale.

17 (5) A rejection or other refusal by the buyer to  
18 receive or retain the goods, whether or not justified, or a  
19 justified revocation of acceptance revests title to the  
20 goods in the seller. Such reversion occurs by operation of  
21 law and is not a "sale".

-End-

APPROVED BY COMMITTEE  
ON AGRICULTURE LIVESTOCK  
& IRRIGATION

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17 (5) A rejection or other refusal by the buyer to  
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19 justified revocation of acceptance reverts title to the  
20 goods in the seller. Such reversion occurs by operation of  
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-End-

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