

SENATE BILL NO. 284
INTRODUCED BY THAYER, STANG

IN THE SENATE

| | |
|-------------------|---|
| JANUARY 30, 1989 | INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY. |
| | FIRST READING. |
| FEBRUARY 13, 1989 | COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED. |
| FEBRUARY 14, 1989 | PRINTING REPORT. |
| FEBRUARY 15, 1989 | SECOND READING, DO PASS. |
| FEBRUARY 16, 1989 | ENGROSSING REPORT. |
| FEBRUARY 17, 1989 | THIRD READING, PASSED. AYES, 47; NOES, 2. |
| | TRANSMITTED TO HOUSE. |

IN THE HOUSE

| | |
|-------------------|---|
| FEBRUARY 17, 1989 | INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT. |
| FEBRUARY 20, 1989 | FIRST READING. |
| MARCH 6, 1989 | COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED. |
| MARCH 9, 1989 | SECOND READING, CONCURRED IN AS AMENDED. |
| MARCH 11, 1989 | THIRD READING, CONCURRED IN. AYES, 77; NOES, 14. |
| | RETURNED TO SENATE WITH AMENDMENTS. |

IN THE SENATE

MARCH 14, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

MARCH 17, 1989

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

MARCH 18, 1989

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

MARCH 27, 1989

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED AND FREE CONFERENCE
COMMITTEE REQUESTED AND APPOINTED.

MARCH 28, 1989

FREE CONFERENCE COMMITTEE REPORTED.

MARCH 30, 1989

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

MARCH 31, 1989

FREE CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE SENATE

APRIL 1, 1989

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Steve* BILL NO. *284*
2 INTRODUCED BY *Steve*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING PERSONS NOT
5 LICENSED AS DEALERS FROM ACTING AS DEALERS IN SALES OF MOTOR
6 VEHICLES; AND AMENDING SECTIONS 61-4-101 AND 61-4-105, MCA."
7

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

9 **Section 1.** Section 61-4-101, MCA, is amended to read:
10 **"61-4-101. Application for dealer's license.** (1) Every
11 person, firm, corporation, or association which, for
12 commission or profit, engages in the business of buying,
13 selling, exchanging, offering, consigning, soliciting,
14 advertising the sale of, or acting as a broker of new motor
15 vehicles, recreational vehicles, used motor vehicles,
16 trailers (except trailers having an unloaded weight of less
17 than 500 pounds), semitrailers, or special mobile equipment
18 as defined in 61-1-104 shall file, by mail or otherwise, in
19 the office of the department a verified application for
20 licensure as a dealer, on a blank to be furnished by the
21 department for that purpose and containing the information
22 required. The application and all of the information
23 contained in it ~~shall~~ must be verified by the Montana
24 highway patrol. Each application must be accompanied by the
25 license fee hereinafter specified in 61-4-102. A dealer's

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

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

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

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

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

22 (iii) state the name and make of all motor vehicles
23 handled and the name and address of the manufacturer,
24 importer, or distributor with whom the applicant has a
25 written new motor vehicle franchise or sales agreement;

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

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

(vi) execute a certificate to the effect that the applicant is a bona fide dealer in new motor vehicles and that he is recognized by a manufacturer, importer, or 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 or quadricycle 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 indicating the firm name as the principal place of business and that vehicles are offered for sale; and

(ii) a certificate to the effect that the applicant is a bona fide dealer in used motor vehicles, recreational

vehicles, trailers, semitrailers, special mobile equipment, motorcycles, or quadricycles. An applicant for a recreational vehicle dealer license must also indicate on the same certificate that he is recognized by a manufacturer, importer, or distributor as a dealer in recreational vehicles.

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

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

NEW SECTION. Section 2. Displaying unowned vehicle by person not a dealer prohibited. A person other than a dealer

licensed under 61-4-101 may not display a new or used motor vehicle for sale unless the certificate of ownership of the new or used motor vehicle is in the name of the person who displays the motor vehicle.

NEW SECTION. Section 3. Soliciting sale of unowned motor vehicle by person other than a dealer prohibited. A person other than a dealer licensed under 61-4-101 may not solicit the sale of a new or used motor vehicle unless the certificate of ownership of the new or used motor vehicle is in the name of the person who solicits the sale. A sale may not be transacted for the purpose of avoiding compliance with the provisions of this section.

Section 4. Section 61-4-105, MCA, is amended to read:

"61-4-105. Criminal penalty -- civil penalty imposed by agency. (1) Any person violating the provisions of 61-4-101 through 61-4-104 ~~shall be~~ and [sections 2 and 3] is guilty of a misdemeanor and subject to a fine of not less than \$250 and not more than \$500. For the purposes hereof of this section, every sale of a motor vehicle in violation of the provisions of 61-4-101 through 61-4-104 ~~shall be deemed~~ is a separate offense.

(2) In addition to all other penalties created by this part, the department is authorized to take appropriate enforcement action on its own initiative. Any person violating the provisions of 61-4-101 through 61-4-104 may be

subject to administrative action, in accordance with the contested case procedures of Title 2, chapter 4, as follows:

(a) a civil penalty not to exceed \$200 for each violation;

(b) suspension of the motor vehicle dealer license not to exceed 5 working days;

(c) revocation or denial of the motor vehicle dealer license; or

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

NEW SECTION. Section 5. Codification instruction. [Sections 2 and 3] are intended to be codified as an integral part of Title 61, chapter 4, part 1, and the provisions of Title 61, chapter 4, part 1, apply to [sections 2 and 3].

NEW SECTION. Section 6. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

SENATE BILL NO. 284

INTRODUCED BY THAYER, STANG

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING PERSONS NOT LICENSED AS DEALERS FROM ACTING AS DEALERS IN SALES OF MOTOR VEHICLES; AND AMENDING SECTIONS 61-4-101 AND 61-4-105, MCA."

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

Section 1. Section 61-4-101, MCA, is amended to read:

"61-4-101. Application for dealer's license. (1) Every person, firm, corporation, or association which, for commission or profit, engages in the business of buying, selling, exchanging, offering, consigning TAKING FOR CONSIGNMENT, soliciting, advertising the sale of, or acting as a broker of new motor vehicles, recreational vehicles, used motor vehicles, trailers (except trailers having an unloaded weight of less than 500 pounds), semitrailers, or special mobile equipment as defined in 61-1-104 shall file, by mail or otherwise, in the office of the department a verified application for licensure as a dealer, on a blank to be furnished by the department for that purpose and containing the information required. The application and all of the information contained in it ~~shall~~ must be verified by the Montana highway patrol. Each application must be accompanied by the license fee hereinafter specified in

61-4-102. 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 year. If an application for renewal of a license has been received by the department 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 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;

(iii) state the name and make of all motor vehicles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a

1 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 or

17 quadricycle dealer and for the use of "MCD" plates, the

18 applicant must, in addition to the matters set forth in

19 subsections (i) and (ii) of subsection (2)(a) above,

20 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 indicating the firm name as the principal place of business

24 and that vehicles are offered for sale; and

25 (ii) a certificate to the effect that the applicant is

1 a bona fide dealer in used motor vehicles, recreational

2 vehicles, trailers, semitrailers, special mobile equipment,

3 motorcycles, or quadricycles. An applicant for a

4 recreational vehicle dealer license must also indicate on

5 the same certificate that he is recognized by a

6 manufacturer, importer, or distributor as a dealer in

7 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~~ must be conditioned that

20 the applicant shall conduct his business in accordance with

21 the requirements of the law. All bonds ~~shall~~ run to the

22 state of Montana, ~~and--shall~~ must be approved by the

23 department and filed in its office, and ~~shall~~ must be

24 renewed annually."

25 NEW SECTION. Section 2. Displaying unowned vehicle by

person not a dealer prohibited. A person other than a dealer licensed under 61-4-101 may not display a new or used motor vehicle for sale unless the certificate of ownership of the new or used motor vehicle is in the name of the person who displays the motor vehicle OR THE PERSON IS CONDUCTING A SALE BY AUCTION PURSUANT TO TITLE 30, CHAPTER 11, PART 5.

NEW SECTION. Section 3. Soliciting sale of unowned motor vehicle by person other than a dealer prohibited. A person other than a dealer licensed under 61-4-101 may not solicit the sale of a new or used motor vehicle unless the certificate of ownership of the new or used motor vehicle is in the name of the person who solicits the sale OR THE PERSON IS CONDUCTING A SALE BY AUCTION PURSUANT TO TITLE 30, CHAPTER 11, PART 5. ~~A sale may not be transacted for the purpose of avoiding compliance with the provisions of this section.~~

NEW SECTION. SECTION 4. EXEMPTION FOR FINANCIAL INSTITUTIONS. THIS PART DOES NOT REQUIRE LICENSURE OF, OR RESTRICT OR PROHIBIT A FINANCIAL INSTITUTION, AS DEFINED IN 32-6-103:

(1) IN THE SELLING OF COLLATERAL REPOSSESSED ON DEFAULT OF A LOAN MADE BY THE FINANCIAL INSTITUTION;

(2) IN THE CONDUCT OF A MOTOR VEHICLE SALES PROMOTION IN AFFILIATION WITH ONE OR MORE LICENSED DEALERS; OR

(3) IN THE CONDUCT OF A MOTOR VEHICLE SALES PROMOTION

IN AFFILIATION WITH A PERSON REGULARLY ENGAGED IN A BONA FIDE VEHICLE RENTAL BUSINESS IF THE PURPOSE OF THE SALE IS TO DISPOSE OF USED MOTOR VEHICLES USED IN THE RENTAL BUSINESS.

Section 5. Section 61-4-105, MCA, is amended to read:

"61-4-105. Criminal penalty -- civil penalty imposed by agency. (1) Any person violating the provisions of 61-4-101 through 61-4-104 ~~shall be~~ and [sections 2 and 3] is guilty of a misdemeanor and subject to a fine of not less than \$250 and not more than \$500. For the purposes hereof of this section, every sale of a motor vehicle in violation of the provisions of 61-4-101 through 61-4-104 ~~shall be deemed~~ is a separate offense.

(2) In addition to all other penalties created by this part, the department is authorized to take appropriate enforcement action on its own initiative. Any person violating the provisions of 61-4-101 through 61-4-104 may be subject to administrative action, in accordance with the contested case procedures of Title 2, chapter 4, as follows:

(a) a civil penalty not to exceed \$200 for each violation;

(b) suspension of the motor vehicle dealer license not to exceed 5 working days;

(c) revocation or denial of the motor vehicle dealer license; or

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

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

8 NEW SECTION. Section 7. Extension of authority. Any
9 existing authority to make rules on the subject of the
10 provisions of [this act] is extended to the provisions of
11 [this act].

-End-

SENATE BILL NO. 284

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61-4-102. 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 year. If an application for renewal of a license has been received by the department 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 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;

(iii) state the name and make of all motor vehicles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a

1 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

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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 or

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18 applicant must, in addition to the matters set forth in

19 subsections (i) and (ii) of subsection (2)(a) above,

20 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 indicating the firm name as the principal place of business

24 and that vehicles are offered for sale; and

25 (ii) a certificate to the effect that the applicant is

1 a bona fide dealer in used motor vehicles, recreational

2 vehicles, trailers, semitrailers, special mobile equipment,

3 motorcycles, or quadricycles. An applicant for a

4 recreational vehicle dealer license must also indicate on

5 the same certificate that he is recognized by a

6 manufacturer, importer, or distributor as a dealer in

7 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.

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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~~ must be conditioned that

20 the applicant shall conduct his business in accordance with

21 the requirements of the law. All bonds ~~shall~~ run to the

22 state of Montana, ~~and--shall~~ must be approved by the

23 department and filed in its office, and ~~shall~~ must be

24 renewed annually."

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Section 5. Section 61-4-105, MCA, is amended to read:

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(2) In addition to all other penalties created by this part, the department is authorized to take appropriate enforcement action on its own initiative. Any person violating the provisions of 61-4-101 through 61-4-104 may be subject to administrative action, in accordance with the contested case procedures of Title 2, chapter 4, as follows:

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SB 0284/02

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2 (2)(c)."

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

8 NEW SECTION. Section 7. Extension of authority. Any
9 existing authority to make rules on the subject of the
10 provisions of [this act] is extended to the provisions of
11 [this act].

-End-

STANDING COMMITTEE REPORT

March 6, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that SENATE BILL 284 (third reading copy -- blue) be concurred in as amended.

Signed: 
Gene DeMars, Vice-Chairman

[REP. STANG WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 5, line 8.

Following: "prohibited"

Insert: "-- exemption"

Following: "."

Insert: "(1)"

2. Page 5, line 17.

Following: line 16

Insert: " (2) The provisions of subsection (1) do not apply to a person who sells no more than five new or used motor vehicles during any year."

HOUSE

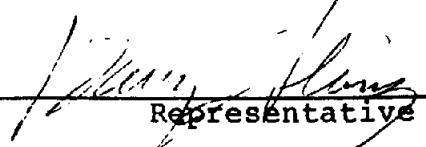


SB 284 521510SC.HBV

COMMITTEE OF THE WHOLE AMENDMENT
SENATE BILL 284
Representative Stang

March 7, 1989 5:10 pm
Page 1 of 1

Mr. Chairman: I move to amend SENATE BILL 284 (third reading copy -- blue).

Signed: 
Representative Stang

And, that such amendments to SENATE BILL 284 read as follows:

1. Page 4, line 25 through line 16 of page 5.
Strike: Section 2 and Section 3 in their entirety
Renumber: subsequent sections

2. Page 6, line 8.
Following: "~~shall be~~"
Strike: "and [sections 2 and 3]"

3. Page 7, line 4.
Strike: "Sections" through "are"
Insert: "Section 2] is"

4. Page 7, line 7.
Strike: "sections" through "4"
Insert: "section 2"

ADOPT

REJECT

SB 284

HOUSE

SENATE BILL NO. 284

INTRODUCED BY THAYER, STANG

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1 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 or

17 quadricycle dealer and for the use of "MCD" plates, the

18 applicant must, in addition to the matters set forth in

19 subsections (i) and (ii) of subsection (2)(a) above,

20 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 indicating the firm name as the principal place of business

24 and that vehicles are offered for sale; and

25 (ii) a certificate to the effect that the applicant is

1 a bona fide dealer in used motor vehicles, recreational

2 vehicles, trailers, semitrailers, special mobile equipment,

3 motorcycles, or quadricycles. An applicant for a

4 recreational vehicle dealer license must also indicate on

5 the same certificate that he is recognized by a

6 manufacturer, importer, or distributor as a dealer in

7 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~~ must be conditioned that

20 the applicant shall conduct his business in accordance with

21 the requirements of the law. All bonds ~~shall~~ must run to the

22 state of Montana, ~~and--shall~~ must be approved by the

23 department and filed in its office, ~~and shall~~ must be

24 renewed annually."

25 ~~NEW-SECTION--Section 2--Displaying owned vehicle by~~

person--not--a--dealer--prohibited---A--person--other--than--a
 dealer--licensed--under--61-4-101--may--not--display--a--new--or--used
 motor--vehicle--for--sale--unless--the--certificate--of--ownership
 of--the--new--or--used--motor--vehicle--is--in--the--name--of--the
 person--who--displays--the--motor--vehicle OR--THE--PERSON--IS
CONDUCTING--A--SALE--BY--AUCTION--PURSUANT--TO--TITLE--30,--CHAPTER
11,--PART--5.

NEW--SECTION--Section 3--Soliciting--sale--of--unowned
motor--vehicle--by--person--other--than--a--dealer--prohibited --
EXEMPTION: (1) A--person--other--than--a--dealer--licensed--under
61-4-101--may--not--solicit--the--sale--of--a--new--or--used--motor
vehicle--unless--the--certificate--of--ownership--of--the--new--or
used--motor--vehicle--is--in--the--name--of--the--person--who--solicits
the--sale OR--THE--PERSON--IS--CONDUCTING--A--SALE--BY--AUCTION
PURSUANT--TO--TITLE--30,--CHAPTER--11,--PART--5--A--sale--may--not--be
transacted--for--the--purpose--of--avoiding--compliance--with--the
provisions--of--this--section.

(2)--THE--PROVISIONS--OF--SUBSECTION--(1)--DO--NOT--APPLY--TO--A
PERSON--WHO--SELLS--NO--MORE--THAN--FIVE--NEW--OR--USED--MOTOR
VEHICLES--DURING--ANY--YEAR.

NEW SECTION. SECTION 2. EXEMPTION FOR FINANCIAL
INSTITUTIONS. THIS PART DOES NOT REQUIRE LICENSURE OF, OR
RESTRICT OR PROHIBIT A FINANCIAL INSTITUTION, AS DEFINED IN
32-6-103:

(1) IN THE SELLING OF COLLATERAL REPOSSESSED ON

DEFAULT OF A LOAN MADE BY THE FINANCIAL INSTITUTION;

(2) IN THE CONDUCT OF A MOTOR VEHICLE SALES PROMOTION
IN AFFILIATION WITH ONE OR MORE LICENSED DEALERS; OR

(3) IN THE CONDUCT OF A MOTOR VEHICLE SALES PROMOTION
IN AFFILIATION WITH A PERSON REGULARLY ENGAGED IN A BONA
FIDE VEHICLE RENTAL BUSINESS IF THE PURPOSE OF THE SALE IS
TO DISPOSE OF USED MOTOR VEHICLES USED IN THE RENTAL
BUSINESS.

Section 3. Section 61-4-105, MCA, is amended to read:

"61-4-105. Criminal penalty -- civil penalty imposed
 by agency. (1) Any person violating the provisions of
 61-4-101 through 61-4-104 shall be and {sections 2 and 3} is
 guilty of a misdemeanor and subject to a fine of not less
 than \$250 and not more than \$500. For the purposes hereof of
this section, every sale of a motor vehicle in violation of
 the provisions of 61-4-101 through 61-4-104 shall be deemed
is a separate offense.

(2) In addition to all other penalties created by this
 part, the department is authorized to take appropriate
 enforcement action on its own initiative. Any person
 violating the provisions of 61-4-101 through 61-4-104 may be
 subject to administrative action, in accordance with the
 contested case procedures of Title 2, chapter 4, as follows:

(a) a civil penalty not to exceed \$200 for each
 violation;

1 (b) suspension of the motor vehicle dealer license not
2 to exceed 5 working days;
3 (c) revocation or denial of the motor vehicle dealer
4 license; or
5 (d) any combination of subsections (2)(a) through
6 (2)(c)."

7 NEW SECTION. **Section 4.** Codification instruction.
8 [~~Sections-2-and-3~~ THROUGH-4 SECTION 2] are IS intended to be
9 codified as an integral part of Title 61, chapter 4, part 1,
10 and the provisions of Title 61, chapter 4, part 1, apply to
11 [~~sections-2-and-3~~ THROUGH-4 SECTION 2].

12 NEW SECTION. **Section 5.** Extension of authority. Any
13 existing authority to make rules on the subject of the
14 provisions of [this act] is extended to the provisions of
15 [this act].

-End-

Free Conference Committee Report
on SB 284
Report No. 1, March 27, 1989
page 1 of 2

FREE CONFERENCE COMMITTEE, SB 284
March 27, 1989
page 2 of 2

Mr President and Mr. Speaker:

We, your Free Conference Committee on SB 284 met and considered:

SB 284 (reference copy -- salmon)

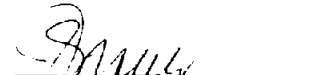
We recommend that SB 284 (reference copy -- salmon) be amended as follows:

1. Page 5, lines 21 and 22.
Strike: "EXEMPTION FOR FINANCIAL INSTITUTIONS"
Insert: "Exemptions"
2. Page 5, line 22.
Following: "INSTITUTIONS."
Insert: "(1)"
3. Page 5, line 25.
Strike: "(1)"
Insert: "(a)"
4. Page 6, line 2.
Strike: "(2)"
Insert: "(b)"
5. Page 6, line 4.
Strike: "(3)"
Insert: "(c)"
6. Page 6.
Following: line 8
Insert: "(2) This part does not require licensure of an auctioneer whose business consists primarily of the sale of personal property other than motor vehicles."

And that this Conference Committee Report be adopted.

FOR THE SENATE

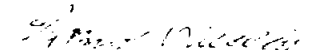

Sen. Thayer, Chairman


Sen. Noble


Sen. Weeding

FOR THE HOUSE


Rep. Blotkamp


Rep. Wallin


Rep. DeMars

ADOPT

REJECT

continued

SENATE BILL NO. 284

INTRODUCED BY THAYER, STANG

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING PERSONS NOT LICENSED AS DEALERS FROM ACTING AS DEALERS IN SALES OF MOTOR VEHICLES; AND AMENDING SECTIONS 61-4-101 AND 61-4-105, MCA."

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

Section 1. Section 61-4-101, MCA, is amended to read:

"61-4-101. Application for dealer's license. (1) Every person, firm, corporation, or association which, for commission or profit, engages in the business of buying, selling, exchanging, offering, consigning TAKING FOR CONSIGNMENT, soliciting, advertising the sale of, or acting as a broker of new motor vehicles, recreational vehicles, used motor vehicles, trailers (except trailers having an unloaded weight of less than 500 pounds), semitrailers, or special mobile equipment as defined in 61-1-104 shall file, by mail or otherwise, in the office of the department a verified application for licensure as a dealer, on a blank to be furnished by the department for that purpose and containing the information required. The application and all of the information contained in it shall must be verified by the Montana highway patrol. Each application must be accompanied by the license fee hereinafter specified in

61-4-102. 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 year. If an application for renewal of a license has been received by the department 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 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;

(iii) state the name and make of all motor vehicles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a



1 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 or
17 quadricycle dealer and for the use of "MCD" plates, the
18 applicant must, in addition to the matters set forth in
19 subsections (i) and (ii) of subsection (2)(a) above,
20 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 indicating the firm name as the principal place of business
24 and that vehicles are offered for sale; and

25 (ii) a certificate to the effect that the applicant is

1 a bona fide dealer in used motor vehicles, recreational
2 vehicles, trailers, semitrailers, special mobile equipment,
3 motorcycles, or quadricycles. An applicant for a
4 recreational vehicle dealer license must also indicate on
5 the same certificate that he is recognized by a
6 manufacturer, importer, or distributor as a dealer in
7 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~~ must be conditioned that
20 the applicant shall conduct his business in accordance with
21 the requirements of the law. All bonds ~~shall~~ run to the
22 state of Montana, ~~and--shall~~ must be approved by the
23 department and filed in its office, and ~~shall~~ must be
24 renewed annually."

25 ~~NEW-SECTION.--Section 2--Displaying unowned vehicle by~~

person--not--a--dealer--prohibited:--A--person--other--than--a
 dealer--licensed--under--61-4-101--may--not--display--a--new--or--used
 motor--vehicle--for--sale--unless--the--certificate--of--ownership
 of--the--new--or--used--motor--vehicle--is--in--the--name--of--the
 person--who--displays--the--motor--vehicle OR--THE--PERSON--IS
 CONDUCTING--A--SALE--BY--AUCTION--PURSUANT--TO--TITLE--307--CHAPTER
 117--PART--5.

NEW SECTION--Section 3. Soliciting--sale--of--unowned
 motor--vehicle--by--person--other--than--a--dealer--prohibited --
 EXEMPTION: {1} A--person--other--than--a--dealer--licensed--under
 61-4-101--may--not--solicit--the--sale--of--a--new--or--used--motor
 vehicle--unless--the--certificate--of--ownership--of--the--new--or--
 used--motor--vehicle--is--in--the--name--of--the--person--who--solicits
 the--sale OR--THE--PERSON--IS--CONDUCTING--A--SALE--BY--AUCTION
 PURSUANT--TO--TITLE--307--CHAPTER--117--PART--5. A--sale--may--not--be
 transacted--for--the--purpose--of--avoiding--compliance--with--the
 provisions--of--this--section.

{2}--THE--PROVISIONS--OF--SUBSECTION--(1)--DO--NOT--APPLY--TO--A
 PERSON--WHO--SELLS--NO--MORE--THAN--FIVE--NEW--OR--USED--MOTOR
 VEHICLES--DURING--ANY--YEAR.

NEW SECTION. SECTION 2. -EXEMPTION---FOR---FINANCIAL
 INSTITUTIONS EXEMPTIONS. (1) THIS PART DOES NOT REQUIRE
 LICENSURE OF, OR RESTRICT OR PROHIBIT A FINANCIAL
 INSTITUTION, AS DEFINED IN 32-6-103:

{1}(A) IN THE SELLING OF COLLATERAL REPOSSESSED ON

DEFAULT OF A LOAN MADE BY THE FINANCIAL INSTITUTION;

{2}(B) IN THE CONDUCT OF A MOTOR VEHICLE SALES
 PROMOTION IN AFFILIATION WITH ONE OR MORE LICENSED DEALERS;
 OR

{3}(C) IN THE CONDUCT OF A MOTOR VEHICLE SALES
 PROMOTION IN AFFILIATION WITH A PERSON REGULARLY ENGAGED IN
 A BONA FIDE VEHICLE RENTAL BUSINESS IF THE PURPOSE OF THE
 SALE IS TO DISPOSE OF USED MOTOR VEHICLES USED IN THE RENTAL
 BUSINESS.

(2) THIS PART DOES NOT REQUIRE LICENSURE OF AN
 AUCTIONEER WHOSE BUSINESS CONSISTS PRIMARILY OF THE SALE OF
 PERSONAL PROPERTY OTHER THAN MOTOR VEHICLES.

Section 3. Section 61-4-105, MCA, is amended to read:

"61-4-105. Criminal penalty -- civil penalty imposed
 by agency. (1) Any person violating the provisions of
 61-4-101 through 61-4-104 shall be ~~and {sections 2 and 3}~~ is
 guilty of a misdemeanor and subject to a fine of not less
 than \$250 and not more than \$500. For the purposes hereof of
 this section, every sale of a motor vehicle in violation of
 the provisions of 61-4-101 through 61-4-104 shall be deemed
 is a separate offense.

(2) In addition to all other penalties created by this
 part, the department is authorized to take appropriate
 enforcement action on its own initiative. Any person
 violating the provisions of 61-4-101 through 61-4-104 may be

1 subject to administrative action, in accordance with the
2 contested case procedures of Title 2, chapter 4, as follows:

3 (a) a civil penalty not to exceed \$200 for each
4 violation;

5 (b) suspension of the motor vehicle dealer license not
6 to exceed 5 working days;

7 (c) revocation or denial of the motor vehicle dealer
8 license; or

9 (d) any combination of subsections (2)(a) through
10 (2)(c)."

11 NEW SECTION. Section 4. Codification instruction.
12 [~~Sections-2-and-3~~ THROUGH-4 SECTION 2] are IS intended to be
13 codified as an integral part of Title 61, chapter 4, part 1,
14 and the provisions of Title 61, chapter 4, part 1, apply to
15 [~~sections-2-and-3~~ THROUGH-4 SECTION 2].

16 NEW SECTION. Section 5. Extension of authority. Any
17 existing authority to make rules on the subject of the
18 provisions of [this act] is extended to the provisions of
19 [this act].

-End-