

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

1 *Monte Bill No. 284*
2 INTRODUCED BY *Monte Bill No. 284*
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;

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

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

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

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

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

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

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

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

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

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

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

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

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

13 **Section 4.** Section 61-4-105, MCA, is amended to read:
 14 "61-4-105. Criminal penalty -- civil penalty imposed
 15 by agency. (1) Any person violating the provisions of
 16 61-4-101 through 61-4-104 shall be and [sections 2 and 3] is
 17 guilty of a misdemeanor and subject to a fine of not less
 18 than \$250 and not more than \$500. For the purposes hereof of
 19 this section, every sale of a motor vehicle in violation of
 20 the provisions of 61-4-101 through 61-4-104 shall be deemed
 21 is a separate offense.

22 (2) In addition to all other penalties created by this
 23 part, the department is authorized to take appropriate
 24 enforcement action on its own initiative. Any person
 25 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 5.** Codification instruction.
 12 [Sections 2 and 3] are intended to be codified as an
 13 integral part of Title 61, chapter 4, part 1, and the
 14 provisions of Title 61, chapter 4, part 1, apply to
 15 [sections 2 and 3].

16 **NEW SECTION. Section 6.** 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-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

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14 CONSIGNMENT, soliciting, advertising the sale of, or acting
15 as a broker of new motor vehicles, recreational vehicles,
16 used motor vehicles, trailers (except trailers having an
17 unloaded weight of less than 500 pounds), semitrailers, or
18 special mobile equipment as defined in 61-1-104 shall file,
19 by mail or otherwise, in the office of the department a
20 verified application for licensure as a dealer, on a blank
21 to be furnished by the department for that purpose and
22 containing the information required. The application and all
23 of the information contained in it shall must be verified by
24 the Montana highway patrol. Each application must be
25 accompanied by the license fee hereinafter specified in

1 61-4-102. A dealer's license must be renewed and paid for
2 annually, and an application for licensure must be filed
3 not later than January 1 of each year. If an application for
4 renewal of a license has been received by the department
5 prior to the expiration of the license, the dealer may
6 operate his business and display dealer plates under the
7 expired license between January 1 and February 15 following
8 expiration.

9 (2) To qualify for licensure and the issuance and use
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14 the use of "D" plates, the applicant must:
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16 conducted and the location of the premises (street address,
17 city, county, and state) where records are kept, sales are
18 made, and stock of motor vehicles is displayed;
19 (ii) state the name and address of all owners or
20 persons having an interest in the business, provided that in
21 the case of a corporation, the names and addresses of the
22 president and secretary are sufficient;
23 (iii) state the name and make of all motor vehicles
24 handled and the name and address of the manufacturer,
25 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
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 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
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25 NEW SECTION. **Section 2.** Displaying unowned vehicle by

1 person not a dealer prohibited. A person other than a dealer
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 3 vehicle for sale unless the certificate of ownership of the
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 5 displays the motor vehicle OR THE PERSON IS CONDUCTING A
 6 SALE BY AUCTION PURSUANT TO TITLE 30, CHAPTER 11, PART 5.

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 13 PERSON IS CONDUCTING A SALE BY AUCTION PURSUANT TO TITLE 30,
 14 CHAPTER 11, PART 5. A-sale-may-not--be--transacted--for--the
 15 purpose--of--avoiding-compliance-with-the-provisions-of-this
 16 section.

17 NEW SECTION. SECTION 4. EXEMPTION FOR FINANCIAL

18 INSTITUTIONS. THIS PART DOES NOT REQUIRE LICENSURE OF, OR
 19 RESTRICT OR PROHIBIT A FINANCIAL INSTITUTION, AS DEFINED IN
 20 32-6-103:

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

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

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

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

5 **Section 5.** Section 61-4-105, MCA, is amended to read:
 6 "61-4-105. Criminal penalty -- civil penalty imposed
 7 by agency. (1) Any person violating the provisions of
 8 61-4-101 through 61-4-104 ~~shall-be and [sections 2 and 3]~~ is
 9 guilty of a misdemeanor and subject to a fine of not less
 10 than \$250 and not more than \$500. For the purposes ~~hereof of~~
 11 this section, every sale of a motor vehicle in violation of
 12 the provisions of 61-4-101 through 61-4-104 ~~shall-be--deemed~~
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 15 part, the department is authorized to take appropriate
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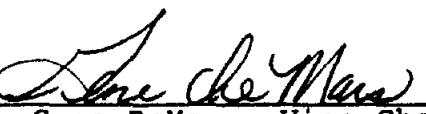
-End-

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

(B)

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

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21 to be furnished by the department for that purpose and

22 containing the information required. The application and all

23 of the information contained in it shall must be verified by

24 the Montana highway patrol. Each application must be

25 accompanied by the license fee hereinafter specified in

1 61-4-102. A dealer's license must be renewed and paid for
2 annually, and an application for relicensure must be filed
3 not later than January 1 of each year. If an application for
4 renewal of a license has been received by the department
5 prior to the expiration of the license, the dealer may
6 operate his business and display dealer plates under the
7 expired license between January 1 and February 15 following
8 expiration.

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

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

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

23 (iii) state the name and make of all motor vehicles
24 handled and the name and address of the manufacturer,
25 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**

1 person--not--a--dealer--prohibited:--A--person--other--than--a
 2 dealer-licensed--under--61-4-103--may--not--display--a--new--or--used
 3 motor--vehicle--for--sale--unless--the--certificate--of--ownership
 4 of--the--new--or--used--motor--vehicle--is--in--the--name--of--the
 5 person--who--displays--the--motor--vehicle OR--THE--PERSON--IS
 6 CONDUCTING--A--SALE--BY--AUCTION--PURSUANT--TO--TITLE--30,--CHAPTER
 7 11,--PART--5.

8 NEW SECTION.--**Section 3.**--Soliciting--sale--of--unowned
 9 motor--vehicle--by--person--other--than--a--dealer--prohibited --
 10 EXEMPTION. (1) A--person--other--than--a--dealer--licensed--under
 11 61-4-103--may--not--solicit--the--sale--of--a--new--or--used--motor
 12 vehicle--unless--the--certificate--of--ownership--of--the--new--or
 13 used--motor--vehicle--is--in--the--name--of--the--person--who--solicits
 14 the--sale OR--THE--PERSON--IS--CONDUCTING--A--SALE--BY--AUCTION
 15 PURSUANT--TO--TITLE--30,--CHAPTER--11,--PART--5.--A--sale--may--not--be
 16 transacted--for--the--purpose--of--avoiding--compliance--with--the
 17 provisions--of--this--section:

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

21 NEW SECTION. **SECTION 2.** EXEMPTION FOR FINANCIAL
 22 INSTITUTIONS. THIS PART DOES NOT REQUIRE LICENSURE OF, OR
 23 RESTRICT OR PROHIBIT A FINANCIAL INSTITUTION, AS DEFINED IN
 24 32-6-103:

25 . (1) IN THE SELLING OF COLLATERAL REPOSSESSED ON

1 DEFAULT OF A LOAN MADE BY THE FINANCIAL INSTITUTION;
 2 (2) IN THE CONDUCT OF A MOTOR VEHICLE SALES PROMOTION
 3 IN AFFILIATION WITH ONE OR MORE LICENSED DEALERS; OR
 4 (3) IN THE CONDUCT OF A MOTOR VEHICLE SALES PROMOTION
 5 IN AFFILIATION WITH A PERSON REGULARLY ENGAGED IN A BONA
 6 FIDE VEHICLE RENTAL BUSINESS IF THE PURPOSE OF THE SALE IS
 7 TO DISPOSE OF USED MOTOR VEHICLES USED IN THE RENTAL
 8 BUSINESS.

9 **Section 3.** Section 61-4-105, MCA, is amended to read:
 10 "61-4-105. Criminal penalty -- civil penalty imposed
 11 by agency. (1) Any person violating the provisions of
 12 61-4-101 through 61-4-104 shall--be and--sections--2--and--3 is
 13 guilty of a misdemeanor and subject to a fine of not less
 14 than \$250 and not more than \$500. For the purposes hereof of
 15 this section, every sale of a motor vehicle in violation of
 16 the provisions of 61-4-101 through 61-4-104 shall--be--deemed
 17 is a separate offense.

18 (2) In addition to all other penalties created by this
 19 part, the department is authorized to take appropriate
 20 enforcement action on its own initiative. Any person
 21 violating the provisions of 61-4-101 through 61-4-104 may be
 22 subject to administrative action, in accordance with the
 23 contested case procedures of Title 2, chapter 4, as follows:
 24 (a) a civil penalty not to exceed \$200 for each
 25 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

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)"

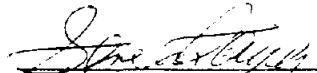
5. Page 6, line 4.
Strike: "(3)"
Insert: "(c)"

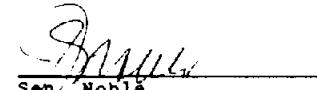
6. Page 6.
Following: line 8
Insert: "(2) This part does not require licensure of an auctioneer whose business consists primarily of the sale of personal property other than motor vehicles."

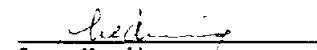
FREE CONFERENCE COMMITTEE, SB 284
March 27, 1989
page 2 of 2

And that this Conference Committee Report be adopted.

FOR THE SENATE

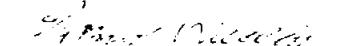

Sen. Thayer, Chairman

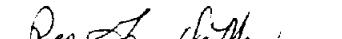

Sen. Noble


Sen. Weeding

FOR THE HOUSE


Rep. Blotkamp


Rep. Wallin


Rep. DeMars

ADOPT

REJECT

continued

SB 284

fccsb284.323

fccsb284.323

SENATE BILL NO. 284

INTRODUCED BY THAYER, STANG

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."

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

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 TAKING FOR
14 CONSIGNMENT, soliciting, advertising the sale of, or acting
15 as a broker of new motor vehicles, recreational vehicles,
16 used motor vehicles, trailers (except trailers having an
17 unloaded weight of less than 500 pounds), semitrailers, or
18 special mobile equipment as defined in 61-1-104 shall file,
19 by mail or otherwise, in the office of the department a
20 verified application for licensure as a dealer, on a blank
21 to be furnished by the department for that purpose and
22 containing the information required. The application and all
23 of the information contained in it shall must be verified by
24 the Montana highway patrol. Each application must be
25 accompanied by the license fee hereinafter specified in

1 61-4-102. A dealer's license must be renewed and paid for
2 annually, and an application for re licensure must be filed
3 not later than January 1 of each year. If an application for
4 renewal of a license has been received by the department
5 prior to the expiration of the license, the dealer may
6 operate his business and display dealer plates under the
7 expired license between January 1 and February 15 following
8 expiration.

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

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

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

23 (iii) state the name and make of all motor vehicles
24 handled and the name and address of the manufacturer,
25 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

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

8 NEW SECTION.--**Section 3.**--Soliciting--sale--of--unowned
 9 motor--vehicle--by--person--other--than--a--dealer--prohibited--
 10 EXEMPTION. (1) A--person--other--than--a--dealer--licensed--under
 11 61-4-101--may--not--solicit--the--sale--of--a--new--or--used--motor
 12 vehicle--unless--the--certificate--of--ownership--of--the--new--or
 13 used--motor--vehicle--is--in--the--name--of--the--person--who--solicits
 14 the--sale OR--THE--PERSON--IS--CONDUCTING--A--SALE--BY--AUCTION
 15 PURSUANT--TO--TITLE--30--CHAPTER--37--PART--5.--A--sale--may--not--be
 16 transacted--for--the--purpose--of--avoiding--compliance--with--the
 17 provisions--of--this--section.

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

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

25 (1)(A) IN THE SELLING OF COLLATERAL REPOSSESSED ON

1 DEFAULT OF A LOAN MADE BY THE FINANCIAL INSTITUTION;
 2 (2)(B) IN THE CONDUCT OF A MOTOR VEHICLE SALES
 3 PROMOTION IN AFFILIATION WITH ONE OR MORE LICENSED DEALERS;
 4 OR
 5 (3)(C) IN THE CONDUCT OF A MOTOR VEHICLE SALES
 6 PROMOTION IN AFFILIATION WITH A PERSON REGULARLY ENGAGED IN
 7 A BONA FIDE VEHICLE RENTAL BUSINESS IF THE PURPOSE OF THE
 8 SALE IS TO DISPOSE OF USED MOTOR VEHICLES USED IN THE RENTAL
 9 BUSINESS.

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

13 **Section 3.** Section 61-4-105, MCA, is amended to read:
 14 "61-4-105. Criminal penalty -- civil penalty imposed
 15 by agency. (1) Any person violating the provisions of
 16 61-4-101 through 61-4-104 shall be and--sections--2--and--3 is
 17 guilty of a misdemeanor and subject to a fine of not less
 18 than \$250 and not more than \$500. For the purposes hereof of
 19 this section, every sale of a motor vehicle in violation of
 20 the provisions of 61-4-101 through 61-4-104 shall be deemed
 21 is a separate offense.

22 (2) In addition to all other penalties created by this
 23 part, the department is authorized to take appropriate
 24 enforcement action on its own initiative. Any person
 25 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-