

SENATE BILL NO. 449

INTRODUCED BY BECK, CAMPBELL

BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

FEBRUARY 15, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
FEBRUARY 17, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 18, 1989	PRINTING REPORT.
FEBRUARY 20, 1989	SECOND READING, DO PASS.
	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
FEBRUARY 28, 1989	FIRST READING.
MARCH 15, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 28, 1989	SECOND READING, CONCURRED IN.
MARCH 29, 1989	THIRD READING, CONCURRED IN. AYES, 73; NOES, 24.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 1, 1989

RECEIVED FROM HOUSE.

PASS CONSIDERATION.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 6, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. 449
2 INTRODUCED BY *Paul Campbell*
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE DEPARTMENT
6 OF JUSTICE TO ISSUE A MOTOR VEHICLE CERTIFICATE OF TITLE
7 WHEN AN APPLICANT CANNOT PROVE VEHICLE OWNERSHIP IF THE
8 APPLICANT FURNISHES THE REQUIRED BOND AND AFFIDAVIT."
9

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

11 NEW SECTION. Section 1. Affidavit and bond for
12 certificate. (1) If an applicant for a motor vehicle
13 certificate of title cannot provide the department with a
14 certificate of title transferred to the applicant, the
15 department may issue a certificate of title for the vehicle
16 if the applicant furnishes an affidavit in a form prescribed
17 by the department.

18 (2) The affidavit must be signed and sworn to before
19 an officer authorized to administer oaths and affirmations.
20 The affidavit must accompany the application for the
21 certificate of title and include:

22 (a) the facts and circumstances through which the
23 applicant acquired ownership and possession of the motor
24 vehicle;

25 (b) information as required by the department to

1 enable it to determine what security interests, liens, and
2 encumbrances against the motor vehicle, if any, are
3 outstanding against the motor vehicle;

4 (c) the date and the amount secured by the security
5 interests, liens, and encumbrances, if any; and

6 (d) a statement that the applicant has the right to
7 have a certificate of title issued.

8 (3) If after examination of the application,
9 affidavit, and any other evidence the department determines
10 that a certificate of title for the motor vehicle should be
11 issued to the applicant, the department shall require the
12 applicant to file with the department a good and sufficient
13 bond before issuing the certificate of title. The bond must
14 be:

15 (a) in an amount equal to 1 1/2 times the average
16 retail value of the motor vehicle as determined by the
17 department of revenue;

18 (b) conditioned to indemnify a prior owner,
19 lienholder, subsequent purchaser, secured creditor, or
20 encumbrancer of the motor vehicle, and any respective
21 successors in interest, against expenses, losses, or damages
22 caused by the issuance of the certificate or by a defect in
23 or undisclosed security interest upon the right, title, and
24 interest of the applicant in the motor vehicle.

25 (4) Any interested person has a right of action to

LC 1689/01

1 recover on the bond for a breach of its conditions, but the
2 aggregate liability of the surety to all persons may not
3 exceed the amount of the bond.

4 (5) Unless the department has been notified of a
5 pending action to recover the bond, the department shall
6 return the bond at the earlier of:

7 (a) 3 years from the date of issuance of the
8 certificate of title; or

9 (b) the date of surrender of the valid certificate of
10 title to the department if the vehicle is no longer
11 registered in this state.

12 NEW SECTION. **Section 2.** Extension of authority. Any
13 existing authority of the Department of Justice to make
14 rules on the subject of the provisions of [this act] is
15 extended to the provisions of [this act].

16 NEW SECTION. **Section 3.** Codification instruction.
17 [Section 1] is intended to be codified as an integral part
18 of Title 61, chapter 3, part 2, and the provisions of Title
19 61, chapter 3, part 2, apply to [section 1].

-End-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

1 *Senate* BILL NO. 449
2 INTRODUCED BY Basil Campbell
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE DEPARTMENT
6 OF JUSTICE TO ISSUE A MOTOR VEHICLE CERTIFICATE OF TITLE
7 WHEN AN APPLICANT CANNOT PROVE VEHICLE OWNERSHIP IF THE
8 APPLICANT FURNISHES THE REQUIRED BOND AND AFFIDAVIT."
9

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

11 NEW SECTION. Section 1. Affidavit and bond for
12 certificate. (1) If an applicant for a motor vehicle
13 certificate of title cannot provide the department with a
14 certificate of title transferred to the applicant, the
15 department may issue a certificate of title for the vehicle
16 if the applicant furnishes an affidavit in a form prescribed
17 by the department.

18 (2) The affidavit must be signed and sworn to before
19 an officer authorized to administer oaths and affirmations.
20 The affidavit must accompany the application for the
21 certificate of title and include:

22 (a) the facts and circumstances through which the
23 applicant acquired ownership and possession of the motor
24 vehicle;

25 (b) information as required by the department to

1 enable it to determine what security interests, liens, and
2 encumbrances against the motor vehicle, if any, are
3 outstanding against the motor vehicle;

4 (c) the date and the amount secured by the security
5 interests, liens, and encumbrances, if any; and

6 (d) a statement that the applicant has the right to
7 have a certificate of title issued.

8 (3) If after examination of the application,
9 affidavit, and any other evidence the department determines
10 that a certificate of title for the motor vehicle should be
11 issued to the applicant, the department shall require the
12 applicant to file with the department a good and sufficient
13 bond before issuing the certificate of title. The bond must
14 be:

15 (a) in an amount equal to 1 1/2 times the average
16 retail value of the motor vehicle as determined by the
17 department of revenue;

18 (b) conditioned to indemnify a prior owner,
19 lienholder, subsequent purchaser, secured creditor, or
20 encumbrancer of the motor vehicle, and any respective
21 successors in interest, against expenses, losses, or damages
22 caused by the issuance of the certificate or by a defect in
23 or undisclosed security interest upon the right, title, and
24 interest of the applicant in the motor vehicle.

25 (4) Any interested person has a right of action to

1 recover on the bond for a breach of its conditions, but the
2 aggregate liability of the surety to all persons may not
3 exceed the amount of the bond.

4 (5) Unless the department has been notified of a
5 pending action to recover the bond, the department shall
6 return the bond at the earlier of:

7 (a) 3 years from the date of issuance of the
8 certificate of title; or

9 (b) the date of surrender of the valid certificate of
10 title to the department if the vehicle is no longer
11 registered in this state.

12 NEW SECTION. Section 2. Extension of authority. Any
13 existing authority of the Department of Justice to make
14 rules on the subject of the provisions of [this act] is
15 extended to the provisions of [this act].

16 NEW SECTION. Section 3. Codification instruction.
17 [Section 1] is intended to be codified as an integral part
18 of Title 61, chapter 3, part 2, and the provisions of Title
19 61, chapter 3, part 2, apply to [section 1].

-End-

1 *Senate* BILL NO. *449*
2 INTRODUCED BY *Paul Connelley*
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE DEPARTMENT
6 OF JUSTICE TO ISSUE A MOTOR VEHICLE CERTIFICATE OF TITLE
7 WHEN AN APPLICANT CANNOT PROVE VEHICLE OWNERSHIP IF THE
8 APPLICANT FURNISHES THE REQUIRED BOND AND AFFIDAVIT."
9

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

11 NEW SECTION. **Section 1.** Affidavit and bond for
12 certificate. (1) If an applicant for a motor vehicle
13 certificate of title cannot provide the department with a
14 certificate of title transferred to the applicant, the
15 department may issue a certificate of title for the vehicle
16 if the applicant furnishes an affidavit in a form prescribed
17 by the department.

18 (2) The affidavit must be signed and sworn to before
19 an officer authorized to administer oaths and affirmations.
20 The affidavit must accompany the application for the
21 certificate of title and include:

22 (a) the facts and circumstances through which the
23 applicant acquired ownership and possession of the motor
24 vehicle;

25 (b) information as required by the department to

1 enable it to determine what security interests, liens, and
2 encumbrances against the motor vehicle, if any, are
3 outstanding against the motor vehicle;

4 (c) the date and the amount secured by the security
5 interests, liens, and encumbrances, if any; and

6 (d) a statement that the applicant has the right to
7 have a certificate of title issued.

8 (3) If after examination of the application,
9 affidavit, and any other evidence the department determines
10 that a certificate of title for the motor vehicle should be
11 issued to the applicant, the department shall require the
12 applicant to file with the department a good and sufficient
13 bond before issuing the certificate of title. The bond must
14 be:

15 (a) in an amount equal to 1 1/2 times the average
16 retail value of the motor vehicle as determined by the
17 department of revenue;

18 (b) conditioned to indemnify a prior owner,
19 lienholder, subsequent purchaser, secured creditor, or
20 encumbrancer of the motor vehicle, and any respective
21 successors in interest, against expenses, losses, or damages
22 caused by the issuance of the certificate or by a defect in
23 or undisclosed security interest upon the right, title, and
24 interest of the applicant in the motor vehicle.

25 (4) Any interested person has a right of action to

LC 1689/01

1 recover on the bond for a breach of its conditions, but the
2 aggregate liability of the surety to all persons may not
3 exceed the amount of the bond.

4 (5) Unless the department has been notified of a
5 pending action to recover the bond, the department shall
6 return the bond at the earlier of:

7 (a) 3 years from the date of issuance of the
8 certificate of title; or

9 (b) the date of surrender of the valid certificate of
10 title to the department if the vehicle is no longer
11 registered in this state.

12 NEW SECTION. **Section 2. Extension of authority.** Any
13 existing authority of the Department of Justice to make
14 rules on the subject of the provisions of [this act] is
15 extended to the provisions of [this act].

16 NEW SECTION. **Section 3. Codification instruction.**
17 [Section 1] is intended to be codified as an integral part
18 of Title 61, chapter 3, part 2, and the provisions of Title
19 61, chapter 3, part 2, apply to [section 1].

-End-

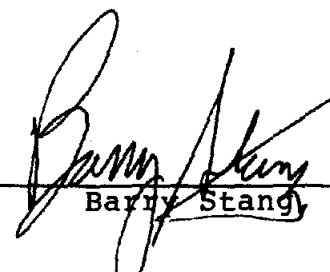
STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that Senate Bill 449 (third reading copy -- blue) be concurred in as amended .

Signed: _____


Barry Stang, Chairman

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

And, that such amendments read:

1. Page 2, line 15.

Strike: "1 1/2 times"

2. Page 2, lines 15 and 16.

Strike: "average retail"

3. Page 2, lines 16 and 17.

Strike: "by the department of revenue"

Insert: "under the provisions of 61-3-503(1)(c) for the year in which the application for certificate of title is made"

SB 449

HOUSE RT

SENATE BILL NO. 449

INTRODUCED BY BECK, CAMPBELL

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE DEPARTMENT OF JUSTICE TO ISSUE A MOTOR VEHICLE CERTIFICATE OF TITLE WHEN AN APPLICANT CANNOT PROVE VEHICLE OWNERSHIP IF THE APPLICANT FURNISHES THE REQUIRED BOND AND AFFIDAVIT."

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

NEW SECTION. Section 1. Affidavit and bond for certificate. (1) If an applicant for a motor vehicle certificate of title cannot provide the department with a certificate of title transferred to the applicant, the department may issue a certificate of title for the vehicle if the applicant furnishes an affidavit in a form prescribed by the department.

(2) The affidavit must be signed and sworn to before an officer authorized to administer oaths and affirmations. The affidavit must accompany the application for the certificate of title and include:

(a) the facts and circumstances through which the applicant acquired ownership and possession of the motor vehicle;

(b) information as required by the department to

enable it to determine what security interests, liens, and encumbrances against the motor vehicle, if any, are outstanding against the motor vehicle;

(c) the date and the amount secured by the security interests, liens, and encumbrances, if any; and

(d) a statement that the applicant has the right to have a certificate of title issued.

(3) If after examination of the application, affidavit, and any other evidence the department determines that a certificate of title for the motor vehicle should be issued to the applicant, the department shall require the applicant to file with the department a good and sufficient bond before issuing the certificate of title. The bond must be:

(a) in an amount equal to 1-1/2-times the average retail value of the motor vehicle as determined by--the ~~department-of-revenue~~ UNDER THE PROVISIONS OF 61-3-503(1)(C) FOR THE YEAR IN WHICH THE APPLICATION FOR CERTIFICATE OF TITLE IS MADE;

(b) conditioned to indemnify a prior owner, lienholder, subsequent purchaser, secured creditor, or encumbrancer of the motor vehicle, and any respective successors in interest, against expenses, losses, or damages caused by the issuance of the certificate or by a defect in or undisclosed security interest upon the right, title, and

1 interest of the applicant in the motor vehicle.

2 (4) Any interested person has a right of action to
3 recover on the bond for a breach of its conditions, but the
4 aggregate liability of the surety to all persons may not
5 exceed the amount of the bond.

6 (5) Unless the department has been notified of a
7 pending action to recover the bond, the department shall
8 return the bond at the earlier of:

9 (a) 3 years from the date of issuance of the
10 certificate of title; or

11 (b) the date of surrender of the valid certificate of
12 title to the department if the vehicle is no longer
13 registered in this state.

14 NEW SECTION. **Section 2.** Extension of authority. Any
15 existing authority of the Department of Justice to make
16 rules on the subject of the provisions of [this act] is
17 extended to the provisions of [this act].

18 NEW SECTION. **Section 3.** Codification instruction.
19 [Section 1] is intended to be codified as an integral part
20 of Title 61, chapter 3, part 2, and the provisions of Title
21 61, chapter 3, part 2, apply to [section 1].

-End-