

SENATE BILL NO. 373

INTRODUCED BY BECK  
BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

FEBRUARY 12, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
MARCH 26, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
MARCH 27, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
MARCH 29, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 47; NOES, 1.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
APRIL 6, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
APRIL 7, 1993	SECOND READING, CONCURRED IN.
APRIL 13, 1993	THIRD READING, CONCURRED IN. AYES, 99; NOES, 1.
	RETURNED TO SENATE.

IN THE SENATE

APRIL 15, 1993	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *373*  
2 INTRODUCED BY *Buck*  
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
6 LAWS RELATING TO MOTOR VEHICLES; CLARIFYING THE PROCESS FOR  
7 THE FILING OF COLLATERAL LIENS; INCREASING TITLE TRANSFER  
8 FEES FOR OFF-HIGHWAY VEHICLES; REVISING THE DEFINITION OF  
9 MOTOR VEHICLE BROKERS; CLARIFYING THE PROCESS OF LICENSING  
10 MOBILE HOME DEALERS; CLARIFYING SURETY LANGUAGE IN REGARD TO  
11 BONDED TITLES; AMENDING SECTIONS 23-2-508, 23-2-611,  
12 23-2-811, 23-2-812, 61-1-318, 61-1-501, 61-3-103, 61-3-208,  
13 AND 61-4-101, MCA; AND PROVIDING EFFECTIVE DATES."  
14

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

16 **Section 1.** Section 23-2-508, MCA, is amended to read:

17 "23-2-508. Certificate of ownership -- filing of  
18 security interests. (1) Except as provided in subsection  
19 (9), a motorboat or sailboat 12 feet in length or longer may  
20 not be operated upon the waters of the state unless a  
21 certificate of ownership has first been obtained from the  
22 department of justice in accordance with the laws of this  
23 state.

24 (2) The owner of a motorboat or sailboat 12 feet in  
25 length or longer shall apply for a certificate of ownership

1 and a certificate of number with the county treasurer of the  
2 county in which the owner resides, upon forms furnished by  
3 the department of justice. The forms must require the  
4 following information:

- 5 (a) name of the owner;
- 6 (b) residence of the owner, by town or county;
- 7 (c) business or home address of the owner;
- 8 (d) name and address of any lienholder;
- 9 (e) amount due under any contract or lien;
- 10 (f) name of the manufacturer;
- 11 (g) model number or name;
- 12 (h) identification number;
- 13 (i) name and address of the dealer or other person from  
14 whom acquired, if known; and
- 15 (j) other information as the department of justice may  
16 require.

17 (3) The application is to be accompanied by  
18 documentation of ownership, such as an invoice, a bill of  
19 sale, a foreign title, an official certificate of boat  
20 number, a fee in lieu of tax receipt, or a certificate of  
21 ownership of a trailer purchased with the motorboat or  
22 sailboat. An applicant who fails to provide proof of  
23 ownership shall provide a certified statement describing how  
24 the motorboat or sailboat 12 feet in length or longer was  
25 acquired, from whom acquired, if known, and other

1 information requested by the department of justice.

2 (4) If a certificate of ownership has previously been  
3 issued under the provisions of this part, the application  
4 for a new certificate must be accompanied by the immediately  
5 previous certificate. This subsection does not apply to  
6 motorboats or sailboats 12 feet in length or longer that are  
7 purchased as new and unused vessels or that were operated  
8 when the provisions of this part were not in force and  
9 effect.

10 (5) A motorboat or sailboat 12 feet in length or longer  
11 that does not have a manufacturer's or other identifying  
12 number on the motorboat or sailboat must be assigned an  
13 identification number by the department of fish, wildlife,  
14 and parks. A fee of \$1 must be paid to the department for an  
15 assignment of number.

16 (6) Upon completion of the application, the county  
17 treasurer shall issue to the applicant two copies of the  
18 certificate of number application, one of which must be  
19 marked "file copy". The treasurer shall forward one copy and  
20 the original application for a certificate of ownership to  
21 the department of justice, which shall enter the information  
22 contained in the application upon the corresponding records  
23 of its office and shall furnish the applicant a certificate  
24 of ownership containing that information in the application  
25 considered necessary by the department and a permanent boat

1 number. The certificate of ownership need not be renewed  
2 annually and is valid as long as the person holding it owns  
3 the vessel.

4 (7) The owner shall at all times retain possession of  
5 the certificate of ownership, except when it is being  
6 transmitted to and from the department of justice for  
7 endorsement or cancellation.

8 (8) Upon application for a certificate of ownership, a  
9 fee of \$5 must be paid to the county treasurer, \$3.50 of  
10 which must be forwarded by the county treasurer to the  
11 department of justice and deposited in the general fund.

12 (9) A person who, on July 1, 1988, is the owner of a  
13 motorboat or sailboat 12 feet in length or longer with a  
14 valid certificate of number issued by the state is not  
15 required to file an application for a certificate of  
16 ownership for the motorboat or sailboat unless he the person  
17 transfers a part of his the person's interest in the  
18 motorboat or sailboat or he renews the certificate of number  
19 for the motorboat or sailboat.

20 ~~(10) A security interest in a boat is not valid as~~  
21 ~~against creditors, subsequent purchasers, or encumbrancers~~  
22 ~~unless a lien notice, showing that a security interest has~~  
23 ~~been created, has been perfected as provided in this~~  
24 ~~section. The lien notice must be filed on a form approved by~~  
25 ~~the department of justice. The department of justice may not~~

1 file a voluntary security interest or other lien unless it  
 2 is accompanied by or specified in the application for a  
 3 certificate of ownership of the boat encumbered. If the  
 4 approved lien notice is transmitted to the department of  
 5 justice, the security agreement or other lien instrument  
 6 that creates the security interest must be retained by the  
 7 secured party. A copy of the security agreement is  
 8 sufficient as a lien notice if it contains the name and  
 9 address of the debtor and the secured party, the complete  
 10 boat description, the amount of the lien, and the signature  
 11 of the debtor. The department of justice shall file the  
 12 voluntary security interest-or-lien interests and liens by  
 13 entering the name and address of the secured party upon the  
 14 face of the certificate of ownership. Involuntary liens must  
 15 be filed against the record of the boat encumbered. The  
 16 department of justice shall mail a statement certifying the  
 17 filing of a security interest or lien to the secured party.  
 18 The department of justice shall mail the certificate of  
 19 ownership to the owner at the address given on the  
 20 certificate; however, if the transfer of ownership and  
 21 filing of the security interest are paid for by a creditor  
 22 or secured party, the department of justice shall return the  
 23 certificate of ownership to the county treasurer of the  
 24 county in which the boat is to be registered. The owner of a  
 25 boat is the person entitled to operate and possess the boat.

1 (11) A security interest in a boat held as inventory by  
 2 a dealer must be perfected in accordance with Title 30,  
 3 chapter 97-and-no-endorsement-on-the-certificate-of-title-is  
 4 necessary-for-perfection.

5 (12) Whenever a security interest or lien is filed  
 6 against a boat that is subject to two security interests  
 7 previously perfected under this section, the department of  
 8 justice shall endorse on the face of the certificate of  
 9 ownership: "NOTICE. This boat is subject to additional  
 10 security interest on file with the Department of Justice."  
 11 No other information regarding the additional security  
 12 interests need be endorsed on the certificate.

13 (13) Satisfactions or statements of release filed with  
 14 the department of justice under this part must be retained  
 15 for a period of 8 years after receipt, after which they may  
 16 be destroyed.

17 (14) A Except as provided in subsection (15), a  
 18 voluntary security interest or other lien as-provided-in  
 19 this-section is perfected on the date the lien notice is  
 20 delivered to the county treasurer. On that date, the county  
 21 treasurer shall issue to the secured party a receipt  
 22 evidencing the perfection. Perfection under this section  
 23 constitutes constructive notice to subsequent purchasers or  
 24 encumbrancers, from the date of delivery of the lien notice  
 25 to the county treasurer, of the existence of the security

1 interest.

2 (15) Voluntary security interests or lien filings that  
 3 do not require transfer of ownership are perfected on the  
 4 date the lien notice and the certificate of ownership or  
 5 manufacturer's statement of origin are received by the  
 6 department of justice. On that date, the department of  
 7 justice shall issue to the secured party a receipt  
 8 evidencing the perfection. Perfection under this subsection  
 9 constitutes constructive notice to subsequent purchasers or  
 10 encumbrancers, from the date the lien notice is delivered to  
 11 the department of justice, of the existence of the security  
 12 interest.

13 †15†(16) Upon default under a chattel mortgage or  
 14 conditional sales contract covering a boat, the mortgagee or  
 15 vendor has the same remedies as in the case of other  
 16 personal property. In case of attachment of a boat all the  
 17 provisions of 27-18-413, 27-18-414, and 27-18-804 are  
 18 applicable, except that deposits must be made with the  
 19 department of justice.

20 †16†(17) A conditional sales vendor or chattel mortgagee  
 21 or assignee who fails to file a satisfaction of a chattel  
 22 mortgage, assignment, or conditional sales contract within  
 23 15 days after receiving final payment is required to pay the  
 24 department of justice the sum of \$1 for each day that he the  
 25 person fails to file the satisfaction.

1 †17†(18) Upon receipt of notice of any involuntary  
 2 liens,--notice--of--liens--dependent---on---possession, or  
 3 attachments against the record of any boat registered in  
 4 this state, the department of justice shall within 24 hours  
 5 mail to the owner, conditional sales vendor, mortgagee, or  
 6 their assignee a notice showing the name and address of the  
 7 lien claimant, the amount of the lien, the date of execution  
 8 of the lien, and, in the case of attachment, the full title  
 9 of the court, the action, and the name of the attorney for  
 10 the plaintiff or the name of the attaching creditor, or  
 11 both.

12 †18†(19) It is not necessary to refile with the  
 13 department of justice any instruments on file in the office  
 14 of the county clerk and recorder on October 1, 1989.

15 †19†(20) A fee of \$4 must be paid to the department of  
 16 justice to file any security interest or other lien against  
 17 a boat. The \$4 fee must cover the cost of filing a  
 18 satisfaction or release of the security interest and the  
 19 cost of entering the satisfaction or release on the records  
 20 of the department of justice and deleting the endorsement of  
 21 the security interest from the face of the certificate of  
 22 ownership. A fee of \$4 must be paid to the department of  
 23 justice for issuing a certified copy of a certificate of  
 24 ownership subject to a security interest or other lien on  
 25 file with the department of justice or for filing an

assignment of any security interest or other lien on file with the department of justice. All fees provided for in this section must be paid to the county treasurer for deposit in the general fund in accordance with 15-1-504."

**Section 2.** Section 23-2-611, MCA, is amended to read:

"23-2-611. Certificate of ownership -- filing of security interests. (1) A snowmobile may not be operated upon any public lands, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets, or highways unless a certificate of ownership has first been obtained from the department of justice in accordance with the laws of this state.

(2) The owner of a snowmobile shall apply for a certificate of ownership with the county treasurer of the county in which the owner resides, upon forms to be furnished for this purpose. The forms must require the following information:

- (a) name of the owner;
- (b) residence of the owner, by town and county;
- (c) business or home mail address of the owner;
- (d) name and address of any lienholder;
- (e) amount due under any contract or lien;
- (f) name of the manufacturer;
- (g) model number or name;
- (h) identification number; and

(i) name and address of the dealer or other person from whom acquired.

(3) The application must be signed by at least one owner or by a properly authorized officer or representative of the owner.

(4) If a certificate of ownership has previously been issued under the provisions of 23-2-601 through 23-2-644, the application for a new certificate must be accompanied by the immediately previous certificate. This subsection does not apply to snowmobiles that are purchased as new and unused machines or that were operated when the provisions of 23-2-601 through 23-2-644 were not in force and effect.

(5) Upon completion of the application, on forms furnished by the department of justice, the county treasurer shall issue to the applicant two copies of the application, one of which must be marked "file copy". The treasurer shall forward one copy and the original application to the department of justice, which shall enter the information contained in the application upon the corresponding records of its office and shall furnish the applicant a certificate of ownership, which must contain that information in the application considered necessary by the department of justice, and a permanent ownership number. The certificate of ownership is not to be renewed annually and is valid as long as the person holding it owns the snowmobile.

(6) The owner shall at all times retain possession of the certificate of ownership, except when it is being transmitted to and from the department of justice for endorsement or cancellation.

(7) Upon application for a certificate of ownership, a fee of \$5 must be paid to the county treasurer, \$3.50 of which must be forwarded by the county treasurer to the department of justice and deposited in the general fund.

(8) ~~A security interest in a snowmobile is not valid as against creditors, subsequent purchasers, or encumbrancers unless a lien notice, showing that a security interest has been created, has been perfected as provided in this section. The lien notice must be filed on a form approved by the department of justice.~~ The department of justice may not file a voluntary security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the snowmobile encumbered. If the approved lien notice is transmitted to the department of justice, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete snowmobile description, the amount of the lien, and the signature of the debtor. The department of justice shall

file the voluntary security interest or lien interests and liens by entering the name and address of the secured party upon the face of the certificate of ownership. Involuntary liens must be filed against the record of the snowmobile encumbered. The department of justice shall mail a statement certifying the filing of a security interest or lien to the secured party. The department of justice shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county in which the snowmobile is to be registered. The owner of a snowmobile is the person entitled to operate and possess the snowmobile.

(9) A security interest in a snowmobile held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9, ~~and no endorsement on the certificate of title is necessary for perfection.~~

(10) Whenever a security interest or lien is filed against a snowmobile that is subject to two security interests previously perfected under this section, the department of justice shall endorse on the face of the certificate of ownership: "NOTICE. This snowmobile is subject to additional security interest on file with the

Department of Justice". No other information regarding the additional security interests need be endorsed on the certificate.

(11) Satisfaction or statements of release filed with the department of justice under this part must be retained for a period of 8 years after receipt, after which they may be destroyed.

(12) A Except as provided in subsection (13), a voluntary security interest or other lien as provided in this section is perfected on the date the lien notice is delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(13) Voluntary security interests or lien filings that do not require transfer of ownership are perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department of justice. On that date, the department of justice shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or

encumbrancers, from the date the lien notice is delivered to the department of justice, of the existence of the security interest.

~~(13)~~ (14) Upon default under a chattel mortgage or conditional sales contract covering a snowmobile, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of a snowmobile, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

~~(14)~~ (15) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department of justice the sum of \$1 for each day that he the person fails to file the satisfaction.

~~(15)~~ (16) Upon receipt of notice of any involuntary liens,---notice---of---liens---dependent---on---possession, or attachments against the record of any snowmobile registered in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court, the action, and the



1 name of the attorney for the plaintiff or the name of the  
2 attaching creditor, or both.

3 {16}(17) It is not necessary to refile with the  
4 department of justice any instruments on file in the office  
5 of the county clerk and recorder on October 1, 1989.

6 {17}(18) A fee of \$4 must be paid to the department of  
7 justice to file any security interest or other lien against  
8 a snowmobile. The \$4 fee must cover the cost of filing a  
9 satisfaction or release of the security interest and the  
10 cost of entering the satisfaction or release on the records  
11 of the department of justice and deleting the endorsement of  
12 the security interest from the face of the certificate of  
13 ownership. A fee of \$4 must be paid to the department of  
14 justice for issuing a certified copy of a certificate of  
15 ownership subject to a security interest or other lien on  
16 file with the department of justice or for filing an  
17 assignment of a security interest or other lien on file with  
18 the department of justice. All fees provided for in this  
19 section must be paid to the county treasurer for deposit in  
20 the general fund in accordance with 15-1-504."

21 **Section 3.** Section 23-2-811, MCA, is amended to read:

22 "23-2-811. Certificate of ownership -- procedure -- fee  
23 -- filing security interest. (1) No An off-highway vehicle  
24 may not be operated upon any public lands, trails,  
25 easements, lakes, rivers, or streams unless a certificate of

1 ownership has first been obtained from the department of  
2 justice.

3 (2) The owner of an off-highway vehicle shall apply for  
4 a certificate of ownership to the county treasurer of the  
5 county in which the owner resides, on a form furnished by  
6 the department of justice for that purpose. The form must  
7 include:

- 8 (a) the name of the owner;
- 9 (b) the residence of the owner, by town and county;
- 10 (c) the business address or home mailing address of the  
11 owner;
- 12 (d) the name and address of any lienholder;
- 13 (e) the amount due under any contract, mortgage, or  
14 lien;
- 15 (f) the name of the manufacturer;
- 16 (g) the model number or name;
- 17 (h) the identification number; and
- 18 (i) the name and address of the dealer or other person  
19 from whom the off-highway vehicle was acquired.

20 (3) The application must be signed by at least one  
21 owner or by a properly authorized agent of the owner.

22 (4) The application for a new certificate of ownership  
23 must be accompanied by the immediately previous certificate.  
24 This subsection does not apply to off-highway vehicles that  
25 are purchased as new and unused machines or that were

1 operated before January 1, 1990.

2 (5) (a) After the owner completes the application form,  
3 the county treasurer shall issue to the applicant two copies  
4 of the completed application, with one marked "file copy",  
5 and shall forward one copy and the original application to  
6 the department of justice. The department of justice shall  
7 enter the information contained in the application upon the  
8 corresponding records of its office and shall send the  
9 applicant a certificate of ownership containing a permanent  
10 ownership number and information from the application  
11 considered necessary by the department of justice.

12 (b) The certificate of ownership is not required to be  
13 renewed annually and is valid as long as the person holding  
14 it owns the off-highway vehicle.

15 (6) The owner shall at all times retain possession of  
16 the certificate of ownership, except when it is being  
17 transmitted to and from the department of justice for  
18 endorsement or cancellation.

19 (7) Upon application for a certificate of ownership, a  
20 fee of \$5 must be paid to the county treasurer, of which:

21 (a) \$3.50 must be forwarded to the department of  
22 justice for deposit in the general fund; and

23 (b) \$1.50 must be retained by the county treasurer for  
24 the cost of administering this section.

25 (8) ~~A security interest in an off-highway vehicle is~~

1 ~~not valid against creditors, subsequent purchasers, or~~  
2 ~~encumbrancers, unless a lien notice, showing that a security~~  
3 ~~interest has been created, has been perfected as provided in~~  
4 ~~this section on a form approved by the department of~~  
5 ~~justice.~~ The department of justice may not file a voluntary  
6 security interest or other lien unless it is accompanied by  
7 or specified in the application for a certificate of  
8 ownership of the encumbered off-highway vehicle. If the  
9 approved lien notice is transmitted to the department of  
10 justice, the security agreement or other lien instrument  
11 that creates the security interest must be retained by the  
12 secured party. A copy of the security agreement is  
13 sufficient as a lien notice if it contains the name and  
14 address of the debtor and the secured party, a complete  
15 description of the off-highway vehicle, the amount of the  
16 lien, and the signature of the debtor. The department of  
17 justice shall file the voluntary security interest or lien  
18 interests and liens by entering the name and address of the  
19 secured party upon the face of the certificate of ownership.  
20 Involuntary liens must be filed against the record of the  
21 off-highway vehicle encumbered. The department of justice  
22 shall mail a statement certifying the filing of a security  
23 interest or lien to the secured party. The department of  
24 justice shall mail the certificate of ownership to the owner  
25 at the address given on the certificate. However, if the

transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county where the vehicle is to be registered. The owner of an off-highway vehicle is the person entitled to operate and possess the vehicle.

(9) A security interest in an off-highway vehicle held as inventory by a dealer must be perfected in accordance with Title 30, chapter 97--and--no--endorsement--on--the certificate-of-title-is-necessary-for-perfection.

(10) Whenever a security interest or lien is filed against an off-highway vehicle that is subject to two or more security interests previously perfected under this section, the department of justice shall endorse on the face of the certificate of ownership: "Notice. This off-highway vehicle is subject to additional security interests on file with the Department of Justice." Other information regarding the additional security interests need not be endorsed on the certificate.

(11) Satisfaction or statements of release filed with the department of justice under this section must be retained for a period of 8 years from the date of receipt, after which they may be destroyed.

(12) A Except as provided in subsection (13), a voluntary security interest or other lien is perfected as

~~provided-in-this-section~~ on the date the lien notice is delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(13) Voluntary security interests or lien filings that do not require transfer of ownership are perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department of justice. On that date, the department shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date the lien notice is delivered to the department, of the existence of the security interest.

~~(13)~~ (14) Upon default under a chattel mortgage or conditional sales contract covering an off-highway vehicle, the mortgagee or vendor has the same remedies as in the case of other personal property. In the case of attachment of an off-highway vehicle, the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

1       ~~(14)~~(15) A conditional sales vendor, chattel mortgagee,  
2       or assignee who fails to file a satisfaction of a chattel  
3       mortgage, assignment, or conditional sale contract within 15  
4       days after receiving final payment shall pay to the  
5       department of justice the sum of \$1 for each day after the  
6       expiration of the 15-day period that he the person fails to  
7       file the satisfaction.

8       ~~(15)~~(16) Upon receipt of notice of any involuntary  
9       ~~liens,---notices---of---liens---dependent---on---possession,~~ or  
10       attachments against the record of an off-highway vehicle in  
11       this state, the department of justice shall within 24 hours  
12       mail to the owner, conditional sales vendor, mortgagee, or  
13       their assignee a notice of the lien, showing the date of  
14       execution of the lien and, in the case of attachment, the  
15       full title of the court, the action, and the name of the  
16       attorney for the plaintiff or the name of the attaching  
17       creditor, or both.

18       ~~(16)~~(17) It is not necessary to refile with the  
19       department of justice instruments on file in the offices of  
20       the county clerk and recorders at the time this law takes  
21       effect.

22       ~~(17)~~(18) A fee of \$4 must be paid to the department of  
23       justice to file a security interest or other lien against an  
24       off-highway vehicle. The \$4 fee includes and covers the cost  
25       of filing a satisfaction or release of the security interest

1       and also the cost of entering the satisfaction or release on  
2       the records of the department of justice and deleting the  
3       endorsement of the security interest from the face of the  
4       certificate of ownership. A fee of \$4 must be paid to the  
5       department of justice for issuing a certified copy of a  
6       certificate of ownership subject to a security interest or  
7       other lien on file in the office of the department of  
8       justice or for filing an assignment of a security interest  
9       or other lien on file with the department of justice. All  
10       fees provided for in this section must be paid to the county  
11       treasurer for deposit in the state general fund in  
12       accordance with 15-1-504."

13       **Section 4.** Section 23-2-812, MCA, is amended to read:

14       "23-2-812. **Transfer of interest.** (1) To transfer a  
15       certificate of ownership for an off-highway vehicle  
16       registered under 23-2-817, the person whose title or  
17       interest is to be transferred shall endorse the certificate  
18       of ownership in the appropriate space on the reverse side of  
19       the certificate and have his the signature acknowledged  
20       before a notary public.

21       (2) (a) Within 20 calendar days after the date of  
22       notarization, the transferee shall apply to the county  
23       treasurer of the county in which he the transferee resides  
24       for:

25       (i) transfer of the endorsed certificate of ownership;

(ii) registration of the off-highway vehicle; and

(iii) issuance of a decal as required by 23-2-804.

(b) The county treasurer shall forward the application and the original certificate of ownership to the department of justice, which shall file the application upon receipt.

(c) A certificate of ownership may not be issued by the department until the outstanding certificates are surrendered to that office or their loss is established.

(d) The county treasurer shall collect a fee of ~~\$4~~ \$5 for each application for transfer of ownership, of which:

(i) ~~\$3~~ \$3.50 must be forwarded to the department of justice for deposit in the general fund; and

(ii) ~~\$1~~ \$1.50 must be retained by the county treasurer for the cost of administering this section.

(3) To effect by operation of law a transfer of interest in an off-highway vehicle, the provisions of 61-3-201(3) are applicable.

(4) (a) A person who purchases a new or used off-highway vehicle from an off-highway vehicle dealer licensed under 23-2-818 shall, within 20 calendar days after the purchase date, apply to the county treasurer of the county in which ~~he~~ the person resides for:

(i) a certificate of ownership;

(ii) registration of the off-highway vehicle; and

(iii) a decal as required by 23-2-804.

(b) During this period the sticker provided for in subsection (6) must remain affixed to the off-highway vehicle.

(5) It is not a violation of this part for a purchaser to operate a newly acquired off-highway vehicle without a certificate of ownership, a certificate of registration, and a decal during the first 20 days of ownership.

(6) Prior to the delivery of the off-highway vehicle to the purchaser, the dealer shall issue and affix to the off-highway vehicle a sticker, in a form to be prescribed by the department of justice, containing the name and address of the purchaser, the date of sale, the name and address of the dealer, and a description of the off-highway vehicle, including its identification number. The dealer shall keep a copy of the sticker for ~~his~~ the dealer's records and shall send a copy of the sticker to the department of justice.

(7) The provisions of subsection (2) do not apply to the transfer of an off-highway vehicle to an off-highway vehicle dealer licensed under 23-2-818 who intends to resell the vehicle and who operates it only for demonstration purposes. Every dealer, upon a transfer of interest, shall deliver the certificate of ownership with an application for a new certificate executed by the new owner in accordance with the provisions of this part. The department of justice, upon receipt of the certificate of ownership and application

1 for a new certificate, together with the conditional sales  
2 contract or other lien, if any, shall issue a new  
3 certificate of ownership showing the name of the lienholder  
4 and the amount due under the contract, mortgage, or lien as  
5 required by 23-2-811(2)(d) and (2)(e)."

6 **Section 5.** Section 61-1-318, MCA, is amended to read:

7 "61-1-318. Broker. "Broker" means a person, ~~other than~~  
8 ~~a dealer as defined in 61-1-314,~~ engaged in the business of  
9 offering to procure or procuring motor vehicles or who holds  
10 ~~himself out~~ represents to the public through solicitation,  
11 advertisement, or otherwise as that the person is one who  
12 offers to procure or procures motor vehicles by negotiating  
13 purchases, contracts, sales, or exchanges, and who does not  
14 store, display, or take ownership of any vehicles for the  
15 purpose of selling vehicles."

16 **Section 6.** Section 61-1-501, MCA, is amended to read:

17 "61-1-501. Housetrailer Mobile home or housetrailer.  
18 "Housetrailer" "Mobile home" or "housetrailer" means a  
19 trailer or a semitrailer which that is designed,  
20 constructed, and equipped as a dwelling place, living abode,  
21 or sleeping place (either permanently or temporarily) and is  
22 equipped for use as a conveyance on streets and highways or  
23 a trailer or semitrailer whose chassis and exterior shell is  
24 designed and constructed for use as a housetrailer, ~~as~~  
25 ~~defined above,~~ but which that is used permanently or

1 temporarily for the advertising, sales, display, or  
2 promotion of merchandise or services or for any commercial  
3 purpose except the transportation of property for hire or  
4 the transportation of property for distribution by a private  
5 carrier."

6 **Section 7.** Section 61-3-103, MCA, is amended to read:

7 "61-3-103. Filing of security interests, perfection,  
8 rights, procedure, fees. (1) ~~No security interest in a motor~~  
9 ~~vehicle shall be valid as against creditors, subsequent~~  
10 ~~purchasers, or encumbrancers unless a lien notice on a form~~  
11 ~~approved by the department, that shows a security interest~~  
12 ~~has been created, has been perfected as provided in this~~  
13 ~~section.~~ The department shall may not file any voluntary  
14 security interest or other lien unless it is accompanied by  
15 or specified in the application for a certificate of  
16 ownership of the vehicle encumbered. If the approved notice  
17 form is transmitted to the department, the security  
18 agreement or other lien instrument that creates the security  
19 interest must be retained by the secured party. A copy of  
20 the security agreement is sufficient as a lien notice if it  
21 contains the name and address of the debtor and the secured  
22 party, the complete vehicle description, amount of lien, and  
23 is signed by the debtor. The department shall file the  
24 voluntary security interest or lien interests and liens by  
25 entering the name and address of the secured party upon the

1 face of the certificate of ownership. Involuntary liens must  
 2 be filed against the record of the vehicle encumbered. The  
 3 department shall mail a statement certifying to the filing  
 4 of a security interest or lien to the secured party. The  
 5 department shall mail the certificate of ownership to the  
 6 owner at the address given on the certificate; however, if  
 7 the transfer of ownership and filing of the security  
 8 interest are paid for by a creditor or secured party, the  
 9 department shall return the certificate of ownership to the  
 10 county treasurer where the vehicle is to be registered. The  
 11 owner of a motor vehicle is the person entitled to operate  
 12 and possess such the motor vehicle.

13 (2) A security interest in a motor vehicle held as  
 14 inventory by a dealer licensed under the provisions of  
 15 61-4-101, must be perfected in accordance with Title 30,  
 16 chapter 9, ~~and no endorsement on the certificate of title is~~  
 17 ~~necessary for perfection.~~

18 (3) Whenever a security interest or lien is filed  
 19 against a motor vehicle that is subject to two security  
 20 interests previously perfected under this section, the  
 21 department shall endorse on the face of the certificate of  
 22 ownership, "NOTICE. This motor vehicle is subject to  
 23 additional security interests on file with the Department of  
 24 Justice." No other information regarding such additional  
 25 security interests need be endorsed on the certificate.

1 (4) Satisfactions or statements of release filed with  
 2 the department under this chapter ~~shall~~ must be retained by  
 3 it for a period of 8 years after receipt, after which they  
 4 may be destroyed.

5 (5) A Except as provided in subsection (6), a voluntary  
 6 security interest or other lien ~~as provided in this~~  
 7 ~~section,~~ is perfected on the date the lien notice and the  
 8 certificate of ownership or manufacturer's statement of  
 9 origin are delivered to the county treasurer. On that date,  
 10 the county treasurer shall issue to the secured party a  
 11 receipt evidencing the perfection. Perfection under this  
 12 section constitutes constructive notice to subsequent  
 13 purchasers or encumbrancers, from the date of delivery of  
 14 the lien notice to the county treasurer, of the existence of  
 15 the security interest.

16 (6) Security Voluntary security interests or other lien  
 17 filings that do not require transfer of ownership are  
 18 perfected when ~~received by the department~~ on the date the  
 19 lien notice and the certificate of ownership or  
 20 manufacturer's statement of origin are received by the  
 21 department. On that date, the department shall issue to the  
 22 secured party a receipt evidencing the perfection.  
 23 Perfection under this subsection constitutes constructive  
 24 notice to subsequent purchasers or encumbrancers, from the  
 25 date the lien notice is delivered to the department, of the

1 existence of the security interest.

2 (7) Upon default under a chattel mortgage or  
3 conditional sales contract covering a motor vehicle, the  
4 mortgagee or vendor has the same remedies as in the case of  
5 other personal property. In case of attachment of motor  
6 vehicles all the provisions of 27-18-413, 27-18-414, and  
7 27-18-804 ~~shall~~ are be applicable except that deposits must  
8 be made with the department.

9 (8) A conditional sales vendor or chattel mortgagee or  
10 assignee who fails to file a satisfaction of a chattel  
11 mortgage, assignment, or conditional sales contract within  
12 15 days after receiving final payment ~~shall be~~ is required  
13 to pay the department the sum of \$1 for each day thereafter  
14 that he the person fails to file such satisfaction.

15 (9) Upon receipt of notice of any involuntary liens, ~~or~~  
16 ~~notice-of-liens-dependent-on-possession~~, or attachments,  
17 ~~etc.~~ against the record of any motor vehicle registered in  
18 this state, the department shall within 24 hours mail to the  
19 owner, conditional sale vendor, mortgagees, or assignees of  
20 any thereof a notice showing the name and address of the  
21 lien claimant, amount of the lien, date of execution of  
22 lien, and in the case of attachment the full title of the  
23 court and the action and the name of the attorneys for the  
24 plaintiff ~~and/or~~ and attaching creditor.

25 (10) It ~~shall~~ is not be necessary to refile with the

1 department any instruments on file in the offices of the  
2 county clerk and recorders at the time this law takes  
3 effect.

4 (11) A fee of \$4 must be paid to the department to file  
5 any security interest or other lien against a motor vehicle.  
6 The \$4 fee shall include and cover the cost of filing a  
7 satisfaction or release of the security interest and also  
8 the cost of entering such satisfaction or release on the  
9 records of the department and deleting the endorsement of  
10 the security interest from the face of the certificate of  
11 ownership. A fee of \$4 must be paid to the department for  
12 issuing a certified copy of a certificate of ownership  
13 subject to a security interest or other lien on file in the  
14 office of the department, or for filing an assignment of any  
15 security interest or other lien on file with the department.  
16 All fees provided for in this section must be paid to the  
17 county treasurer for deposit in the state general fund in  
18 accordance with 15-1-504."

19 **Section 8.** Section 61-3-208, MCA, is amended to read:

20 "61-3-208. Affidavit and bond for certificate. (1) If  
21 an applicant for a motor vehicle certificate of title cannot  
22 provide the department with a certificate of title  
23 transferred to the applicant, the department may issue a  
24 certificate of title for the vehicle if the applicant  
25 furnishes an affidavit in a form prescribed by the



1 department.

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

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

9 (b) information as required by the department to enable  
10 it to determine what security interests, liens, and  
11 encumbrances against the motor vehicle, if any, are  
12 outstanding against the motor vehicle;

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

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

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

23 (a) in an amount equal to the value of the motor  
24 vehicle as determined under the provisions of 61-3-503(1)(c)  
25 for the year in which the application for certificate of

1 title is made;

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

9 (c) issued by a surety company authorized to do  
10 business in the state.

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

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

18 (a) 3 years from the date of issuance of the  
19 certificate of title; or

20 (b) the date of surrender of the valid certificate of  
21 title to the department if the vehicle is no longer  
22 registered in this state."

23 **Section 9.** Section 61-4-101, MCA, is amended to read:

24 "61-4-101. Application for dealer's license or  
25 wholesaler's license. (1) (a) A verified application for

1 licensure as a dealer or wholesaler must be filed, by mail  
2 or otherwise, in the office of the department by each  
3 person, firm, corporation, or association that, for  
4 commission or profit, engages in:

5 (i) the business of buying, selling, exchanging, taking  
6 for consignment, or acting as a broker of new motor  
7 vehicles, recreational vehicles, used motor vehicles,  
8 trailers (except trailers having an unloaded weight of less  
9 than 500 pounds), semitrailers, mobile homes, or special  
10 mobile equipment as defined in 61-1-104 ~~for licensure as a~~  
11 ~~dealer~~; or

12 (ii) business as a wholesaler as defined in 61-1-319 in  
13 ~~order-to-be-licensed-as-a-wholesaler~~.

14 (b) A licensed real estate broker or agent lawfully  
15 buying, selling, exchanging, taking for consignment, or  
16 acting as a broker of mobile homes is exempt from licensure  
17 under this section.

18 ~~(b)(c)~~ The sale of more than three motor vehicles or  
19 the offering for sale of more than three motor vehicles, if  
20 the motor vehicles are not titled in the seller's name, in  
21 any 1 calendar year is prima facie evidence that a person is  
22 engaged in the business of dealing motor vehicles. Licensed  
23 wholesalers do not have the privilege of the use of dealer  
24 license plates as provided in subsection (2)(b) but are  
25 authorized to display and use demonstrator plates under the

1 provisions of 61-4-102(2)(a)(ii).

2 ~~(c)(d)~~ Each license application and all of the  
3 information contained in it must be verified by the  
4 department or an authorized representative of the department  
5 on a form to be furnished by the department for that purpose  
6 and must contain the information required. Each application  
7 must be accompanied by the license fee specified in  
8 61-4-102. A dealer's or wholesaler's license must be renewed  
9 and paid for annually, and an application for relicensure  
10 must be filed not later than January 1 of each year. If an  
11 application for renewal of a license has been received by  
12 the department prior to the expiration of the license, the  
13 licensee may operate ~~his~~ the business and display dealer or  
14 demonstrator plates under the expired license between  
15 January 1 and February 15 following expiration.

16 (2) To qualify for licensure and the issuance and use  
17 of "D", "UD", "RV", "DTR", or "MCD" plates as provided in  
18 this subsection, the applicant must furnish the following  
19 information and qualify under the following provisions:

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

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

1 (ii) state the name and address of all owners or persons  
2 having an interest in the business, provided that in the  
3 case of a corporation, the names and addresses of the  
4 president and secretary are sufficient;

5 (iii) state the name and make of all motor vehicles  
6 handled and the name and address of the manufacturer,  
7 importer, or distributor with whom the applicant has a  
8 written new motor vehicle franchise or sales agreement;

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

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

16 (vi) execute a certificate to the effect that the  
17 applicant is a bona fide dealer in new motor vehicles and  
18 that he the dealer is recognized by a manufacturer,  
19 importer, or distributor as a dealer in new motor vehicles.

20 (b) To qualify as a used motor vehicle dealer and for  
21 the use of "UD" plates; as a recreational vehicle dealer and  
22 for the use of "RV" plates; as a trailer, semitrailer, or  
23 special mobile equipment dealer and for the use of "DTR"  
24 plates; as a motorcycle or quadricycle dealer and for the  
25 use of "MCD" plates; or as a wholesaler and for the use of

1 demonstrator plates, the applicant shall, in addition to the  
2 matters set forth in subsections (i) and (ii) of subsection  
3 (2)(a) above, provide:

4 (i) a statement that the:

5 (A) applicant has an established place of business that  
6 includes a lot or lots upon which motor vehicles may be  
7 displayed and a permanent nonresidential building on or  
8 contiguous to the lot or lots where records are kept and  
9 sales are made; or

10 (B) wholesaler applicant has an established place of  
11 business that includes a permanent nonresidential building  
12 or office where records are kept in order that those records  
13 may be inspected;

14 (ii) a certificate to the effect that the applicant is a  
15 bona fide dealer or wholesaler in used motor vehicles,  
16 recreational vehicles, trailers, semitrailers, special  
17 mobile equipment, motorcycles, or quadricycles. An applicant  
18 for a recreational vehicle dealer license shall also  
19 indicate on the same certificate that he the person is  
20 recognized by a manufacturer, importer, or distributor as a  
21 dealer in recreational vehicles.

22 (c) If two or more vehicle dealer or wholesaler  
23 businesses share a location, all records, office facilities,  
24 and inventory, if applicable, must be physically segregated  
25 and clearly identified. Each applicant's established place

1 of business shall display a sign that indicates the firm  
2 name and that vehicles are offered for sale. The letters of  
3 the sign must be clearly visible and readable to the major  
4 avenue of traffic at a minimum distance of 150 feet.

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

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

14 (3) (a) The applicant for a dealer's or wholesaler's  
15 license shall also file with his application a bond of  
16 \$25,000 for a license as a new motor vehicle dealer, a used  
17 motor vehicle dealer, a recreational vehicle dealer, a  
18 trailer dealer, or a wholesaler. However, applicants for a  
19 license as a trailer dealer or a trailer wholesaler shall  
20 file the \$25,000 surety bond only if special mobile  
21 equipment, commercial trailers and semitrailers exceeding  
22 6,000 pounds maximum gross loaded weight, mobile homes, or  
23 house trailers are sold; otherwise, all other trailer  
24 dealer, motorcycle dealer, or wholesaler license applicants  
25 shall file a bond in the sum of \$10,000. All bonds must be

1 conditioned that the applicant shall conduct his the  
2 business in accordance with the requirements of the law. All  
3 bonds must run to the state of Montana, must be approved by  
4 the department and filed in its office, and must be renewed  
5 annually.

6 (b) A person who suffers loss or damage due to the  
7 unlawful conduct of a dealer or wholesaler licensed under  
8 this section shall obtain a judgment from a court of  
9 competent jurisdiction prior to collecting on the bond. The  
10 judgment must determine a specific loss or damage amount and  
11 conclude that the licensee's unlawful operation caused the  
12 loss or damage before payment on the bond is required."

13 NEW SECTION. **Section 10. Effective dates.** (1)  
14 [Sections 1 through 3, 5 through 9, and this section] are  
15 effective October 1, 1993.

16 (2) [Section 4] is effective January 1, 1994.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

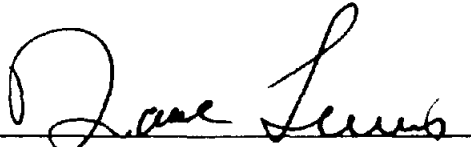
In compliance with a written request, there is hereby submitted a Fiscal Note for SB0373, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act generally revising the laws relating to motor vehicles.

ASSUMPTIONS:

1. Section 4 of the bill changes the fee for transfer of titles of off-highway vehicles from \$4 to \$5. Section 61-3-203, MCA, provides for a charge of \$5 for all titles, and that is the amount currently being charged for off-highway vehicles.

FISCAL IMPACT: None.

 2-17-93  
DAVID LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 2/18/93  
THOMAS BECK, PRIMARY SPONSOR      DATE

Fiscal Note for SB373, as introduced

SB 373

APPROVED BY COMMITTEE  
ON HIGHWAYS & TRANSPORTATION

1 *Sample* BILL NO. *313*  
2 INTRODUCED BY *Bush*  
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
6 LAWS RELATING TO MOTOR VEHICLES; CLARIFYING THE PROCESS FOR  
7 THE FILING OF COLLATERAL LIENS; INCREASING TITLE TRANSFER  
8 FEES FOR OFF-HIGHWAY VEHICLES; REVISING THE DEFINITION OF  
9 MOTOR VEHICLE BROKERS; CLARIFYING THE PROCESS OF LICENSING  
10 MOBILE HOME DEALERS; CLARIFYING SURETY LANGUAGE IN REGARD TO  
11 BONDED TITLES; AMENDING SECTIONS 23-2-508, 23-2-611,  
12 23-2-811, 23-2-812, 61-1-318, 61-1-501, 61-3-103, 61-3-208,  
13 AND 61-4-101, MCA; AND PROVIDING EFFECTIVE DATES."  
14

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

16 **Section 1.** Section 23-2-508, MCA, is amended to read:

17 "23-2-508. Certificate of ownership -- filing of  
18 security interests. (1) Except as provided in subsection  
19 (9), a motorboat or sailboat 12 feet in length or longer may  
20 not be operated upon the waters of the state unless a  
21 certificate of ownership has first been obtained from the  
22 department of justice in accordance with the laws of this  
23 state.

24 (2) The owner of a motorboat or sailboat 12 feet in  
25 length or longer shall apply for a certificate of ownership

1 and a certificate of number with the county treasurer of the  
2 county in which the owner resides, upon forms furnished by  
3 the department of justice. The forms must require the  
4 following information:

- 5 (a) name of the owner;  
6 (b) residence of the owner, by town or county;  
7 (c) business or home address of the owner;  
8 (d) name and address of any lienholder;  
9 (e) amount due under any contract or lien;  
10 (f) name of the manufacturer;  
11 (g) model number or name;  
12 (h) identification number;  
13 (i) name and address of the dealer or other person from  
14 whom acquired, if known; and  
15 (j) other information as the department of justice may  
16 require.

17 (3) The application is to be accompanied by  
18 documentation of ownership, such as an invoice, a bill of  
19 sale, a foreign title, an official certificate of boat  
20 number, a fee in lieu of tax receipt, or a certificate of  
21 ownership of a trailer purchased with the motorboat or  
22 sailboat. An applicant who fails to provide proof of  
23 ownership shall provide a certified statement describing how  
24 the motorboat or sailboat 12 feet in length or longer was  
25 acquired, from whom acquired, if known, and other

information requested by the department of justice.

(4) If a certificate of ownership has previously been issued under the provisions of this part, the application for a new certificate must be accompanied by the immediately previous certificate. This subsection does not apply to motorboats or sailboats 12 feet in length or longer that are purchased as new and unused vessels or that were operated when the provisions of this part were not in force and effect.

(5) A motorboat or sailboat 12 feet in length or longer that does not have a manufacturer's or other identifying number on the motorboat or sailboat must be assigned an identification number by the department of fish, wildlife, and parks. A fee of \$1 must be paid to the department for an assignment of number.

(6) Upon completion of the application, the county treasurer shall issue to the applicant two copies of the certificate of number application, one of which must be marked "file copy". The treasurer shall forward one copy and the original application for a certificate of ownership to the department of justice, which shall enter the information contained in the application upon the corresponding records of its office and shall furnish the applicant a certificate of ownership containing that information in the application considered necessary by the department and a permanent boat

number. The certificate of ownership need not be renewed annually and is valid as long as the person holding it owns the vessel.

(7) The owner shall at all times retain possession of the certificate of ownership, except when it is being transmitted to and from the department of justice for endorsement or cancellation.

(8) Upon application for a certificate of ownership, a fee of \$5 must be paid to the county treasurer, \$3.50 of which must be forwarded by the county treasurer to the department of justice and deposited in the general fund.

(9) A person who, on July 1, 1988, is the owner of a motorboat or sailboat 12 feet in length or longer with a valid certificate of number issued by the state is not required to file an application for a certificate of ownership for the motorboat or sailboat unless he the person transfers a part of his the person's interest in the motorboat or sailboat or he renews the certificate of number for the motorboat or sailboat.

(10) ~~A--security--interest--in--a--boat--is--not--valid--as--against--creditors,--subsequent--purchasers,--or--encumbrancers--unless--a--lien--notice,--showing--that--a--security--interest--has--been--created,--has--been--perfected--as--provided--in--this--section--The--lien--notice--must--be--filed--on--a--form--approved--by--the--department--of--justice.~~ The department of justice may not

1 file a voluntary security interest or other lien unless it  
 2 is accompanied by or specified in the application for a  
 3 certificate of ownership of the boat encumbered. If the  
 4 approved lien notice is transmitted to the department of  
 5 justice, the security agreement or other lien instrument  
 6 that creates the security interest must be retained by the  
 7 secured party. A copy of the security agreement is  
 8 sufficient as a lien notice if it contains the name and  
 9 address of the debtor and the secured party, the complete  
 10 boat description, the amount of the lien, and the signature  
 11 of the debtor. The department of justice shall file the  
 12 voluntary security interest-or-lien interests and liens by  
 13 entering the name and address of the secured party upon the  
 14 face of the certificate of ownership. Involuntary liens must  
 15 be filed against the record of the boat encumbered. The  
 16 department of justice shall mail a statement certifying the  
 17 filing of a security interest or lien to the secured party.  
 18 The department of justice shall mail the certificate of  
 19 ownership to the owner at the address given on the  
 20 certificate; however, if the transfer of ownership and  
 21 filing of the security interest are paid for by a creditor  
 22 or secured party, the department of justice shall return the  
 23 certificate of ownership to the county treasurer of the  
 24 county in which the boat is to be registered. The owner of a  
 25 boat is the person entitled to operate and possess the boat.

1 (11) A security interest in a boat held as inventory by  
 2 a dealer must be perfected in accordance with Title 30,  
 3 chapter 9~~y-and-no-endorsement-on-the-certificate-of-title-is~~  
 4 ~~necessary-for-perfection.~~

5 (12) Whenever a security interest or lien is filed  
 6 against a boat that is subject to two security interests  
 7 previously perfected under this section, the department of  
 8 justice shall endorse on the face of the certificate of  
 9 ownership: "NOTICE. This boat is subject to additional  
 10 security interest on file with the Department of Justice."  
 11 No other information regarding the additional security  
 12 interests need be endorsed on the certificate.

13 (13) Satisfactions or statements of release filed with  
 14 the department of justice under this part must be retained  
 15 for a period of 8 years after receipt, after which they may  
 16 be destroyed.

17 (14) A Except as provided in subsection (15), a  
 18 voluntary security interest or other lien ~~as-provided-in~~  
 19 ~~this-section~~ is perfected on the date the lien notice is  
 20 delivered to the county treasurer. On that date, the county  
 21 treasurer shall issue to the secured party a receipt  
 22 evidencing the perfection. Perfection under this section  
 23 constitutes constructive notice to subsequent purchasers or  
 24 encumbrancers, from the date of delivery of the lien notice  
 25 to the county treasurer, of the existence of the security



1 interest.

2 (15) Voluntary security interests or lien filings that  
 3 do not require transfer of ownership are perfected on the  
 4 date the lien notice and the certificate of ownership or  
 5 manufacturer's statement of origin are received by the  
 6 department of justice. On that date, the department of  
 7 justice shall issue to the secured party a receipt  
 8 evidencing the perfection. Perfection under this subsection  
 9 constitutes constructive notice to subsequent purchasers or  
 10 encumbrancers, from the date the lien notice is delivered to  
 11 the department of justice, of the existence of the security  
 12 interest.

13 (15)(16) Upon default under a chattel mortgage or  
 14 conditional sales contract covering a boat, the mortgagee or  
 15 vendor has the same remedies as in the case of other  
 16 personal property. In case of attachment of a boat all the  
 17 provisions of 27-18-413, 27-18-414, and 27-18-804 are  
 18 applicable, except that deposits must be made with the  
 19 department of justice.

20 (16)(17) A conditional sales vendor or chattel mortgagee  
 21 or assignee who fails to file a satisfaction of a chattel  
 22 mortgage, assignment, or conditional sales contract within  
 23 15 days after receiving final payment is required to pay the  
 24 department of justice the sum of \$1 for each day that he the  
 25 person fails to file the satisfaction.

1 (17)(18) Upon receipt of notice of any involuntary  
 2 liens,--notice--of--liens--dependent---on---possession, or  
 3 attachments against the record of any boat registered in  
 4 this state, the department of justice shall within 24 hours  
 5 mail to the owner, conditional sales vendor, mortgagee, or  
 6 their assignee a notice showing the name and address of the  
 7 lien claimant, the amount of the lien, the date of execution  
 8 of the lien, and, in the case of attachment, the full title  
 9 of the court, the action, and the name of the attorney for  
 10 the plaintiff or the name of the attaching creditor, or  
 11 both.

12 (18)(19) It is not necessary to refile with the  
 13 department of justice any instruments on file in the office  
 14 of the county clerk and recorder on October 1, 1989.

15 (19)(20) A fee of \$4 must be paid to the department of  
 16 justice to file any security interest or other lien against  
 17 a boat. The \$4 fee must cover the cost of filing a  
 18 satisfaction or release of the security interest and the  
 19 cost of entering the satisfaction or release on the records  
 20 of the department of justice and deleting the endorsement of  
 21 the security interest from the face of the certificate of  
 22 ownership. A fee of \$4 must be paid to the department of  
 23 justice for issuing a certified copy of a certificate of  
 24 ownership subject to a security interest or other lien on  
 25 file with the department of justice or for filing an

1 assignment of any security interest or other lien on file  
2 with the department of justice. All fees provided for in  
3 this section must be paid to the county treasurer for  
4 deposit in the general fund in accordance with 15-1-504."

5 **Section 2.** Section 23-2-611, MCA, is amended to read:

6 "23-2-611. Certificate of ownership -- filing of  
7 security interests. (1) A snowmobile may not be operated  
8 upon any public lands, trails, easements, lakes, rivers,  
9 streams, roadways or shoulders of roadways, streets, or  
10 highways unless a certificate of ownership has first been  
11 obtained from the department of justice in accordance with  
12 the laws of this state.

13 (2) The owner of a snowmobile shall apply for a  
14 certificate of ownership with the county treasurer of the  
15 county in which the owner resides, upon forms to be  
16 furnished for this purpose. The forms must require the  
17 following information:

- 18 (a) name of the owner;
- 19 (b) residence of the owner, by town and county;
- 20 (c) business or home mail address of the owner;
- 21 (d) name and address of any lienholder;
- 22 (e) amount due under any contract or lien;
- 23 (f) name of the manufacturer;
- 24 (g) model number or name;
- 25 (h) identification number; and

1 (i) name and address of the dealer or other person from  
2 whom acquired.

3 (3) The application must be signed by at least one  
4 owner or by a properly authorized officer or representative  
5 of the owner.

6 (4) If a certificate of ownership has previously been  
7 issued under the provisions of 23-2-601 through 23-2-644,  
8 the application for a new certificate must be accompanied by  
9 the immediately previous certificate. This subsection does  
10 not apply to snowmobiles that are purchased as new and  
11 unused machines or that were operated when the provisions of  
12 23-2-601 through 23-2-644 were not in force and effect.

13 (5) Upon completion of the application, on forms  
14 furnished by the department of justice, the county treasurer  
15 shall issue to the applicant two copies of the application,  
16 one of which must be marked "file copy". The treasurer shall  
17 forward one copy and the original application to the  
18 department of justice, which shall enter the information  
19 contained in the application upon the corresponding records  
20 of its office and shall furnish the applicant a certificate  
21 of ownership, which must contain that information in the  
22 application considered necessary by the department of  
23 justice, and a permanent ownership number. The certificate  
24 of ownership is not to be renewed annually and is valid as  
25 long as the person holding it owns the snowmobile.

(6) The owner shall at all times retain possession of the certificate of ownership, except when it is being transmitted to and from the department of justice for endorsement or cancellation.

(7) Upon application for a certificate of ownership, a fee of \$5 must be paid to the county treasurer, \$3.50 of which must be forwarded by the county treasurer to the department of justice and deposited in the general fund.

(8) ~~A security interest in a snowmobile is not valid as against creditors, subsequent purchasers, or encumbrancers unless a lien notice showing that a security interest has been created, has been perfected as provided in this section. The lien notice must be filed on a form approved by the department of justice.~~ The department of justice may not file a voluntary security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the snowmobile encumbered. If the approved lien notice is transmitted to the department of justice, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete snowmobile description, the amount of the lien, and the signature of the debtor. The department of justice shall

file the voluntary security interest or lien interests and liens by entering the name and address of the secured party upon the face of the certificate of ownership. Involuntary liens must be filed against the record of the snowmobile encumbered. The department of justice shall mail a statement certifying the filing of a security interest or lien to the secured party. The department of justice shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county in which the snowmobile is to be registered. The owner of a snowmobile is the person entitled to operate and possess the snowmobile.

(9) A security interest in a snowmobile held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9, ~~and no endorsement on the certificate of title is necessary for perfection.~~

(10) Whenever a security interest or lien is filed against a snowmobile that is subject to two security interests previously perfected under this section, the department of justice shall endorse on the face of the certificate of ownership: "NOTICE. This snowmobile is subject to additional security interest on file with the

Department of Justice". No other information regarding the additional security interests need be endorsed on the certificate.

(11) Satisfaction or statements of release filed with the department of justice under this part must be retained for a period of 8 years after receipt, after which they may be destroyed.

(12) A Except as provided in subsection (13), a voluntary security interest or other lien as provided in this section is perfected on the date the lien notice is delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(13) Voluntary security interests or lien filings that do not require transfer of ownership are perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department of justice. On that date, the department of justice shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or

encumbrancers, from the date the lien notice is delivered to the department of justice, of the existence of the security interest.

~~(13)~~(14) Upon default under a chattel mortgage or conditional sales contract covering a snowmobile, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of a snowmobile, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

~~(14)~~(15) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department of justice the sum of \$1 for each day that he the person fails to file the satisfaction.

~~(15)~~(16) Upon receipt of notice of any involuntary liens,---notice---of---liens---dependent---on---possession, or attachments against the record of any snowmobile registered in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court, the action, and the

1 name of the attorney for the plaintiff or the name of the  
2 attaching creditor, or both.

3 {16}(17) It is not necessary to refile with the  
4 department of justice any instruments on file in the office  
5 of the county clerk and recorder on October 1, 1989.

6 {17}(18) A fee of \$4 must be paid to the department of  
7 justice to file any security interest or other lien against  
8 a snowmobile. The \$4 fee must cover the cost of filing a  
9 satisfaction or release of the security interest and the  
10 cost of entering the satisfaction or release on the records  
11 of the department of justice and deleting the endorsement of  
12 the security interest from the face of the certificate of  
13 ownership. A fee of \$4 must be paid to the department of  
14 justice for issuing a certified copy of a certificate of  
15 ownership subject to a security interest or other lien on  
16 file with the department of justice or for filing an  
17 assignment of a security interest or other lien on file with  
18 the department of justice. All fees provided for in this  
19 section must be paid to the county treasurer for deposit in  
20 the general fund in accordance with 15-1-504."

21 **Section 3.** Section 23-2-811, MCA, is amended to read:

22 "23-2-811. Certificate of ownership -- procedure -- fee  
23 -- filing security interest. (1) No An off-highway vehicle  
24 may not be operated upon any public lands, trails,  
25 easements, lakes, rivers, or streams unless a certificate of

1 ownership has first been obtained from the department of  
2 justice.

3 (2) The owner of an off-highway vehicle shall apply for  
4 a certificate of ownership to the county treasurer of the  
5 county in which the owner resides, on a form furnished by  
6 the department of justice for that purpose. The form must  
7 include:

- 8 (a) the name of the owner;
- 9 (b) the residence of the owner, by town and county;
- 10 (c) the business address or home mailing address of the  
11 owner;
- 12 (d) the name and address of any lienholder;
- 13 (e) the amount due under any contract, mortgage, or  
14 lien;
- 15 (f) the name of the manufacturer;
- 16 (g) the model number or name;
- 17 (h) the identification number; and
- 18 (i) the name and address of the dealer or other person  
19 from whom the off-highway vehicle was acquired.

20 (3) The application must be signed by at least one  
21 owner or by a properly authorized agent of the owner.

22 (4) The application for a new certificate of ownership  
23 must be accompanied by the immediately previous certificate.  
24 This subsection does not apply to off-highway vehicles that  
25 are purchased as new and unused machines or that were

1 operated before January 1, 1990.

2 (5) (a) After the owner completes the application form,  
3 the county treasurer shall issue to the applicant two copies  
4 of the completed application, with one marked "file copy",  
5 and shall forward one copy and the original application to  
6 the department of justice. The department of justice shall  
7 enter the information contained in the application upon the  
8 corresponding records of its office and shall send the  
9 applicant a certificate of ownership containing a permanent  
10 ownership number and information from the application  
11 considered necessary by the department of justice.

12 (b) The certificate of ownership is not required to be  
13 renewed annually and is valid as long as the person holding  
14 it owns the off-highway vehicle.

15 (6) The owner shall at all times retain possession of  
16 the certificate of ownership, except when it is being  
17 transmitted to and from the department of justice for  
18 endorsement or cancellation.

19 (7) Upon application for a certificate of ownership, a  
20 fee of \$5 must be paid to the county treasurer, of which:

21 (a) \$3.50 must be forwarded to the department of  
22 justice for deposit in the general fund; and

23 (b) \$1.50 must be retained by the county treasurer for  
24 the cost of administering this section.

25 (8) ~~A security interest in an off-highway vehicle is~~

1 ~~not valid against creditors, subsequent purchasers, or~~  
2 ~~encumbrancers, unless a lien notice, showing that a security~~  
3 ~~interest has been created, has been perfected as provided in~~  
4 ~~this section on a form approved by the department of~~  
5 ~~justice. The department of justice may not file a voluntary~~  
6 ~~security interest or other lien unless it is accompanied by~~  
7 ~~or specified in the application for a certificate of~~  
8 ~~ownership of the encumbered off-highway vehicle. If the~~  
9 ~~approved lien notice is transmitted to the department of~~  
10 ~~justice, the security agreement or other lien instrument~~  
11 ~~that creates the security interest must be retained by the~~  
12 ~~secured party. A copy of the security agreement is~~  
13 ~~sufficient as a lien notice if it contains the name and~~  
14 ~~address of the debtor and the secured party, a complete~~  
15 ~~description of the off-highway vehicle, the amount of the~~  
16 ~~lien, and the signature of the debtor. The department of~~  
17 ~~justice shall file the voluntary security interest--or--lien~~  
18 ~~interests and liens by entering the name and address of the~~  
19 ~~secured party upon the face of the certificate of ownership.~~  
20 ~~Involuntary liens must be filed against the record of the~~  
21 ~~off-highway vehicle encumbered. The department of justice~~  
22 ~~shall mail a statement certifying the filing of a security~~  
23 ~~interest or lien to the secured party. The department of~~  
24 ~~justice shall mail the certificate of ownership to the owner~~  
25 ~~at the address given on the certificate. However, if the~~

transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county where the vehicle is to be registered. The owner of an off-highway vehicle is the person entitled to operate and possess the vehicle.

(9) A security interest in an off-highway vehicle held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9, ~~and no endorsement on the certificate of title is necessary for perfection.~~

(10) Whenever a security interest or lien is filed against an off-highway vehicle that is subject to two or more security interests previously perfected under this section, the department of justice shall endorse on the face of the certificate of ownership: "Notice. This off-highway vehicle is subject to additional security interests on file with the Department of Justice." Other information regarding the additional security interests need not be endorsed on the certificate.

(11) Satisfaction or statements of release filed with the department of justice under this section must be retained for a period of 8 years from the date of receipt, after which they may be destroyed.

(12) A Except as provided in subsection (13), a voluntary security interest or other lien is perfected as

~~provided in this section~~ on the date the lien notice is delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(13) Voluntary security interests or lien filings that do not require transfer of ownership are perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department of justice. On that date, the department shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date the lien notice is delivered to the department, of the existence of the security interest.

~~(13)~~ (14) Upon default under a chattel mortgage or conditional sales contract covering an off-highway vehicle, the mortgagee or vendor has the same remedies as in the case of other personal property. In the case of attachment of an off-highway vehicle, the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

{14}(15) A conditional sales vendor, chattel mortgagee, or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sale contract within 15 days after receiving final payment shall pay to the department of justice the sum of \$1 for each day after the expiration of the 15-day period that he the person fails to file the satisfaction.

{15}(16) Upon receipt of notice of any involuntary liens,---notices---of---liens---dependent---on---possession, or attachments against the record of an off-highway vehicle in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice of the lien, showing the date of execution of the lien and, in the case of attachment, the full title of the court, the action, and the name of the attorney for the plaintiff or the name of the attaching creditor, or both.

{16}(17) It is not necessary to refile with the department of justice instruments on file in the offices of the county clerk and recorders at the time this law takes effect.

{17}(18) A fee of \$4 must be paid to the department of justice to file a security interest or other lien against an off-highway vehicle. The \$4 fee includes and covers the cost of filing a satisfaction or release of the security interest

and also the cost of entering the satisfaction or release on the records of the department of justice and deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of \$4 must be paid to the department of justice for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file in the office of the department of justice or for filing an assignment of a security interest or other lien on file with the department of justice. All fees provided for in this section must be paid to the county treasurer for deposit in the state general fund in accordance with 15-1-504."

**Section 4.** Section 23-2-812, MCA, is amended to read:

"23-2-812. Transfer of interest. (1) To transfer a certificate of ownership for an off-highway vehicle registered under 23-2-817, the person whose title or interest is to be transferred shall endorse the certificate of ownership in the appropriate space on the reverse side of the certificate and have his the signature acknowledged before a notary public.

(2) (a) Within 20 calendar days after the date of notarization, the transferee shall apply to the county treasurer of the county in which he the transferee resides for:

(i) transfer of the endorsed certificate of ownership;



1 (ii) registration of the off-highway vehicle; and  
 2 (iii) issuance of a decal as required by 23-2-804.  
 3 (b) The county treasurer shall forward the application  
 4 and the original certificate of ownership to the department  
 5 of justice, which shall file the application upon receipt.  
 6 (c) A certificate of ownership may not be issued by the  
 7 department until the outstanding certificates are  
 8 surrendered to that office or their loss is established.  
 9 (d) The county treasurer shall collect a fee of \$4 \$5  
 10 for each application for transfer of ownership, of which:  
 11 (i) \$3 \$3.50 must be forwarded to the department of  
 12 justice for deposit in the general fund; and  
 13 (ii) \$1 \$1.50 must be retained by the county treasurer  
 14 for the cost of administering this section.  
 15 (3) To effect by operation of law a transfer of  
 16 interest in an off-highway vehicle, the provisions of  
 17 61-3-201(3) are applicable.  
 18 (4) (a) A person who purchases a new or used  
 19 off-highway vehicle from an off-highway vehicle dealer  
 20 licensed under 23-2-818 shall, within 20 calendar days after  
 21 the purchase date, apply to the county treasurer of the  
 22 county in which he the person resides for:  
 23 (i) a certificate of ownership;  
 24 (ii) registration of the off-highway vehicle; and  
 25 (iii) a decal as required by 23-2-804.

1 (b) During this period the sticker provided for in  
 2 subsection (6) must remain affixed to the off-highway  
 3 vehicle.  
 4 (5) It is not a violation of this part for a purchaser  
 5 to operate a newly acquired off-highway vehicle without a  
 6 certificate of ownership, a certificate of registration, and  
 7 a decal during the first 20 days of ownership.  
 8 (6) Prior to the delivery of the off-highway vehicle to  
 9 the purchaser, the dealer shall issue and affix to the  
 10 off-highway vehicle a sticker, in a form to be prescribed by  
 11 the department of justice, containing the name and address  
 12 of the purchaser, the date of sale, the name and address of  
 13 the dealer, and a description of the off-highway vehicle,  
 14 including its identification number. The dealer shall keep a  
 15 copy of the sticker for his the dealer's records and shall  
 16 send a copy of the sticker to the department of justice.  
 17 (7) The provisions of subsection (2) do not apply to  
 18 the transfer of an off-highway vehicle to an off-highway  
 19 vehicle dealer licensed under 23-2-818 who intends to resell  
 20 the vehicle and who operates it only for demonstration  
 21 purposes. Every dealer, upon a transfer of interest, shall  
 22 deliver the certificate of ownership with an application for  
 23 a new certificate executed by the new owner in accordance  
 24 with the provisions of this part. The department of justice,  
 25 upon receipt of the certificate of ownership and application

for a new certificate, together with the conditional sales contract or other lien, if any, shall issue a new certificate of ownership showing the name of the lienholder and the amount due under the contract, mortgage, or lien as required by 23-2-811(2)(d) and (2)(e)."

**Section 5.** Section 61-1-318, MCA, is amended to read:

"61-1-318. Broker. "Broker" means a person, other than a dealer as defined in 61-1-314, engaged in the business of offering to procure or procuring motor vehicles or who holds himself out represents to the public through solicitation, advertisement, or otherwise as that the person is one who offers to procure or procures motor vehicles by negotiating purchases, contracts, sales, or exchanges, and who does not store, display, or take ownership of any vehicles for the purpose of selling vehicles."

**Section 6.** Section 61-1-501, MCA, is amended to read:

"61-1-501. ~~Housetrailler~~ Mobile home or housetrailer. "Housetrailler" "Mobile home" or "housetrailer" means a trailer or a semitrailer which that is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place (either permanently or temporarily) and is equipped for use as a conveyance on streets and highways or a trailer or semitrailer whose chassis and exterior shell is designed and constructed for use as a housetrailer, ~~as defined above,~~ but which that is used permanently or

temporarily for the advertising, sales, display, or promotion of merchandise or services or for any commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier."

**Section 7.** Section 61-3-103, MCA, is amended to read:

"61-3-103. Filing of security interests, perfection, rights, procedure, fees. (1) ~~No security interest in a motor vehicle shall be valid as against creditors, subsequent purchasers, or encumbrancers unless a lien notice on a form approved by the department that shows a security interest has been created, has been perfected as provided in this section.~~ The department shall may not file any voluntary security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the vehicle encumbered. If the approved notice form is transmitted to the department, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete vehicle description, amount of lien, and is signed by the debtor. The department shall file the voluntary security interest ~~or lien interests and liens~~ by entering the name and address of the secured party upon the

face of the certificate of ownership. Involuntary liens must be filed against the record of the vehicle encumbered. The department shall mail a statement certifying to the filing of a security interest or lien to the secured party. The department shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department shall return the certificate of ownership to the county treasurer where the vehicle is to be registered. The owner of a motor vehicle is the person entitled to operate and possess such the motor vehicle.

(2) A security interest in a motor vehicle held as inventory by a dealer licensed under the provisions of 61-4-101, must be perfected in accordance with Title 30, chapter 9, ~~and no endorsement on the certificate of title is necessary for perfection.~~

(3) Whenever a security interest or lien is filed against a motor vehicle that is subject to two security interests previously perfected under this section, the department shall endorse on the face of the certificate of ownership, "NOTICE. This motor vehicle is subject to additional security interests on file with the Department of Justice." No other information regarding such additional security interests need be endorsed on the certificate.

(4) Satisfactions or statements of release filed with the department under this chapter shall must be retained by it for a period of 8 years after receipt, after which they may be destroyed.

(5) A Except as provided in subsection (6), a voluntary security interest or other lien--as--provided--in--this section, is perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(6) Security Voluntary security interests or other lien filings that do not require transfer of ownership are perfected when--received--by--the--department on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department. On that date, the department shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date the lien notice is delivered to the department, of the

1 existence of the security interest.

2 (7) Upon default under a chattel mortgage or  
3 conditional sales contract covering a motor vehicle, the  
4 mortgagee or vendor has the same remedies as in the case of  
5 other personal property. In case of attachment of motor  
6 vehicles all the provisions of 27-18-413, 27-18-414, and  
7 27-18-804 ~~shall~~ are be applicable except that deposits must  
8 be made with the department.

9 (8) A conditional sales vendor or chattel mortgagee or  
10 assignee who fails to file a satisfaction of a chattel  
11 mortgage, assignment, or conditional sales contract within  
12 15 days after receiving final payment ~~shall-be~~ is required  
13 to pay the department the sum of \$1 for each day thereafter  
14 that he the person fails to file such satisfaction.

15 (9) Upon receipt of notice of any involuntary liens, or  
16 ~~notice-of-liens-dependent-on-possession~~, or attachments,  
17 ~~etc.~~ against the record of any motor vehicle registered in  
18 this state, the department shall within 24 hours mail to the  
19 owner, conditional sale vendor, mortgagees, or assignees of  
20 any thereof a notice showing the name and address of the  
21 lien claimant, amount of the lien, date of execution of  
22 lien, and in the case of attachment the full title of the  
23 court and the action and the name of the attorneys for the  
24 plaintiff and/or and attaching creditor.

25 (10) It ~~shall~~ is not be necessary to refile with the

1 department any instruments on file in the offices of the  
2 county clerk and recorders at the time this law takes  
3 effect.

4 (11) A fee of \$4 must be paid to the department to file  
5 any security interest or other lien against a motor vehicle.  
6 The \$4 fee shall include and cover the cost of filing a  
7 satisfaction or release of the security interest and also  
8 the cost of entering such satisfaction or release on the  
9 records of the department and deleting the endorsement of  
10 the security interest from the face of the certificate of  
11 ownership. A fee of \$4 must be paid to the department for  
12 issuing a certified copy of a certificate of ownership  
13 subject to a security interest or other lien on file in the  
14 office of the department, or for filing an assignment of any  
15 security interest or other lien on file with the department.  
16 All fees provided for in this section must be paid to the  
17 county treasurer for deposit in the state general fund in  
18 accordance with 15-1-504."

19 **Section 8.** Section 61-3-208, MCA, is amended to read:

20 "61-3-208. Affidavit and bond for certificate. (1) If  
21 an applicant for a motor vehicle certificate of title cannot  
22 provide the department with a certificate of title  
23 transferred to the applicant, the department may issue a  
24 certificate of title for the vehicle if the applicant  
25 furnishes an affidavit in a form prescribed by the

1 department.

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

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

9 (b) information as required by the department to enable  
10 it to determine what security interests, liens, and  
11 encumbrances against the motor vehicle, if any, are  
12 outstanding against the motor vehicle;

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

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

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

23 (a) in an amount equal to the value of the motor  
24 vehicle as determined under the provisions of 61-3-503(1)(c)  
25 for the year in which the application for certificate of

1 title is made;

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

9 (c) issued by a surety company authorized to do  
10 business in the state.

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

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

18 (a) 3 years from the date of issuance of the  
19 certificate of title; or

20 (b) the date of surrender of the valid certificate of  
21 title to the department if the vehicle is no longer  
22 registered in this state."

23 **Section 9.** Section 61-4-101, MCA, is amended to read:

24 "61-4-101. Application for dealer's license or  
25 wholesaler's license. (1) (a) A verified application for

1 licensure as a dealer or wholesaler must be filed, by mail  
2 or otherwise, in the office of the department by each  
3 person, firm, corporation, or association that, for  
4 commission or profit, engages in:

5 (i) the business of buying, selling, exchanging, taking  
6 for consignment, or acting as a broker of new motor  
7 vehicles, recreational vehicles, used motor vehicles,  
8 trailers (except trailers having an unloaded weight of less  
9 than 500 pounds), semitrailers, mobile homes, or special  
10 mobile equipment as defined in 61-1-104 ~~for licensure as a~~  
11 ~~dealer~~; or

12 (ii) business as a wholesaler as defined in 61-1-319 in  
13 ~~order-to-be-licensed-as-a-wholesaler~~.

14 (b) A licensed real estate broker or agent lawfully  
15 buying, selling, exchanging, taking for consignment, or  
16 acting as a broker of mobile homes is exempt from licensure  
17 under this section.

18 ~~(b)(c)~~ The sale of more than three motor vehicles or  
19 the offering for sale of more than three motor vehicles, if  
20 the motor vehicles are not titled in the seller's name, in  
21 any 1 calendar year is prima facie evidence that a person is  
22 engaged in the business of dealing motor vehicles. Licensed  
23 wholesalers do not have the privilege of the use of dealer  
24 license plates as provided in subsection (2)(b) but are  
25 authorized to display and use demonstrator plates under the

1 provisions of 61-4-102(2)(a)(ii).

2 ~~(c)(d)~~ Each license application and all of the  
3 information contained in it must be verified by the  
4 department or an authorized representative of the department  
5 on a form to be furnished by the department for that purpose  
6 and must contain the information required. Each application  
7 must be accompanied by the license fee specified in  
8 61-4-102. A dealer's or wholesaler's license must be renewed  
9 and paid for annually, and an application for relicensure  
10 must be filed not later than January 1 of each year. If an  
11 application for renewal of a license has been received by  
12 the department prior to the expiration of the license, the  
13 licensee may operate his the business and display dealer or  
14 demonstrator plates under the expired license between  
15 January 1 and February 15 following expiration.

16 (2) To qualify for licensure and the issuance and use  
17 of "D", "UD", "RV", "DTR", or "MCD" plates as provided in  
18 this subsection, the applicant must furnish the following  
19 information and qualify under the following provisions:

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

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

1 (ii) state the name and address of all owners or persons  
2 having an interest in the business, provided that in the  
3 case of a corporation, the names and addresses of the  
4 president and secretary are sufficient;

5 (iii) state the name and make of all motor vehicles  
6 handled and the name and address of the manufacturer,  
7 importer, or distributor with whom the applicant has a  
8 written new motor vehicle franchise or sales agreement;

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

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

16 (vi) execute a certificate to the effect that the  
17 applicant is a bona fide dealer in new motor vehicles and  
18 that he the dealer is recognized by a manufacturer,  
19 importer, or distributor as a dealer in new motor vehicles.

20 (b) To qualify as a used motor vehicle dealer and for  
21 the use of "UD" plates; as a recreational vehicle dealer and  
22 for the use of "RV" plates; as a trailer, semitrailer, or  
23 special mobile equipment dealer and for the use of "DTR"  
24 plates; as a motorcycle or quadricycle dealer and for the  
25 use of "MCD" plates; or as a wholesaler and for the use of

1 demonstrator plates, the applicant shall, in addition to the  
2 matters set forth in subsections (i) and (ii) of subsection  
3 (2)(a) above, provide:

4 (i) a statement that the:

5 (A) applicant has an established place of business that  
6 includes a lot or lots upon which motor vehicles may be  
7 displayed and a permanent nonresidential building on or  
8 contiguous to the lot or lots where records are kept and  
9 sales are made; or

10 (B) wholesaler applicant has an established place of  
11 business that includes a permanent nonresidential building  
12 or office where records are kept in order that those records  
13 may be inspected;

14 (ii) a certificate to the effect that the applicant is a  
15 bona fide dealer or wholesaler in used motor vehicles,  
16 recreational vehicles, trailers, semitrailers, special  
17 mobile equipment, motorcycles, or quadricycles. An applicant  
18 for a recreational vehicle dealer license shall also  
19 indicate on the same certificate that he the person is  
20 recognized by a manufacturer, importer, or distributor as a  
21 dealer in recreational vehicles.

22 (c) If two or more vehicle dealer or wholesaler  
23 businesses share a location, all records, office facilities,  
24 and inventory, if applicable, must be physically segregated  
25 and clearly identified. Each applicant's established place

1 of business shall display a sign that indicates the firm  
2 name and that vehicles are offered for sale. The letters of  
3 the sign must be clearly visible and readable to the major  
4 avenue of traffic at a minimum distance of 150 feet.

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

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

14 (3) (a) The applicant for a dealer's or wholesaler's  
15 license shall also file with his application a bond of  
16 \$25,000 for a license as a new motor vehicle dealer, a used  
17 motor vehicle dealer, a recreational vehicle dealer, a  
18 trailer dealer, or a wholesaler. However, applicants for a  
19 license as a trailer dealer or a trailer wholesaler shall  
20 file the \$25,000 surety bond only if special mobile  
21 equipment, commercial trailers and semitrailers exceeding  
22 6,000 pounds maximum gross loaded weight, mobile homes, or  
23 house trailers are sold; otherwise, all other trailer  
24 dealer, motorcycle dealer, or wholesaler license applicants  
25 shall file a bond in the sum of \$10,000. All bonds must be

1 conditioned that the applicant shall conduct his the  
2 business in accordance with the requirements of the law. All  
3 bonds must run to the state of Montana, must be approved by  
4 the department and filed in its office, and must be renewed  
5 annually.

6 (b) A person who suffers loss or damage due to the  
7 unlawful conduct of a dealer or wholesaler licensed under  
8 this section shall obtain a judgment from a court of  
9 competent jurisdiction prior to collecting on the bond. The  
10 judgment must determine a specific loss or damage amount and  
11 conclude that the licensee's unlawful operation caused the  
12 loss or damage before payment on the bond is required."

13 NEW SECTION. Section 10. Effective dates. (1)  
14 [Sections 1 through 3, 5 through 9, and this section] are  
15 effective October 1, 1993.

16 (2) [Section 4] is effective January 1, 1994.

-End-



1 *Sample* BILL NO. *313*  
2 INTRODUCED BY *Bush*  
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE  
4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
6 LAWS RELATING TO MOTOR VEHICLES; CLARIFYING THE PROCESS FOR  
7 THE FILING OF COLLATERAL LIENS; INCREASING TITLE TRANSFER  
8 FEES FOR OFF-HIGHWAY VEHICLES; REVISING THE DEFINITION OF  
9 MOTOR VEHICLE BROKERS; CLARIFYING THE PROCESS OF LICENSING  
10 MOBILE HOME DEALERS; CLARIFYING SURETY LANGUAGE IN REGARD TO  
11 BONDED TITLES; AMENDING SECTIONS 23-2-508, 23-2-611,  
12 23-2-811, 23-2-812, 61-1-318, 61-1-501, 61-3-103, 61-3-208,  
13 AND 61-4-101, MCA; AND PROVIDING EFFECTIVE DATES."  
14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
16     Section 1. Section 23-2-508, MCA, is amended to read:  
17     "23-2-508. Certificate of ownership -- filing of  
18 security interests. (1) Except as provided in subsection  
19 (9), a motorboat or sailboat 12 feet in length or longer may  
20 not be operated upon the waters of the state unless a  
21 certificate of ownership has first been obtained from the  
22 department of justice in accordance with the laws of this  
23 state.  
24     (2) The owner of a motorboat or sailboat 12 feet in  
25 length or longer shall apply for a certificate of ownership

1 and a certificate of number with the county treasurer of the  
2 county in which the owner resides, upon forms furnished by  
3 the department of justice. The forms must require the  
4 following information:  
5     (a) name of the owner;  
6     (b) residence of the owner, by town or county;  
7     (c) business or home address of the owner;  
8     (d) name and address of any lienholder;  
9     (e) amount due under any contract or lien;  
10    (f) name of the manufacturer;  
11    (g) model number or name;  
12    (h) identification number;  
13    (i) name and address of the dealer or other person from  
14 whom acquired, if known; and  
15    (j) other information as the department of justice may  
16 require.  
17    (3) The application is to be accompanied by  
18 documentation of ownership, such as an invoice, a bill of

THERE ARE NO CHANGES IN THIS BILL  
AND WILL NOT BE REPRINTED. PLEASE  
REFER TO YELLOW COPY FOR COMPLETE TEXT.

## 1 SENATE BILL NO. 373

2 INTRODUCED BY BECK

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
6 LAWS RELATING TO MOTOR VEHICLES; CLARIFYING THE PROCESS FOR  
7 THE FILING OF COLLATERAL LIENS; INCREASING TITLE TRANSFER  
8 FEES FOR OFF-HIGHWAY VEHICLES; REVISING THE DEFINITION OF  
9 MOTOR VEHICLE BROKERS; CLARIFYING THE PROCESS OF LICENSING  
10 MOBILE HOME DEALERS; CLARIFYING SURETY LANGUAGE IN REGARD TO  
11 BONDED TITLES; AMENDING SECTIONS 23-2-508, 23-2-611,  
12 23-2-811, 23-2-812, 61-1-318, 61-1-501, 61-3-103, 61-3-208,  
13 AND 61-4-101, MCA; AND PROVIDING EFFECTIVE DATES."

14

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

16 **Section 1.** Section 23-2-508, MCA, is amended to read:

17 "23-2-508. Certificate of ownership -- filing of  
18 security interests. (1) Except as provided in subsection  
19 (9), a motorboat or sailboat 12 feet in length or longer may  
20 not be operated upon the waters of the state unless a  
21 certificate of ownership has first been obtained from the  
22 department of justice in accordance with the laws of this  
23 state.

24 (2) The owner of a motorboat or sailboat 12 feet in  
25 length or longer shall apply for a certificate of ownership

1 and a certificate of number with the county treasurer of the  
2 county in which the owner resides, upon forms furnished by  
3 the department of justice. The forms must require the  
4 following information:

5 (a) name of the owner;

6 (b) residence of the owner, by town or county;

7 (c) business or home address of the owner;

8 (d) name and address of any lienholder;

9 (e) amount due under any contract or lien;

10 (f) name of the manufacturer;

11 (g) model number or name;

12 (h) identification number;

13 (i) name and address of the dealer or other person from  
14 whom acquired, if known; and

15 (j) other information as the department of justice may  
16 require.

17 (3) The application is to be accompanied by  
18 documentation of ownership, such as an invoice, a bill of  
19 sale, a foreign title, an official certificate of boat  
20 number, a fee in lieu of tax receipt, or a certificate of  
21 ownership of a trailer purchased with the motorboat or  
22 sailboat. An applicant who fails to provide proof of  
23 ownership shall provide a certified statement describing how  
24 the motorboat or sailboat 12 feet in length or longer was  
25 acquired, from whom acquired, if known, and other

1 information requested by the department of justice.

2 (4) If a certificate of ownership has previously been  
3 issued under the provisions of this part, the application  
4 for a new certificate must be accompanied by the immediately  
5 previous certificate. This subsection does not apply to  
6 motorboats or sailboats 12 feet in length or longer that are  
7 purchased as new and unused vessels or that were operated  
8 when the provisions of this part were not in force and  
9 effect.

10 (5) A motorboat or sailboat 12 feet in length or longer  
11 that does not have a manufacturer's or other identifying  
12 number on the motorboat or sailboat must be assigned an  
13 identification number by the department of fish, wildlife,  
14 and parks. A fee of \$1 must be paid to the department for an  
15 assignment of number.

16 (6) Upon completion of the application, the county  
17 treasurer shall issue to the applicant two copies of the  
18 certificate of number application, one of which must be  
19 marked "file copy". The treasurer shall forward one copy and  
20 the original application for a certificate of ownership to  
21 the department of justice, which shall enter the information  
22 contained in the application upon the corresponding records  
23 of its office and shall furnish the applicant a certificate  
24 of ownership containing that information in the application  
25 considered necessary by the department and a permanent boat

1 number. The certificate of ownership need not be renewed  
2 annually and is valid as long as the person holding it owns  
3 the vessel.

4 (7) The owner shall at all times retain possession of  
5 the certificate of ownership, except when it is being  
6 transmitted to and from the department of justice for  
7 endorsement or cancellation.

8 (8) Upon application for a certificate of ownership, a  
9 fee of \$5 must be paid to the county treasurer, \$3.50 of  
10 which must be forwarded by the county treasurer to the  
11 department of justice and deposited in the general fund.

12 (9) A person who, on July 1, 1988, is the owner of a  
13 motorboat or sailboat 12 feet in length or longer with a  
14 valid certificate of number issued by the state is not  
15 required to file an application for a certificate of  
16 ownership for the motorboat or sailboat unless he the person  
17 transfers a part of his the person's interest in the  
18 motorboat or sailboat or he renews the certificate of number  
19 for the motorboat or sailboat.

20 (10) ~~A--security--interest--in--a--boat--is--not--valid--as~~  
21 ~~against--creditors,--subsequent--purchasers,--or--encumbrancers~~  
22 ~~unless--a--lien--notice,--showing--that--a--security--interest--has~~  
23 ~~been--created,--has--been--perfected--as--provided--in--this~~  
24 ~~section. The lien notice must be filed on a form approved by~~  
25 ~~the department of justice.~~ The department of justice may not

1 file a voluntary security interest or other lien unless it  
 2 is accompanied by or specified in the application for a  
 3 certificate of ownership of the boat encumbered. If the  
 4 approved lien notice is transmitted to the department of  
 5 justice, the security agreement or other lien instrument  
 6 that creates the security interest must be retained by the  
 7 secured party. A copy of the security agreement is  
 8 sufficient as a lien notice if it contains the name and  
 9 address of the debtor and the secured party, the complete  
 10 boat description, the amount of the lien, and the signature  
 11 of the debtor. The department of justice shall file the  
 12 voluntary security interest-or-lien interests and liens by  
 13 entering the name and address of the secured party upon the  
 14 face of the certificate of ownership. Involuntary liens must  
 15 be filed against the record of the boat encumbered. The  
 16 department of justice shall mail a statement certifying the  
 17 filing of a security interest or lien to the secured party.  
 18 The department of justice shall mail the certificate of  
 19 ownership to the owner at the address given on the  
 20 certificate; however, if the transfer of ownership and  
 21 filing of the security interest are paid for by a creditor  
 22 or secured party, the department of justice shall return the  
 23 certificate of ownership to the county treasurer of the  
 24 county in which the boat is to be registered. The owner of a  
 25 boat is the person entitled to operate and possess the boat.

1 (11) A security interest in a boat held as inventory by  
 2 a dealer must be perfected in accordance with Title 30,  
 3 chapter 97-and-no-endorsement-on-the-certificate-of-title-is  
 4 necessary-for-perfection.

5 (12) Whenever a security interest or lien is filed  
 6 against a boat that is subject to two security interests  
 7 previously perfected under this section, the department of  
 8 justice shall endorse on the face of the certificate of  
 9 ownership: "NOTICE. This boat is subject to additional  
 10 security interest on file with the Department of Justice."  
 11 No other information regarding the additional security  
 12 interests need be endorsed on the certificate.

13 (13) Satisfactions or statements of release filed with  
 14 the department of justice under this part must be retained  
 15 for a period of 8 years after receipt, after which they may  
 16 be destroyed.

17 (14) A Except as provided in subsection (15), a  
 18 voluntary security interest or other lien as-provided-in  
 19 this-section is perfected on the date the lien notice is  
 20 delivered to the county treasurer. On that date, the county  
 21 treasurer shall issue to the secured party a receipt  
 22 evidencing the perfection. Perfection under this section  
 23 constitutes constructive notice to subsequent purchasers or  
 24 encumbrancers, from the date of delivery of the lien notice  
 25 to the county treasurer, of the existence of the security

1 interest.

2 (15) Voluntary security interests or lien filings that  
 3 do not require transfer of ownership are perfected on the  
 4 date the lien notice and the certificate of ownership or  
 5 manufacturer's statement of origin are received by the  
 6 department of justice. On that date, the department of  
 7 justice shall issue to the secured party a receipt  
 8 evidencing the perfection. Perfection under this subsection  
 9 constitutes constructive notice to subsequent purchasers or  
 10 encumbrancers, from the date the lien notice is delivered to  
 11 the department of justice, of the existence of the security  
 12 interest.

13 (16) Upon default under a chattel mortgage or  
 14 conditional sales contract covering a boat, the mortgagee or  
 15 vendor has the same remedies as in the case of other  
 16 personal property. In case of attachment of a boat all the  
 17 provisions of 27-18-413, 27-18-414, and 27-18-804 are  
 18 applicable, except that deposits must be made with the  
 19 department of justice.

20 (17) A conditional sales vendor or chattel mortgagee  
 21 or assignee who fails to file a satisfaction of a chattel  
 22 mortgage, assignment, or conditional sales contract within  
 23 15 days after receiving final payment is required to pay the  
 24 department of justice the sum of \$1 for each day that he the  
 25 person fails to file the satisfaction.

1 (18) Upon receipt of notice of any involuntary  
 2 liens, ~~notice of liens dependent on possession~~, or  
 3 attachments against the record of any boat registered in  
 4 this state, the department of justice shall within 24 hours  
 5 mail to the owner, conditional sales vendor, mortgagee, or  
 6 their assignee a notice showing the name and address of the  
 7 lien claimant, the amount of the lien, the date of execution  
 8 of the lien, and, in the case of attachment, the full title  
 9 of the court, the action, and the name of the attorney for  
 10 the plaintiff or the name of the attaching creditor, or  
 11 both.

12 (19) It is not necessary to refile with the  
 13 department of justice any instruments on file in the office  
 14 of the county clerk and recorder on October 1, 1989.

15 (20) A fee of \$4 must be paid to the department of  
 16 justice to file any security interest or other lien against  
 17 a boat. The \$4 fee must cover the cost of filing a  
 18 satisfaction or release of the security interest and the  
 19 cost of entering the satisfaction or release on the records  
 20 of the department of justice and deleting the endorsement of  
 21 the security interest from the face of the certificate of  
 22 ownership. A fee of \$4 must be paid to the department of  
 23 justice for issuing a certified copy of a certificate of  
 24 ownership subject to a security interest or other lien on  
 25 file with the department of justice or for filing an

assignment of any security interest or other lien on file with the department of justice. All fees provided for in this section must be paid to the county treasurer for deposit in the general fund in accordance with 15-1-504."

**Section 2.** Section 23-2-611, MCA, is amended to read:

"23-2-611. Certificate of ownership -- filing of security interests. (1) A snowmobile may not be operated upon any public lands, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets, or highways unless a certificate of ownership has first been obtained from the department of justice in accordance with the laws of this state.

(2) The owner of a snowmobile shall apply for a certificate of ownership with the county treasurer of the county in which the owner resides, upon forms to be furnished for this purpose. The forms must require the following information:

- (a) name of the owner;
- (b) residence of the owner, by town and county;
- (c) business or home mail address of the owner;
- (d) name and address of any lienholder;
- (e) amount due under any contract or lien;
- (f) name of the manufacturer;
- (g) model number or name;
- (h) identification number; and

(i) name and address of the dealer or other person from whom acquired.

(3) The application must be signed by at least one owner or by a properly authorized officer or representative of the owner.

(4) If a certificate of ownership has previously been issued under the provisions of 23-2-601 through 23-2-644, the application for a new certificate must be accompanied by the immediately previous certificate. This subsection does not apply to snowmobiles that are purchased as new and unused machines or that were operated when the provisions of 23-2-601 through 23-2-644 were not in force and effect.

(5) Upon completion of the application, on forms furnished by the department of justice, the county treasurer shall issue to the applicant two copies of the application, one of which must be marked "file copy". The treasurer shall forward one copy and the original application to the department of justice, which shall enter the information contained in the application upon the corresponding records of its office and shall furnish the applicant a certificate of ownership, which must contain that information in the application considered necessary by the department of justice, and a permanent ownership number. The certificate of ownership is not to be renewed annually and is valid as long as the person holding it owns the snowmobile.

(6) The owner shall at all times retain possession of the certificate of ownership, except when it is being transmitted to and from the department of justice for endorsement or cancellation.

(7) Upon application for a certificate of ownership, a fee of \$5 must be paid to the county treasurer, \$3.50 of which must be forwarded by the county treasurer to the department of justice and deposited in the general fund.

~~(8) A security interest in a snowmobile is not valid as against creditors, subsequent purchasers, or encumbrancers unless a lien notice showing that a security interest has been created, has been perfected as provided in this section. The lien notice must be filed on a form approved by the department of justice.~~ The department of justice may not file a voluntary security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the snowmobile encumbered. If the approved lien notice is transmitted to the department of justice, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete snowmobile description, the amount of the lien, and the signature of the debtor. The department of justice shall

file the voluntary security interest or lien interests and liens by entering the name and address of the secured party upon the face of the certificate of ownership. Involuntary liens must be filed against the record of the snowmobile encumbered. The department of justice shall mail a statement certifying the filing of a security interest or lien to the secured party. The department of justice shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county in which the snowmobile is to be registered. The owner of a snowmobile is the person entitled to operate and possess the snowmobile.

(9) A security interest in a snowmobile held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9 ~~and no endorsement on the certificate of title is necessary for perfection.~~

(10) Whenever a security interest or lien is filed against a snowmobile that is subject to two security interests previously perfected under this section, the department of justice shall endorse on the face of the certificate of ownership: "NOTICE. This snowmobile is subject to additional security interest on file with the

Department of Justice". No other information regarding the additional security interests need be endorsed on the certificate.

(11) Satisfaction or statements of release filed with the department of justice under this part must be retained for a period of 8 years after receipt, after which they may be destroyed.

(12) A Except as provided in subsection (13), a voluntary security interest or other lien as provided in this section is perfected on the date the lien notice is delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(13) Voluntary security interests or lien filings that do not require transfer of ownership are perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department of justice. On that date, the department of justice shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or

encumbrancers, from the date the lien notice is delivered to the department of justice, of the existence of the security interest.

~~(13)~~(14) Upon default under a chattel mortgage or conditional sales contract covering a snowmobile, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of a snowmobile, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

~~(14)~~(15) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department of justice the sum of \$1 for each day that he the person fails to file the satisfaction.

~~(15)~~(16) Upon receipt of notice of any involuntary liens,---notice---of---liens---dependent---on---possession, or attachments against the record of any snowmobile registered in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court, the action, and the



1 name of the attorney for the plaintiff or the name of the  
2 attaching creditor, or both.

3 ~~(16)~~(17) It is not necessary to refile with the  
4 department of justice any instruments on file in the office  
5 of the county clerk and recorder on October 1, 1989.

6 ~~(17)~~(18) A fee of \$4 must be paid to the department of  
7 justice to file any security interest or other lien against  
8 a snowmobile. The \$4 fee must cover the cost of filing a  
9 satisfaction or release of the security interest and the  
10 cost of entering the satisfaction or release on the records  
11 of the department of justice and deleting the endorsement of  
12 the security interest from the face of the certificate of  
13 ownership. A fee of \$4 must be paid to the department of  
14 justice for issuing a certified copy of a certificate of  
15 ownership subject to a security interest or other lien on  
16 file with the department of justice or for filing an  
17 assignment of a security interest or other lien on file with  
18 the department of justice. All fees provided for in this  
19 section must be paid to the county treasurer for deposit in  
20 the general fund in accordance with 15-1-504."

21 **Section 3.** Section 23-2-811, MCA, is amended to read:

22 "23-2-811. Certificate of ownership -- procedure -- fee  
23 -- filing security interest. (1) No An off-highway vehicle  
24 may not be operated upon any public lands, trails,  
25 easements, lakes, rivers, or streams unless a certificate of

1 ownership has first been obtained from the department of  
2 justice.

3 (2) The owner of an off-highway vehicle shall apply for  
4 a certificate of ownership to the county treasurer of the  
5 county in which the owner resides, on a form furnished by  
6 the department of justice for that purpose. The form must  
7 include:

- 8 (a) the name of the owner;
- 9 (b) the residence of the owner, by town and county;
- 10 (c) the business address or home mailing address of the  
11 owner;
- 12 (d) the name and address of any lienholder;
- 13 (e) the amount due under any contract, mortgage, or  
14 lien;
- 15 (f) the name of the manufacturer;
- 16 (g) the model number or name;
- 17 (h) the identification number; and
- 18 (i) the name and address of the dealer or other person  
19 from whom the off-highway vehicle was acquired.

20 (3) The application must be signed by at least one  
21 owner or by a properly authorized agent of the owner.

22 (4) The application for a new certificate of ownership  
23 must be accompanied by the immediately previous certificate.  
24 This subsection does not apply to off-highway vehicles that  
25 are purchased as new and unused machines or that were

operated before January 1, 1990.

(5) (a) After the owner completes the application form, the county treasurer shall issue to the applicant two copies of the completed application, with one marked "file copy", and shall forward one copy and the original application to the department of justice. The department of justice shall enter the information contained in the application upon the corresponding records of its office and shall send the applicant a certificate of ownership containing a permanent ownership number and information from the application considered necessary by the department of justice.

(b) The certificate of ownership is not required to be renewed annually and is valid as long as the person holding it owns the off-highway vehicle.

(6) The owner shall at all times retain possession of the certificate of ownership, except when it is being transmitted to and from the department of justice for endorsement or cancellation.

(7) Upon application for a certificate of ownership, a fee of \$5 must be paid to the county treasurer, of which:

(a) \$3.50 must be forwarded to the department of justice for deposit in the general fund; and

(b) \$1.50 must be retained by the county treasurer for the cost of administering this section.

(8) ~~A security interest in an off-highway vehicle is~~

~~not valid against creditors, subsequent purchasers, or encumbrancers unless a lien notice showing that a security interest has been created, has been perfected as provided in this section on a form approved by the department of justice.~~ The department of justice may not file a voluntary security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the encumbered off-highway vehicle. If the approved lien notice is transmitted to the department of justice, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, a complete description of the off-highway vehicle, the amount of the lien, and the signature of the debtor. The department of justice shall file the voluntary security interest ~~or lien~~ interests and liens by entering the name and address of the secured party upon the face of the certificate of ownership. Involuntary liens must be filed against the record of the off-highway vehicle encumbered. The department of justice shall mail a statement certifying the filing of a security interest or lien to the secured party. The department of justice shall mail the certificate of ownership to the owner at the address given on the certificate. However, if the

transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county where the vehicle is to be registered. The owner of an off-highway vehicle is the person entitled to operate and possess the vehicle.

(9) A security interest in an off-highway vehicle held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9, ~~and no endorsement on the certificate of title is necessary for perfection.~~

(10) Whenever a security interest or lien is filed against an off-highway vehicle that is subject to two or more security interests previously perfected under this section, the department of justice shall endorse on the face of the certificate of ownership: "Notice. This off-highway vehicle is subject to additional security interests on file with the Department of Justice." Other information regarding the additional security interests need not be endorsed on the certificate.

(11) Satisfaction or statements of release filed with the department of justice under this section must be retained for a period of 8 years from the date of receipt, after which they may be destroyed.

(12) A Except as provided in subsection (13), a voluntary security interest or other lien is perfected as

~~provided in this section~~ on the date the lien notice is delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(13) Voluntary security interests or lien filings that do not require transfer of ownership are perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department of justice. On that date, the department shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date the lien notice is delivered to the department, of the existence of the security interest.

~~(13)~~ (14) Upon default under a chattel mortgage or conditional sales contract covering an off-highway vehicle, the mortgagee or vendor has the same remedies as in the case of other personal property. In the case of attachment of an off-highway vehicle, the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

1        ~~14~~(15) A conditional sales vendor, chattel mortgagee,  
2 or assignee who fails to file a satisfaction of a chattel  
3 mortgage, assignment, or conditional sale contract within 15  
4 days after receiving final payment shall pay to the  
5 department of justice the sum of \$1 for each day after the  
6 expiration of the 15-day period that he the person fails to  
7 file the satisfaction.

8        ~~15~~(16) Upon receipt of notice of any involuntary  
9 ~~liens,---notices---of---liens---dependent---on---possession,~~ or  
10 attachments against the record of an off-highway vehicle in  
11 this state, the department of justice shall within 24 hours  
12 mail to the owner, conditional sales vendor, mortgagee, or  
13 their assignee a notice of the lien, showing the date of  
14 execution of the lien and, in the case of attachment, the  
15 full title of the court, the action, and the name of the  
16 attorney for the plaintiff or the name of the attaching  
17 creditor, or both.

18        ~~16~~(17) It is not necessary to refile with the  
19 department of justice instruments on file in the offices of  
20 the county clerk and recorders at the time this law takes  
21 effect.

22        ~~17~~(18) A fee of \$4 must be paid to the department of  
23 justice to file a security interest or other lien against an  
24 off-highway vehicle. The \$4 fee includes and covers the cost  
25 of filing a satisfaction or release of the security interest

1 and also the cost of entering the satisfaction or release on  
2 the records of the department of justice and deleting the  
3 endorsement of the security interest from the face of the  
4 certificate of ownership. A fee of \$4 must be paid to the  
5 department of justice for issuing a certified copy of a  
6 certificate of ownership subject to a security interest or  
7 other lien on file in the office of the department of  
8 justice or for filing an assignment of a security interest  
9 or other lien on file with the department of justice. All  
10 fees provided for in this section must be paid to the county  
11 treasurer for deposit in the state general fund in  
12 accordance with 15-1-504."

13        **Section 4.** Section 23-2-812, MCA, is amended to read:

14        "23-2-812. **Transfer of interest.** (1) To transfer a  
15 certificate of ownership for an off-highway vehicle  
16 registered under 23-2-817, the person whose title or  
17 interest is to be transferred shall endorse the certificate  
18 of ownership in the appropriate space on the reverse side of  
19 the certificate and have his the signature acknowledged  
20 before a notary public.

21        (2) (a) Within 20 calendar days after the date of  
22 notarization, the transferee shall apply to the county  
23 treasurer of the county in which he the transferee resides  
24 for:

25        (i) transfer of the endorsed certificate of ownership;

1 (ii) registration of the off-highway vehicle; and  
 2 (iii) issuance of a decal as required by 23-2-804.  
 3 (b) The county treasurer shall forward the application  
 4 and the original certificate of ownership to the department  
 5 of justice, which shall file the application upon receipt.  
 6 (c) A certificate of ownership may not be issued by the  
 7 department until the outstanding certificates are  
 8 surrendered to that office or their loss is established.  
 9 (d) The county treasurer shall collect a fee of \$4 \$5  
 10 for each application for transfer of ownership, of which:  
 11 (i) ~~\$3~~ \$3.50 must be forwarded to the department of  
 12 justice for deposit in the general fund; and  
 13 (ii) ~~\$1~~ \$1.50 must be retained by the county treasurer  
 14 for the cost of administering this section.  
 15 (3) To effect by operation of law a transfer of  
 16 interest in an off-highway vehicle, the provisions of  
 17 61-3-201(3) are applicable.  
 18 (4) (a) A person who purchases a new or used  
 19 off-highway vehicle from an off-highway vehicle dealer  
 20 licensed under 23-2-818 shall, within 20 calendar days after  
 21 the purchase date, apply to the county treasurer of the  
 22 county in which he the person resides for:  
 23 (i) a certificate of ownership;  
 24 (ii) registration of the off-highway vehicle; and  
 25 (iii) a decal as required by 23-2-804.

1 (b) During this period the sticker provided for in  
 2 subsection (6) must remain affixed to the off-highway  
 3 vehicle.  
 4 (5) It is not a violation of this part for a purchaser  
 5 to operate a newly acquired off-highway vehicle without a  
 6 certificate of ownership, a certificate of registration, and  
 7 a decal during the first 20 days of ownership.  
 8 (6) Prior to the delivery of the off-highway vehicle to  
 9 the purchaser, the dealer shall issue and affix to the  
 10 off-highway vehicle a sticker, in a form to be prescribed by  
 11 the department of justice, containing the name and address  
 12 of the purchaser, the date of sale, the name and address of  
 13 the dealer, and a description of the off-highway vehicle,  
 14 including its identification number. The dealer shall keep a  
 15 copy of the sticker for ~~his~~ the dealer's records and shall  
 16 send a copy of the sticker to the department of justice.  
 17 (7) The provisions of subsection (2) do not apply to  
 18 the transfer of an off-highway vehicle to an off-highway  
 19 vehicle dealer licensed under 23-2-818 who intends to resell  
 20 the vehicle and who operates it only for demonstration  
 21 purposes. Every dealer, upon a transfer of interest, shall  
 22 deliver the certificate of ownership with an application for  
 23 a new certificate executed by the new owner in accordance  
 24 with the provisions of this part. The department of justice,  
 25 upon receipt of the certificate of ownership and application

for a new certificate, together with the conditional sales contract or other lien, if any, shall issue a new certificate of ownership showing the name of the lienholder and the amount due under the contract, mortgage, or lien as required by 23-2-811(2)(d) and (2)(e)."

**Section 5.** Section 61-1-318, MCA, is amended to read:

"61-1-318. **Broker.** "Broker" means a person, ~~other than a dealer as defined in 61-1-314,~~ engaged in the business of offering to procure or procuring motor vehicles or who holds ~~himself out~~ represents to the public through solicitation, advertisement, or otherwise as that the person is one who offers to procure or procures motor vehicles by negotiating purchases, contracts, sales, or exchanges, and who does not store, display, or take ownership of any vehicles for the purpose of selling vehicles."

**Section 6.** Section 61-1-501, MCA, is amended to read:

"61-1-501. **Housetrailer Mobile home or housetrailer.** "Housetrailer" "Mobile home" or "housetrailer" means a trailer or a semitrailer which that is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place (either permanently or temporarily) and is equipped for use as a conveyance on streets and highways or a trailer or semitrailer whose chassis and exterior shell is designed and constructed for use as a housetrailer, ~~as defined above,~~ but which that is used permanently or

temporarily for the advertising, sales, display, or promotion of merchandise or services or for any commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier."

**Section 7.** Section 61-3-103, MCA, is amended to read:

"61-3-103. **Filing of security interests, perfection, rights, procedure, fees.** (1) ~~No security interest in a motor vehicle shall be valid as against creditors, subsequent purchasers, or encumbrancers unless a lien notice, on a form approved by the department, that shows a security interest has been created, has been perfected as provided in this section.~~ The department ~~shall~~ may not file any voluntary security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the vehicle encumbered. If the approved notice form is transmitted to the department, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete vehicle description, amount of lien, and is signed by the debtor. The department shall file the voluntary security interest or lien interests and liens by entering the name and address of the secured party upon the

1 face of the certificate of ownership. Involuntary liens must  
 2 be filed against the record of the vehicle encumbered. The  
 3 department shall mail a statement certifying to the filing  
 4 of a security interest or lien to the secured party. The  
 5 department shall mail the certificate of ownership to the  
 6 owner at the address given on the certificate; however, if  
 7 the transfer of ownership and filing of the security  
 8 interest are paid for by a creditor or secured party, the  
 9 department shall return the certificate of ownership to the  
 10 county treasurer where the vehicle is to be registered. The  
 11 owner of a motor vehicle is the person entitled to operate  
 12 and possess such the motor vehicle.

13 (2) A security interest in a motor vehicle held as  
 14 inventory by a dealer licensed under the provisions of  
 15 61-4-101, must be perfected in accordance with Title 30,  
 16 ~~chapter 97-and-no-endorsement-on-the-certificate-of-title-is~~  
 17 ~~necessary-for-perfection.~~

18 (3) Whenever a security interest or lien is filed  
 19 against a motor vehicle that is subject to two security  
 20 interests previously perfected under this section, the  
 21 department shall endorse on the face of the certificate of  
 22 ownership, "NOTICE. This motor vehicle is subject to  
 23 additional security interests on file with the Department of  
 24 Justice." No other information regarding such additional  
 25 security interests need be endorsed on the certificate.

1 (4) Satisfactions or statements of release filed with  
 2 the department under this chapter ~~shall~~ must be retained by  
 3 it for a period of 8 years after receipt, after which they  
 4 may be destroyed.

5 (5) A Except as provided in subsection (6), a voluntary  
 6 security interest or other lien,~~as provided in this~~  
 7 ~~section,~~ is perfected on the date the lien notice and the  
 8 certificate of ownership or manufacturer's statement of  
 9 origin are delivered to the county treasurer. On that date,  
 10 the county treasurer shall issue to the secured party a  
 11 receipt evidencing the perfection. Perfection under this  
 12 section constitutes constructive notice to subsequent  
 13 purchasers or encumbrancers, from the date of delivery of  
 14 the lien notice to the county treasurer, of the existence of  
 15 the security interest.

16 (6) Security Voluntary security interests or other lien  
 17 filings that do not require transfer of ownership are  
 18 perfected ~~when--received--by-the-department~~ on the date the  
 19 lien notice and the certificate of ownership or  
 20 manufacturer's statement of origin are received by the  
 21 department. On that date, the department shall issue to the  
 22 secured party a receipt evidencing the perfection.  
 23 Perfection under this subsection constitutes constructive  
 24 notice to subsequent purchasers or encumbrancers, from the  
 25 date the lien notice is delivered to the department, of the

1 existence of the security interest.

2 (7) Upon default under a chattel mortgage or  
3 conditional sales contract covering a motor vehicle, the  
4 mortgagee or vendor has the same remedies as in the case of  
5 other personal property. In case of attachment of motor  
6 vehicles all the provisions of 27-18-413, 27-18-414, and  
7 27-18-804 ~~shall~~ are be applicable except that deposits must  
8 be made with the department.

9 (8) A conditional sales vendor or chattel mortgagee or  
10 assignee who fails to file a satisfaction of a chattel  
11 mortgage, assignment, or conditional sales contract within  
12 15 days after receiving final payment ~~shall-be~~ is required  
13 to pay the department the sum of \$1 for each day thereafter  
14 that ~~he~~ the person fails to file such satisfaction.

15 (9) Upon receipt of notice of any involuntary liens, ~~or~~  
16 ~~notice-of-liens-dependent-on-possession~~, or attachments,  
17 ~~etc.~~, against the record of any motor vehicle registered in  
18 this state, the department shall within 24 hours mail to the  
19 owner, conditional sale vendor, mortgagees, or assignees of  
20 any thereof a notice showing the name and address of the  
21 lien claimant, amount of the lien, date of execution of  
22 lien, and in the case of attachment the full title of the  
23 court and the action and the name of the attorneys for the  
24 plaintiff ~~and/or~~ and attaching creditor.

25 (10) It ~~shall~~ is not be necessary to refile with the

1 department any instruments on file in the offices of the  
2 county clerk and recorders at the time this law takes  
3 effect.

4 (11) A fee of \$4 must be paid to the department to file  
5 any security interest or other lien against a motor vehicle.  
6 The \$4 fee shall include and cover the cost of filing a  
7 satisfaction or release of the security interest and also  
8 the cost of entering such satisfaction or release on the  
9 records of the department and deleting the endorsement of  
10 the security interest from the face of the certificate of  
11 ownership. A fee of \$4 must be paid to the department for  
12 issuing a certified copy of a certificate of ownership  
13 subject to a security interest or other lien on file in the  
14 office of the department, or for filing an assignment of any  
15 security interest or other lien on file with the department.  
16 All fees provided for in this section must be paid to the  
17 county treasurer for deposit in the state general fund in  
18 accordance with 15-1-504."

19 **Section 8.** Section 61-3-208, MCA, is amended to read:

20 "61-3-208. Affidavit and bond for certificate. (1) If  
21 an applicant for a motor vehicle certificate of title cannot  
22 provide the department with a certificate of title  
23 transferred to the applicant, the department may issue a  
24 certificate of title for the vehicle if the applicant  
25 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 the value of the motor vehicle as determined 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 interest of the applicant in the motor vehicle; and

(c) issued by a surety company authorized to do business in the state.

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

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

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

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

**Section 9.** Section 61-4-101, MCA, is amended to read:

"61-4-101. Application for dealer's license or wholesaler's license. (1) (a) A verified application for

licensure as a dealer or wholesaler must be filed, by mail or otherwise, in the office of the department by each person, firm, corporation, or association that, for commission or profit, engages in:

(i) the business of buying, selling, exchanging, taking for consignment, 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, mobile homes, or special mobile equipment as defined in 61-1-104 ~~for licensure as a dealer~~; or

(ii) business as a wholesaler as defined in 61-1-319 ~~in order to be licensed as a wholesaler~~.

(b) A licensed real estate broker or agent lawfully buying, selling, exchanging, taking for consignment, or acting as a broker of mobile homes is exempt from licensure under this section.

~~(b)(c)~~ The sale of more than three motor vehicles or the offering for sale of more than three motor vehicles, if the motor vehicles are not titled in the seller's name, in any 1 calendar year is prima facie evidence that a person is engaged in the business of dealing motor vehicles. Licensed wholesalers do not have the privilege of the use of dealer license plates as provided in subsection (2)(b) but are authorized to display and use demonstrator plates under the

provisions of 61-4-102(2)(a)(ii).

~~(c)(d)~~ Each license application and all of the information contained in it must be verified by the department or an authorized representative of the department on a form to be furnished by the department for that purpose and must contain the information required. Each application must be accompanied by the license fee specified in 61-4-102. A dealer's or wholesaler'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 licensee may operate his the business and display dealer or demonstrator 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 provided in this subsection, 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 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 the dealer 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; as a recreational vehicle dealer and for the use of "RV" plates; as a trailer, semitrailer, or special mobile equipment dealer and for the use of "DTR" plates; as a motorcycle or quadricycle dealer and for the use of "MCD" plates; or as a wholesaler and for the use of

demonstrator plates, the applicant shall, in addition to the matters set forth in subsections (i) and (ii) of subsection (2)(a) above, provide:

(i) a statement that the:

(A) applicant has an established place of business that includes a lot or lots upon which motor vehicles may be displayed and a permanent nonresidential building on or contiguous to the lot or lots where records are kept and sales are made; or

(B) wholesaler applicant has an established place of business that includes a permanent nonresidential building or office where records are kept in order that those records may be inspected;

(ii) a certificate to the effect that the applicant is a bona fide dealer or wholesaler in used motor vehicles, recreational vehicles, trailers, semitrailers, special mobile equipment, motorcycles, or quadricycles. An applicant for a recreational vehicle dealer license shall also indicate on the same certificate that he the person is recognized by a manufacturer, importer, or distributor as a dealer in recreational vehicles.

(c) If two or more vehicle dealer or wholesaler businesses share a location, all records, office facilities, and inventory, if applicable, must be physically segregated and clearly identified. Each applicant's established place

1 of business shall display a sign that indicates the firm  
 2 name and that vehicles are offered for sale. The letters of  
 3 the sign must be clearly visible and readable to the major  
 4 avenue of traffic at a minimum distance of 150 feet.

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

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

14 (3) (a) The applicant for a dealer's or wholesaler's  
 15 license shall also file with his application a bond of  
 16 \$25,000 for a license as a new motor vehicle dealer, a used  
 17 motor vehicle dealer, a recreational vehicle dealer, a  
 18 trailer dealer, or a wholesaler. However, applicants for a  
 19 license as a trailer dealer or a trailer wholesaler shall  
 20 file the \$25,000 surety bond only if special mobile  
 21 equipment, commercial trailers and semitrailers exceeding  
 22 6,000 pounds maximum gross loaded weight, mobile homes, or  
 23 house trailers are sold; otherwise, all other trailer  
 24 dealer, motorcycle dealer, or wholesaler license applicants  
 25 shall file a bond in the sum of \$10,000. All bonds must be

1 conditioned that the applicant shall conduct his the  
 2 business in accordance with the requirements of the law. All  
 3 bonds must run to the state of Montana, must be approved by  
 4 the department and filed in its office, and must be renewed  
 5 annually.

6 (b) A person who suffers loss or damage due to the  
 7 unlawful conduct of a dealer or wholesaler licensed under  
 8 this section shall obtain a judgment from a court of  
 9 competent jurisdiction prior to collecting on the bond. The  
 10 judgment must determine a specific loss or damage amount and  
 11 conclude that the licensee's unlawful operation caused the  
 12 loss or damage before payment on the bond is required."

13 NEW SECTION. Section 10. Effective dates. (1)  
 14 [Sections 1 through 3, 5 through 9, and this section] are  
 15 effective October 1, 1993.

16 (2) [Section 4] is effective January 1, 1994.

-End-