

House BILL NO. 232

INTRODUCED BY

John Boulinger *Ben Shea* *Richard A. ...*

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE LOCATION OF OFF-PREMISES SALES BY STATE RECREATIONAL VEHICLE DEALERS; ESTABLISHING CONDITIONS FOR EXHIBITIONS BY OUT-OF-STATE RECREATIONAL VEHICLE ORGANIZATIONS, ASSOCIATIONS, OR CORPORATIONS; AND AMENDING SECTIONS 61-3-301, 61-4-101, AND 61-4-102, MCA."

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

Section 1. Section 61-3-301, MCA, is amended to read:

"61-3-301. Registration -- license plate required -- display. (1) Except as otherwise provided in this chapter, ~~no~~ a person may not operate a motor vehicle upon the public highways of Montana unless the vehicle is properly registered and has the proper number plates conspicuously displayed and unobstructed from plain view, one on the front and one on the rear of the vehicle, ~~each~~ both securely fastened to prevent ~~it the plates~~ from swinging ~~and unobstructed from plain view~~, except that trailers, semitrailers, quadricycles, motorcycles, and vehicles authorized in 61-4-102(6) (7) to display demonstrator plates may have ~~but~~ one number plate conspicuously displayed on the rear. ~~No~~ A person may not display on a vehicle at the same time that it is displaying a number plate pursuant to this chapter a number assigned to it under any motor vehicle law ~~except as provided in this chapter~~. A junk vehicle, as defined in Title 75, chapter 10, part 5, being driven or towed to an auto wrecking graveyard for disposal is exempt from the provisions of this section.

(2) ~~No~~ A person may not purchase or display on a vehicle a license plate bearing the number assigned to ~~any~~ a county, as provided in 61-3-332, other than the county of ~~his~~ the person's permanent residence at the time of application for registration. However, the owner of ~~any motor vehicle requiring a license plate on any~~ a motor vehicle used in the public transportation of persons or property may ~~make application~~ apply for the license in any county ~~through which~~ that the motor vehicle passes through in its regularly scheduled route, and the license plate issued bearing the number assigned to that county may be displayed on the motor vehicle in any other county of the state.

(3) It is unlawful to use license plates issued to one vehicle on any other vehicle, trailer, or

1 semitrailer unless legally transferred as provided by statute, or to repaint old license plates to resemble
2 current license plates.

3 (4) This section does not apply to a vehicle exempt from taxation under 15-6-215 or subject to
4 taxation under 61-3-520.

5 (5) ~~Any~~ A person violating these provisions is guilty of a misdemeanor and subject to the penalty
6 prescribed in 61-3-601."

7

8 **Section 2.** Section 61-4-101, MCA, is amended to read:

9 "**61-4-101. Application for dealer's license or wholesaler's license.** (1) (a) A verified application
10 for licensure as a dealer or wholesaler must be filed, by mail or otherwise, in the office of the department
11 by each person, firm, corporation, or association that, for commission or profit, engages in:

12 (i) the business of buying, selling, exchanging, taking for consignment, or acting as a broker of new
13 motor vehicles~~;~~ recreational vehicles~~;~~ used motor vehicles~~;~~ trailers~~;~~ ~~{~~except trailers having an unloaded
14 weight of less than 500 pounds~~;~~ semitrailers~~;~~ mobile homes~~;~~ or special mobile equipment as defined in
15 61-1-104; or

16 (ii) the business ~~as~~ of a wholesaler as defined in 61-1-319.

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

19 (c) The sale of more than three motor vehicles or the offering for sale of more than three motor
20 vehicles, if the motor vehicles are not titled in the seller's name, in any ~~4~~ calendar year is prima facie
21 evidence that a person is engaged in the business of dealing motor vehicles. Licensed wholesalers do not
22 have the privilege of the use of dealer license plates~~;~~ as provided in subsection (2)(b)~~;~~ but are authorized
23 to display and use demonstrator plates under the provisions of 61-4-102(2)(a)(ii).

24 (d) Each license application and all of the information contained in it must be verified by the
25 department or an authorized representative of the department on a form to be furnished by the department
26 for that purpose and must contain the information required. Each application must be accompanied by the
27 license fee specified in 61-4-102. A dealer's or wholesaler's license must be renewed and paid for annually,
28 and an application for relicensure ~~must~~ may not be filed ~~not~~ later than January 1 of each year. If an
29 application for renewal of a license has been received by the department prior to the expiration of the
30 license, the licensee may operate the business and display dealer or demonstrator plates under the expired

1 license between January 1 and February 15 following expiration.

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

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

6 (i) state the name under which the business is to be conducted and the location of the premises,
7 including the ~~{street address, city, county, and state}~~, where records are kept, sales are made, and stock
8 of motor vehicles is displayed;

9 (ii) state the name and address of all owners or persons having an interest in the business, ~~provided~~
10 ~~that; however,~~ in the case of a corporation, the names and addresses of the president and secretary are
11 sufficient;

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

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

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

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

22 (b) To qualify as a used motor vehicle dealer and for the use of "UD" plates; as a recreational
23 vehicle dealer and for the use of "RV" plates; as a trailer, semitrailer, or special mobile equipment dealer
24 and for the use of "DTR" plates; as a motorcycle or quadricycle dealer and for the use of "MCD" plates;
25 or as a wholesaler and for the use of demonstrator plates, the applicant shall, in addition to the matters set
26 forth in subsections (2)(a)(i) and (2)(a)(ii), provide:

27 (i) a statement that the:

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

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

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

7 (c) If two or more vehicle dealer or wholesaler businesses share a location, all records, office
8 facilities, and inventory, if applicable, must be physically segregated and clearly identified. Each applicant's
9 established place of business shall display a sign that indicates the firm name and that vehicles are offered
10 for sale. The letters of the sign must be clearly visible and readable to the major avenue of traffic at a
11 minimum distance of 150 feet.

12 (d) To qualify for a used motor vehicle dealer's or wholesaler's license, a person shall submit an
13 annual application for that license and comply with the provisions of 61-4-102~~45~~ (6) in addition to fulfilling
14 the requirements of subsection (2)(b) of this section.

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

17 (3) (a) The applicant for a dealer's or wholesaler's license shall also file with ~~his~~ the application a
18 bond of \$25,000 for a license as a new motor vehicle dealer, a used motor vehicle dealer, a recreational
19 vehicle dealer, a trailer dealer, or a wholesaler. However, applicants for a license as a trailer dealer or a
20 trailer wholesaler shall file the \$25,000 surety bond only if special mobile equipment, commercial trailers
21 and semitrailers exceeding 6,000 pounds maximum gross loaded weight, mobile homes, or house trailers
22 are sold; otherwise, all other trailer ~~dealer~~ dealers, motorcycle ~~dealer~~ dealers, or wholesaler license
23 applicants shall file a bond in the sum of \$10,000. All bonds must be conditioned that the applicant shall
24 conduct the business in accordance with the requirements of the law. All bonds must run to the state of
25 Montana, must be approved by the department and filed in its office, and must be renewed annually.

26 (b) A person who suffers loss or damage ~~due to~~ because of the unlawful conduct of a dealer or
27 wholesaler licensed under this section shall obtain a judgment from a court of competent jurisdiction prior
28 to collecting on the bond. The judgment must determine a specific loss or damage amount and conclude
29 that the licensee's unlawful operation caused the loss or damage before payment on the bond is required."
30

1 **Section 3.** Section 61-4-102, MCA, is amended to read:

2 **"61-4-102. Fees -- restrictions on licensees.** (1) ~~Upon making such application, the~~ An applicant
 3 for a dealer's license or wholesaler's license shall pay to the department, in addition to the fees required
 4 of dealers and wholesalers under the provisions of subsection (2), a fee of \$5. Upon receipt of the
 5 application, the fee, and the bond, ~~as provided above for in 61-4-101,~~ the department shall examine the
 6 application, and may, prior to issuing a license, make individual investigation of the truth of the statements
 7 contained in the application. If the department is satisfied that the applicant qualifies for the issuance of
 8 a license under the provisions of this chapter, the department may issue the license. The department may
 9 refuse, after investigation, to issue a license to an applicant as allowed by law.

10 (2) Registration or license fees ~~shall~~ must be paid upon registration or reregistration of dealers in
 11 motor vehicles, recreational vehicles, or trailers as follows:

12 (a) (i) a fee of \$25 for all dealers in motor vehicles and recreational vehicles, ~~a fee of \$25, which~~
 13 ~~shall entitle such~~ entitling the dealer to one set of number plates, and ~~\$25 an~~ an additional fee of \$25 for each
 14 additional set of number plates, subject to the following limitations on the number of additional sets allowed
 15 a dealer:

16 (A) 5% of the first 100 vehicle sales for the previous year; plus

17 (B) 3% of the next 100 vehicle sales for the previous year; plus

18 (C) 2% of vehicle sales in excess of 200 for the previous year; and

19 (D) any additional sets upon a showing of good cause by the applicant dealer to the department.

20 (ii) in addition to the dealer plates allowed under subsection (2)(a)(i), a dealer who has purchased
 21 one or more sets of dealer plates or a licensed wholesaler is entitled to purchase demonstrator plates at a
 22 cost determined by the department to offset the cost of production. Demonstrator plates must be used in
 23 lieu of a dealer plate but only as set forth in subsection ~~(6)~~ (7) and must be distinguished from dealer plates
 24 in a manner determined by the department. Wholesaler demonstrator plates must be distinguished from
 25 dealer demonstrator plates in a manner determined by the department.

26 (b) a fee of \$45 for dealers in motorcycles, quadricycles, and trailers, including housetrailer~~s~~, ~~\$45~~;
 27 and

28 (c) a fee of \$30 for wholesalers in used motor vehicles, recreational vehicles, trailers, ~~(including~~
 29 ~~semitrailers and special mobile equipment)~~, and motorcycles, ~~(including quadricycles)~~, ~~\$30~~.

30 (3) If a dealer or wholesaler is originally registered 6 months after the time of registration as set

1 by law, the registration or license fee for the remainder of the year is one-half of the regular fee ~~above~~
2 ~~given~~.

3 (4) (a) A dealer or wholesaler in motor vehicles, recreational vehicles, or trailers who maintains
4 more than one place of business or who maintains a branch establishment or establishments shall register
5 and pay a registration or license fee for each place of business or establishment.

6 (b) (i) A dealer may sell vehicles only from ~~his~~ a licensed place of business unless the dealer notifies
7 the department 10 days in advance, on a form prescribed by the department, of the opening date and
8 location of an off-premises sale.

9 (ii) Except for recreational vehicle dealers, an off-premises sale must be conducted within the city
10 limits of the city of the dealer's licensed location or ~~upon~~ at an adjacent off-premises site that is approved
11 by the department and that is within the county of the dealer's licensed location, except that a recreational
12 vehicle dealer may hold an off-premises sale in any adjacent county or any county that does not have an
13 active recreational vehicle dealer maintaining at least six units of inventory.

14 (iii) The sale may not exceed 10 consecutive business days, and a licensed dealer may not conduct
15 more than 10 off-premises sales during any 4 calendar year.

16 (5) An out-of-state recreational vehicle organization, association, or corporation organized to
17 promote the recreational vehicle industry may conduct an exhibition in this state under the following
18 conditions:

19 (a) The out-of-state recreational vehicle organization, association, or corporation shall solicit the
20 participation of at least four recreational vehicle dealers licensed in this state, regardless of their location
21 within this state, to participate in the exhibition.

22 (b) The length of the exhibition may not exceed 10 consecutive business days.

23 ~~(6)~~(6) A new applicant for a used motor vehicle dealer or wholesaler license shall pay \$300 to the
24 department in addition to any other sums required by this section or other provisions of the law. An
25 applicant for a renewal of a used motor vehicle dealer or wholesaler license shall certify under oath that ~~he~~
26 the applicant has sold more than five used motor vehicles during the preceding calendar year or shall pay
27 an additional \$300 before ~~he may be licensed~~ being eligible for a license.

28 ~~(7)~~(7) Demonstrator plates provided for in subsection (2)(a)(ii) may be used only as follows:

29 (a) New and used motor vehicle or recreational vehicle demonstrator plates may be used:

30 (i) to demonstrate, for ~~no~~ not more than 72 hours, an authorized vehicle held for sale, when

1 operated by an individual holding a valid operator's license;

2 (ii) on authorized vehicles owned by ~~the firm~~ a dealer or wholesaler when operated by an officer
3 or bona fide full-time employee of the dealer or wholesaler and used to transport the dealer's or
4 wholesaler's own tools, parts, and equipment;

5 (iii) on authorized vehicles being tested for repair;

6 (iv) on authorized vehicles being moved to or from a dealer's place of business for sale;

7 (v) on authorized vehicles being moved to or from service and repair facilities before sale;

8 (vi) on authorized vehicles being moved to or from exhibitions within the state, ~~provided any such~~
9 if the exhibition does not exceed a period of 20 days, except as provided in subsection (5).

10 (b) Mobile home and trailer dealer demonstrator plates may be used:

11 (i) on units hauled to or from the place of business of the manufacturer and the place of business
12 of the dealer or to and from places of business of the dealer;

13 (ii) on mobile homes hauled to a customer's location for setup after sale;

14 (iii) on travel trailers held for sale to demonstrate the towing capability of the vehicle ~~provided that~~
15 if a dated demonstration permit, valid for not more than 72 hours, is carried with the vehicle at all times;

16 (iv) on any motor vehicle owned by the dealer that is used only to move vehicles legally bearing
17 mobile home and travel trailer dealer license plates of the dealer owning ~~any such~~ the motor vehicle;

18 (v) on vehicles being moved to or from vehicle exhibitions within the state, ~~provided any such if~~
19 the exhibition does not exceed a period of 20 days, except as provided in subsection (5)."

20 -END-

1 SENATE BILL NO. 232

2 INTRODUCED BY BENEDICT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A STATUTE OF LIMITATIONS FOR CIVIL ACTIONS
5 TO RECOVER DAMAGES ARISING OUT OF THE PRACTICE OF PUBLIC ACCOUNTING; AND PROVIDING
6 AN APPLICABILITY DATE."

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

9
10 **NEW SECTION. Section 1. Action for damages arising out of practice of public accounting.** (1)

11 An action based on negligence brought against an accountant or an accounting firm by a person for
12 recovery of damages must be commenced not later than 3 YEARS:

13 (a) ~~1 year~~ from the date that the alleged act, omission, or neglect is discovered or should have
14 been discovered by the exercise of reasonable diligence BUT IN NO CASE MAY THE ACTION BE
15 COMMENCED AFTER 10 YEARS FROM THE DATE OF THE ACT, OMISSION, OR NEGLECT;

16 (b) ~~3 years~~ after completion of the service that is the basis of the action; or

17 (c) ~~3 years~~ after the date of the initial issuance of the accountant's report on the financial
18 statements or other information.

19 (2) This section applies to an action based on negligence brought against an accountant or
20 accounting firm practicing in this state by any person or entity that claims to have been injured as a result
21 of financial statements or other information that is examined, compiled, reviewed, certified, audited, or
22 otherwise reported on or for which an opinion is given by the accountant or firm as a result of an
23 agreement to provide public accounting services.

24
25 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
26 integral part of Title 27, chapter 2, part 2, and the provisions of Title 27, chapter 2, part 2, apply to
27 [section 1].

28
29 **NEW SECTION. Section 3. Applicability.** [This act] applies to causes of actions accruing on or
30 after [the effective date of this act].

-END-

- 1 -