

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

INTRODUCED BY Spesh ^{Senate} Harms BILL NO. 252

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY SHERIFF RESPONSIBILITIES FOR HANDLING ABANDONED VEHICLES AND PROVIDING FOR PAYMENT OF CERTAIN ABANDONED VEHICLE REMOVAL CHARGES FROM MOTOR VEHICLE DISPOSAL FEES; AMENDING SECTIONS 61-12-401, 61-12-402, 61-12-403, 61-12-404, 75-10-503, AND 75-10-532, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because it gives the department of environmental quality authority to adopt additional administrative rules to establish the amount and manner of reimbursement of certain unpaid abandoned vehicle towing charges from state motor vehicle disposal fees.

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

Section 1. Section 61-12-401, MCA, is amended to read:

"61-12-401. Taking vehicle into custody. (1) The following law enforcement agencies may take into custody any motor vehicle found abandoned for a period of 48 hours or more on ~~any~~ a public highway, or for a period of 5 days or more on ~~any~~ a city street, public property, or private property:

- (a) the Montana highway patrol if the vehicle is upon the right-of-way of any public highway other than a county road;
- (b) the sheriff of the county if the vehicle is upon the right-of-way of any county road ~~within the county;~~
- (c) the city police if the vehicle is upon a city street within the city.

(2) The Montana highway patrol, sheriff of the county, or the city police may use ~~its or his~~ their department personnel, equipment, and facilities for the removal and storage of the vehicle, or may hire other personnel, equipment, and facilities for those purposes. The sheriff of the county in which the vehicle is being stored may request reimbursement of the hired removal charge from the motor vehicle recycling and disposal program of the department of environmental quality in an amount and manner established by rules adopted by the department for this purpose.

1 (3) At the request of the owner or person in lawful possession or control of the private property,
2 the sheriff of the county in which the vehicle is located or the city police of the city in which the vehicle
3 is located may remove and hold it in the manner and upon the conditions provided in subsections (1) and
4 (2)."

5
6 **Section 2.** Section 61-12-402, MCA, is amended to read:

7 "**61-12-402. Notice to owner.** (1) Within 72 hours after any vehicle is removed and held by or at
8 the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the county in
9 which the vehicle ~~was located at the time it was taken into custody and the place where the vehicle is~~
10 being held stored, of where and when the vehicle was taken into custody and of where the vehicle is being
11 stored. In addition, the Montana highway patrol shall furnish the sheriff:

12 (a) a complete description of the vehicle, including year, make, model, serial number, and license
13 number if available;

14 (b) any costs incurred to that date in the removal, storage, and custody of the vehicle; and

15 (c) any available information concerning ~~the~~ the vehicle's ownership.

16 (2) The highway patrol shall notify the chief law enforcement officer of the county in which the
17 vehicle was taken into custody of the location at which the vehicle is being stored if the vehicle was
18 removed to a different county.

19 ~~(2)~~(3) The sheriff or the city police in the jurisdiction where the vehicle is being stored shall make
20 reasonable efforts to ascertain the name and address of the owner, lienholder, or person entitled to
21 possession of the vehicle taken into custody under 61-12-401. If a name and address are ascertained, the
22 sheriff or the city police shall notify the owner and lienholder or person of the location of the vehicle.

23 ~~(3)~~(4) If the vehicle is registered in the office of the department, notice is considered to have been
24 given when a registered or certified letter addressed to the registered owner of the vehicle and lienholder,
25 if any, at the latest address shown by the records in the office of the department, return receipt requested
26 and postage prepaid, is mailed at least 30 days before the vehicle is sold.

27 ~~(4)~~(5) If the identity of the last-registered owner cannot be determined, if the registration does not
28 contain an address for the owner, or if it is impossible to determine with reasonable certainty the identity
29 and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the
30 county where the motor vehicle ~~was abandoned~~ is being stored is sufficient to meet all requirements of

1 notice pursuant to this part. The notice by publication can contain multiple listings of abandoned vehicles.
 2 The notice must be provided in the same manner as prescribed in 25-13-701(1)(b).

3 ~~(5)~~(6) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed
 4 under 75-10-511, the wrecking facility may make the required search to ascertain the name and address
 5 of the owner, lienholder, or person entitled to possession of the vehicle and shall give the notices required
 6 in subsections (2) through (4). The wrecking facility shall deliver to the sheriff or the city police a certificate
 7 describing the efforts made to ascertain the name and address of the owner, lienholder, or person entitled
 8 to possession of the vehicle and shall deliver to the sheriff or the city police proof of the notice given.

9 ~~(6)~~(7) A vehicle found by law enforcement officials to be a "junk vehicle", as defined by
 10 75-10-501, and certified as having an appraised value of \$500 or less, as determined by the department
 11 of revenue, may be directly submitted for disposal in accordance with the provisions of part 5 of chapter
 12 10, Title 75, upon a release given by the sheriff or the city police. In the release, the sheriff or the city
 13 police shall include a description of the vehicle, including year, make, model, serial number, and license
 14 number if available. A release provided by the sheriff or the city police under this section must be
 15 transmitted to the motor vehicle wrecking facility and must be considered by that facility to meet the
 16 requirements for records under 75-10-512 and 75-10-513. Vehicles described in this section may be
 17 submitted without notice and without a required holding period."
 18

19 **Section 3.** Section 61-12-403, MCA, is amended to read:

20 **"61-12-403. Reclaiming vehicle.** The owner, lienholder, or person entitled to possession of the
 21 vehicle may reclaim it at any time after it is taken into custody and before it is sold. ~~He~~ The owner,
 22 lienholder, or person entitled to possession of the vehicle shall present to the sheriff of the county or the
 23 city police of the city ~~in which~~ where the vehicle ~~was located at the time it was taken into custody~~ is being
 24 stored satisfactory proof of ownership or right to possession, and shall pay the costs and expenses incurred
 25 in the removal, storage, and custody of the vehicle. ~~He~~ The person reclaiming the vehicle ~~shall~~ may not be
 26 required to pay storage charges for a period longer than 90 days."
 27

28 **Section 4.** Section 61-12-404, MCA, is amended to read:

29 **"61-12-404. Sale of vehicle if not reclaimed.** (1) If a vehicle is not reclaimed as provided in
 30 61-12-403 within 30 days after notification by registered or certified mail or prescribed publication, the

1 sheriff of the county or the city police of the city in which ~~it is located at the time it was taken into custody~~
2 the vehicle is being stored shall sell it at public auction in the manner provided in 25-13-701 through
3 25-13-709.

4 (2) After any vehicle has been ~~so~~ sold pursuant to subsection (1), the former owner or person
5 entitled to possession has no further right, title, claim, or interest in or to the vehicle."
6

7 **Section 5.** Section 75-10-503, MCA, is amended to read:

8 **"75-10-503. Adoption of rules.** (1) The department shall adopt rules necessary for the
9 administration of this part, except 75-10-520, including but not limited to rules pertaining to:

10 (a) the establishment, control, operation, and licensing of motor vehicle wrecking facilities and
11 graveyards;

12 (b) the control of junk vehicles in locations other than motor vehicle wrecking facilities and
13 graveyards;

14 (c) the inspection and evaluation of premises and records subject to or required by this part;

15 (d) the development of budget and fiscal forms and procedures for counties;

16 (e) the review, approval, and control procedures for county motor vehicle graveyards developed
17 under this part; and

18 (f) the shielding of a junk vehicle and motor vehicle wrecking facility and graveyard from public
19 view. The department may not adopt a rule that requires any motor vehicle wrecking facility that existed
20 prior to July 1, 1973, and that has been continuously used ~~thereafter~~ as a motor vehicle wrecking facility
21 to construct a fence or ~~manmade~~ barrier that would be in excess of 12 feet in height.

22 (2) The department shall adopt rules authorizing the sale of junk vehicles by county motor vehicle
23 graveyards to licensed motor vehicle wrecking facilities.

24 (3) The department shall adopt rules providing for the reimbursement of hired removal charges of
25 certain abandoned vehicles in accordance with 61-12-401."
26

27 **Section 6.** Section 75-10-532, MCA, is amended to read:

28 **"75-10-532. Disposition of money collected.** All money received from the sale of the junk vehicles
29 or from recycling of the material and all motor vehicle wrecking facility license fees and fees collected as
30 motor vehicle disposal fees must be deposited with the state treasurer to be used for the control, collection,

1 recycling, and disposal of junk vehicles and component parts and the removal of abandoned vehicles."

2

3 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 1997.

4

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0252, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising sheriff responsibilities for handling abandoned vehicles and providing for payment of removal charges from motor vehicle disposal fees.

ASSUMPTIONS:

1. Abandoned vehicles currently not managed under the Department of Environmental Quality (DEQ) junk vehicle program would now be eligible for inclusion in the program, thereby expanding program scope and total expenses.
2. No new sources of funding will become available to the program.
3. No program activities have been or are intended to be eliminated.
4. All abandoned vehicles under this program expansion would be hauled, at a rate of \$67/vehicle by private industry.
5. Approximately 30% of these vehicles will be reclaimed by private individuals who are responsible for reimbursing this hauling cost to private industry.
6. Approximately 0.0035% of vehicle registered annually in Montana are abandoned -- amounting to approximately 2,985 vehicles per year. About 50% (1,493) of these vehicles would enter the recycling program at a net cost of \$55.17 to the program for each new vehicle handled by the program as a result of this bill. (Hauling at \$67 + \$30 storage and preparation, minus \$41.83 per vehicle in salvage value [average 1.06 ton vehicle * \$39.46/ton value]).
7. Private industry will recover hauling costs from DEQ for another 20% (597) of these vehicles at a rate of \$67/vehicle.
8. Therefore, vehicle handling costs will increase a total of \$122,368 per year $([1,493 * \$55.17] + [597 * \$67] = \$122,368)$.
9. Additional program support is necessary to manage the paperwork and tracking associated with reimbursement of hauling costs and related program administration. Thus 0.50 FTE Grade 10 will incur an ongoing cost of \$11,798 per year in salary and benefits plus indirect costs at 17%, \$30/month for phone and fax costs, \$1,600 in annual rent and \$5,000 in miscellaneous expenses totaling \$20,764 and one time costs of \$3,750 for computer and office equipment.
10. Program costs to DEQ will increase proportionately with future increases in total numbers of vehicles.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
FTE	0.50	0.50
Personal Services	11,798	11,798
Operating Costs	12,716	8,966
Vehicle Handling Costs	<u>122,368</u>	<u>122,368</u>
Total	146,882	143,132
<u>Funding:</u>		
State Special Revenue (02)	146,882	143,132
<u>Net Impact:</u> (Revenue minus expense)		
Junk Vehicle Disposal(02845)	(146,882)	(143,132)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Without additional sources of revenue to cover the projected costs, county programs will decrease in scope as the proportion of program moneys expended on storage preparation costs increases.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The scope of program work will increase and associated increased costs will result in a gradual drawdown of the junk vehicle fund for the long-term. Fees would likely need to be increased prior to 2004 to maintain existing service levels in this fee-based program.

Dave Lewis 2-4-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

John W.D. Lynch 2/6/97
 JOHN "O.D." LYNCH, PRIMARY SPONSOR DATE

Fiscal Note for SB0252, as introduced

SB 252

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

SENATE BILL NO. 252
INTRODUCED BY LYNCH, HARRINGTON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY SHERIFF AND CITY POLICE RESPONSIBILITIES FOR HANDLING ABANDONED VEHICLES AND PROVIDING FOR PAYMENT OF CERTAIN ABANDONED VEHICLE REMOVAL CHARGES FROM MOTOR VEHICLE DISPOSAL FEES; AMENDING SECTIONS 61-12-401, 61-12-402, 61-12-403, 61-12-404, 75-10-503, AND 75-10-532, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because it gives the department of environmental quality authority to adopt additional administrative rules to establish the amount and manner of reimbursement of certain unpaid abandoned vehicle towing charges from state motor vehicle disposal fees.

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

Section 1. Section 61-12-401, MCA, is amended to read:

"61-12-401. Taking vehicle into custody. (1) The following law enforcement agencies may take into custody any motor vehicle found abandoned for a period of 48 hours or more on ~~any~~ a public highway, or for a period of 5 days or more on ~~any~~ a city street, public property, or private property:

- (a) the Montana highway patrol if the vehicle is upon the right-of-way of any public highway other than a county road;
- (b) the sheriff of the county if the vehicle is upon the right-of-way of any county road ~~within the county;~~
- (c) the city police if the vehicle is upon a city street within the city.

(2) The Montana highway patrol, sheriff of the county, or the city police may use ~~its or his~~ their department personnel, equipment, and facilities for the removal and storage of the vehicle, or may hire other personnel, equipment, and facilities for those purposes. The sheriff of the county OR THE CHIEF OF POLICE OF THE CITY in which the vehicle is being stored may request reimbursement of the hired removal charge from the motor vehicle recycling and disposal program of the department of environmental quality

1 in an amount and manner established by rules adopted by the department for this purpose.

2 (3) At the request of the owner or person in lawful possession or control of the private property,
3 the sheriff of the county in which the vehicle is located or the city police of the city in which the vehicle
4 is located may remove and hold it in the manner and upon the conditions provided in subsections (1) and
5 (2)."

6

7 **Section 2.** Section 61-12-402, MCA, is amended to read:

8 **"61-12-402. Notice to owner.** (1) Within 72 hours after any vehicle is removed and held by or at
9 the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the county OR
10 THE CHIEF OF POLICE OF THE CITY in which the vehicle ~~was located at the time it was taken into custody~~
11 ~~and the place where the vehicle is being held~~ stored, of where and when the vehicle was taken into custody
12 and of where the vehicle is being stored. In addition, the Montana highway patrol shall furnish the sheriff
13 OR THE CHIEF OF POLICE:

14 (a) a complete description of the vehicle, including year, make, model, serial number, and license
15 number if available;

16 (b) any costs incurred to that date in the removal, storage, and custody of the vehicle; and

17 (c) any available information concerning ~~its~~ the vehicle's ownership.

18 (2) ~~The highway patrol shall notify the chief law enforcement officer~~ SHERIFF of the county OR
19 THE CHIEF OF POLICE OF THE CITY in which the vehicle was taken into custody of the location at which
20 the vehicle is being stored if the vehicle was removed to a different county.

21 ~~(3)~~ (3) The sheriff or the city police in the jurisdiction where the vehicle is being stored shall make
22 reasonable efforts to ascertain the name and address of the owner, lienholder, or person entitled to
23 possession of the vehicle taken into custody under 61-12-401. If a name and address are ascertained, the
24 sheriff or the city police shall notify the owner and lienholder or person of the location of the vehicle.

25 ~~(4)~~ (4) If the vehicle is registered in the office of the department, notice is considered to have been
26 given when a registered or certified letter addressed to the registered owner of the vehicle and lienholder,
27 if any, at the latest address shown by the records in the office of the department, return receipt requested
28 and postage prepaid, is mailed at least 30 days before the vehicle is sold.

29 ~~(5)~~ (5) If the identity of the last-registered owner cannot be determined, if the registration does not
30 contain an address for the owner, or if it is impossible to determine with reasonable certainty the identity

1 and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the
 2 county where the motor vehicle ~~was abandoned~~ is being stored is sufficient to meet all requirements of
 3 notice pursuant to this part. The notice by publication can contain multiple listings of abandoned vehicles.
 4 The notice must be provided in the same manner as prescribed in 25-13-701(1)(b).

5 ~~(6)~~(6) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed
 6 under 75-10-511, the wrecking facility may make the required search to ascertain the name and address
 7 of the owner, lienholder, or person entitled to possession of the vehicle and shall give the notices required
 8 in subsections (2) through (4). The wrecking facility shall deliver to the sheriff or the city police a certificate
 9 describing the efforts made to ascertain the name and address of the owner, lienholder, or person entitled
 10 to possession of the vehicle and shall deliver to the sheriff or the city police proof of the notice given.

11 ~~(6)~~(7) A vehicle found by law enforcement officials to be a "junk vehicle", as defined by
 12 75-10-501, and certified as having an appraised value of \$500 or less, as determined by the department
 13 of revenue, may be directly submitted for disposal in accordance with the provisions of part 5 of chapter
 14 10, Title 75, upon a release given by the sheriff or the city police. In the release, the sheriff or the city
 15 police shall include a description of the vehicle, including year, make, model, serial number, and license
 16 number if available. A release provided by the sheriff or the city police under this section must be
 17 transmitted to the motor vehicle wrecking facility and must be considered by that facility to meet the
 18 requirements for records under 75-10-512 and 75-10-513. Vehicles described in this section may be
 19 submitted without notice and without a required holding period."
 20

21 **Section 3.** Section 61-12-403, MCA, is amended to read:

22 "**61-12-403. Reclaiming vehicle.** The owner, lienholder, or person entitled to possession of the
 23 vehicle may reclaim it at any time after it is taken into custody and before it is sold. ~~He~~ The owner,
 24 lienholder, or person entitled to possession of the vehicle shall present to the sheriff of the county or the
 25 city police of the city ~~in which~~ where the vehicle ~~was located at the time it was taken into custody~~ is being
 26 stored satisfactory proof of ownership or right to possession, and shall pay the costs and expenses incurred
 27 in the removal, storage, and custody of the vehicle. ~~He~~ The person reclaiming the vehicle shall ~~may~~ not be
 28 required to pay storage charges for a period longer than 90 days."
 29

30 **Section 4.** Section 61-12-404, MCA, is amended to read:

1 **"61-12-404. Sale of vehicle if not reclaimed.** (1) If a vehicle is not reclaimed as provided in
 2 61-12-403 within 30 days after notification by registered or certified mail or prescribed publication, the
 3 sheriff of the county or the city police of the city in which ~~it is located at the time it was taken into custody~~
 4 the vehicle is being stored shall sell it at public auction in the manner provided in 25-13-701 through
 5 25-13-709.

6 (2) After any vehicle has been ~~se~~ sold pursuant to subsection (1), the former owner or person
 7 entitled to possession has no further right, title, claim, or interest in or to the vehicle."

8

9 **Section 5.** Section 75-10-503, MCA, is amended to read:

10 **"75-10-503. Adoption of rules.** (1) The department shall adopt rules necessary for the
 11 administration of this part, except 75-10-520, including but not limited to rules pertaining to:

12 (a) the establishment, control, operation, and licensing of motor vehicle wrecking facilities and
 13 graveyards;

14 (b) the control of junk vehicles in locations other than motor vehicle wrecking facilities and
 15 graveyards;

16 (c) the inspection and evaluation of premises and records subject to or required by this part;

17 (d) the development of budget and fiscal forms and procedures for counties;

18 (e) the review, approval, and control procedures for county motor vehicle graveyards developed
 19 under this part; and

20 (f) the shielding of a junk vehicle and motor vehicle wrecking facility and graveyard from public
 21 view. The department may not adopt a rule that requires any motor vehicle wrecking facility that existed
 22 prior to July 1, 1973, and that has been continuously used ~~thereafter~~ as a motor vehicle wrecking facility
 23 to construct a fence or ~~manmade~~ barrier that would be in excess of 12 feet in height.

24 (2) The department shall adopt rules authorizing the sale of junk vehicles by county motor vehicle
 25 graveyards to licensed motor vehicle wrecking facilities.

26 (3) The department shall adopt rules providing for the reimbursement of hired removal charges of
 27 certain abandoned vehicles in accordance with 61-12-401."

28

29 **Section 6.** Section 75-10-532, MCA, is amended to read:

30 **"75-10-532. Disposition of money collected.** All money received from the sale of the junk vehicles

1 or from recycling of the material and all motor vehicle wrecking facility license fees and fees collected as
2 motor vehicle disposal fees must be deposited with the state treasurer to be used for the control, collection,
3 recycling, and disposal of junk vehicles and component parts and the removal of abandoned vehicles."

4

5 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 1997.

6

-END-

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

SENATE BILL NO. 252

INTRODUCED BY LYNCH, HARRINGTON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY SHERIFF AND CITY POLICE RESPONSIBILITIES FOR HANDLING ABANDONED VEHICLES AND PROVIDING FOR PAYMENT OF CERTAIN ABANDONED VEHICLE REMOVAL CHARGES FROM MOTOR VEHICLE DISPOSAL FEES; AMENDING SECTIONS 61-12-401, 61-12-402, 61-12-403, 61-12-404, 75-10-503, AND 75-10-532, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because it gives the department of environmental quality authority to adopt additional administrative rules to establish the amount and manner of reimbursement of certain unpaid abandoned vehicle towing charges from state motor vehicle disposal fees.

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

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

1 SENATE BILL NO. 252

2 INTRODUCED BY LYNCH, HARRINGTON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY SHERIFF AND CITY POLICE
5 RESPONSIBILITIES FOR HANDLING ABANDONED VEHICLES AND PROVIDING FOR PAYMENT OF CERTAIN
6 ABANDONED VEHICLE REMOVAL CHARGES FROM MOTOR VEHICLE DISPOSAL FEES; AMENDING
7 SECTIONS 61-12-401, 61-12-402, 61-12-403, 61-12-404, 75-10-503, AND 75-10-532, MCA; AND
8 PROVIDING AN EFFECTIVE DATE."

9
10 STATEMENT OF INTENT

11 A statement of intent is required for this bill because it gives the department of environmental
12 quality authority to adopt additional administrative rules to establish the amount and manner of
13 reimbursement of certain unpaid abandoned vehicle towing charges from state motor vehicle disposal fees.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

1 SENATE BILL NO. 252

2 INTRODUCED BY LYNCH, HARRINGTON

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY SHERIFF AND CITY POLICE
 5 RESPONSIBILITIES FOR HANDLING ABANDONED VEHICLES AND PROVIDING FOR PAYMENT OF CERTAIN
 6 ABANDONED VEHICLE REMOVAL CHARGES FROM MOTOR VEHICLE DISPOSAL FEES; AMENDING
 7 SECTIONS 61-12-401, 61-12-402, 61-12-403, 61-12-404, 75-10-503, AND 75-10-532, MCA; AND
 8 PROVIDING AN EFFECTIVE DATE."

9
10 STATEMENT OF INTENT

11 A statement of intent is required for this bill because it gives the department of environmental
 12 quality authority to adopt additional administrative rules to establish the amount and manner of
 13 reimbursement of certain unpaid abandoned vehicle towing charges from state motor vehicle disposal fees.

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
 17 **Section 1.** Section 61-12-401, MCA, is amended to read:

18 **"61-12-401. Taking vehicle into custody.** (1) The following law enforcement agencies may take
 19 into custody any motor vehicle found abandoned for a period of 48 hours or more on ~~any~~ a public highway,
 20 or for a period of 5 days or more on ~~any~~ a city street, public property, or private property:

21 (a) the Montana highway patrol if the vehicle is upon the right-of-way of any public highway other
 22 than a county road;

23 (b) the sheriff of the county if the vehicle is upon the right-of-way of any county road ~~within the~~
 24 ~~county~~;

25 (c) the city police if the vehicle is upon a city street within the city.

26 (2) The Montana highway patrol, sheriff of the county, or the city police may use ~~its or his~~ their
 27 department personnel, equipment, and facilities for the removal and storage of the vehicle, or may hire
 28 other personnel, equipment, and facilities for those purposes. The sheriff of the county OR THE CHIEF OF
 29 POLICE OF THE CITY in which the vehicle is being stored may request reimbursement of the hired removal
 30 charge from the motor vehicle recycling and disposal program of the department of environmental quality

1 in an amount and manner established by rules adopted by the department for this purpose.

2 (3) At the request of the owner or person in lawful possession or control of the private property,
3 the sheriff of the county in which the vehicle is located or the city police of the city in which the vehicle
4 is located may remove and hold it in the manner and upon the conditions provided in subsections (1) and
5 (2)."

6
7 **Section 2.** Section 61-12-402, MCA, is amended to read:

8 **"61-12-402. Notice to owner.** (1) Within 72 hours after any vehicle is removed and held by or at
9 the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the county OR
10 THE CHIEF OF POLICE OF THE CITY in which the vehicle ~~was located at the time it was taken into custody~~
11 ~~and the place where the vehicle is being held~~ stored, of where and when the vehicle was taken into custody
12 and of where the vehicle is being stored. In addition, the Montana highway patrol shall furnish the sheriff
13 OR THE CHIEF OF POLICE:

14 (a) a complete description of the vehicle, including year, make, model, serial number, and license
15 number if available;

16 (b) any costs incurred to that date in the removal, storage, and custody of the vehicle; and

17 (c) any available information concerning ~~its~~ the vehicle's ownership.

18 ~~(2)~~ (2) The highway patrol shall notify the ~~chief law enforcement officer~~ SHERIFF of the county OR
19 THE CHIEF OF POLICE OF THE CITY in which the vehicle was taken into custody of the location at which
20 the vehicle is being stored if the vehicle was removed to a different county.

21 ~~(3)~~ (3) The sheriff or the city police in the jurisdiction where the vehicle is being stored shall make
22 reasonable efforts to ascertain the name and address of the owner, lienholder, or person entitled to
23 possession of the vehicle taken into custody under 61-12-401. If a name and address are ascertained, the
24 sheriff or the city police shall notify the owner and lienholder or person of the location of the vehicle.

25 ~~(3)~~ (4) If the vehicle is registered in the office of the department, notice is considered to have been
26 given when a registered or certified letter addressed to the registered owner of the vehicle and lienholder,
27 if any, at the latest address shown by the records in the office of the department, return receipt requested
28 and postage prepaid, is mailed at least 30 days before the vehicle is sold.

29 ~~(4)~~ (5) If the identity of the last-registered owner cannot be determined, if the registration does not
30 contain an address for the owner, or if it is impossible to determine with reasonable certainty the identity

1 and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the
 2 county where the motor vehicle ~~was abandoned~~ is being stored is sufficient to meet all requirements of
 3 notice pursuant to this part. The notice by publication can contain multiple listings of abandoned vehicles.
 4 The notice must be provided in the same manner as prescribed in 25-13-701(1)(b).

5 ~~(5)(6)~~ If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed
 6 under 75-10-511, the wrecking facility may make the required search to ascertain the name and address
 7 of the owner, lienholder, or person entitled to possession of the vehicle and shall give the notices required
 8 in subsections (2) through (4). The wrecking facility shall deliver to the sheriff or the city police a certificate
 9 describing the efforts made to ascertain the name and address of the owner, lienholder, or person entitled
 10 to possession of the vehicle and shall deliver to the sheriff or the city police proof of the notice given.

11 ~~(6)(7)~~ A vehicle found by law enforcement officials to be a "junk vehicle", as defined by
 12 75-10-501, and certified as having an appraised value of \$500 or less, as determined by the department
 13 of revenue, may be directly submitted for disposal in accordance with the provisions of part 5 of chapter
 14 10, Title 75, upon a release given by the sheriff or the city police. In the release, the sheriff or the city
 15 police shall include a description of the vehicle, including year, make, model, serial number, and license
 16 number if available. A release provided by the sheriff or the city police under this section must be
 17 transmitted to the motor vehicle wrecking facility and must be considered by that facility to meet the
 18 requirements for records under 75-10-512 and 75-10-513. Vehicles described in this section may be
 19 submitted without notice and without a required holding period."
 20

21 **Section 3.** Section 61-12-403, MCA, is amended to read:

22 "61-12-403. **Reclaiming vehicle.** The owner, lienholder, or person entitled to possession of the
 23 vehicle may reclaim it at any time after it is taken into custody and before it is sold. ~~He~~ The owner,
 24 lienholder, or person entitled to possession of the vehicle shall present to the sheriff of the county or the
 25 city police of the city ~~in which~~ where the vehicle ~~was located at the time it was taken into custody~~ is being
 26 stored satisfactory proof of ownership or right to possession, and shall pay the costs and expenses incurred
 27 in the removal, storage, and custody of the vehicle. ~~He~~ The person reclaiming the vehicle shall may not be
 28 required to pay storage charges for a period longer than 90 days."
 29

30 **Section 4.** Section 61-12-404, MCA, is amended to read:

1 **"61-12-404. Sale of vehicle if not reclaimed.** (1) If a vehicle is not reclaimed as provided in
 2 61-12-403 within 30 days after notification by registered or certified mail or prescribed publication, the
 3 sheriff of the county or the city police of the city in which ~~it is located at the time it was taken into custody~~
 4 the vehicle is being stored shall sell it at public auction in the manner provided in 25-13-701 through
 5 25-13-709.

6 (2) After any vehicle has been ~~se~~ sold pursuant to subsection (1), the former owner or person
 7 entitled to possession has no further right, title, claim, or interest in or to the vehicle."
 8

9 **Section 5.** Section 75-10-503, MCA, is amended to read:

10 **"75-10-503. Adoption of rules.** (1) The department shall adopt rules necessary for the
 11 administration of this part, except 75-10-520, including but not limited to rules pertaining to:

12 (a) the establishment, control, operation, and licensing of motor vehicle wrecking facilities and
 13 graveyards;

14 (b) the control of junk vehicles in locations other than motor vehicle wrecking facilities and
 15 graveyards;

16 (c) the inspection and evaluation of premises and records subject to or required by this part;

17 (d) the development of budget and fiscal forms and procedures for counties;

18 (e) the review, approval, and control procedures for county motor vehicle graveyards developed
 19 under this part; and

20 (f) the shielding of a junk vehicle and motor vehicle wrecking facility and graveyard from public
 21 view. The department may not adopt a rule that requires any motor vehicle wrecking facility that existed
 22 prior to July 1, 1973, and that has been continuously used ~~thereafter~~ as a motor vehicle wrecking facility
 23 to construct a fence or ~~manmade~~ barrier that would be in excess of 12 feet in height.

24 (2) The department shall adopt rules authorizing the sale of junk vehicles by county motor vehicle
 25 graveyards to licensed motor vehicle wrecking facilities.

26 (3) The department shall adopt rules providing for the reimbursement of hired removal charges of
 27 certain abandoned vehicles in accordance with 61-12-401."
 28

29 **Section 6.** Section 75-10-532, MCA, is amended to read:

30 **"75-10-532. Disposition of money collected.** All money received from the sale of the junk vehicles

1 or from recycling of the material and all motor vehicle wrecking facility license fees and fees collected as
2 motor vehicle disposal fees must be deposited with the state treasurer to be used for the control, collection,
3 recycling, and disposal of junk vehicles and component parts and the removal of abandoned vehicles."

4

5 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 1997.

6

-END-

OFFICE OF THE GOVERNOR

STATE OF MONTANA



MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

April 19, 1997

The Honorable Gary Aklestad
President of the Senate
State Capitol
Helena MT 59620

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

Dear President Aklestad and Speaker Mercer:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto Senate Bill 252, **"AN ACT REVISING COUNTY SHERIFF AND CITY POLICE RESPONSIBILITIES FOR HANDLING ABANDONED VEHICLES AND PROVIDING FOR PAYMENT OF CERTAIN ABANDONED VEHICLE REMOVAL CHARGES FROM MOTOR VEHICLE DISPOSAL FEES; AMENDING SECTIONS 61-12-401, 61-12-402, 61-12-403, 61-12-404, 75-10-503, AND 75-10-532, MCA; AND PROVIDING AN EFFECTIVE DATE"** for the following reasons.

Senate Bill 252 expands the program for handling junk vehicles. The estimated cost to the State is \$46,882 in fiscal year 1998 and \$143,132 in fiscal year 1999. Without additional sources of revenue to cover projected costs, the counties will be unable to keep up with the scope of the existing program, as vehicle handling costs increase.

No funding has been provided for Senate Bill 252, and I am therefore vetoing it. The difficult task of carefully and thoughtfully funding essential government services cannot be resolved by requiring government to take on additional unfunded responsibilities.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Racicot".

MARC RACICOT
Governor