

HOUSE BILL NO. 177
INTRODUCED BY S. BOGGIO
BY REQUEST OF THE SECRETARY OF STATE

ABILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE MONTANA ELECTRONIC TRANSACTIONS WITH STATE AGENCIES AND LOCAL GOVERNMENT UNITS ACT; AMENDING SECTIONS 30-18-102, 30-18-118, AND 61-11-503, MCA; AND REPEALING SECTIONS 2-20-101, 2-20-102, 2-20-103, 2-20-104, 2-20-105, 2-20-106, 2-20-107, 2-20-108, 2-20-109, 2-20-110, AND 2-20-111, MCA."

WHEREAS, the 56th Montana Legislature adopted the Montana Electronic Transactions With State Agencies and Local Government Units Act in an effort to establish processes by which citizens, businesses, and other entities could effectively, efficiently, and legally transact official business with state and local governments through technology enabled by electronic means; and

WHEREAS, the 57th Montana Legislature adopted the Uniform Electronic Transactions Act in an effort to expand processes by which citizens, businesses, and other entities can effectively, efficiently, and legally transact official business through technology enabled by electronic means; and

WHEREAS, the adoption and implementation of the Uniform Electronic Transactions Act has eliminated the need for the Montana Electronic Transactions With State Agencies and Local Government Units Act.

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

Section 1. Section 30-18-102, MCA, is amended to read:

"30-18-102. Definitions. In this part:

(1) "agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction;

(2) "automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction;

(3) "computer program" means a set of statements or instructions to be used directly or indirectly in an

information processing system in order to bring about a certain result-;

(4) "contract" means the total legal obligation resulting from the parties' agreement as affected by this part and other applicable law-;

(5) "cryptosystem" means a system that transforms or encrypts information for the purpose of secrecy or authenticity. The term includes a computer-based security procedure capable of generating and using a key pair.

~~(5)~~(6) "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities-;

~~(6)~~(7) "electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances, in whole or in part, without review or action by an individual-;

~~(7)~~(8) "electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means-;

~~(8)~~(9) "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record-;

~~(9)~~(10) "governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state-;

~~(10)~~(11) "information" means data, text, images, sounds, codes, computer programs, software, databases, or the like-;

~~(11)~~(12) "information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information-;

~~(12)~~(13) "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity-;

~~(13)~~(14) "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form-;

~~(14)~~(15) "security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

~~(15)~~(16) "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

(17) "STATE AGENCY" MEANS A DEPARTMENT, BOARD, COMMISSION, AUTHORITY, OR OTHER GOVERNMENTAL ENTITY OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT, INCLUDING THE MONTANA UNIVERSITY SYSTEM, THAT SENDS OR RECEIVES ELECTRONIC RECORDS;

~~(16)~~(17)(18) "transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs."

Section 2. Section 30-18-118, MCA, is amended to read:

"30-18-118. Interoperability. (1) The secretary of state may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the federal government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

(2) ~~The secretary of state~~ ANY STATE AGENCY may adopt rules to implement this part ~~for state government that are consistent with the provisions of Title 2, chapter 20, however,~~ However, governmental agencies are not limited to the use of a cryptosystem, ~~as defined in 2-20-103,~~ or any other specific technology for electronic transactions provided for in this part."

Section 3. Section 61-11-503, MCA, is amended to read:

"61-11-503. Definitions. As used in this part, the following definitions apply:

(1) "Disclose" means to engage in any practice or conduct that makes available or known, by means of any communication to another person, organization, or entity, personal information contained in a motor vehicle record.

(2) "Express consent" means an affirmative authorization given in writing by a person to whom personal information pertains that specifically allows the department to release personal information to another person, organization, or entity. Consent may be conveyed electronically if the conveyance includes an electronic signature, as defined in ~~2-20-103~~ 30-18-102, from the person to whom the personal information pertains.

(3) "Highly restricted personal information" means an individual's photograph or image, social security

number, or medical or disability information.

(4) "Motor vehicle record" means any record maintained by the department that pertains to a driver's license, commercial driver's license, driving permit, motor vehicle title, motor vehicle registration, or identification card issued by the department.

(5) "Person" does not mean a state agency or local government entity.

(6) (a) "Personal information" means information that identifies a person, including a person's name, address, telephone number, social security number, driver's license or identification number, date of birth, photograph or image, and medical or disability information.

(b) The term does not include the five-digit zip code of an address, information on vehicular accidents, driving or equipment-related violations, a person's driver's license or vehicle registration status, or a vehicle's insurance status.

(7) "Record" includes all books, papers, photographs, photostats, cards, film, tapes, recordings, electronic data, printouts, or other documentary materials, regardless of physical form or characteristics."

NEW SECTION. **Section 4. Repealer.** Sections 2-20-101, 2-20-102, 2-20-103, 2-20-104, 2-20-105, 2-20-106, 2-20-107, 2-20-108, 2-20-109, 2-20-110, and 2-20-111, MCA, are repealed.

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