

SENATE BILL NO. 207
INTRODUCED BY D. LEWIS

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A SALVAGE VEHICLE PURCHASER'S LICENSE; PROVIDING A TAX CREDIT FOR THE FEE FOR A SALVAGE VEHICLE PURCHASER'S LICENSE OR RENEWAL; GRANTING THE DEPARTMENT OF JUSTICE RULEMAKING AUTHORITY FOR ADMINISTERING THE LICENSE; ESTABLISHING A SALVAGE VEHICLE PURCHASER'S SPECIAL REVENUE ACCOUNT; PROVIDING FOR THE DISPOSITION OF FEES FOR ISSUANCE OR RENEWAL OF A SALVAGE VEHICLE PURCHASER'S LICENSE; RESTRICTING SALES OF SALVAGE VEHICLES TO CERTAIN DESIGNATED PURCHASERS; AMENDING SECTIONS 61-4-101 AND 75-10-520, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Credit for salvage vehicle purchaser's license.** There is allowed a credit against taxes otherwise due under this chapter for the salvage vehicle purchaser's license fee imposed under [section 3]. The credit must be computed and administered as provided in [section 2].

NEW SECTION. **Section 2. Credit for salvage vehicle purchaser's license fee.** (1) There is a credit against taxes otherwise due under this chapter for the fee imposed under [section 3] for obtaining or renewing a salvage vehicle purchaser's license.

(2) The credit may not exceed \$500 for a tax year.

(3) The credit allowed under this section may not exceed the taxpayer's tax liability. There is no carryback or carryforward of the credit permitted under this section. If the credit allowed under this section is claimed, the amount of a deduction allowed under this chapter for the amount that qualifies for the credit must be reduced by the dollar amount of the tax credit.

(4) If the credit allowed under this section is claimed by a small business corporation, as defined in 15-30-1101, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the same proportion as used to report the entity's income or loss.

NEW SECTION. **Section 3. Salvage vehicle purchaser's license -- issuance -- fee -- disposition**

of fee -- rulemaking authority -- definitions. (1) The department may issue a salvage vehicle purchaser's license to any firm or individual it considers qualified to hold the license under the provisions of this section.

(2) A salvage vehicle purchaser's license authorizes the licensee to select up to two designated buyers to bid on or purchase a salvage vehicle, as defined in 61-3-210, at or through a salvage auction, pool, or disposal sale.

(3) A person may not offer for sale, sell, or exchange a salvage vehicle except to a designated buyer of a licensed salvage vehicle purchaser.

(4) (a) An applicant for a salvage vehicle purchaser's license shall submit a written application to the department. The application must be signed by the applicant and contain a verification, under penalty of law, that the information contained in the application is true and correct. Any information provided in the license application is subject to independent verification by the department or an authorized representative of the department.

(b) After examining a license application and conducting an investigation necessary to verify the information contained in the application, the department may issue the license if the department is satisfied that the applicant qualifies for the issuance of a license under the provisions of this chapter. The department may refuse, after examination and investigation, to issue a license to an applicant who is not qualified for licensure or whose prior financial activities, other activities, or criminal record, as determined by the department:

(i) poses a threat to the effective regulation of dealers, wholesalers, auto auctions, or salvage vehicles;

(ii) poses a threat to the public interest of the state; or

(iii) creates a danger of illegal or deceptive practices being used in the conduct of purchasing salvage vehicles.

(c) The department may refuse, after examination and investigation, to list a designated buyer on the salvage vehicle purchaser's license if the designated buyer meets one or more of the provisions of subsections (4)(b)(i) through (4)(b)(iii).

(5) To be qualified for licensure, an applicant shall provide to the department on a form prescribed by the department the following information:

(a) the applicant's name or, if the applicant is a firm, the name under which the applicant intends to conduct business and the street address and, if different, mailing address for the business;

(b) the name, date of birth, social security number, and driver's license number of a person the applicant intends to list as a designated buyer;

(c) if the applicant is required to be licensed pursuant to 61-4-101 or 75-10-511, the license numbers for those licenses; and

- (d) any other information required by the department.
- (6) The department shall collect a \$500 fee from each successful applicant before issuing the license.
- (7) The license may be renewed each year for a \$500 fee.
- (8) A salvage vehicle purchaser's license is valid until:
 - (a) voluntarily returned to the department for surrender and cancellation upon the cessation of the licensee's business operations;
 - (b) suspended or revoked for a violation of this chapter or any other laws relating to the sale of motor vehicles, power sports vehicles, or trailers; or
 - (c) December 31 of the year in which it was issued.
- (9) The license is not transferrable.
- (10) The license fees collected pursuant to this section must be deposited in the salvage vehicle purchaser's special revenue account established in [section 4].
- (11) The department shall adopt rules necessary for the administration of this section that may include but are not limited to rules:
 - (a) designing and issuing identification cards to each designated buyer;
 - (b) providing for renewal of a salvage vehicle purchaser's license;
 - (c) establishing any additional information an applicant is required to provide to the department;
 - (d) providing for prorating the fee for a successful license application; and
 - (e) providing for a licensed salvage vehicle purchaser to add or remove a designated buyer from the purchaser's license.
- (12) As used in this section, the following definitions apply:
 - (a) "Designated buyer" means an individual selected by a salvage vehicle purchaser to be allowed to bid upon or purchase a salvage vehicle at or through a salvage auction, pool, or disposal sale.
 - (b) "Firm" means a corporation, partnership, association, or other legal entity.

NEW SECTION. Section 4. Salvage vehicle purchaser's special revenue account -- source of funds -- designated uses. (1) There is a salvage vehicle purchaser's account in the state special revenue fund.

(2) Fees imposed for the issuance or renewal of a salvage vehicle purchaser's license under [section 3] must be deposited in the account.

(3) The money in the salvage vehicle purchaser's special revenue account must be used to offset the costs of the tax credits given under [sections 1 and 2].

(4) The department of revenue shall notify the department of justice of the amount attributable to the tax credits provided for in [sections 1 and 2]. After November 1, the department of justice shall transfer the amount of the tax credits provided in [sections 1 and 2] to the general fund. After this transfer, the remaining revenue in the special revenue account must be transferred to the general fund to be used for the motor vehicle recycling and disposal program pursuant to 75-10-532.

Section 5. Section 61-4-101, MCA, is amended to read:

"61-4-101. Types of licenses and terms -- common application -- bonds -- zoning. (1) Except as provided in 61-4-120 and 61-4-125, a person may not engage in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of a motor vehicle, trailer, travel trailer, semitrailer, pole trailer, motorcycle, quadricycle, motorboat, personal watercraft, snowmobile, off-highway vehicle, salvage vehicle, or special mobile equipment that is not registered in the person's name unless the person is the holder of a license issued by the department under this part.

(2) (a) The department may issue a new dealer's license, a used dealer's license, a broker's license, an auto auction license, or a wholesaler license to any person it determines is qualified to hold the license under the provisions of this section.

(b) A new dealer's license authorizes the holder to sell:

(i) any new motor vehicle, new power sports vehicle, or new trailer that is covered under a franchise agreement between the holder and the manufacturer, importer, or distributor of the line of vehicle or trailer offered for sale; and

(ii) any used motor vehicle, used power sports vehicle, or used trailer.

(c) A used dealer license authorizes the holder to sell any used motor vehicle, used power sports vehicle, or used trailer.

(d) A broker's license authorizes the holder to negotiate the purchase, sale, or exchange of a motor vehicle, power sports vehicle, or trailer from a dealer or another person upon behalf of a client when the broker does not store, display, or take ownership of the motor vehicle, power sports vehicle, or trailer being purchased, sold, or exchanged.

(e) Except as provided in 61-4-120, an auto auction license authorizes the holder to take possession of a used vehicle owned by another person through consignment, bailment, or any other arrangement and to sell to the highest bidder when all bidders are licensed vehicle dealers, salvage vehicle purchasers, wholesalers, or wrecking facilities.

(f) A wholesaler license authorizes the holder to sell used vehicles to a new or used vehicle dealer, an auto auction, or another wholesaler.

(3) Subject to the provisions of 61-4-120, 61-4-124, and 61-4-125, a license issued by the department is valid until:

(a) voluntarily returned to the department for surrender and cancellation upon the cessation of the licensee's business operations; or

(b) suspended or revoked for a violation of this chapter or any other laws relating to the sale of motor vehicles, power sports vehicles, or trailers.

(4) (a) An applicant for a new dealer's license, a used dealer's license, a broker's license, an auto auction license, or a wholesaler license shall submit a written application to the department. The application must be signed by the applicant and contain a verification by the applicant, under penalty of law, that the information contained in the application is true and correct. Any information provided in the license application process is subject to independent verification by the department or an authorized representative of the department.

(b) After examining a license application and conducting an investigation necessary to verify the information contained in the application and if the department is satisfied that the applicant qualifies for the issuance of a license under the provisions of this chapter, the department may issue the license. The department may refuse, after examination and investigation, to issue a license to an applicant who is not qualified for licensure or whose prior financial or other activities or criminal record, as determined by the department:

(i) poses a threat to the effective regulation of dealers, wholesalers, or auto auctions;

(ii) poses a threat to the public interest of the state; or

(iii) creates a danger of illegal or deceptive practices being used in the conduct of the proposed dealership, wholesaler, or auto auction.

(5) To be qualified for licensure, an applicant shall provide to the department the following information:

(a) the name under which the applicant intends to conduct business and the applicant's name, the street address and, if different, mailing address for the business, and customer identification number;

(b) the name, date of birth, and social security number of any person who:

(i) possesses or will possess an ownership interest in the business for which the license is sought;

(ii) is a corporate officer or the managing member of a business entity applying for the license; or

(iii) is or will be designated by the applicant to manage or oversee the applicant's business;

(c) for each person subject to the provisions of subsection (5)(b), information concerning whether the person has:

(i) an ownership interest in a vehicle dealership, an auto auction, or a wholesaler business in Montana or any other state and, if so, the name and address of each dealership, auto auction, or wholesaler; and

(ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction and, if so, shall provide a summary of the conduct resulting in the felony charge, including the dates of the conduct and any court proceedings pertaining to the conduct and the name and address of any court in which the matter was heard;

(d) the name, address, and telephone number of the insurance carrier from whom the applicant has acquired general liability insurance, naming the department as a certificate holder of the policy, and the name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy number. The insurance must cover any motor vehicle bearing dealer or demonstrator license plates and any motorboat, snowmobile, or off-highway vehicle displaying a dealer's identification card that is offered for demonstration or loan to a customer or otherwise operated by a customer in the regular course of the applicant's business and must be for a minimum of 1 year;

(e) the geographic location of the physical lot or lots upon which vehicles will be displayed for sale, if applicable, and of a permanent nonresidential building that will be maintained to store the actual physical or electronic records resulting from the purchase, sale, trade, or consignment of vehicles for which licensure is sought. An applicant may use more than one location to display vehicles for sale if the maximum distance between each display lot does not exceed 200 feet and if the distance between a display lot and the building in which vehicle sales records are stored does not exceed 1,000 feet.

(f) for each geographic location specified in the application, evidence of the applicant's compliance with applicable local land use planning, zoning, and business permitting requirements, if any. Evidence of compliance may be documented by means of a written verification of compliance signed by the authorized representative of the local land use planning or zoning board or the local business-permitting agency.

(g) a diagram or plat showing the geographic location, lot dimensions, if applicable, and building and sign placement for the applicant's proposed established place of business, along with two or more photographs of the geographic location, building premises, and sign, as prescribed by the department;

(h) if the applicant is seeking a new motor vehicle dealer's license:

(i) the name and address of the manufacturer, importer, or distributor with whom the applicant has a written new motor vehicle, power sports vehicle, or trailer franchise or sales agreement, the term of the agreement, and the name and make of all motor vehicles, power sports vehicles, or trailers to be handled by the applicant;

(ii) the geographic location or locations, specified in writing, upon which the applicant will provide and

maintain a permanent building to display and sell new motor vehicles, power sports vehicles, or trailers and offer and maintain a bona fide service department for the repair, service, and maintenance of the motor vehicles, power sports vehicles, or trailers; and

(iii) verification that the applicant otherwise meets the requirements of part 2 of this chapter.

(6) If an applicant wants to maintain more than one established place of business, the applicant shall file a separate license application for each proposed place of business and otherwise qualify for licensure at each place separately.

(7) Each application under this section must be accompanied by the following fees:

(a) for a new or used dealer's license, a broker's license, or a wholesaler's license, \$30; and

(b) for an auto auction license, the fee provided for in 61-4-120.

(8) (a) Except as provided in subsection (8)(b), an applicant for a dealer's license, broker's license, wholesaler's license, or auto auction license shall also file with the application a bond of \$50,000.

(b) An applicant whose business will be restricted to the sale of motorcycles or quadricycles shall file a bond of \$15,000. An applicant whose business will be restricted to the sale of motorboats, personal watercraft, snowmobiles, or off-highway vehicles, other than motorcycles originally equipped for use on the highway, shall file a bond of \$5,000.

(c) All bonds must be conditioned that the applicant shall conduct the business in accordance with the requirements of the law. All bonds must be approved by the department, must be filed in its office, and must be renewed annually."

Section 6. Section 75-10-520, MCA, is amended to read:

"75-10-520. Disposal of damaged vehicle when insurance company settles at total loss. An insurance company settling an insurance claim on a damaged motor vehicle as a total loss less salvage may dispose of the motor vehicle at a motor vehicle wrecking facility only if it is licensed under the provisions of 75-10-511 and [section 3]."

NEW SECTION. Section 7. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 31, part 1, and the provisions of Title 15, chapter 31, part 1, apply to [section 2].

(3) [Sections 3 and 4] are intended to be codified as an integral part of Title 61, chapter 4, part 1, and

the provisions of Title 61, chapter 4, part 1, apply to [sections 3 and 4].

NEW SECTION. **Section 8. Effective date.** [This act] is effective January 1, 2010.

NEW SECTION. **Section 9. Applicability.** [This act] applies to tax liabilities incurred after December 31, 2009.

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