

SENATE BILL NO. 113

INTRODUCED BY M. YAKAWICH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MOTOR VEHICLE TOWING AND STORAGE LIEN EXEMPTIONS; SPECIFYING THE TYPES OF FOOD AND CONSUMER GOODS, THE TYPES OF PERSONAL DOCUMENTS, AND THE TYPE OF RECORDS THAT ARE EXEMPT; AND AMENDING SECTION 71-3-1201, MCA."

WHEREAS, Montana allows for towing and storage liens to allow tow truck operators to render their services effectively; and

WHEREAS, Montana law exempts certain personal property from towing and storage liens, typically food and perishable goods belonging to the driver of the disabled vehicle, but there is a lack of clarity in the current statute; and

WHEREAS, this act will clarify that the towing and storage lien exemptions only apply to items that are consumer products and goods that aren't for resale, allowing Montana tow truck operators to effectively conduct business in this state.

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

Section 1. Section 71-3-1201, MCA, is amended to read:

"71-3-1201. Liens for service -- towing and storage lien -- extension of lien to certain personal property contained in motor vehicle that is subject to lien -- nonpossessory special liens. (1) If there is an express or implied contract for collecting, processing, packaging, or storing embryos or semen from livestock, a reproductive technology business to whom embryos or semen is entrusted and who still has possession has a lien upon the embryos or semen for the amount due for collecting, processing, packaging, or storing the embryos or semen and may retain possession of the embryos or semen until the sum due is paid.

(2) (a) A person who, while lawfully in possession of an article of personal property, product, or commodity renders any service to the owner or lawful claimant of the article by labor or skill employed for the

1 making, repairing, protection, improvement, safekeeping, carriage, towing, or storage of the article or tows or
2 stores the article as directed under authority of law has a special lien on the article. Except as provided in
3 subsection (2)(c), the lien is dependent on possession and is for the compensation, if any, that is due to the
4 person from the owner or lawful claimant for the service and for material, if any, furnished in connection with the
5 service. If the service is towing or storage, the lien is for the reasonable cost of the towing or storage.

6 (b) Any personal property that is in a motor vehicle BELONGING TO AN UNINSURED OR UNDERINSURED
7 PERSON, OR FOR WHICH AN INSURANCE CLAIM WAS NOT FILED OR INSURANCE COVERAGE FOR TOWING AND STORAGE
8 CANNOT BE VERIFIED, that is subject to a lien as provided in subsection (2)(a) is also subject to the lien, except
9 for the following:

- 10 (i) ~~feed items~~ consumer food products not for resale or purchase;
- 11 (ii) consumer perishable goods not for resale or purchase;
- 12 (iii) prescription items;
- 13 (iv) original operators' licenses and other original identifying documents;
- 14 (v) cash, credit cards, debit cards, checks, or checkbooks;
- 15 (vi) original personal records, original legal records, and original business records;
- 16 (vii) child safety items; and
- 17 (viii) ~~wallets, or purses, bags, or other containers that contain the items listed in subsections~~
18 ~~(2)(b)(iv) through (2)(b)(vi).~~

19 (c) A special lien is not dependent on possession if the person asserting the lien gives the owner
20 or the owner's agent, or attaches to the article, a document identifying the article and its owner, the services
21 performed, the cost of those services, the cost to the owner of any parts, accessories, or equipment installed,
22 and the signature and contact information of the person asserting the nonpossessory special lien. The person
23 desiring to assert a special lien upon the property must also file a financing statement in the office designated
24 for filing as provided in 30-9A-501. A nonpossessory special lien may be asserted on:

- 25 (i) implements of husbandry as defined in 61-1-101;
- 26 (ii) construction equipment as defined in 61-10-102;
- 27 (iii) motorized lawncare and landscaping equipment; and
- 28 (iv) forestry equipment.

(d) The special lien created under subsection (2)(c) may not take precedence over perfected security interests under the Uniform Commercial Code--Secured Transactions or other recorded liens on the property involved unless, within 30 days from the time of the completion of the service, repair, or improvement of the property, the person desiring to assert a special lien upon the property gives notice in writing to the secured party or other lienholder stating the intention to assert a special lien on the property under the terms of subsection (2)(c) and stating the nature and approximate amount of the work performed or other services furnished and the cost of any parts, accessories, or equipment installed. Service may be made either by personal service or by mailing by registered or certified mail a copy of the notice to the secured party or other lienholder at the last-known post office address. Service must be considered complete upon the deposit of the notice in the post office."

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