

HOUSE BILL NO. 670

INTRODUCED BY K. WALSH, R. FITZGERALD, D. LOGE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING VEHICLE TRANSFER REQUIREMENTS; ALLOWING A VEHICLE TRANSFER WITH AN AFFIDAVIT; PROHIBITING THE MOTOR VEHICLE DIVISION OF THE DEPARTMENT OF JUSTICE FROM REQUIRING THE NOTARIZATION OF AN AFFIDAVIT; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 61-3-208, 61-3-216, 61-3-220, AND 61-14-101, MCA."

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

**Section 1.** Section 61-3-208, MCA, is amended to read:

**"61-3-208. Affidavit and bond for certificate of title.** (1) If an applicant for a certificate of title cannot provide the department with the certificate of title that assigns the prior owner's interest in the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile to the applicant, the department may issue a certificate of title if subsection (2) is complied with.

(2) (a) The applicant shall submit an affidavit in a form prescribed by the department that must be signed and sworn to ~~before an officer authorized to administer oaths and affirmations~~ in the manner provided by 1-6-105. The affidavit must accompany the application for the certificate of title and must:

(i) include the facts and circumstances through which the applicant acquired ownership and possession of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile;

(ii) disclose security interests, liens, or encumbrances that are known to the applicant and that are outstanding against the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile;

(iii) state that the applicant has the right to have a certificate of title issued.

(b) The application must satisfy one of the following conditions:

(i) The vehicle for which the application is being made must be a camper, off-highway vehicle,

1 motorboat, personal watercraft, sailboat 12 feet in length or longer, or snowmobile, and the loss of the  
2 certificate of title must be established by the applicant to the department's satisfaction.

3 (ii) If application is being made for a certificate of title to a motor vehicle, trailer, semitrailer, or pole  
4 trailer that is 30 years old or older or with a value of \$1,000 or less, the applicant shall establish the loss of the  
5 certificate of title to the department's satisfaction and either provide evidence of the value of the motor vehicle,  
6 trailer, semitrailer, or pole trailer based on the vehicle condition as determined by the applicable national  
7 appraisal guide for the vehicle as of January 1 for the year in which the application is made or, if a national  
8 appraisal guide is not available for a motor vehicle, trailer, semitrailer, or pole trailer, the applicant shall certify  
9 the value of the motor vehicle, trailer, semitrailer, or pole trailer by providing the bill of sale and a notarized  
10 document from the applicant attesting to the value.

11 (iii) If application is being made for a motor vehicle, trailer, semitrailer, or pole trailer that is less  
12 than 30 years old with a value that exceeds \$1,000, the applicant shall provide a bond, in a form prescribed by  
13 the department, issued by a surety company authorized to do business in this state, in an amount equal to the  
14 value of the motor vehicle, trailer, semitrailer, or pole trailer for which the application is being made as  
15 determined by the applicant, based on the vehicle condition as determined by the applicable national appraisal  
16 guide for the motor vehicle, trailer, semitrailer, or pole trailer as of January 1 for the year in which the  
17 application is made or, if a national appraisal guide is not available for a motor vehicle, trailer, semitrailer, or  
18 pole trailer, the applicant shall certify the value of the motor vehicle, trailer, semitrailer, or pole trailer by  
19 providing the bill of sale and a notarized document from the applicant attesting to the value. The bond is  
20 conditioned to indemnify a prior owner, lienholder, subsequent purchaser, secured creditor, or encumbrancer of  
21 the motor vehicle, trailer, semitrailer, or pole trailer and any respective successors in interest against expenses,  
22 losses, or damages, including reasonable attorney fees, caused by the issuance of the certificate of title or by a  
23 defect in or undisclosed security interest upon the right, title, and interest of the applicant in the motor vehicle,  
24 trailer, semitrailer, or pole trailer.

25 (iv) If the application is being made for a motor vehicle sold without a manufacturer's certificate of  
26 origin, the applicant shall:

27 (A) purchase and install all equipment required for the motor vehicle pursuant to Title 61, chapter  
28 9, part 2;

1 (B) obtain an inspection by a law enforcement agent to verify that all required equipment is present  
2 and operational;

3 (C) provide a bond, in a form prescribed by the department, issued by a surety company  
4 authorized to do business in this state, in an amount equal to the full retail price of the motor vehicle for which  
5 the application is being made. The bond is conditioned to indemnify a prior owner, lienholder, subsequent  
6 purchaser, secured creditor, or encumbrancer of the motor vehicle and any respective successors in interest  
7 against expenses, losses, or damages, including reasonable attorney fees, caused by the issuance of the  
8 certificate of title or by a defect in or undisclosed security interest upon the right, title, and interest of the  
9 applicant in the motor vehicle.

10 (3) Any interested person has a right of action to recover on the bond furnished under this section  
11 for a breach of its conditions, but the aggregate liability of the surety to all persons may not exceed the amount  
12 of the bond.

13 (4) Unless the department has been notified of a pending action to recover the bond furnished  
14 under this section, the department shall return the bond at the earlier of:

- 15 (a) 3 years from the date of issuance of the certificate of title; or
- 16 (b) the date of surrender of the valid certificate of title to the department if the motor vehicle, trailer,  
17 semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile is no longer required to  
18 have a certificate of title in this state."

19

20 **Section 2.** Section 61-3-216, MCA, is amended to read:

21 **"61-3-216. Certificates of title -- application -- contents -- issuance.** (1) The owner of a motor  
22 vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat,  
23 snowmobile, or off-highway vehicle shall apply for a certificate of title on a form prescribed by the department  
24 or, if authorized by the department, in an electronic record provided by the department and made available to  
25 an authorized agent of the department or a county treasurer.

26 (2) The application for a certificate of title, upon completion, must include:

- 27 (a) the owner's name, Montana residence and, if different, mailing address, and customer  
28 identification number;

1 (b) a description of the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper,  
2 motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle, including, as available and  
3 pertinent to the vehicle:

4 (i) the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal  
5 watercraft, sailboat, snowmobile, or off-highway vehicle make, model, manufacturer's designated model year of  
6 manufacture, vehicle identification number, and type of body and a description of motive power;

7 (ii) the odometer reading, if applicable, at the time of transfer of ownership;

8 (iii) the gross vehicle weight rating, gross vehicle weight, or shipping weight, if applicable, as  
9 determined by the manufacturer;

10 (iv) whether the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat,  
11 personal watercraft, sailboat, snowmobile, or off-highway vehicle was new or used at the time of transfer; and

12 (v) for a trailer operating intrastate, its declared weight;

13 (c) the date on which the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper,  
14 motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle was purchased by or was  
15 transferred to the applicant, the name and address of the person from whom the motor vehicle, trailer,  
16 semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-  
17 highway vehicle was acquired, and the names and addresses of any secured parties or lienholders for whom  
18 the applicant is acknowledging a voluntary security interest;

19 (d) any other information that the department requires to identify the motor vehicle, trailer,  
20 semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-  
21 highway vehicle and to enable the department to determine whether the owner is entitled to a certificate of title  
22 and to determine the existence of security interests in the motor vehicle, trailer, semitrailer, pole trailer, travel  
23 trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle;

24 (e) if applicable, an odometer statement containing the information required in 61-3-206 or, if the  
25 title does not contain a space for the information, a separate document approved by the department that  
26 provides the same information that is required in 61-3-206; and

27 (f) a section that gives the applicant the option to direct the department, upon examination and  
28 review of the records and completion of the application process, to:

1 (i) issue a certificate of title as soon as possible; or

2 (ii) update the electronic record of title for the motor vehicle, trailer, semitrailer, pole trailer, travel  
3 trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle, issue a  
4 transaction summary receipt, and postpone the issuance of a certificate of a title until the motor vehicle, trailer,  
5 semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-  
6 highway vehicle owner submits a separate request for issuance of the certificate of title.

7 (3) The department may require a manufacturer's certificate of origin to be submitted with an  
8 application for a certificate of title to a new motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper,  
9 motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle.

10 (4) Except as provided in 61-3-208 or subsection (4)(b) of this section, if the application is for a  
11 certificate of title to a used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat,  
12 personal watercraft, sailboat, snowmobile, or off-highway vehicle, the application must be:

13 (a) accompanied by a certificate of title that is properly assigned by the prior owner to the  
14 applicant; or

15 (b) acknowledged by the prior owner if the prior owner's interest in the motor vehicle, trailer,  
16 semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-  
17 highway vehicle was assigned to the applicant by means of a transfer on the electronic record of title entered by  
18 an authorized agent of the department or a county treasurer.

19 (5) If the application is for a certificate of title to a camper and if a certificate of title properly  
20 assigned by the prior owner is not available, the application must be accompanied by ~~a notarized~~ a bill of sale  
21 or a conditional sales contract and an affidavit sworn in the manner provided by 1-6-105 in which the affiant  
22 affirms the validity of the bill of sale or conditional sales contract for the transaction.

23 (6) If the application is for a certificate of title to a motorboat, a personal watercraft, a sailboat that  
24 is 12 feet in length or longer, or a snowmobile and a certificate of title properly assigned by the prior owner is  
25 not available, the application must be accompanied by a ~~notarized~~ bill of sale and an affidavit sworn in the  
26 manner provided by 1-6-105 in which the affiant affirms the validity of the bill of sale for the transaction, an  
27 invoice, the current registration receipt for the motorboat, personal watercraft, sailboat, or snowmobile, or a  
28 certificate of number showing the transfer of ownership, which may be used to show the transfer of ownership

1 for a motorboat, personal watercraft, sailboat, or snowmobile from the immediate prior owner to the applicant."

2

3 **Section 3.** Section 61-3-220, MCA, is amended to read:

4 **"61-3-220. Certificate of title -- voluntary transfer -- duties.** (1) Upon the voluntary transfer of any  
5 interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or  
6 snowmobile for which a certificate of title was issued under the provisions of this chapter, the owner whose  
7 interest is to be transferred shall:

8 (a) authorize, in writing and on a form prescribed by the department, an authorized agent, or a  
9 county treasurer, to enter the transfer of the owner's interest in the motor vehicle, trailer, semitrailer, pole trailer,  
10 camper, motorboat, personal watercraft, sailboat, or snowmobile to the transferee on the electronic record of  
11 title maintained under 61-3-101; or

12 (b) execute a transfer in the appropriate space provided on the certificate of title issued to the  
13 owner and deliver the assigned certificate of title to:

14 (i) the transferee at the time of delivery of the motor vehicle, trailer, semitrailer, pole trailer,  
15 camper, motorboat, personal watercraft, sailboat, or snowmobile; or

16 (ii) the department, its authorized agent, or a county treasurer if an application for a certificate of  
17 title has been completed by the transferee and accompanies the assigned certificate of title.

18 (2) When transfer occurs between individuals, the transferor's signature on the certificate of title, or  
19 the form authorizing transfer of interest upon the electronic record of title, must be acknowledged before the  
20 county treasurer, a deputy county treasurer, an elected official authorized to acknowledge signatures, an  
21 employee or authorized agent of the department, or ~~a notary public~~ in an affidavit sworn in the manner provided  
22 by 1-6-105.

23 (3) Except as provided in 61-4-111, the person to whom an interest in a motor vehicle has been  
24 transferred shall:

25 (a) execute an application for a certificate of title in the space provided on the assigned certificate  
26 of title or as prescribed by the department; and

27 (b) within 40 days after the interest in the motor vehicle, trailer, semitrailer, pole trailer, camper,  
28 motorboat, personal watercraft, sailboat, or snowmobile was transferred to the person, either:

1 (i) apply for a certificate of title under 61-3-216 and register the motor vehicle, trailer, semitrailer,  
2 pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile under 61-3-303; or

3 (ii) subject to the limitations of 61-3-312, register the motor vehicle, trailer, semitrailer, pole trailer,  
4 camper, motorboat, personal watercraft, sailboat, or snowmobile without the surrender of a previously assigned  
5 certificate of title and application for certificate of title under 61-3-303.

6 (4) If the person to whom an interest in a motor vehicle, trailer, semitrailer, pole trailer, camper,  
7 motorboat, personal watercraft, sailboat, or snowmobile has been transferred fails to comply with the  
8 requirements described in subsection (3) within the 40-day grace period, a late penalty of \$10 must be imposed  
9 against the transferee. The penalty must be paid before the transferee registers the motor vehicle, trailer,  
10 semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile in this state, with or  
11 without the surrender of an assigned certificate of title. The penalty is in addition to the fees otherwise provided  
12 by law.

13 (5) If the transferee does not comply with the requirements of subsection (3) within the 40-day  
14 grace period, a secured party or lienholder of record may pay the fees for the transfer of title and for filing a  
15 voluntary security interest or lien. The secured party or lienholder is not liable for the late penalty imposed in  
16 subsection (4) or for registration fees, taxes, or fees in lieu of tax on the motor vehicle, trailer, semitrailer, pole  
17 trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile.

18 (6) The department may adopt rules for the transfer of vehicles in this section."  
19

20 **Section 4.** Section 61-14-101, MCA, is amended to read:

21 **"61-14-101. Rulemaking authority -- vehicle services.** (1) The department shall adopt rules for the  
22 registration of motor vehicles, including:

23 (a) (i) simultaneous registration of multiple motor vehicles that have common ownership;

24 (ii) defining the term "fleet" as used in 61-3-318 and 61-3-323; and

25 (iii) the issuance of fleet series license plates provided for in 61-3-325;

26 (b) verification of compliance with 61-6-301 before registering or renewing a registration of a  
27 vehicle or issuing new license plates required by 61-3-332(3);

28 (c) devising a method to place license plates on the 5-year reissuance cycle to minimize

1 production peaks and valleys;

2 (d) early registration renewals when an owner of a motor vehicle presents extenuating  
3 circumstances; and

4 (e) automated mailing of license plates by the department or its authorized agent, including an  
5 agent under contract with the department pursuant to 61-3-338.

6 (2) The department shall adopt rules to procure compliance with all of the laws of the state  
7 regulating the issuance of motor vehicle, trailer, semitrailer, or pole trailer licenses relating to the use and  
8 operation of motor vehicles, trailers, semitrailers, or pole trailers before issuing the lettered license plates  
9 pursuant to 61-3-423.

10 (3) The department may adopt rules to establish vehicle brands or carried-forward brands  
11 according to 61-3-202.

12 (4) The department may adopt rules governing affidavit and bond for certificate of title pursuant to  
13 61-3-208 but may not require an affidavit sworn in the manner provided by 1-6-105 to be notarized.

14 (5) The department may adopt rules for the implementation and administration of temporary  
15 registration permits, pursuant to 61-3-224, including issuance to:

16 (a) a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer,  
17 motorboat, sailboat that is 12 feet or longer, snowmobile, or off-highway vehicle for operation of the vehicle or  
18 vessel prior to titling and registration of the vehicle or vessel under Title 61, chapter 3;

19 (b) the owner of a salvage vehicle or a vehicle requiring a state-assigned vehicle identification  
20 number to move the vehicle to and from a designated inspection site prior to applying for a new certificate of  
21 title under 61-3-107 or 61-3-212;

22 (c) the owner of a motor vehicle, trailer, semitrailer, or pole trailer registered in this state for  
23 operation of the vehicle while awaiting production and receipt of special or duplicate license plates ordered for a  
24 vehicle under Title 61, chapter 3;

25 (d) a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this  
26 state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's  
27 jurisdiction of residence;

28 (e) a dealer licensed in another state who brings a motor vehicle or trailer designed and used to

1 apply fertilizer to agricultural lands into the state for special demonstration in this state;

2 (f) a financial institution located in Montana for a prospective purchaser to demonstrate a motor  
3 vehicle that the financial institution has obtained following repossession;

4 (g) an insurer or its agent to move a motor vehicle or trailer to auction following acquisition of the  
5 vehicle by the insurer as a result of the settlement of an insurance claim;

6 (h) a nonresident owner to temporarily operate a quadricycle or motorcycle designed for off-road  
7 recreational use on the highways of this state when the quadricycle or motorcycle designed for off-road  
8 recreational use is equipped for use on the highways as prescribed in Title 61, chapter 9, but the quadricycle or  
9 motorcycle designated for off-road recreational use is not registered or is only registered for off-road use in the  
10 nonresident's home state; or

11 (i) a new owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12  
12 feet in length or longer, snowmobile, or off-highway vehicle for which the new owner cannot, due to  
13 circumstances beyond the new owner's control, surrender a previously assigned certification of title.

14 (6) The department may adopt rules for the assessment and collection of registration fees on light  
15 vehicles under 61-3-321 and 61-3-562, including the proration of fees under 61-3-520 and criteria for  
16 determining the motor vehicle's age.

17 (7) The department may adopt rules for imposing and collecting fees in lieu of tax, including:

18 (a) the proration of fees in lieu of tax under 61-3-520 on buses, trucks having a manufacturer's  
19 rated capacity of more than 1 ton, and truck tractors;

20 (b) criteria for determining the motor vehicle's age; and

21 (c) criteria for determining the manufacturer's rated capacity.

22 (8) The department may adopt rules, pursuant to Title 61, chapter 3, for the administration of fees  
23 for trailers, semitrailers, and pole trailers, including criteria for determining a trailer's age and weight.

24 (9) The department shall adopt rules for generic specialty license plates issued pursuant to 61-3-  
25 472 through 61-3-481, including:

26 (a) the minimum and maximum number of characters that a generic specialty license plate may  
27 display;

28 (b) the general placement of the sponsor's name, identifying phrase, and graphic; and

1 (c) any specifications or limitations on the use or choice of color or detail in the sponsor's graphic  
2 design.

3 (10) The department may adopt rules governing dealers pursuant to the provisions of Title 61,  
4 chapter 4, including:

5 (a) the application and issuance of dealer licenses, including the qualifications of dealers, and the  
6 staggering of expiration dates pursuant to 61-4-101;

7 (b) the issuance of dealer, demonstrator, loaner, courtesy, and transit plates pursuant to 61-4-102,  
8 61-4-128 through 61-4-130, 61-4-301, 61-4-307, and 61-4-308;

9 (c) the application and process for renewing a dealer license pursuant to 61-4-124; and

10 (d) governing the regulation of persons required to be licensed pursuant to Title 61, chapter 4, part  
11 2.

12 (11) The department may adopt rules for local option tax appeals pursuant to 15-15-201.

13 (12) The department may adopt rules to implement any other provision of this title."

14 - END -