

1 SENATE BILL NO. 113

2 INTRODUCED BY M. YAKAWICH

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

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

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

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

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

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

21 **"71-3-1201. Liens for service -- towing and storage lien -- extension of lien to certain personal**  
22 **property contained in motor vehicle that is subject to lien -- nonpossessory special liens.** (1) If there is  
23 an express or implied contract for collecting, processing, packaging, or storing embryos or semen from  
24 livestock, a reproductive technology business to whom embryos or semen is entrusted and who still has  
25 possession has a lien upon the embryos or semen for the amount due for collecting, processing, packaging, or  
26 storing the embryos or semen and may retain possession of the embryos or semen until the sum due is paid.

27 (2) (a) A person who, while lawfully in possession of an article of personal property, product, or  
28 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.

