

10/27/2010

AN IMPORTANT MESSAGE FROM THE MOTOR VEHICLE DIVISION:

MVD is in the process of redesigning the Montana certificate of title to allow more space for entry of information needed for assignment of a vehicle title, to conform with current notarial requirements – in particular, the accommodation of the new rectangular notarial stamp and the inclusion of all nine components of a notarial act – and to remove the admonition about notarizing an open title (e.g., “DO NOT NOTARIZE OR VERIFY UNLESS ... PURCHASER NAME(S) IS LISTED”).

“Open title” refers to a situation where a vehicle owner signs the transfer or assignment section of a title but doesn’t write in the name of the person to whom the vehicle is being sold (and usually odometer information is left blank as well). The open title can then passed to a buyer (or through a series of buyers) without the statutorily mandated title and registration transactions being performed, the odometer disclosure statement being executed by the original seller or acknowledged by the original buyer, or any official record of the transfers being made. The risk of fraud and tax avoidance greatly increases when open titles are circulated. Additionally, open titles facilitate unlicensed “dealing” of motor vehicles, which then places legitimate dealers at a disadvantage.

The new title format will not be implemented for several months, however, consistent with the upcoming change, a notary may disregard the open title admonition on the current title (versions 2006 to present) and proceed with notarization of the vehicle owner’s (seller’s) signature – even though the purchaser’s name and address is not entered in section 1 of the title - if the notary has properly identified the signatory in accordance with the requirements of their commission. The notary is not required to interpret and/or enforce Montana title laws when acknowledging signatures on a Montana title document.

Likewise, a county treasurer, a deputy county treasurer, or a clerk who has been authorized by the treasurer to use the county seal under the authority of MCA § 61-3-220(2) (“an employee or authorized agent of the department”) may acknowledge the signature of a vehicle owner (seller), even though the owner has not entered the purchaser’s name and address in section 1 of the title.

It is the seller’s responsibility to execute a transfer (i.e., enter the purchaser’s name and address information) on the Montana title. Additionally, the seller has the duty to ensure that the odometer disclosure is complete and inherent in that process is naming a purchaser (transferee) who then by law must acknowledge the disclosure. MVD or county officials may inform a vehicle owner of state law requirements for transferring a vehicle to another person.

Brenda Nordlund, Administrator