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As of: September 12, 2016 (10:05am)

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**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act revising laws relating to the use of seatbelts and child safety restraints; eliminating the secondary enforcement restriction for restraint violations; amending sections 61-5-106, 61-5-133, 61-13-101, 61-13-102, 61-13-103, 61-13-104, and 61-13-105, MCA; repealing sections 61-9-419, 61-9-420, 61-9-421, 61-9-422, and 61-9-423, MCA."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-5-106, MCA, is amended to read:

"61-5-106. Instruction permits -- traffic education learner licenses and permits -- temporary licenses. (1) (a) The department may issue an instruction permit, which is valid for 1 year from the date of issuance, to a person satisfying the age requirements specified in 61-5-105(1) after the applicant has successfully passed the knowledge test and the vision examination, as provided in 61-5-110. Except as provided in subsections (1)(b) and (1)(c), an instruction permit entitles the permitholder, while in immediate possession of the permit and accompanied by a licensed driver seated beside the permitholder, to drive a motor vehicle other than a motorcycle upon the public highways.

(b) If the permitholder is under 18 years of age, the

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driver supervising the permitholder must be a parent or a legal guardian of the permitholder or, with the permission of the permitholder's parent or legal guardian, a licensed driver 18 years of age or older. Each occupant of a motor passenger vehicle, as defined in 61-13-102, driven by a permitholder who is under 18 years of age ~~shall wear a properly adjusted and fastened seatbelt or, if 61-9-420 applies,~~ must be properly restrained in a child safety restraint as required under 61-13-103.

(c) A person holding an instruction permit for a motorcycle may drive a motorcycle upon a public highway if the person is not carrying a passenger, has immediate possession of the permit, and is under the immediate and proximate visual supervision of one of the following persons, who must be at least 18 years of age if the permitholder is under 18 years of age:

(i) a motorcycle-endorsed licensed driver who is riding with the permitholder and who is operating a separate motorcycle or other motor vehicle; or

(ii) a licensed driver who is operating a separate motor vehicle if the permitholder has successfully completed a motorcycle safety training course through a cooperative driver testing program certified under 61-5-110.

(2) The department may issue a traffic education learner license, which is valid for 1 year from the date of issuance, to any person who is at least 14 1/2 years of age and who has successfully completed or is successfully participating in a traffic education course approved by the department and the superintendent of public instruction and that is available to all

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who meet the age requirements specified in 20-7-503 and reside within the geographical boundaries of or attend a school in the school district that offers the course. A traffic education learner license entitles the licensee to operate a motor vehicle only when accompanied by an approved instructor or licensed parent or guardian and may be restricted to specific times or areas.

(3) (a) An instructor of a traffic education program approved by the department and by the superintendent of public instruction may issue a traffic education permit that is effective for a school year or more restricted period to an applicant who is enrolled in a traffic education program approved by the department and who meets the age requirements specified in 20-7-503.

(b) When in immediate possession of the traffic education permit, the permittee may operate on a designated highway or within a designated area:

(i) a motor vehicle when an approved instructor is seated beside the permittee; or

(ii) a motorcycle or quadricycle when under the immediate and proximate supervision of an approved instructor.

(4) The department may in its discretion issue a temporary driver's permit to an applicant for a driver's license permitting the applicant to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary driver's permit must be in the permittee's

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immediate possession while operating a motor vehicle, and it is invalid when the applicant's license has been issued or for good cause has been refused.

(5) The department may in its discretion issue a temporary commercial driver's license to an applicant permitting the applicant to operate a commercial motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a commercial driver's license. The temporary license must be in the applicant's immediate possession while operating a commercial motor vehicle and is invalid when the applicant's license has been issued or for good cause has been refused.

(6) The department may in its discretion issue a temporary medical assessment and rehabilitation driving permit, as provided in 61-5-120."

{*Internal References to 61-5-106:*
61-5-125x }

Section 2. Section 61-5-133, MCA, is amended to read:

"61-5-133. First year restrictions on driver's license issued to minor. (1) A driver's license issued to a person who is under 18 years of age is subject to the following restrictions for 1 year from the date of issuance of the license or until the person is 18 years of age, whichever occurs first:

(a) A restricted licensee may not operate a motor passenger vehicle, ~~required by 61-9-409 to be equipped with seatbelts,~~ unless each occupant of the motor passenger vehicle is wearing a

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~~seatbelt, as defined in 61-13-102, or is~~ properly restrained, as required under ~~61-9-420~~ 61-13-103. The number of ~~motor vehicle~~ occupants may not exceed the number of seatbelts with which the ~~motor~~ vehicle is equipped.

(b) A restricted licensee may not operate a motor vehicle between the hours of 11 p.m. and 5 a.m. unless the restricted licensee is:

(i) accompanied by a licensed driver who is 18 years of age or older or, if the restricted licensee is operating a motorcycle, the restricted licensee is under the immediate and proximate visual supervision of a licensed driver who is 18 years of age or older and who is riding with the licensee and is operating a separate motorcycle or other motor vehicle;

(ii) driving to the restricted licensee's place of employment from the restricted licensee's residence, is returning to the restricted licensee's residence from the restricted licensee's place of employment, or is driving in the course and scope of employment;

(iii) driving from the restricted licensee's residence to a school-sponsored event at a school attended by the restricted licensee, including any site for school-provided transportation to and from the event, or is returning from the event or site to the restricted licensee's residence;

(iv) driving from the restricted licensee's residence to an event sponsored by a religious organization or is returning from the event to the restricted licensee's residence;

(v) driving for a purpose related to a medical emergency,

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fire emergency, or law enforcement-related emergency;

(vi) driving for the sole purpose of transporting farm or ranch products, machinery, or supplies within 150 miles of a farm or ranch headquarters;

(vii) an emancipated minor; or

(viii) driving under a specific authorization for a specific purpose from the restricted licensee's parent or legal guardian.

A peace officer may verify the authorization by contacting the parent or legal guardian.

(c) (i) For the first 6 months of the 1-year restriction period, a restricted licensee may not operate a motor vehicle with more than one passenger who is under 18 years of age unless:

(A) the restricted licensee is supervised by a licensed driver who is at least 18 years of age; or

(B) the additional passengers under 18 years of age are members of the restricted licensee's family.

(ii) For the second 6 months of the 1-year restriction period, a restricted licensee may not operate a motor vehicle with more than three passengers who are under 18 years of age unless:

(A) the restricted licensee is supervised by a licensed driver who is at least 18 years of age; or

(B) the additional passengers under 18 years of age are members of the licensee's family.

(iii) For the first 6 months of the 1-year restriction period, a restricted licensee may not operate a motorcycle with a passenger who is under 18 years of age.

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(2) For purposes of this section, the term "restricted licensee" includes a person under 18 years of age who holds a motorcycle-only endorsement issued by the department and the term "motor vehicle" includes a motorcycle, except when otherwise noted."

{*Internal References to 61-5-133:*

61-5-111x 61-5-111x 61-5-131 *x 61-5-132x
61-5-134x }

Section 3. Section 61-13-101, MCA, is amended to read:

"61-13-101. Short title. This part may be cited as the "Montana ~~Seatbelt Use~~ Passenger Vehicle Occupant Restraint Act"."

{*Internal References to 61-13-101: None.*}

Section 4. Section 61-13-102, MCA, is amended to read:

"61-13-102. Definitions. As used in this part, the following definitions apply:

(1) "Appropriate use", as applied to a child safety restraint, means the use of a child safety restraint suitable to the age, weight, and height of the child being transported.

(2) "Child safety restraint" means a seating system, other than a seatbelt alone, that:

(a) is specifically designed for use in a motor vehicle;

(b) is either permanently affixed to the vehicle or is affixed to the vehicle by a seat belt or a set of anchorages originally installed by the vehicle manufacturer to restrain, seat, or position a child; and

(c) conforms to the requirements of federal motor vehicle

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safety standards as evidenced by the manufacturer's label affixed to the restraint.

~~(1)~~(3) "Department" means the department of justice.

~~(2) "Highway" means the entire width between the boundary lines of each publicly maintained way when any part thereof is open to public use for vehicular travel.~~

~~(3) "Motor vehicle" means a vehicle propelled by its own power and designed primarily to transport persons or property upon the highways of the state.~~

(4) ~~"Occupants"~~ "Occupant" means ~~the driver and passengers in a motor~~ a person in a passenger vehicle.

(5) "Passenger vehicle" means a motor vehicle designed for transporting no more than 10 people, including the driver, that is originally equipped with seatbelts that conform to federal motor vehicle safety standards as evidenced by the manufacturer's certificate affixed to the door of the vehicle.

(6) "Properly restrained" means the correct use and position of a seatbelt or the appropriate used of a child safety restraint as prescribed by the manufacturer of the products.

~~(5)~~(7) "Seatbelt" means a system ~~using~~ that uses a lap belt, a shoulder belt, or other belt or combination of belts installed in a ~~motor passenger~~ vehicle to restrain occupants, ~~which system~~ an occupant and that conforms to federal motor vehicle safety standards."

{*Internal References to 61-13-102:*
61-5-133a }

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Section 5. Section 61-13-103, MCA, is amended to read:

"61-13-103. Seatbelt and child safety restraint use required -- exceptions. (1) ~~A~~ Unless an occupant is exempted under subsection (2), a driver may not operate a motor passenger vehicle upon a highway of the state of Montana unless each occupant of a designated seating position is wearing a properly adjusted and fastened seatbelt or, if 61-9-420 applies, the vehicle is properly restrained in a child safety restraint.

(2) (a) Except as provided in subsection (2)(b), a child safety restraint must be used in a passenger vehicle for a child under 6 years of age and weighing less than 60 pounds.

(b) A child safety restraint is not required in:

(i) a taxicab or a passenger vehicle that is not required to be equipped with safety belts under 49 CFR 571 as it reads on January 1, 1984; or

(ii) a vehicle that has a seating capacity as designated by the manufacturer of two persons and there are two persons 4 years of age or older in the vehicle.

~~(2)~~(3) The provisions of this section do not apply to:

(a) an occupant of a motor passenger vehicle who possesses a written statement from a licensed physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, certifying that the occupant is unable to ~~wear a seatbelt~~ be property restrained for medical reasons;

(b) an occupant of a motor passenger vehicle in which all seatbelts are being used by other occupants;

(c) an operator of a motorcycle or a motor-driven cycle;

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(d) an occupant of a vehicle licensed as special mobile equipment; or

(e) an occupant who makes frequent stops with a ~~motor passenger~~ vehicle during official job duties and who may be exempted by the department.

~~(3)~~(4) The department may adopt rules to implement subsection ~~(2)(e)~~ (3)(e) and shall adopt rules to establish standards in compliance with this part and applicable federal standards for approved types of child safety restraints.

~~(4) The department or its agent may not require a driver who may be in violation of this section to stop except:~~

~~— (a) upon reasonable cause to believe that the driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped as required by law; or~~

~~— (b) if a person in the vehicle who is under 6 years of age and weighs less than 60 pounds is not properly restrained under 61-9-420 or this section."~~

{*Internal References to 61-13-103:*

61-13-104x 61-13-104x 61-13-104x 61-13-104x
61-13-104x 61-13-104x 61-13-105x 61-13-106x
61-13-106x }

Section 6. Section 61-13-104, MCA, is amended to read:

"61-13-104. Penalty -- no record permitted. (1) (a) Except as provided in subsection (1)(c), the penalty for violating 61-13-103 is \$20 for each violation and must be paid by:

(i) the driver if the driver is not properly restrained or a passenger if a passenger is not properly restrained and the passenger is

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not a licensed driver; or

(ii) each passenger who is not properly restrained and who is a licensed driver.

(b) Bond for violating 61-13-103 is \$20, and a jail sentence may not be imposed.

(c) The penalty for violating 61-13-103(2) is a fine of not more than \$100, which must be paid by the driver. The fine must be waived if proof of acquisition of an appropriate child safety restraint is presented within 7 days of the violation to the office of the charging officer and there has been no previous dismissal of a violation of 61-13-103(2) under this subsection.

~~(1)(2) A driver or an occupant who violates 61-13-103 shall be fined \$20, but the violation is not guilty of a misdemeanor pursuant to 45-2-101, 46-18-236, 61-8-104, or 61-8-711. A violation of 61-13-103 may not be counted as a moving violation for purposes of suspending a driver's license under 61-11-203(2)(m). Bond for this offense is \$20, and a jail sentence may not be imposed.~~

~~(2)(3) A violation of 61-13-103 may not be recorded or charged against the driver's record of a person an occupant violating 61-13-103.~~

~~(3)(4) An insurance company may not hold a violation of 61-13-103 against the insured or increase the insured's premiums due to a violation of 61-13-103."~~

{*Internal References to 61-13-104:*
61-13-105x }

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Section 7. Section 61-13-105, MCA, is amended to read:

"61-13-105. Education program. ~~The highway traffic safety division of the department shall continue its~~ provide a program for public information and education concerning the benefits of wearing being properly restrained by seatbelts and child safety restraints and the proper use of seatbelts and appropriate use of child safety restraints. ~~The department shall include within such in the~~ program the requirements of 61-13-103 and the penalty specified in 61-13-104."

{Internal References to 61-13-105: None.}

NEW SECTION. **Section 8. {standard} Repealer.** The following sections of the Montana Code Annotated are repealed:

61-9-419. "Properly restrained" defined.

61-9-420. Child safety restraint systems -- standards -- exemptions.

61-9-421. Certain vehicles exempt.

61-9-422. Evidence admissible without presumption of negligence.

61-9-423. Penalty.

{Internal References to 61-9-419: 61-9-420 *r
Internal References to 61-9-420: 61-5-106a 61-5-133a 61-9-419 *r
61-9-420 *r
61-9-421r 61-9-422r 61-9-422r 61-9-423r
61-9-423r 61-13-103a 61-13-103a
Internal References to 61-9-421: 61-9-419 *r 61-9-420 *r
Internal References to 61-9-422: 61-9-419 *r 61-9-420 *r
Internal References to 61-9-423: 61-9-419r 61-9-420r }

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