

HOUSE BILL NO. 363

INTRODUCED BY D. WANZENRIED, MCNUTT, DEPRATU, DOHERTY, GALLUS,

MATTHEWS, ROUSH, WATERMAN

BY REQUEST OF THE ATTORNEY GENERAL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO MOTOR VEHICLES AND MOTOR CARRIER SAFETY; CONFORMING MOTOR CARRIER SAFETY STANDARDS TO FEDERAL REGULATIONS; CLARIFYING THE ENFORCEMENT AUTHORITY OF THE HIGHWAY PATROL REGARDING MOTOR CARRIER SAFETY; REQUIRING A COURT TO REPORT CONVICTIONS OF VIOLATIONS OF MOTOR CARRIER SAFETY STANDARDS TO THE DEPARTMENT OF JUSTICE; DEFINING "FOR-HIRE MOTOR CARRIER", "GROSS COMBINATION WEIGHT RATING", "GROSS VEHICLE WEIGHT RATING", AND "PRIVATE MOTOR CARRIER"; PROHIBITING THE DEPARTMENT OF JUSTICE FROM ISSUING A RESTRICTED PROBATIONARY LICENSE UNDER CERTAIN CIRCUMSTANCES; CLARIFYING THE LICENSE EXEMPTION FOR A NONRESIDENT COMMERCIAL MOTOR VEHICLE OPERATOR; CLARIFYING THE SUSPENSION OF A COMMERCIAL DRIVER'S LICENSE; REQUIRING THE DEPARTMENT OF JUSTICE TO CONDUCT A FEDERAL RECORDS CHECK BEFORE EXAMINING AN APPLICANT FOR A DRIVER'S LICENSE; REQUIRING THE DEPARTMENT OF JUSTICE TO CONDUCT A FEDERAL RECORDS CHECK BEFORE RENEWING A DRIVER'S LICENSE; PROHIBITING THE DEPARTMENT OF JUSTICE FROM RENEWING A DRIVER'S LICENSE BY MAIL IF A FEDERAL RECORDS CHECK SHOWS AN INELIGIBLE LICENSE STATUS FOR THE APPLICANT; PROHIBITING A PERSON WITH A REVOKED OR SUSPENDED LICENSE FROM HAVING A LICENSE RESTORED BEFORE THE REVOCATION OR SUSPENSION PERIOD IS COMPLETED; AMENDING THE PER SE OFFENSE TO INCLUDE OPERATING A COMMERCIAL MOTOR VEHICLE WITH AN ALCOHOL CONCENTRATION OF 0.04 OR MORE; CONFORMING COMMERCIAL DRIVER LICENSING LAWS TO FEDERAL LAWS; SPECIFYING THE TIME PERIODS FOR WHICH A COMMERCIAL DRIVER'S LICENSE MUST BE SUSPENDED; SPECIFYING VIOLATIONS FOR WHICH A COMMERCIAL DRIVER'S LICENSE MUST BE SUSPENDED; EXPANDING THE DEFINITION OF "SERIOUS TRAFFIC VIOLATION" TO INCLUDE VIOLATIONS OF COMMERCIAL DRIVER'S LICENSE LAWS; REQUIRING A PERSON TO SURRENDER A COMMERCIAL DRIVER'S LICENSE AFTER CONVICTION FOR CERTAIN VIOLATIONS OF COMMERCIAL MOTOR VEHICLE SAFETY LAWS; CLARIFYING THE AUTHORITY OF THE DEPARTMENT OF JUSTICE REGARDING SUSPENSION AND REVOCATION OF

1 DRIVERS' LICENSES; AMENDING SECTIONS 44-1-1005, 61-1-134, 61-2-302, 61-5-104, 61-5-105,  
 2 61-5-110, 61-5-111, 61-5-208, 61-8-406, 61-8-801, 61-8-802, 61-8-803, 61-8-805, 61-8-811, AND  
 3 61-11-101, MCA; AND PROVIDING AN APPLICABILITY DATE."

4

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

6

7 **Section 1.** Section 44-1-1005, MCA, is amended to read:

8 **"44-1-1005. Motor carriers safety -- enforcement -- violations.** (1) The department of justice shall:

9 ~~(a)~~ adopt, by rule, standards for safety of operations of:

10 (a) any for-hire motor carrier or any private motor carriers, each of whom is considered to consent  
 11 implicitly to reasonable safety inspections of its motor vehicles used in furtherance of its business as a  
 12 motor carrier;

13 (b) provide standards for the safe operation of all any motor vehicles vehicle or vehicle  
 14 combination used in interstate commerce that exceed 26,000 pounds has a gross vehicle weight rating,  
 15 gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater,  
 16 of 10,001 pounds or more;

17 (c) any motor vehicle or vehicle combination used in intrastate commerce that has a gross vehicle  
 18 weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight,  
 19 whichever is greater, of 26,001 pounds or more and that is not a except farm vehicles vehicle operating  
 20 solely in Montana; and

21 ~~(e)~~ provide for the safe operation of vehicles of less than 26,000 pounds gross vehicle weight

22 (d) any motor vehicle that are is designed or used to transport more than 15 at least 16  
 23 passengers, including the driver, and is not used to transport passengers for compensation;

24 (e) any motor vehicle that is designed or used to transport at least nine passengers, including the  
 25 driver, for compensation; or

26 (f) any motor vehicle that are is used to transport hazardous materials of a type or quantity that  
 27 requires the vehicle to be marked or placarded in accordance with rules adopted by the department federal  
 28 hazardous materials regulations in 49 CFR, part 172.

29 (2) Standards of safety adopted pursuant to ~~subsections (1)(b) and (1)(c)~~ must be the same as  
 30 prescribed for motor carriers, and the same inspection standards and procedures apply under this section

1 must substantially comply, within allowed tolerance guidelines, to the federal motor carrier safety  
 2 regulations and the federal hazardous material regulations as applied to motor carriers and vehicles  
 3 transporting passengers or property in commerce.

4 (3) The highway patrol has responsibility for enforcement of standards adopted pursuant to  
 5 ~~subsection (1)(a)~~ this section. Inspection of a vehicle based in Montana may, at the request of the carrier,  
 6 be made at the place of business or domicile of the vehicle owner or, if that is not a practicable inspection  
 7 site, at a designated location and at a mutually agreeable time. After inspection, a vehicle found to  
 8 conform to the standards adopted pursuant to ~~subsection (1)(a)~~ this section is entitled to certification and  
 9 identification to exempt it from further safety inspection until the next required periodic inspection or until  
 10 a nonconformity with standards is apparent. ~~Nothing in this~~ This section prohibits does not prohibit the  
 11 inspection of a motor vehicle, as provided for by ~~subsection (1)(a)~~ this section, at a safe location on a  
 12 public road.

13 (4) The department shall cooperate with the department of transportation to ensure minimum  
 14 duplication and maximum coordination of enforcement effort.

15 (5) The department may designate and train civilian employees as inspectors within the motor  
 16 carrier safety assistance program. Each civilian inspector is a peace officer whose jurisdiction is limited to  
 17 enforcement of violations of Title 61, chapters 5 and 9, and any standards adopted pursuant to  
 18 ~~subsections (1) and (2) of~~ this section. Each employee designated as a peace officer may:

- 19 (a) issue citations and make arrests;
- 20 (b) issue summonses;
- 21 (c) accept bail;
- 22 (d) serve warrants of arrest;
- 23 (e) make reasonable inspections of cargo carried by commercial motor vehicles;
- 24 (f) make reasonable safety inspections of commercial motor vehicles; and
- 25 (g) require production of documents relating to the cargo, driver, routing, maintenance, or  
 26 ownership of commercial motor vehicles.

27 (6) Violations of the standards adopted pursuant to ~~subsection (1)~~ this section are punishable as  
 28 provided in 61-9-512, and the court, upon conviction or forfeiture of bail that is not vacated, shall forward  
 29 a record of conviction or forfeiture to the department within 5 days in accordance with 61-11-101.

30 (7) As used in this section, the terms "for-hire motor carrier", "private motor carrier", "gross

1 vehicle weight rating", and "gross combination weight rating" have the same meaning as provided in 49  
 2 CFR 390.5."

3

4 **Section 2.** Section 61-1-134, MCA, is amended to read:

5 **"61-1-134. Commercial motor vehicle defined -- exceptions.** (1) Except as provided in subsection  
 6 (2), "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in  
 7 commerce to transport passengers or property if the vehicle:

8 (a) has a gross combination weight rating or, ~~in the absence of a gross combination weight rating,~~  
 9 ~~a declared~~ gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed  
 10 unit with a gross vehicle weight rating of more than 10,000 pounds;

11 (b) has a gross vehicle weight rating or ~~manufacturer's rated capacity~~ a gross vehicle weight of  
 12 26,001 pounds or more, whichever is greater;

13 (c) is designed ~~or used~~ to transport at least 16 passengers ~~or more~~, including the driver;

14 (d) is a school bus as defined in 20-10-101; or

15 (e) is of any size and is used to transport any quantity or form of hazardous material required to  
 16 be placarded pursuant to Title 49, Code of Federal Regulations.

17 (2) The following vehicles are not commercial motor vehicles:

18 (a) a vehicle exempt from taxation, used for firefighting, and bearing Montana tax-exempt plates;

19 (b) a police emergency response vehicle; or

20 (c) a vehicle:

21 (i) controlled and operated by a farmer or person employed by a farmer;

22 (ii) used to transport farm products, farm machinery, or farm supplies within Montana or within  
 23 150 miles of the farm headquarters; and

24 (iii) not used to transport goods for compensation or hire.

25 (3) For purposes of this section: ;

26 (a) "farmer" means a person who operates a farm or who is directly involved in the cultivation of  
 27 land or crops or the raising of livestock owned by or under the direct control of that person; ;

28 (b) "gross combination weight rating" means the value specified by the manufacturer as the loaded  
 29 weight of a combination or articulated vehicle; and

30 (c) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded

1 weight of a single vehicle."

2

3 **Section 3.** Section 61-2-302, MCA, is amended to read:

4 **"61-2-302. Establishment of driver rehabilitation and improvement program -- participation by**

5 **offending drivers.** (1) The department may establish by administrative rules a driver rehabilitation and

6 improvement program or programs that may consist of classroom instruction in rules of the road, driving

7 techniques, defensive driving, driver attitudes and habits, actual on-the-road driver's training, and other

8 subjects or tasks designed to contribute to proper driving attitudes, habits, and techniques.

9 (2) Official participation in the driver rehabilitation and improvement program is limited to those  
10 persons whose license to operate a motor vehicle in the state of Montana is:

11 (a) subject to suspension or revocation as a result of a violation of the traffic laws of this state  
12 or, unless otherwise provided by the sentencing court, a violation of 45-5-624; or

13 (b) revoked and they have:

14 (i) completed at least 3 months of a 1-year revocation or, if revocation is for a second or  
15 subsequent violation of 61-8-401 or 61-8-406, have provided the department with proof of compliance  
16 with the ignition interlock device restriction imposed under 61-5-208; or

17 (ii) completed 1 year of a 3-year revocation; and

18 (iii) met the requirements for reobtaining a Montana driver's license.

19 (3) Notwithstanding any provision of this part inconsistent with any other law of the state of  
20 Montana, the enforcement of any suspension or revocation order that constitutes the basis for any  
21 person's participation in the driver rehabilitation and improvement program provided for in this section may  
22 be stayed if that person complies with the requirements established for the driver improvement program  
23 and meets the eligibility requirements of subsection (2).

24 (4) In the event that a person's driver's license has been surrendered before the person's selection  
25 for participation in the driver rehabilitation and improvement program, the license may be returned upon  
26 receipt of the person's agreement to participate in the program.

27 (5) The stay of enforcement of any suspension or revocation order must be terminated and the  
28 order of suspension or revocation enforced if a person declines to participate in the driver rehabilitation  
29 and improvement program or fails to meet the attendance or other requirements established for  
30 participation in the program.

1 (6) This part does not create a right to be included in any program established under this part.

2 (7) The department may establish a schedule of fees that may be charged those persons  
3 participating in the driver improvement and rehabilitation program. The fees must be used to help defray  
4 costs of maintaining the program.

5 (8) A person may be referred to this program by a driver improvement analyst, city judge, justice  
6 of the peace, youth court judge, judge of a district court of the state, or hearing examiner of the  
7 department.

8 (9) (a) The Except as provided in subsection (9)(b), the department may issue a restricted  
9 probationary license to any person who enrolls and participates in the driver rehabilitation and improvement  
10 program. Upon issuance of a probationary license under this section, the licensee is subject to the  
11 restrictions set forth on the license.

12 (b) The department may not issue a restricted probationary license that would permit an individual  
13 to drive a commercial motor vehicle during a period in which:

14 (i) the individual is disqualified from operating a commercial motor vehicle under state or federal  
15 law; or

16 (ii) the individual's driver's license or driving privilege is revoked, suspended, or canceled.

17 (10) It is a misdemeanor for a person to operate a motor vehicle in any manner in violation of the  
18 restrictions imposed on a restricted license issued to the person under this section."  
19

20 **Section 4.** Section 61-5-104, MCA, is amended to read:

21 **"61-5-104. Exemptions.** (1) The following persons are exempt from licensure under this chapter:

22 (a) a person who is a member of the armed forces of the United States while operating a motor  
23 vehicle owned by or leased to the United States government and being operated on official business;

24 (b) a person who is a member of the armed forces of the United States on active duty in Montana  
25 who holds a valid license issued by another state and the spouse of the person who holds a valid license  
26 issued by another state and who is not employed in Montana, except as a member of the armed forces.  
27 If a spouse of a member of the armed forces becomes gainfully employed in Montana, the spouse must  
28 be licensed, as required by 61-5-102, within 90 days of becoming employed.

29 (c) a person on active duty in the armed forces of the United States and in immediate possession  
30 of a valid license issued to that person in a foreign country by the armed forces of the United States, for

1 a period of 45 days from the date of the person's return to the United States;

2 (d) a person who temporarily drives, operates, or moves a road machine, farm tractor, or  
3 implement of husbandry for use in intrastate commerce on a highway;

4 (e) a person who is a locomotive engineer, assistant engineer, conductor, ~~brakeman~~ brake tender,  
5 railroad utility person, or other member of the crew of a railroad locomotive or train being operated upon  
6 rails, including operation on a railroad crossing a public street, road, or highway. A person employed as  
7 described in this subsection is not required to display a driver's license to a law enforcement officer in  
8 connection with the operation of a railroad locomotive or train within Montana.

9 (f) a person who temporarily drives, operates, or moves an off-highway vehicle, as defined in  
10 23-2-801, on a forest development road in this state, as defined in 61-8-110, that has been designated  
11 and approved for off-highway vehicle use by the United States forest service if the person:

12 (i) is under 16 years of age but at least 12 years of age; and

13 (ii) at the time of driving, operating, or moving the off-highway vehicle, has in the person's  
14 possession a certificate showing the successful completion of an off-highway vehicle safety education  
15 course approved by the department of fish, wildlife, and parks and is in the physical presence of a person  
16 who possesses a license issued under this chapter.

17 (2) A nonresident who is at least 15 years of age and who is in immediate possession of a valid  
18 operator's license issued to the nonresident by the nonresident's home state or country may operate a  
19 motor vehicle, except a commercial motor vehicle, in this state.

20 (3) A nonresident ~~not otherwise exempt from the licensing requirements of 49 CFR, part 383, and~~  
21 who is in immediate possession of a valid commercial driver's license issued to the nonresident by the  
22 nonresident's home ~~state or country~~ jurisdiction, in accordance with the licensing and testing standards  
23 of 49 CFR, part 383, may operate a commercial motor vehicle in this state.

24 (4) A nonresident who is at least 18 years of age, whose home state or country does not require  
25 the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than  
26 90 days in any calendar year, if the motor vehicle is registered in the home state or country of the  
27 nonresident.

28 (5) A driver's license issued under this chapter to a person who enters the United States armed  
29 forces, if valid and in effect at the time that the person enters the service, continues in effect so long as  
30 the service continues, unless the license is suspended, revoked, or canceled for a cause as provided by

1 law, and for up to 30 days following the date on which the licensee is honorably separated from the  
2 service. During the 30-day period, the license is valid only when the license and the licensee's discharge,  
3 separation, leave, or furlough papers are in the licensee's immediate possession."

4

5 **Section 5.** Section 61-5-105, MCA, is amended to read:

6 **"61-5-105. Who may not be licensed.** The department may not issue a license under this chapter  
7 to a person:

8 (1) who is under 16 years of age unless:

9 (a) the person is at least 15 years of age and has passed a driver's education course approved by  
10 the department and the superintendent of public instruction; or

11 (b) the person is at least 13 years of age and, because of individual hardship, to be determined  
12 by the department, needs a restricted license;

13 (2) whose license or driving privilege is currently suspended or revoked in this or any state, as  
14 evidenced by an ineligible status report from the national driver register, established under 49 U.S.C.  
15 30302, or from the commercial driver's license information system, established under 49 U.S.C. 31309;

16 (3) who is addicted to the use of alcohol or narcotic drugs;

17 (4) who has previously been adjudged to be afflicted with or suffering from any mental disability  
18 or disease and who, at the time of application, has not been restored to competency by the methods  
19 provided by law;

20 (5) who is required by this chapter to take an examination;

21 (6) who has not deposited proof of financial responsibility when required under the provisions of  
22 chapter 6 of this title;

23 (7) who has any condition characterized by lapse of consciousness or control, either temporary  
24 or prolonged, that is or may become chronic. However, the department may in its discretion issue a license  
25 to an otherwise qualified person suffering from a condition if the afflicted person's attending physician  
26 attests in writing that the person's condition has stabilized and would not be likely to interfere with that  
27 person's ability to operate a motor vehicle safely and, if a commercial driver's license is involved, the  
28 person is physically qualified to operate a commercial motor vehicle under applicable state or federal  
29 regulations; or

30 (8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely

1 operate a motor vehicle on the highway."

2

3 **Section 6.** Section 61-5-110, MCA, is amended to read:

4 **"61-5-110. ~~Examination~~ Records check of applicants -- examination of applicants -- cooperative**  
5 **driver testing programs.** (1) Prior to examining an applicant for a driver's license, the department shall  
6 conduct a check of the applicant's driving record by querying the national driver register, established under  
7 49 U.S.C. 30302, or the commercial driver's license information system, established under 49 U.S.C.  
8 31309.

9 (2) The department shall examine each applicant for a driver's license or motorcycle endorsement,  
10 except as otherwise provided in this section. The examination must include a test of the applicant's  
11 eyesight, a knowledge test examining the applicant's ability to read and understand highway signs and the  
12 applicant's knowledge of the traffic laws of this state, and, except as provided in 61-5-118, a road test  
13 or a skills test demonstrating the applicant's ability to exercise ordinary and reasonable control in the safe  
14 operation of a motor vehicle, quadricycle, or motorcycle. The knowledge test or road test, or both, may  
15 be waived by the department upon certification of the applicant's successful completion of the test by a  
16 certified cooperative driver testing program, as provided in subsection ~~(2)~~(3).

17 ~~(2)~~(3) The department is authorized to certify as a cooperative driver testing program any  
18 state-approved high school traffic education course offered by or in cooperation with a school district that  
19 employs an approved instructor who has current endorsement from the superintendent of public instruction  
20 as a teacher of traffic education or any motorcycle safety training course approved by the board of regents  
21 and that employs an approved instructor of motorcycle safety training and who agrees to:

22 (a) administer standardized knowledge and road tests required by the department to students  
23 participating in the district's high school traffic education courses or motorcycle safety training courses  
24 approved by the board of regents;

25 (b) certify the test results to the department; and

26 (c) comply with regulations of the department, the superintendent of public instruction, and the  
27 board of regents.

28 ~~(3)~~(4) (a) Except as otherwise provided by law, a resident who has a valid driver's license issued  
29 by another jurisdiction may surrender that license for a Montana license of the same class, type, and  
30 endorsement upon payment of the required fees and successful completion of a vision examination. In

1 addition, a resident surrendering a commercial driver's license issued by another jurisdiction shall  
2 successfully complete any examination required by federal regulations before being issued a commercial  
3 driver's license by the department.

4 (b) The department may require an applicant who surrenders a valid driver's license issued by  
5 another jurisdiction to submit to a knowledge and skills test if:

6 (i) the applicant has a physical or mental disability, limitation, or condition that impairs, or may  
7 impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor  
8 vehicle on the highway; and

9 (ii) the surrendered license does not include readily discernible adaptive equipment or operational  
10 restrictions appropriate to the applicant's functional abilities; or

11 (iii) the applicant wants to remove or modify a restriction imposed on the surrendered license.

12 (c) When a license from another jurisdiction is surrendered, the department shall notify the issuing  
13 agency from the other jurisdiction that the applicant has surrendered the license. If the applicant wants  
14 to retain the license from another jurisdiction for identification or other nondriving purposes, the  
15 department shall place a distinctive mark on the license, indicating that the license may be used for  
16 nondriving purposes only, and return the marked license to the applicant."

17

18 **Section 7.** Section 61-5-111, MCA, is amended to read:

19 **"61-5-111. Contents of a driver's license, renewal, renewal by mail, license expirations, grace**  
20 **period, and fees for licenses, permits, and endorsements -- notice of expiration.** (1) The department may  
21 appoint county treasurers and other qualified officers to act as its agents for the sale of driver's licenses  
22 receipts and shall make necessary rules governing sales. In areas in which the department provides driver  
23 licensing services 3 days or more a week, the department is responsible for sale of receipts and may, in  
24 its discretion, appoint an agent to sell receipts.

25 (2) The department, upon receipt of payment of the fees specified in this section, shall issue a  
26 driver's license to each qualifying applicant. The license must contain a full-face photograph of the licensee  
27 in the size and form prescribed by the department; a distinguishing number issued to the licensee; the full  
28 legal name, date of birth, Montana mailing address, and a brief description of the licensee; and either the  
29 licensee's customary signature or a digital reproduction of the licensee's customary signature. The  
30 department may not use the licensee's social security number as the distinguishing number unless the

1 licensee expressly authorizes the use. A license is not valid until it is signed by the licensee.

2 (3) (a) When a person applies for renewal of a driver's license, the department shall conduct a  
3 records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test  
4 the applicant's eyesight. The department may also require the applicant to submit to a knowledge and  
5 skills test if:

6 (i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs,  
7 or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of  
8 a motor vehicle on the highway; and

9 (ii) the expired or expiring license does not include adaptive equipment or operational restrictions  
10 appropriate to the applicant's functional abilities; or

11 (iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring  
12 license.

13 (b) In the case of a commercial driver's license, the department may also require that the applicant  
14 successfully complete a written examination as required by federal regulations.

15 (c) A person is considered to have applied for renewal of a Montana driver's license if the  
16 application is made within 6 months before or 3 months after the expiration of the person's license. Except  
17 as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a  
18 Montana driver's examination station.

19 (d) (i) A person may renew a driver's license by mail if the person certifies that the person is  
20 temporarily out of state and will not be returning to the state prior to the expiration of the license.

21 (ii) An applicant who renews a driver's license by mail shall submit to the department an approved  
22 vision examination and a medical evaluation from a licensed physician in addition to the fees required for  
23 renewal.

24 (iii) If the department does not have a digitized photograph or signature record of the renewal  
25 applicant from the expiring license, then the department may require the renewal applicant to submit a  
26 personal photograph and signature that meets the requirements prescribed by the department.

27 (iv) The term of a license renewed by mail is 4 years, and a person may not renew by mail for  
28 consecutive license terms.

29 (v) The department may not renew a license by mail if the records check conducted in accordance  
30 with 61-5-110(1) shows an ineligible license status for the applicant.

1 (e) The department shall mail a driver's license renewal notice no earlier than 60 days and no later  
2 than 30 days prior to the expiration date of a commercial driver's license if the licensee has previously  
3 submitted a written request for the notice, either at the time of initial application or of renewal of the  
4 license.

5 (4) (a) Except as provided in subsections (4)(b) and (4)(c), a license expires on the anniversary of  
6 the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever  
7 occurs first. ~~The department may adopt rules to stagger the implementation of the conversion to an 8-year~~  
8 ~~license cycle over a 4-year period.~~

9 (b) A license issued to a person who is 75 years of age or older expires on the anniversary of the  
10 licensee's birthday 4 years or less after the date of issue.

11 (c) A license issued to a person who is under 21 years of age expires on the licensee's 21st  
12 birthday.

13 (5) Whenever the department issues an original license to a person under the age of 18 years, the  
14 license must be designated and clearly marked as a "provisional license". Any license designated and  
15 marked as provisional may be suspended by the department for a period of not more than 12 months when  
16 its records disclose that the licensee, subsequent to the issuance of the license, has been guilty of careless  
17 or negligent driving.

18 (6) Fees for driver's licenses are:

19 (a) driver's license, except a commercial driver's license -- \$4 a year or fraction of a year;

20 (b) motorcycle endorsement -- 50 cents a year or fraction of a year;

21 (c) commercial driver's license:

22 (i) interstate -- \$5 a year or fraction of a year;

23 (ii) intrastate -- \$3.50 a year or fraction of a year.

24 (7) Upon receipt of notice from another jurisdiction that a person licensed under this chapter has  
25 surrendered a Montana driver's license to that jurisdiction, the department shall change the license status  
26 on the person's official driver record to "inactive". If the person returns to Montana prior to the expiration  
27 of the previously surrendered license, the department may reactivate the license for the remainder of the  
28 license term."

29

30 **Section 8.** Section 61-5-208, MCA, is amended to read:

1           **"61-5-208. Period of suspension or revocation -- probationary license -- ignition interlock device**  
2 **required on second or subsequent offense.** (1) The department may not suspend or revoke a driver's  
3 license or privilege to drive a motor vehicle on the public highways for a period of more than 1 year,  
4 except as otherwise permitted by law.

5           (2) (a) ~~Except as provided in 61-2-302, a person whose license or privilege to drive a motor~~  
6 ~~vehicle on the public highways has been suspended or revoked may not have the license, endorsement,~~  
7 ~~or privilege renewed or restored unless the revocation was for a cause that has been removed. After the~~  
8 ~~until expiration of the period of the revocation or suspension period has been completed, the person may~~  
9 ~~apply for a new license or endorsement as provided by law, but the department may not issue a new~~  
10 ~~license or endorsement unless it is satisfied, after investigation of the driving ability of the person and upon~~  
11 ~~a showing by its records or other sufficient evidence, that the person is eligible to be licensed to drive in~~  
12 ~~Montana.~~

13           (b) When a person is convicted or forfeits bail or collateral not vacated for the offense of operating  
14 or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or  
15 a combination of alcohol or drugs or for the offense of operation of a motor vehicle by a person with  
16 alcohol concentration of 0.10 or more, the department shall, upon receiving a report of conviction or  
17 forfeiture of bail or collateral not vacated, suspend the driver's license or driving privilege of the person  
18 for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a  
19 second, third, or subsequent offense within 5 years of the first offense, the department shall revoke the  
20 license or driving privilege of the person for a period of 1 year and, upon issuance of any restricted  
21 probationary license during the period of revocation, restrict the person to driving only a motor vehicle  
22 equipped with a functioning ignition interlock device. If the 1-year period passes and the person has not  
23 completed a chemical dependency education course, treatment, or both, as ordered by the sentencing  
24 court, the license revocation remains in effect until the course, treatment, or both, are completed.

25           (c) For the purposes of subsection (2)(b), a person is considered to have committed a second,  
26 third, or subsequent offense if fewer than 5 years have passed between the date of an offense that  
27 resulted in a prior conviction and the date of the offense that resulted in the most recent conviction.

28           (3) (a) If a person pays the reinstatement fee required in 61-2-107 and provides the department  
29 proof of compliance with an ignition interlock restriction imposed under 61-8-442, the department shall  
30 stay the license suspension of a person who has been convicted of a violation of 61-8-401 or 61-8-406

1 and return the person's driver's license. The stay must remain in effect until the period of suspension has  
 2 expired and any required chemical dependency education course, treatment, or both, have been completed.

3 (b) If the department receives notice from a court, peace officer, or ignition interlock vendor that  
 4 the person has violated the court-imposed ignition interlock restriction by, including but not limited to  
 5 operating a motor vehicle not equipped with the device, tampering with the device, or removing the device  
 6 before the period of restriction has expired, the department shall lift the stay and reinstate the license  
 7 suspension for the remainder of the time period. The department may not issue a probationary driver's  
 8 license to a person whose license suspension has been reinstated because of violation of an ignition  
 9 interlock restriction.

10 (4) The period for all revocations made mandatory by 61-5-205 is 1 year except as provided in  
 11 subsection (2).

12 (5) The period of revocation for a person convicted of any offense that makes mandatory the  
 13 revocation of the person's driver's license commences from the date of conviction or forfeiture of bail.

14 (6) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial  
 15 motor vehicle, the department shall suspend the person's driver's license as provided in ~~61-8-811 and~~  
 16 ~~subsection (2) of this section~~ 61-8-802."

17

18 **Section 9.** Section 61-8-406, MCA, is amended to read:

19 **"61-8-406. Operation of noncommercial vehicle by a person with alcohol concentration of 0.10**  
 20 **or more -- operation of commercial vehicle by person with alcohol concentration of 0.04 or more. (1)** It  
 21 is unlawful and punishable as provided in 61-8-442, 61-8-722, 61-8-723, and 61-8-731 through 61-8-734  
 22 for any person to drive or be in actual physical control of:

23 (a) a noncommercial vehicle upon the ways of this state open to the public while the person's  
 24 alcohol concentration, as shown by analysis of the person's blood, breath, or urine, is 0.10 or more; or

25 (b) a commercial motor vehicle upon the ways of this state open to the public while the person's  
 26 alcohol concentration, as shown by analysis of the person's blood or breath, is 0.04 or more.

27 (2) Absolute liability, as provided in 45-2-104, will be imposed for a violation of this section."  
 28

29 **Section 10.** Section 61-8-801, MCA, is amended to read:

30 **"61-8-801. Purpose.** (1) The purpose of this part is to reduce the number of commercial motor

1 vehicle accidents in Montana, to provide greater safety to the motoring public and others by establishing  
 2 stringent criteria governing the operation of commercial motor vehicles, and to deny the privilege of  
 3 operating commercial motor vehicles upon the public streets and highways to those commercial motor  
 4 vehicle operators who are ~~determined to be~~ not qualified.

5 (2) To fulfill this purpose, the legislature intends that this part:

6 (a) establish criteria and procedures for the operation of commercial motor vehicles that require  
 7 safety practices commensurate with the danger inherent to their operation;

8 (b) provide for increased administrative punishment for commercial motor vehicle operators who  
 9 use alcohol while operating commercial motor vehicles;

10 (c) provide greater control of commercial motor vehicle operators using the streets and highways;

11 and

12 (d) conform Montana's laws on commercial ~~motor vehicle operator's endorsements~~ driver licensing  
 13 with federal regulations based on the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570,  
 14 as amended."

15

16 **Section 11.** Section 61-8-802, MCA, is amended to read:

17 **"61-8-802. Suspension of commercial driver's license -- disqualification.** (1) ~~The~~ Except as  
 18 provided in subsection (3), if the department receives notice from a court or from another licensing  
 19 jurisdiction that a person holding a commercial driver's license has been convicted of any offense or  
 20 conduct requiring driver disqualification under 49 U.S.C. 31310 or 49 CFR 383.51, the department shall  
 21 suspend the person's commercial driver's license of any commercial operator if the department's records  
 22 or information received from federal authorities shows that the person is disqualified under federal law;

23 (a) upon notice of a first conviction, for 1 year, except that if the offense occurred while operating  
 24 a commercial motor vehicle transporting placardable hazardous material, the suspension must be for 3  
 25 years; or

26 (b) upon notice of a second conviction of the same offense or conduct, for life, subject to federal  
 27 rules allowing for license reinstatement, if otherwise eligible, upon completion of a minimum suspension  
 28 period of 10 years.

29 (2) ~~A commercial driver's license suspended pursuant to this section remains suspended for the~~  
 30 ~~duration of the period of disqualification under federal regulations~~ The department is required by federal

1 law to suspend a person's commercial driver's license upon the report of a conviction of any of the  
2 following offenses or conduct:

3 (a) operating a commercial motor vehicle under the influence of alcohol or a controlled substance;  
4 (b) leaving the scene of an accident involving a commercial motor vehicle operated by the person;  
5 (c) using a commercial motor vehicle in the commission of a felony, other than a felony under  
6 61-8-804;

7 (d) operating a commercial motor vehicle while the person's commercial driver's license is revoked,  
8 suspended, or canceled or the person is disqualified from operating a commercial motor vehicle;

9 (e) causing a fatality through negligent or criminal operation of a commercial motor vehicle; or  
10 (f) committing one of the following railroad grade crossing violations:

11 (i) for drivers who are not required to always stop:  
12 (A) failing to slow down and check that the tracks are clear of an approaching train; or  
13 (B) failing to stop before reaching the crossing if the tracks are not clear;

14 (ii) for drivers who are always required to stop, failing to stop before driving onto the crossing;  
15 (iii) for all drivers:  
16 (A) failing to have sufficient space to drive completely through the crossing without stopping;  
17 (B) failing to obey a traffic control device or the directions of an enforcement official at the  
18 crossing; or

19 (C) failing to negotiate a crossing because of insufficient undercarriage clearance.

20 (3) The department shall suspend the commercial driver's license of a person who is convicted  
21 of a railroad grade crossing violation for:

22 (a) 60 days upon a first conviction;  
23 (b) 120 days upon a second conviction within a 3-year period; or  
24 (c) 1 year upon a third or subsequent conviction within a 3-year period.

25 (4) A person whose commercial driver's license is suspended under this section ~~due to~~  
26 disqualification:

27 (a) ~~may appeal the suspension as provided in 61-5-211~~ is not eligible for a restricted probationary  
28 driver's license; and

29 (b) may not operate a commercial motor vehicle until the suspension is lifted and the person's  
30 commercial driver's license is restored."

1

2           **Section 12.** Section 61-8-803, MCA, is amended to read:

3           **"61-8-803. Suspension of commercial driver's license -- serious traffic violations.** (1) If the  
4 department receives notice from a court or another licensing jurisdiction that a person holding a commercial  
5 driver's license has been convicted of more than one serious traffic violation in separate incidents within  
6 a 3-year period, the department shall suspend the person's commercial driver's license:

7           (a) for 60 days upon receipt of notice of the second conviction; or

8           (b) for 120 days upon receipt of notice of the third or subsequent conviction.

9           (2) For purposes of this section, "serious traffic violation" means conviction, when operating a  
10 commercial motor vehicle, of:

11           (a) speeding in excess of 15 miles an hour above a posted speed limit;

12           (b) reckless driving;

13           (c) improper or erratic traffic lane changes;

14           (d) following too closely; or

15           (e) a violation of a state law or local ordinance relating to the operation of a motor vehicle,  
16 excluding a parking, weight, or equipment violation, that arises in connection with a fatal accident;

17           (f) operating a commercial motor vehicle without a commercial driver's license;

18           (g) operating a commercial motor vehicle without a commercial driver's license in one's possession  
19 or refusing to display a commercial driver's license upon request; or

20           (h) operating a commercial motor vehicle when the minimum testing standards for the class of  
21 vehicle operated or the type of cargo carried have not been satisfied by the individual."

22

23           **Section 13.** Section 61-8-805, MCA, is amended to read:

24           **"61-8-805. Suspension for operating commercial vehicle with alcohol concentration of 0.04 or**  
25 **more -- hearing.** (1) A person whose alcohol concentration is 0.04 or more while the person drives or is  
26 in actual physical control of a commercial motor vehicle is subject to the suspension of the person's  
27 commercial driver's license. The peace officer who determines that the person is operating a commercial  
28 motor vehicle with an alcohol concentration of 0.04 or more shall immediately seize the person's  
29 commercial driver's license and, on behalf of the department, give the person written notice of the license  
30 suspension and the right to a hearing under 61-8-808. Upon receipt of a report certified under penalty of

1 law from the peace officer that the person was operating a commercial motor vehicle with an alcohol  
 2 concentration of 0.04 or more, the department shall suspend the license, with no provision for a restricted  
 3 probationary commercial license, for:

4 (a) 1 year, upon receipt of the first report of a 0.04 or more alcohol concentration violation, except  
 5 that if the violation occurred in a commercial motor vehicle transporting placardable hazardous materials,  
 6 the suspension must be for 3 years; and

7 (b) life, upon receipt of a second or subsequent 0.04 or more alcohol concentration violation report  
 8 at any time as determined from the records of the department, subject to federal rules allowing for driver  
 9 rehabilitation and license reinstatement, if otherwise eligible, upon service of a minimum period of 10  
 10 years' suspension.

11 (2) A peace officer who determines that a commercial motor vehicle operator has a measured  
 12 amount or detected presence of alcohol in the operator's body while operating a commercial motor vehicle  
 13 shall place the commercial motor vehicle operator out of service as mandated by federal regulations for  
 14 24 hours.

15 (3) The fact that a person charged with a violation of the provisions of subsection (1) is entitled  
 16 to use alcohol under the laws of Montana is not a defense against a charge of violating the provisions of  
 17 subsection (1).

18 (4) For purposes of this section, a conviction for violation of 61-8-401 or 61-8-406 while  
 19 operating a commercial motor vehicle must be treated as a prior report of a 0.04 or more alcohol  
 20 concentration violation and must be used in determining the length of the license suspension under  
 21 subsection (1)."

22

23 **Section 14.** Section 61-8-811, MCA, is amended to read:

24 **"61-8-811. Suspension of commercial driver's license -- duration -- second or subsequent offense.**

25 Upon receiving notice pursuant to ~~61-5-208~~, 61-8-809, or 61-8-810, the department shall suspend ~~an~~  
 26 ~~operator's~~ a person's commercial driver's license, as follows:

27 (1) upon notice of a first conviction, for 1 year, with no provision for a probationary license,  
 28 except that if the offense occurred while operating a commercial motor vehicle transporting hazardous  
 29 material, the suspension must be for 3 years;

30 (2) upon notice of a second conviction, as determined from the records of the department, for life,

1 with no provision for a restricted license unless allowed by federal rules governing commercial drivers; and  
 2 (3) upon notice of a third conviction, an operator's commercial driver's license must be suspended  
 3 for life and the operator is ineligible for reinstatement."

4

5 **Section 15.** Section 61-11-101, MCA, is amended to read:

6 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender**  
 7 **of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes  
 8 mandatory the suspension or revocation of the driver's license or commercial driver's license of the person  
 9 by the department, the court in which the conviction occurs shall require the surrender to it of all driver's  
 10 licenses then held by the convicted person. The court shall, within 5 days, forward the license and a  
 11 record of the conviction to the department. If the person does not possess a driver's license, the court  
 12 shall indicate that fact in its report to the department.

13 (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal  
 14 ordinance regulating the operation of motor vehicles on highways shall forward a record of the conviction  
 15 or forfeiture to the department within 5 days after a conviction or a forfeiture of bail that is not vacated,  
 16 except for a conviction or a forfeiture of bail for a standing or parking statute or ordinance, ~~and may~~  
 17 ~~recommend the suspension of the driver's license of the convicted person.~~ The court may also recommend  
 18 that the department issue a restricted probationary license on the condition that the individual comply with  
 19 the requirement that the person attend and complete a chemical dependency education course, treatment,  
 20 or both, as ordered by the court under 61-8-732. ~~The department shall issue a restricted probationary~~  
 21 ~~license unless the person is not entitled to a Montana driver's license. Upon issuance of a probationary~~  
 22 ~~license, the licensee is subject to the restrictions and may not operate a vehicle in violation of the~~  
 23 ~~restrictions.~~

24 (3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to  
 25 take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the  
 26 adjudication upon which it is based to the department within 5 days on forms furnished by the  
 27 department."

28

29 **NEW SECTION. Section 16. Applicability.** [This act] applies to driver's licenses issued or renewed  
 30 and to offenses committed after September 30, 2001.

31 - END -