

1 SENATE BILL NO. 26

2 INTRODUCED BY R. HOLDEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE AMOUNT THAT AN UNINSURED DRIVER MAY
5 COLLECT FOR NONECONOMIC DAMAGES AS THE RESULT OF AN AUTOMOBILE ACCIDENT;
6 PROHIBITING FELONS FROM RECOVERING ANY NONECONOMIC DAMAGES BECAUSE OF PERSONAL
7 INJURY SUFFERED WHILE COMMITTING OR FLEEING FROM A FELONY; AMENDING SECTION 61-6-304,
8 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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12 **Section 1.** Section 61-6-304, MCA, is amended to read:13 **"61-6-304. Penalties -- limitation on amount of recovery for automobile accident occurring while**

14 **uninsured.** (1) Conviction of a first offense under 61-6-301 or 61-6-302 is punishable by a fine of not less
15 than \$250 or more than \$500 or by imprisonment in the county jail for not more than 10 days, or both.
16 A second conviction is punishable by a fine of \$350 or by imprisonment in the county jail for not more
17 than 10 days, or both. A third or subsequent conviction is punishable by a fine of \$500 or by
18 imprisonment in the county jail for not more than 6 months, or both.

19 (2) Upon a second or subsequent conviction under 61-6-301 or 61-6-302, the sentencing court
20 shall order the surrender of the vehicle registration receipt and license plates for the vehicle operated at
21 the time of the offense if that vehicle was operated by the registered owner or a member of the registered
22 owner's immediate family or by a person whose operation of that vehicle was authorized by the registered
23 owner. The court shall send the receipt and plates, along with a copy of the complaint and dispositional
24 order, to the department, which shall immediately suspend the receipt and plates for a period of 90 days
25 from the date of a second conviction or 180 days from the date of a third or subsequent conviction. The
26 receipt and plates may not be reinstated until the expiration of that period and until proof of compliance
27 with 61-6-301 is furnished to the department, but if the vehicle is transferred to a new owner, the new
28 owner is entitled to register the vehicle.

29 (3) Upon a fourth and subsequent conviction under 61-6-301 or 61-6-302, the court shall order
30 the surrender of the driver's license of the offender, if the vehicle operated at the time of the offense was

1 registered to the offender or a member of the offender's immediate family. The court shall send the
 2 driver's license, along with a copy of the complaint and the dispositional order, to the department, which
 3 shall immediately suspend the driver's license. The department may not reinstate a driver's license
 4 suspended under this subsection until the registered owner provides the department proof of compliance
 5 with 61-6-301 and the department determines that the registered owner is otherwise eligible for licensure.

6 (4) The court may suspend a required fine only upon a determination that the offender is or will
 7 be unable to pay the fine.

8 (5) Except as provided in subsection (6), in an action to recover damages arising out of the
 9 maintenance or use of a motor vehicle, an injured person may not recover noneconomic damages in excess
 10 of the limits established in 61-6-124 if:

11 (a) the injured person was the owner of a motor vehicle involved in the accident;

12 (b) the injured person was previously convicted of violating 61-6-301 or 61-6-302; and

13 (c) at the time of the accident, the injured person's vehicle involved in the accident was not
 14 insured and the injured person could not establish financial responsibility as required by 61-6-132.

15 (6) If a person described in subsection (5) was injured by an impaired driver who at the time of
 16 the accident was operating a motor vehicle in violation of 61-8-401 or 61-8-406, any action by the injured
 17 person to recover damages from the impaired driver is not limited by subsection (5).

18 (7) For purposes of subsection (5), noneconomic damages include but are not limited to damages
 19 for pain and suffering, loss of enjoyment of life, physical impairment, disfigurement, or any other
 20 noneconomic loss.

21 ~~(5)(8)~~ A court may not defer imposition of penalties provided by this section.

22 ~~(6)(9)~~ An offender is considered to have been previously convicted for the purposes of ~~sentencing~~
 23 this section if less than 5 years have elapsed between the commission of the present offense and a
 24 previous conviction."

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26 **NEW SECTION. Section 2. Limits on recovery by person involved in felony.** (1) In an action for
 27 damages based on negligence, a person may not recover NONECONOMIC damages of any kind for the
 28 person's injuries incurred during the person's commission of, attempt to commit, or immediate flight from
 29 a felony COMMITTED OR ATTEMPTED TO BE COMMITTED BY THAT PERSON.

30 (2) After all right to appeal has been exhausted, a judgment of conviction, as defined in 45-2-101,

1 establishing criminal accountability for the felonious act conclusively establishes the fact of commission
2 of a felony by the convicted person for purposes of this section.

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4 NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an
5 integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, part 7, apply to
6 [section 2].

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8 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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