

HOUSE BILL NO. 767

INTRODUCED BY BRUEGGEMAN, STONINGTON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MOTOR VEHICLE AND DRIVING RECORD LAWS; PROVIDING FOR SPECIAL MOTORCYCLE LICENSE PLATES; ESTABLISHING A FEE FOR THE SPECIAL MOTORCYCLE LICENSE PLATES AND REQUIRING THAT THE PROCEEDS BE USED FOR GRANTS TO NONPROFIT ORGANIZATIONS IDENTIFIED IN RULES ADOPTED BY THE DEPARTMENT OF JUSTICE; STATUTORILY APPROPRIATING THE FEE PROCEEDS TO THE DEPARTMENT OF JUSTICE; REVISING LAWS GOVERNING THE RELEASE OF INFORMATION FROM DRIVING RECORDS BY THE DEPARTMENT OF JUSTICE, THE KIND OF INFORMATION THAT MAY BE RELEASED, AND THE FEES THAT MAY BE CHARGED; AMENDING SECTIONS 17-7-502, 61-11-105, 61-11-503, 61-11-509, AND 61-11-510, MCA; AND PROVIDING EFFECTIVE DATES."

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

NEW SECTION. Section 1. Special motorcycle license plates -- department to design -- fees -- distribution. (1) A Montana resident who is the owner of a motorcycle or quadricycle titled and registered under this chapter and who pays the fee required under subsection (2) may be issued a set of special motorcycle license plates bearing a design created by the department. The design must recognize the efforts of one or more Montana-based nonprofit organizations that grant wishes to chronically or critically ill Montana children.

(2) A person requesting a set of special motorcycle license plates under this section shall pay to the county treasurer:

(a) an administrative fee of \$5 upon initial issuance of the special license plates; and

(b) an annual donation fee of \$20 upon initial issuance, renewal, or transfer of the special license plates.

(3) The county treasurer shall remit the fees required in subsection (2) to the department of revenue. For each set of plates issued, the department of revenue shall deposit \$5 in the state general fund and \$20 in an account in the state special revenue fund to be used by the department as provided in subsection (4).

(4) The department shall use the money deposited in the account in the state special revenue fund as provided in subsection (3) to provide grants, using criteria established by the department, to Montana-based nonprofit organizations that grant wishes to Montana children who are chronically or critically ill.

(5) The department shall adopt rules to identify the entity or entities that may qualify for grants under this section and to establish the criteria that an entity must meet to receive grant funds.

(6) The account in the state special revenue fund provided for in subsection (3) is statutorily appropriated to the department, as provided in 17-7-502.

Section 2. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; [section 1]; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's

unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

Section 3. Section 61-11-105, MCA, is amended to read:

"61-11-105. Release of information -- fees. (1) Subject to the provisions of subsection (2) limitations of this section, the department shall, upon request, furnish a person the individual Montana driving record of a driver or licensee, showing containing the following data:

(a) personal information that identifies an individual driver or licensee, including the driver or licensee's name, address, driver's license number, date of birth, and physical description THE DRIVER'S OR LICENSEE'S NAME, DRIVER'S LICENSE NUMBER, AND DATE OF BIRTH;

(b) driver's license status, including the license type and any endorsements, the license issue date, license restrictions, any suspensions, revocations, or cancellations that have been imposed against the driver or licensee, and the license expiration date;

(b)(c) convictions of the driver or licensee; and

(e)(d) traffic accidents in which the driver or licensee was involved.

(2) The department may not enter into any agreement to disclose or sell, in bulk, any data contained in an individual Montana driving record unless the requester of the information provides the department with the names, driver's license numbers, and dates of birth of the drivers or licensees from whose records the requested data are to be extracted and furnished A CHANGE IN LICENSE STATUS OR CONVICTION ACTIVITY IS TO BE REPORTED.

(3) The department may not disclose personal information or highly restricted personal information from an individual Montana driving record, except as permitted or required under 61-11-507, 61-11-508, or 61-11-509.

(3)(4) Information relating to a traffic accident that did not involve a conviction, as defined in 61-11-203, may not be released by the department unless the release is requested or approved by a party involved in the accident or is required by court order or a duly executed subpoena.

(4)(5) (a) A Subject to the requirements of subsection (6) and except as provided in subsection (5)(b), a fee of \$4 must be paid for each individual Montana driving record requested. A fee of \$10 must be paid if a certified Montana record, as provided in 61-11-102(6), is requested. A fee of \$4 EIGHT CENTS must be paid for each individual Montana driving record that is searched by the department to report to a requester a change in

1 license status or conviction activity from one or more individual Montana driving records.

2 (b) All driving records An individual Montana driving record must be provided without charge to any
3 criminal justice agency, as defined in 44-5-103, or other state or federal agency.

4 (6) In addition to the fees required in subsection (5) and 61-11-510(3), an individual Montana driving
5 record or any report compiled from one or more individual Montana driving records that are electronically
6 transmitted to a requester through a point of entry for electronic government services are subject to the
7 convenience fee established under 2-17-1103.

8 (7) The department may require a requester, other than a federal, state, or local government agency,
9 seeking one or more individual Montana driving records or any data otherwise contained in one or more
10 individual Montana driving records in electronic format to use a point of entry for electronic government services
11 to obtain the record or data."

12
13 **Section 4.** Section 61-11-503, MCA, is amended to read:

14 **"61-11-503. Definitions.** As used in this part, the following definitions apply:

15 (1) "Disclose" means to engage in any practice or conduct that makes available or known, by means
16 of any communication to another person, organization, or entity, personal information contained in a motor
17 vehicle record.

18 (2) "Express consent" means an affirmative authorization given in writing by a person to whom personal
19 information pertains that specifically allows the department to release personal information to another person,
20 organization, or entity. Consent may be conveyed electronically if the conveyance includes an electronic
21 signature, as defined in 2-20-103, from the person to whom the personal information pertains.

22 (3) "Highly restricted personal information" means an individual's photograph or image, social security
23 number, or medical or disability information.

24 (4) "Motor vehicle record" means any record maintained by the department that pertains to a driver's
25 license, commercial driver's license, driving permit, motor vehicle title, motor vehicle registration, or identification
26 card issued by the department.

27 (5) "Person" does not mean a state agency or local government entity.

28 (6) (a) "Personal information" means information that identifies a person, including a person's name,
29 address, telephone number, social security number, ~~driver~~ driver's license or identification number, date of birth,
30 photograph or image, and medical or disability information.

(b) The term does not include the five-digit zip code of an address, information on vehicular accidents, driving or equipment-related violations, a person's driver's license or vehicle registration status, or a vehicle's insurance status.

(7) "Record" includes all books, papers, photographs, photostats, cards, film, tapes, recordings, electronic data, printouts, or other documentary materials, regardless of physical form or characteristics."

Section 5. Section 61-11-509, MCA, is amended to read:

"61-11-509. Permitted disclosure of personal information, excluding highly restricted personal information -- specific uses. Upon application, proof of the identity of the person requesting a record, and payment of the fees required in 61-11-510 and subject to the provisions of 61-11-105, the department may disclose personal information, excluding highly restricted personal information, from a motor vehicle record to a person who represents that the use of the personal information will be limited to one or more of the following uses:

(1) in the normal course of business by a legitimate business or its agents, employees, or contractors, but only:

(a) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(b) if the submitted information is not correct or is no longer correct, to obtain the correct information for the purposes of preventing fraud by pursuing legal remedies against or recovering on a debt or security interest against the individual;

(2) by a party in interest, or the agent of a party in interest, in a civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of process, an investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court;

(3) by an insurer or insurance support organization or a self-insured entity or its agents, employees, or contractors, in connection with the following arising under insurance policies:

(a) the investigation of claims;

(b) antifraud activities;

(c) ratemaking; or

(d) underwriting;

- 1 (4) by an employer or its agent or insurer to obtain or verify information relating to a holder of a
2 commercial driver's license required under federal or state law;
- 3 (5) to conduct research activities and produce statistical reports and journalistic articles as long as the
4 personal information is not published, disclosed to a third party, or used to contact individuals;
- 5 (6) to provide notice to the owners of towed, abandoned, or impounded vehicles;
- 6 (7) for use by any licensed private investigative agency or licensed security service for any purpose
7 provided under this section;
- 8 (8) for use in activities pertaining to:
- 9 (a) motor vehicle or driver safety and theft;
- 10 (b) motor vehicle emissions;
- 11 (c) motor vehicle product alterations, recalls, or advisories;
- 12 (d) performance monitoring of motor vehicles and dealers by motor vehicle manufacturers; and
- 13 (e) removal of nonowner records from the original owner records of motor vehicle manufacturers;
- 14 (9) for any other use that is specifically related to the operation of a motor vehicle or to public safety and
15 that is authorized by state law; and
- 16 (10) for any use by a requester who demonstrates to the department that the requester has obtained
17 the express consent of the person to whom the information pertains."
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19 **Section 6.** Section 61-11-510, MCA, is amended to read:

20 **"61-11-510. Prerequisites to disclosure.** (1) Prior to the disclosure of personal information or highly
21 restricted personal information, as provided in 61-11-507, 61-11-508, or 61-11-509, the department shall require
22 the requester to complete and submit an application, in a form prescribed by the department, identifying the
23 requester and specifying the statutorily recognized uses for which the personal information or highly restricted
24 personal information is being sought.

25 (2) The department shall require the requester to provide identification acceptable to the department.

26 (3) (a) The department shall collect the appropriate fees paid by the requester and shall determine the
27 amount of the fees in accordance with 61-3-101, 61-11-105, and this subsection (3), ~~or~~ and as appropriate, in
28 accordance with the terms of a contract between the department and the requester.

29 (b) The department shall ensure that fees established by policy or contract:

30 (i) recover the department's cost and expenses as provided in 2-6-110(2) and 61-3-101; ~~and~~

(ii) include an additional amount necessary to compensate the department for costs associated with developing and maintaining the database from which information is requested; and

(iii) incorporate, when applicable, the convenience fee established under 2-17-1103.

(c) Except as provided in 61-11-105(5)(b) subsection (3)(d) of this section, the department shall charge a fee to any person, including a representative of a federal, state, or local government entity or member of the news media who requests information under this section.

(d) The department may not charge a fee for information requested by the governor's office of budget and program planning, the state tax appeal board, any legislative branch agency or committee, or any criminal justice agency, as defined in 44-5-103."

NEW SECTION. Section 7. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 61, chapter 3, part 4, and the provisions of Title 61, chapter 3, part 4, apply to [section 1].

NEW SECTION. Section 8. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2003.

(2) [Section 1] is effective January 1, 2004.

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