

HOUSE BILL NO. 304
INTRODUCED BY RICE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PERSON WHO IS NOT A CITIZEN OF THE
5 UNITED STATES AND WHO ENTERS OR REMAINS IN THE UNITED STATES IN VIOLATION OF LAW MAY
6 NOT DRIVE A MOTOR VEHICLE IN MONTANA OR BE ISSUED A DRIVER'S LICENSE; PROHIBITING THE
7 DEPARTMENT OF JUSTICE FROM ADOPTING RULES THAT INCLUDE STANDARDS FOR STATES'
8 NONCOMMERCIAL DRIVER'S LICENSES CONTAINED IN FEDERAL STATUTES OR FEDERAL
9 ADMINISTRATIVE RULES OR REGULATIONS; ~~REVISING THE LICENSURE EXEMPTION FOR A PERSON~~
10 ~~WHO DRIVES AN OFF-HIGHWAY VEHICLE ON A FOREST ROAD~~; AND AMENDING SECTIONS 61-5-104,
11 61-5-105, AND 61-5-125, MCA."

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

14
15 **Section 1.** Section 61-5-104, MCA, is amended to read:

16 **"61-5-104. Exemptions.** (1) The following persons are exempt from licensure under this chapter:

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

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

24 (c) a person on active duty in the armed forces of the United States and in immediate possession of a
25 valid license issued to that person in a foreign country by the armed forces of the United States, for a period of
26 45 days from the date of the person's return to the United States;

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

29 (e) a person who is a locomotive engineer, assistant engineer, conductor, brake tender, railroad utility
30 person, or other member of the crew of a railroad locomotive or train being operated upon rails, including

1 operation on a railroad crossing a public street, road, or highway. A person employed as described in this
 2 subsection (1)(e) is not required to display a driver's license to a law enforcement officer in connection with the
 3 operation of a railroad locomotive or train within Montana.

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

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

8 ~~—— (ii) at the time of driving, operating, or moving the off-highway vehicle, has in the person's possession~~
 9 ~~a certificate showing the successful completion of an off-highway vehicle safety education course approved by~~
 10 ~~the department of fish, wildlife, and parks and is in the physical presence of a person who possesses a license~~
 11 ~~issued under this chapter; AND~~

12 (ii) AT THE TIME OF DRIVING, OPERATING, OR MOVING THE OFF-HIGHWAY VEHICLE, HAS IN THE PERSON'S
 13 POSSESSION A CERTIFICATE SHOWING THE SUCCESSFUL COMPLETION OF AN OFF-HIGHWAY VEHICLE SAFETY EDUCATION
 14 COURSE APPROVED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND IS IN THE PHYSICAL PRESENCE OF A PERSON
 15 WHO POSSESSES A LICENSE ISSUED UNDER THIS CHAPTER.

16 (2) A nonresident who is at least 15 years of age and who is in immediate possession of a valid
 17 operator's license issued to the nonresident by the nonresident's home state or country, ~~except a person;~~
 18 ~~commonly known as an illegal alien., COMMONLY KNOWN AS AN ILLEGAL ALIEN, who is not a citizen of the United~~
 19 ~~States and who enters or remains in the United States in violation of law,~~ may operate a motor vehicle, except
 20 a commercial motor vehicle, in this state.

21 (3) A nonresident who is in immediate possession of a valid commercial driver's license issued to the
 22 nonresident by the nonresident's home jurisdiction, in accordance with the licensing and testing standards of
 23 49 CFR, part 383, ~~except a person, commonly known as an illegal alien., COMMONLY KNOWN AS AN ILLEGAL ALIEN,~~
 24 ~~who is not a citizen of the United States and who enters or remains in the United States in violation of law,~~ may
 25 operate a commercial motor vehicle in this state.

26 (4) A nonresident who is at least 18 years of age, whose home state or country does not require the
 27 licensing of operators, ~~except a person, commonly known as an illegal alien., COMMONLY KNOWN AS AN ILLEGAL~~
 28 ~~ALIEN, who is not a citizen of the United States and who enters or remains in the United States in violation of law,~~
 29 may operate a motor vehicle as an operator only, for a period of not more than 90 days in any calendar year,
 30 if the motor vehicle is registered in the home state or country of the nonresident.

1 (5) A driver's license issued under this chapter to a person who enters the United States armed forces,
2 if valid and in effect at the time that the person enters the service, continues in effect so long as the service
3 continues, unless the license is suspended, revoked, or canceled for a cause as provided by law, and for up to
4 30 days following the date on which the licensee is honorably separated from the service. During the 30-day
5 period, the license is valid only when the license and the licensee's discharge, separation, leave, or furlough
6 papers are in the licensee's immediate possession."

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8 **Section 2.** Section 61-5-105, MCA, is amended to read:

9 **"61-5-105. Who may not be licensed.** The department may not issue a license under this chapter to
10 a person:

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

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

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

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

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

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

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

24 (6) who has not deposited proof of financial responsibility when required under the provisions of chapter
25 6 of this title;

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

1 operate a commercial motor vehicle under applicable state or federal regulations; or
 2 (8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate
 3 a motor vehicle on the highway; or
 4 ~~(9) commonly known as an illegal alien;~~ COMMONLY KNOWN AS AN ILLEGAL ALIEN, who is not a citizen of
 5 the United States and who enters or remains in the United States in violation of law."
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7 **Section 3.** Section 61-5-125, MCA, is amended to read:

8 **"61-5-125. Authority of department -- rulemaking authority.** (1) The department shall administer and
 9 enforce the provisions of this chapter.

10 (2) The department shall adopt rules setting standards to govern driver's license examinations and
 11 reexaminations. The rules:

12 (a) must specifically address the functional abilities and skills required for a person to exercise ordinary
 13 and reasonable control in the safe operation of a motor vehicle on a highway;

14 (b) must include minimum uncorrected or corrected visual acuity requirements for both unrestricted and
 15 restricted licensure and may include minimum field of vision and depth perception requirements and hearing
 16 requirements for unrestricted and restricted licensure;

17 (c) may direct the design of one or more types of skills tests to assess an applicant's or licensee's ability
 18 to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway. A skills test
 19 may consist of:

20 (i) a comprehensive assessment of a person's functional abilities by means of an actual demonstration
 21 of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or

22 (ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the
 23 department, as related to a specific physical or mental condition or conditions or a request for reexamination;

24 (d) must include operational restrictions based upon the visual acuity of an applicant or licensee;

25 (e) may take into consideration any nationally recognized standards or recommended practices for
 26 assessment of a person's ability to exercise ordinary and reasonable control in the safe operation of a motor
 27 vehicle on the highway;

28 (f) must include appropriate licensing criteria relating to the use of adaptive equipment or operational
 29 limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction;

30 (g) may be derived from medical guidelines and information compiled by driver licensing medical

1 advisory or review boards from other jurisdictions, as well as information received from advocacy groups for
2 persons with disabilities and senior citizens; and

3 (h) except as provided in 61-5-105, may not use a person's age or physical or mental disability,
4 limitation, or condition as a justification for denial of a license.

5 (3) The department may adopt additional rules governing:

6 (a) acceptable methods of proof of identification that must be supplied by a person upon application for
7 or renewal of a driver's license;

8 (b) issuance of a hardship license to an underage applicant;

9 (c) the cancellation of a driver's license upon receipt of an insufficient funds check in payment of license
10 fees;

11 (d) circumstances under which the department may issue a probationary license to a person whose
12 license has been suspended or revoked or a person whose license is subject to a discretionary suspension or
13 revocation;

14 (e) restrictions to be imposed upon a probationary license;

15 (f) renewal of a driver's license by a person in the military assigned to active duty who had a valid
16 Montana driver's license at the time of entering active duty; and

17 (g) issuance of a duplicate driver's license.

18 (4) The EXCEPT FOR COMMERCIAL DRIVER'S LICENSES, THE department may adopt rules to implement the
19 driver's license standards set forth in 61-5-111. The department may not adopt other standards by rule,
20 including standards for states' driver's licenses contained in federal statutes or federal administrative rules or
21 regulations."

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