

1 HOUSE BILL NO. 753

2 INTRODUCED BY D. HIMMELBERGER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING FROM THE FOURTH CONVICTION OF DRIVING
5 WITHOUT INSURANCE TO THE FIRST CONVICTION THE POINT AT WHICH A DRIVER'S LICENSE IS
6 SUSPENDED AND IS NOT REINSTATED UNTIL THE DEPARTMENT OF JUSTICE IS GIVEN PROOF THAT
7 THE DRIVER HAS OBTAINED THE REQUIRED INSURANCE; PROVIDING HOW THE PROOF IS GIVEN;
8 PROVIDING THAT THE INSURANCE CANNOT BE CANCELED UNTIL 10 DAYS AFTER NOTICE OF
9 CANCELLATION IS GIVEN TO THE DEPARTMENT; AND AMENDING SECTION 61-6-304, MCA."

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

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13 **Section 1.** Section 61-6-304, MCA, is amended to read:
14 **"61-6-304. Penalties.** (1) Conviction of a first offense under 61-6-301 or 61-6-302 is punishable by a
15 fine of not less than \$250 or more than \$500 or by imprisonment in the county jail for not more than 10 days, or
16 both. A second conviction is punishable by a fine of \$350 or by imprisonment in the county jail for not more than
17 10 days, or both. A third or subsequent conviction is punishable by a fine of \$500 or by imprisonment in the
18 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 shall
20 order the surrender of the vehicle registration receipt and license plates for the vehicle operated at the time of
21 the offense if that vehicle was operated by the registered owner or a member of the registered owner's
22 immediate family or by a person whose operation of that vehicle was authorized by the registered owner. The
23 court shall send the receipt and plates, along with a copy of the complaint and dispositional order, to the
24 department, which shall immediately suspend the receipt and plates for a period of 90 days from the date of a
25 second conviction or 180 days from the date of a third or subsequent conviction. The receipt and plates may not
26 be reinstated until the expiration of that period and until proof of compliance with 61-6-301 is furnished to the
27 department, but if the vehicle is transferred to a new owner, the new owner is entitled to register the vehicle.

28 (3) (a) Upon a ~~fourth and subsequent~~ conviction under 61-6-301 or 61-6-302, the court shall order the
29 surrender of the driver's license of the offender, if the vehicle operated at the time of the offense was registered
30 to the offender or a member of the offender's immediate family. The court shall send the driver's license, along

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

5 (b) Proof of compliance with 61-6-301 may be furnished by filing with the department the written
6 certificate of an insurer authorized to do business in this state certifying that there is in effect a motor vehicle
7 liability policy for the benefit of the person required to furnish proof of compliance with 61-6-301. The certificate
8 must state the effective date of the policy, which must be the same as the policy effective date stated on the
9 certificate, and must designate by explicit description or by appropriate reference all motor vehicles covered by
10 the policy, unless the policy is issued to a person who is not the owner of a motor vehicle.

11 (c) A policy certified under subsection (3)(b) and any renewal policy may not be canceled or terminated
12 by either the insurer or the insured until at least 10 days after a notice of cancellation or termination of the policy
13 was filed with the department.

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

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

17 (6) An offender is considered to have been previously convicted for the purposes of sentencing if less
18 than 5 years have elapsed between the commission of the present offense and a previous conviction."

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