

SENATE BILL NO. 228

INTRODUCED BY J. LASLOVICH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING INCENTIVES FOR PARTICIPATION IN THE A DRIVER
5 REHABILITATION AND IMPROVEMENT PROGRAM; ALLOWING A JUDGE TO DEFER IMPOSITION OF
6 CERTAIN SENTENCES FOR MISDEMEANOR TRAFFIC OFFENSES, ~~CONDITIONED UPON OFFENDER~~
7 ~~PARTICIPATION~~; ALLOWING A JUDGE TO ORDER AN OFFENDER TO PARTICIPATE IN THE A DRIVER
8 REHABILITATION AND IMPROVEMENT PROGRAM; ALLOWING REMOVAL OF CONVICTION POINTS FROM
9 A PERSON'S DRIVING RECORD IF THE DRIVER PARTICIPATES IN THE A DRIVER REHABILITATION AND
10 IMPROVEMENT PROGRAM; AND AMENDING SECTIONS ~~61-2-302~~, 61-8-711, 61-11-203, AND 61-13-104,
11 MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 ~~Section 1.~~ Section 61-2-302, MCA, is amended to read:

16 ~~"61-2-302. Establishment of driver rehabilitation and improvement program -- participation by~~
17 ~~offending drivers.~~ (1) The department may establish by administrative rules a driver rehabilitation and
18 improvement program or programs. The programs may consist of classroom instruction in rules of the road,
19 driving techniques, defensive driving, driver attitudes and habits, actual on-the-road driver's training, and other
20 subjects or tasks designed to contribute to proper driving attitudes, habits, and techniques and must include the
21 requirements for obtaining a restricted probationary driver's license:

22 ~~(2) Except when otherwise provided or restricted by statute, a person whose driver's license is~~
23 ~~suspended or revoked by the department may participate in any driver rehabilitation and improvement program~~
24 ~~established under this section if the person's license is:~~

25 ~~(a) suspended as a result of a violation of the traffic laws of this state, unless the suspension was~~
26 ~~imposed under the authority provided in Title 61, chapter 8, part 8; or~~

27 ~~(b) revoked and the person has:~~

28 ~~(i) completed at least 3 months of a 1-year revocation; or~~

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

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



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

6 ~~———(4) If a person's driver's license has been surrendered before the person's selection for participation in~~
7 ~~the driver rehabilitation and improvement program, the license may be returned upon receipt of the person's~~
8 ~~agreement to participate in the program.~~

9 ~~———(5) The stay of enforcement of any suspension or revocation action must be terminated and the~~
10 ~~suspension or revocation action must be reinstated if a person declines to participate in the driver rehabilitation~~
11 ~~and improvement program or fails to meet the attendance or other requirements established for participation in~~
12 ~~the program.~~

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

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

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

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

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

25 ~~———(i) the individual is disqualified from operating a commercial motor vehicle under state or federal law; or~~

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

27 ~~———(10) It is a misdemeanor for a person to operate a motor vehicle in any manner in violation of the~~
28 ~~restrictions imposed on a restricted license issued to the person under this section.~~

29 ~~———(11) Imposition of a sentence for a first conviction of a misdemeanor offense may be deferred,~~
30 ~~conditioned upon the offender's participation in the driver rehabilitation and improvement program as provided~~

1 ~~in 61-8-711:~~

2 ~~—— (12) The department shall remove three conviction points accumulated according to the schedule~~
 3 ~~provided in [section 4] from a person's driving record maintained by the department under 61-11-102 if the person~~
 4 ~~participates in the driver rehabilitation and improvement program. No more than three points may be removed~~
 5 ~~in a 2-year period, and participation in the program is required for removal of additional points after the 2-year~~
 6 ~~period."~~

7

8 **Section 1.** Section 61-8-711, MCA, is amended to read:

9 **"61-8-711. Violation of chapter -- penalty.** (1) It is a misdemeanor for a person to violate any of the
 10 provisions of this chapter unless the violation is declared to be a felony.

11 (2) ~~Each~~ Except as provided in subsection (6), a person convicted of a misdemeanor for a violation of
 12 any of the provisions of this chapter for which another penalty is not provided shall for a first conviction be
 13 punished by a fine of not less than \$10 or more than \$100. For a second conviction within 1 year after the first
 14 conviction, the person shall be punished by a fine of not less than \$25 or more than \$200. Upon a third or
 15 subsequent conviction within 1 year after the first conviction, the person shall be punished by a fine of not less
 16 than \$50 or more than \$500.

17 (3) Except as provided in subsection (4), failure to pay a fine imposed under this chapter is a civil
 18 contempt of the court. On failure of payment of a fine, the court may:

19 (a) order enforcement of the fine by execution in the manner provided in 25-13-204 and under the
 20 provisions of Title 25, chapter 13; or

21 (b) if the court finds that the person is unable to pay, order the person to perform community service.

22 (4) If property is not found in an amount necessary to satisfy the unpaid portion of the fine and if the court
 23 makes a written finding that community service is inappropriate, the person shall be imprisoned in the county jail
 24 in the county in which the offense was committed, and the imprisonment shall be the number of days that the fine
 25 is divisible by the dollar amount of the incarceration credit contained in 46-18-403.

26 (5) Upon conviction, the court costs or any part of the court costs may be assessed against the
 27 defendant in the discretion of the court.

28 (6) ~~A UNLESS OTHERWISE PROVIDED BY LAW, A JUDGE MAY DEFER IMPOSITION OF A SENTENCE FOR THE FIRST ANY~~
 29 ~~CONVICTION OF A MISDEMEANOR OR TRAFFIC OFFENSE AGAINST AN OFFENDER, CONDITIONED UPON THE OFFENDER'S~~
 30 ~~PARTICIPATION. THE JUDGE MAY ORDER THE OFFENDER TO PARTICIPATE IN THE A DRIVER REHABILITATION AND IMPROVEMENT~~

1 ~~program established under 61-2-302 APPROVED BY THE DEPARTMENT UNDER 61-5-219.~~"

2

3 **Section 2.** Section 61-11-203, MCA, is amended to read:

4 **"61-11-203. Definitions.** As used in this part, the following definitions apply:

5 (1) "Conviction" has the meaning provided in 61-5-213.

6 (2) "Habitual traffic offender" means any person who within a 3-year period accumulates 30 or more
7 conviction points according to the schedule specified in ~~this subsection:~~

8 ~~—— (a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;~~

9 ~~—— (b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle, or
10 negligent vehicular assault, 12 points;~~

11 ~~—— (c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in the
12 commission of which a motor vehicle is used, 12 points;~~

13 ~~—— (d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind or operation
14 of a motor vehicle by a person with alcohol concentration of 0.08 or more, 10 points;~~

15 ~~—— (e) operating a motor vehicle while the license to do so has been suspended or revoked, 6 points;~~

16 ~~—— (f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person
17 to stop at the scene of the accident and give the required information and assistance, as described in 61-7-105,
18 8 points;~~

19 ~~—— (g) willful failure of the driver involved in an accident resulting in property damage of \$250 to stop at the
20 scene of the accident and give the required information or failure to otherwise report an accident in violation of
21 the law, 4 points;~~

22 ~~—— (h) reckless driving, 5 points;~~

23 ~~—— (i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;~~

24 ~~—— (j) any of the mandatory motor vehicle liability protection offenses under 61-6-301 and 61-6-302, 5 points;~~

25 ~~—— (k) operating a motor vehicle without a license to do so, 2 points. However, this subsection (2)(k) does
26 not apply to operating a motor vehicle within a period of 180 days from the date the license expired.~~

27 ~~—— (l) speeding, except as provided in 61-8-725(2), 3 points;~~

28 ~~—— (m) all other moving violations, 2 points.~~

29 ~~(3) There may not be multiple application of cumulative points when two or more charges are filed
30 involving a single occurrence. If there are two or more convictions involving a single occurrence, only the number~~

1 of points for the specific conviction carrying the highest points is chargeable against that defendant.

2 ~~——(4) [section 4 3].~~

3 (3) "License" means any type of license or permit to operate a motor vehicle.

4 ~~(5)(4)~~ "Moving violation" means a violation of a traffic regulation of this state or another jurisdiction by
5 a person while operating a motor vehicle or in actual physical control of a motor vehicle upon a highway.

6 ~~(6)(5)~~ A traffic regulation includes any provision governing motor vehicle operation, equipment, safety,
7 size, weight, and load restrictions or driver licensing. A traffic regulation does not include provisions governing
8 vehicle registration or local parking."

9

10 **NEW SECTION. Section 3. Conviction points -- removal from record.** (1) Conviction of an offense
11 referenced in this section results in the accumulation of conviction points, according to the following schedule,
12 on a person's driving record maintained by the department under 61-11-102 and subjects the offender to the
13 provisions of this part in addition to all other penalties provided by law:

14 (a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;

15 (b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle, or
16 negligent vehicular assault, 12 points;

17 (c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in the
18 commission of which a motor vehicle is used, 12 points;

19 (d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind or operation
20 of a motor vehicle by a person with alcohol concentration of 0.08 or more, 10 points;

21 (e) operating a motor vehicle while the license to do so has been suspended or revoked, 6 points;

22 (f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person
23 to stop at the scene of the accident and give the required information and assistance, as described in 61-7-105,
24 8 points;

25 (g) willful failure of the driver involved in an accident resulting in property damage of \$250 to stop at the
26 scene of the accident and give the required information or failure to otherwise report an accident in violation of
27 the law, 4 points;

28 (h) reckless driving, 5 points;

29 (i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;

30 (j) any of the mandatory motor vehicle liability protection offenses under 61-6-301 and 61-6-302, 5 points;

1 (k) operating a motor vehicle without a license to do so, 2 points. However, this subsection (1)(k) does
2 not apply to operating a motor vehicle within a period of 180 days from the date on which the license expired.

3 (l) speeding, except as provided in 61-8-725(2), 3 points; and

4 (m) all other moving violations, 2 points.

5 (2) There may not be multiple application of cumulative points when two or more charges are filed
6 involving a single occurrence. If there are two or more convictions involving a single occurrence, only the number
7 of points for the specific conviction carrying the highest points is chargeable against that defendant.

8 (3) The department shall remove three conviction points from a person's driving record if the ~~person~~
9 ~~participates in the driver rehabilitation and improvement program established under 61-2-302~~ DEPARTMENT
10 RECEIVES A CERTIFICATE FROM A DRIVER REHABILITATION PROGRAM APPROVED UNDER 61-5-219 CERTIFYING THAT THE
11 PERSON SUCCESSFULLY COMPLETED THE PROGRAM. THE CERTIFICATE MUST BE SUBMITTED NO LATER THAN 30 DAYS
12 AFTER THE DAY ON WHICH THE PROGRAM WAS COMPLETED. No more than three points may be removed in a 2-year
13 period, ~~and participation in the program is required for removal of any additional points after the 2-year period.~~

14

15 **Section 4.** Section 61-13-104, MCA, is amended to read:

16 **"61-13-104. Penalty -- no record permitted.** (1) A driver who violates 61-13-103 shall be fined \$20, but
17 the violation is not a misdemeanor pursuant to 45-2-101, 46-18-236, 61-8-104, or 61-8-711. A violation of
18 61-13-103 may not be counted as a moving violation for purposes of suspending a driver's license under
19 ~~61-11-203(2)(m)~~ [section 4(1)(m) 3(1)(M)]. Bond for this offense is \$20, and a jail sentence may not be imposed.

20 (2) A violation of 61-13-103 may not be recorded or charged against the driver's record of a person
21 violating 61-13-103.

22 (3) An insurance company may not hold a violation of 61-13-103 against the insured or increase the
23 insured's premiums ~~due to~~ because of a violation of 61-13-103."

24

25 NEW SECTION. **Section 5. Codification instruction.** [Section 4 3] is intended to be codified as an
26 integral part of Title 61, chapter 11, part 2, and the provisions of Title 61, chapter 11, part 2, apply to [section 4
27 3].

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