

1 SENATE BILL NO. 263

2 INTRODUCED BY G. LIND

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING IMPOUNDMENT OF LICENSE PLATES UPON A
5 SECOND OR SUBSEQUENT CONVICTION FOR DRIVING UNDER THE INFLUENCE; PROVIDING FOR A
6 SPECIAL LICENSE PLATE UPON IMPOUNDMENT TO IDENTIFY THE CONVICTIONS TO LAW
7 ENFORCEMENT; AND AMENDING SECTION 61-8-402, MCA."

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

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11 NEW SECTION. **Section 1. Impoundment of license plates for convictions of driving under**
12 **influence -- eligibility for special plates.** (1) Upon receipt of a person's conviction of or forfeiture of bail not
13 vacated for a second or subsequent offense under 61-8-406 or 61-8-409 or upon receipt of a police officer's
14 report under 61-8-402 or 61-8-409, the department shall immediately issue and mail to the person a copy of an
15 order impounding the license plates of all motor vehicles owned or co-owned at the time of the receipt of notice
16 of impoundment. A copy of the order must at the same time be mailed to the sheriff in the county where the
17 person resides. Within 5 days of the receipt of the order, the person shall surrender to the county sheriff the
18 license plates of all motor vehicles owned or co-owned by the person.

19 (2) A person who is the sole owner or co-owner of a motor vehicle for which the standard plates have
20 been impounded under this section may apply to the department for special plates. The special plates may be
21 issued only if the following conditions are met:

22 (a) the court determines that the person is not required to have the person's car seized and subjected
23 to the forfeiture procedure provided for in 61-8-421; and

24 (b) the court determines that the person may drive following the period of the person's driver's license
25 revocation provided in 61-5-208 if the person's vehicle meets the standards for installing and using an ignition
26 interlock device provided for in 61-8-442.

27 (3) The lettering for the license plates must include the letters "DUI" with no other characters represented
28 by a letter of the alphabet, followed by a designated series of numbers that identify the motor vehicle as one for
29 which the original plates have been impounded under this section. In order to ensure that no other plates
30 resemble this "DUI" designation, the department may not issue plates:

1 (a) through a random numbering system that contain the letters DUI in succeeding order;
2 (b) to a person requesting the letters DUI in succeeding order for plates commonly called personalized
3 plates.

4 (4) Any person qualifying for and receiving DUI license plates under this section may receive standard
5 license plates after a period of not less than 5 years if during this time period the person is not convicted of or
6 does not forfeit bail not vacated for an offense under 61-8-406 or 61-8-409 or if the person is not the subject of
7 a police officer's report under 61-8-402 or 61-8-409.

8 (5) The fee for the special DUI plates is equal to the cost of standard plates plus \$50.
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10 **Section 2.** Section 61-8-402, MCA, is amended to read:

11 **"61-8-402. Blood or breath tests for alcohol, drugs, or both.** (1) A person who operates or is in actual
12 physical control of a vehicle upon ways of this state open to the public is considered to have given consent to a
13 test or tests of the person's blood or breath for the purpose of determining any measured amount or detected
14 presence of alcohol or drugs in the person's body.

15 (2) (a) The test or tests must be administered at the direction of a peace officer when:

16 (i) the officer has reasonable grounds to believe that the person has been driving or has been in actual
17 physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol, drugs,
18 or a combination of the two and the person has been placed under arrest for a violation of 61-8-401;

19 (ii) the person is under the age of 21 and has been placed under arrest for a violation of 61-8-410; or

20 (iii) the officer has probable cause to believe that the person was driving or in actual physical control of
21 a vehicle:

22 (A) in violation of 61-8-401 and the person has been involved in a motor vehicle accident or collision
23 resulting in property damage; or

24 (B) involved in a motor vehicle accident or collision resulting in serious bodily injury, as defined in
25 45-2-101, or death.

26 (b) The arresting or investigating officer may designate which test or tests are administered.

27 (3) A person who is unconscious or who is otherwise in a condition rendering the person incapable of
28 refusal is considered not to have withdrawn the consent provided by subsection (1).

29 (4) If an arrested person refuses to submit to one or more tests requested and designated by the officer
30 as provided in subsection (2), the refused test or tests may not be given, but the officer shall, on behalf of the

1 department, immediately seize the person's driver's license. The peace officer shall immediately forward the
2 license to the department, along with a report certified under penalty of law stating which of the conditions set
3 forth in subsection (2)(a) provides the basis for the testing request and confirming that the person refused to
4 submit to one or more tests requested and designated by the peace officer. Upon receipt of the report, the
5 department shall suspend the license for the period provided in subsection (6) and shall issue an order
6 impounding the person's license plates under [section 1].

7 (5) Upon seizure of a driver's license, the peace officer shall issue, on behalf of the department, a
8 temporary driving permit, which is effective 12 hours after issuance and is valid for 5 days following the date of
9 issuance, and shall provide the driver with written notice of the license suspension and the right to a hearing
10 provided in 61-8-403.

11 (6) (a) Except as provided in subsection (6)(b), the following suspension periods are applicable upon
12 refusal to submit to one or more tests:

13 (i) upon a first refusal, a suspension of 6 months with no provision for a restricted probationary license;

14 (ii) upon a second or subsequent refusal within 5 years of a previous refusal, as determined from the
15 records of the department, a suspension of 1 year with no provision for a restricted probationary license.

16 (b) If a person who refuses to submit to one or more tests under this section is the holder of a
17 commercial driver's license, in addition to any action taken against the driver's noncommercial driving privileges,
18 the department shall:

19 (i) upon a first refusal, suspend the person's commercial driver's license for a 1-year period; and

20 (ii) upon a second or subsequent refusal, suspend the person's commercial driver's license for life,
21 subject to department rules adopted to implement federal rules allowing for license reinstatement, if the person
22 is otherwise eligible, upon completion of a minimum suspension period of 10 years. If the person has a prior
23 conviction of a major offense listed in 61-8-802(2) arising from a separate incident, the conviction has the same
24 effect as a previous testing refusal for purposes of this subsection (6)(b).

25 (7) A nonresident driver's license seized under this section must be sent by the department to the
26 licensing authority of the nonresident's home state with a report of the nonresident's refusal to submit to one or
27 more tests.

28 (8) The department may recognize the seizure of a license of a tribal member by a peace officer acting
29 under the authority of a tribal government or an order issued by a tribal court suspending, revoking, or reinstating
30 a license or adjudicating a license seizure if the actions are conducted pursuant to tribal law or regulation

1 requiring alcohol or drug testing of motor vehicle operators and the conduct giving rise to the actions occurred
2 within the exterior boundaries of a federally recognized Indian reservation in this state. Action by the department
3 under this subsection is not reviewable under 61-8-403.

4 (9) A suspension under this section is subject to review as provided in this part.

5 (10) This section does not apply to blood and breath tests, samples, and analyses used for purposes of
6 medical treatment or care of an injured motorist or related to a lawful seizure for a suspected violation of an
7 offense not in this part."

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9 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
10 integral part of Title 61, chapter 8, part 7, and the provisions of Title 61, chapter 8, part 7, apply to [section 1].

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