

*combined with
magistrates
Assoc.
AND
DOJ*

Amendments to Senate Bill No. 228
1st Reading Copy

Requested by Senator Jesse Laslovich

For the Senate Judiciary Committee

Prepared by Valencia Lane
January 22, 2007 (9:24am)

1. Title, line 4.

Following: "IN"

Strike: "THE"

Insert: "A"

2. Title, line 5.

Following: "REHABILITATION"

Strike: "AND IMPROVEMENT"

3. Title, line 6 through line 7.

Following: "OFFENSES" on line 6

Strike: remainder of line 6 through "PARTICIPATION" on line 7

Insert: "; ALLOWING A JUDGE TO ORDER AN OFFENDER TO PARTICIPATE"

4. Title, line 7.

Following: "IN"

Strike: "THE"

Insert: "A"

Following: "REHABILITATION"

Strike: "AND IMPROVEMENT"

5. Title, line 8.

Following: "IN"

Strike: "THE"

Insert: "A"

6. Title, line 9.

Following: "REHABILITATION"

Strike: "AND IMPROVEMENT"

Following: "SECTIONS"

Strike: "61-2-302,"

7. Page 1, line 14 through page 3, line 5.

Strike: section 1 in its entirety

Renumber: subsequent sections

8. Page 3, line 27.

Following: "(6)"

Strike: "A"

Insert: "Unless otherwise provided by law, a"

Following: "for"
Strike: "the first"
Insert: "any"
Following: "misdemeanor"
Insert: "or traffic"

9. Page 3, line 28.
Following: "an offender"
Strike: ", conditioned upon the offender's participation"
Insert: ". The judge may order the offender to participate"
Following: "in"
Strike: "the"
Insert: "a"
Following: "rehabilitation"
Strike: "and improvement"

10. Page 3, line 29.
Following: line 28
Strike: "established under 61-2-302"
Insert: "approved by the department under 61-5-219"

11. Page 4, line 30.
Strike: "4"
Insert: "3"

12. Page 6, line 6 through line 7.
Following: "if the" on line 6
Strike: "person" on line 6 through "61-2-302" on line 7
Insert: "department receives a certificate from a driver
rehabilitation program approved under 61-5-219 certifying
that the person successfully completed the program. The
certificate must be submitted no later than 30 days after
the day on which the program was completed"

13. Page 6, line 8 through line 9.
Following: "period" on line 8
Strike: remainder of line 8 through "period" on line 9

14. Page 6, line 15.
Following: "section"
Strike: "4(1)(m)"
Insert: "3(1)(m)"

15. Page 6, line 21.
Strike: "4"
Insert: "3"

16. Page 6, line 22.
Strike: "4"
Insert: "3"

SENATE BILL NO. 228

INTRODUCED BY J. LASLOVICH

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2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING INCENTIVES FOR PARTICIPATION IN ^ATHE 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 IN THE DRIVER REHABILITATION AND IMPROVEMENT PROGRAM; ALLOWING REMOVAL~~
8 OF CONVICTION POINTS FROM A PERSON'S DRIVING RECORD IF THE DRIVER PARTICIPATES IN ^ATHE
9 DRIVER REHABILITATION ~~AND IMPROVEMENT~~ PROGRAM; AND AMENDING SECTIONS ~~61-2-302,~~
10 61-8-711, 61-11-203, AND 61-13-104, MCA."

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

13
14 ~~Section 1. Section 61-2-302, MCA, is amended to read:~~

15 **"61-2-302. Establishment of driver rehabilitation and improvement program -- participation by**
16 **offending drivers.** (1) The department may establish by administrative rules a driver rehabilitation and
17 improvement program or programs. The programs may consist of classroom instruction in rules of the road,
18 driving techniques, defensive driving, driver attitudes and habits, actual on-the-road driver's training, and other
19 subjects or tasks designed to contribute to proper driving attitudes, habits, and techniques and must include the
20 requirements for obtaining a restricted probationary driver's license.

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

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

26 (b) revoked and the person has:

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

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

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

30 ~~(3) Notwithstanding any provision of this part inconsistent with any other law of the state of Montana, the~~



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ALLOWING A JUDGE TO ORDER AN OFFENDER TO PARTICIPATE

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

~~5 (4) If a person's driver's license has been surrendered before the person's selection for participation in
 6 the driver rehabilitation and improvement program, the license may be returned upon receipt of the person's
 7 agreement to participate in the program.~~

~~8 (5) The stay of enforcement of any suspension or revocation action must be terminated and the
 9 suspension or revocation action must be reinstated if a person declines to participate in the driver rehabilitation
 10 and improvement program or fails to meet the attendance or other requirements established for participation in
 11 the program.~~

~~12 (6) This part does not create a right to be included in any program established under this part.~~

~~13 (7) The department may establish a schedule of fees that may be charged to those persons participating
 14 in the driver improvement and rehabilitation program. The fees must be used to help defray costs of maintaining
 15 the program.~~

~~16 (8) A person may be referred to this program by a driver improvement analyst, city judge, justice of the
 17 peace, youth court judge, judge of a district court of the state, or hearing examiner of the department.~~

~~18 (9) (a) Except as provided in subsection (9)(b), the department may issue a restricted probationary
 19 license to any person who enrolls and participates in the driver rehabilitation and improvement program. Upon
 20 issuance of a probationary license under this section, the licensee is subject to the restrictions set forth on the
 21 license.~~

~~22 (b) The department may not issue a restricted probationary license that would permit an individual to
 23 drive a commercial motor vehicle during a period in which:~~

- ~~24 (i) the individual is disqualified from operating a commercial motor vehicle under state or federal law; or~~
- ~~25 (ii) the individual's driver's license or driving privilege is revoked, suspended, or canceled.~~

~~26 (10) It is a misdemeanor for a person to operate a motor vehicle in any manner in violation of the
 27 restrictions imposed on a restricted license issued to the person under this section.~~

~~28 (11) Imposition of a sentence for a first conviction of a misdemeanor offense may be deferred,
 29 conditioned upon the offender's participation in the driver rehabilitation and improvement program as provided
 30 in 61-8-711.~~

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

Section 2. Section 61-8-711, MCA, is amended to read:

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

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

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

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

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

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

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

~~(6) A judge may defer imposition of a sentence for the first conviction of a misdemeanor offense against an offender, conditioned upon the offender's participation in the driver rehabilitation and improvement program established under 61-2-302."~~

UNLESS OTHERWISE PROVIDED BY LAW, a

ANY

or traffic

(6) A judge may defer imposition of a sentence for the first conviction of a misdemeanor offense against an offender, conditioned upon the offender's participation in the driver rehabilitation and improvement program

~~established under 61-2-302."~~

L approved by the department under 61-5-219

MAG-ASSOC.

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

2 "**61-11-203. Definitions.** As used in this part, the following definitions apply:

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

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

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

7 ~~_____ (b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle, or
8 negligent vehicular assault, 12 points;~~

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

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

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

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

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

20 ~~_____ (h) reckless driving, 5 points;~~

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

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

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

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

26 ~~_____ (m) all other moving violations, 2 points.~~

27 ~~_____ (3) There may not be multiple application of cumulative points when two or more charges are filed
28 involving a single occurrence. If there are two or more convictions involving a single occurrence, only the number
29 of points for the specific conviction carrying the highest points is chargeable against that defendant.~~

30 ~~_____ (4) [section 4].~~



department receives a certificate from a driver rehabilitation program approved under 61-5-219 certifying that the person successfully completed the program. The certificate must be submitted no later than 30 days after the day on which the program was completed

- 1 (l) speeding, except as provided in 61-8-725(2), 3 points; and
- 2 (m) all other moving violations, 2 points.
- 3 (2) There may not be multiple application of cumulative points when two or more charges are filed
- 4 involving a single occurrence. If there are two or more convictions involving a single occurrence, only the number
- 5 of points for the specific conviction carrying the highest points is chargeable against that defendant.
- 6 (3) The department shall remove three conviction points from a person's driving record if the ~~person~~
- 7 ~~participates in the driver rehabilitation and improvement program established under 61-2-302.~~ No more than three
- 8 points may be removed in a 2-year period, ~~and participation in the program is required for removal of any~~
- 9 ~~additional points after the 2-year period.~~

10
11 **Section ⁴ 6.** Section 61-13-104, MCA, is amended to read:

12 **"61-13-104. Penalty -- no record permitted.** (1) A driver who violates 61-13-103 shall be fined \$20, but

13 the violation is not a misdemeanor pursuant to 45-2-101, 46-18-236, 61-8-104, or 61-8-711. A violation of

14 61-13-103 may not be counted as a moving violation for purposes of suspending a driver's license under

15 ~~61-11-203(2)(m)~~ [section ³ ~~A~~(1)(m)]. Bond for this offense is \$20, and a jail sentence may not be imposed.

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

17 violating 61-13-103.

18 (3) An insurance company may not hold a violation of 61-13-103 against the insured or increase the

19 insured's premiums ~~due to~~ because of a violation of 61-13-103."

20
21 **NEW SECTION. Section ⁵ 6.** **Codification instruction.** [Section ³ ~~A~~] is intended to be codified as an

22 integral part of Title 61, chapter 11, part 2, and the provisions of Title 61, chapter 11, part 2, apply to [section ³ ~~A~~].

23 - END -