



AN ACT REQUIRING THE DEPARTMENT OF JUSTICE TO ISSUE A LIMITED-USE DRIVER'S LICENSE, UNDER CERTAIN CIRCUMSTANCES, TO A PERSON WHOSE LICENSE HAS BEEN SUSPENDED OR REVOKED BY ANOTHER STATE; AMENDING SECTIONS 61-5-103 AND 61-5-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 61-5-103, MCA, is amended to read:

**"61-5-103. Residency requirement.** (1) ~~A~~ Except as provided in [section 3], a person who has resided in Montana for more than 60 consecutive days is considered to be a resident for the purpose of being licensed to operate a motor vehicle and must be licensed under the laws of Montana before operating a motor vehicle.

(2) A person who has resided in Montana for more than 30 consecutive days:

(a) is considered to be a resident for the purpose of being licensed to operate a commercial motor vehicle; and

(b) must be licensed under the laws of Montana before operating any commercial motor vehicle.

(3) The department may issue a commercial driver's license to a person who is not a resident of Montana or domiciled in Montana only if:

(a) the person is domiciled in a foreign country with commercial driver's license standards, as determined by the federal motor carrier safety administration of the department of transportation, that are not similar to the testing and licensing standards provided in 49 CFR, part 383, subparts F, G, and H; or

(b) the person is domiciled in a state that is prohibited by the federal motor carrier safety administration from issuing commercial driver's licenses under 49 CFR 384.405."

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

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

- (1) who is under 16 years of age unless:
  - (a) the person is at least 15 years of age and has passed a driver's education course approved by the department and the superintendent of public instruction; or
  - (b) the person is at least 13 years of age and, because of individual hardship, to be determined by the department, needs a restricted license;
- (2) except as provided in [section 3], whose license or driving privilege is currently suspended, revoked, or canceled or who is disqualified from operating a commercial motor vehicle in this or any state, as evidenced by an ineligible status report from the national driver register, established under 49 U.S.C. 30302, or from the commercial driver's license information system, established under 49 U.S.C. 31309;
- (3) who is addicted to the use of alcohol or narcotic drugs;
- (4) who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of application, has not been restored to competency by the methods provided by law;
- (5) who is required by this chapter to take an examination;
- (6) who has not deposited proof of financial responsibility when required under the provisions of chapter 6 of this title;
- (7) who has any condition characterized by lapse of consciousness or control, either temporary or prolonged, that is or may become chronic. However, the department may, in its discretion, issue a license to an otherwise qualified person suffering from a condition if the afflicted person's attending physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, attests in writing that the person's condition has stabilized and would not be likely to interfere with that person's ability to operate a motor vehicle safely and, if a commercial driver's license is involved, the person is physically qualified to operate a commercial motor vehicle under applicable state or federal regulations;
- (8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate a motor vehicle on the highway;
- (9) who is not a resident of or domiciled in Montana except as provided in 61-5-103(3); or
- (10) who does not submit proof satisfactory to the department that the applicant's presence in the United States is authorized under federal law. The department may not accept as a primary source of identification a driver's license issued by a state if the state does not require that a driver licensed in that state be lawfully present

in the United States under federal law."

**Section 3. Eligibility for limited-use driver's license when privileges withdrawn in another state**

-- **definitions.** (1) The department shall issue a limited-use driver's license to a person who applies if, as determined by the department:

(a) the person has maintained continuous residence in Montana for at least 1 year and is not ineligible for a license under 61-5-105;

(b) the person submits a certified driving record from the licensing agency of each state in which an ineligible status has been reported to the national driver register, established under 49 U.S.C. 30302, that shows that at least 8 years have elapsed from the effective date of the most recent withdrawal of the person's driver's license or driving privileges by the other state or states;

(c) the most recent withdrawal of the person's driver's license or driving privileges by the licensing agency of the other state or states was for a cause other than failure to pay child support and no withdrawal related to child support is still in effect in another state;

(d) for the 1-year period immediately preceding the person's application for a limited-use driver's license, a conviction against the person for a traffic violation or an alcohol or drug offense has not been reported to the department or the licensing agency of another state; and

(e) the person certifies that no traffic citations or alcohol or drug charges are currently pending against the person.

(2) Upon review of the documents submitted by a person applying for a limited-use driver's license under the provisions of subsection (1) and if the person is otherwise qualified for licensure under this chapter, the department shall require the person to:

(a) obtain and continuously maintain proof of financial responsibility for the 3-year period immediately following licensure; and

(b) if the person's certified driving record includes a conviction in Montana or any state for operating a motor vehicle with an alcohol concentration at or above the lawful limit, operating a motor vehicle under the influence of alcohol, drugs, or a combination of alcohol and drugs, or a vehicular homicide or assault, either:

(i) successfully complete a chemical dependency assessment, an education course, and, if recommended by a licensed addiction counselor, a treatment program recognized under the laws of this state;

or

(ii) provide proof, satisfactory to the department, that the person successfully completed a similar assessment, course, or program recognized under the laws of another state after the most recent withdrawal of the person's driver's license or driving privileges by the licensing agency of the other state or states.

(3) Upon issuing a limited-use driver's license, the department shall advise the person who receives the license that the person may be charged with an offense of driving while a driver's license is suspended or revoked in any other state as a result of a withdrawal action still in effect in another state.

(4) For the purposes of this section, the following definitions apply:

(a) "Limited-use driver's license" means a driver's license, other than a commercial driver's license, issued by the department and authorizing the in-state operation of a motor vehicle by a person for whom an ineligible status from the national driver register has been reported.

(b) "Most recent withdrawal" means the suspension, revocation, or denial of a driver's license or driving privilege underlying a current ineligible status report made by another state's licensing agency to the national driver register.

**Section 4. Codification instruction.** [Section 3] is intended to be codified as an integral part of Title 61, chapter 5, part 1, and the provisions of Title 61, chapter 5, part 1, apply to [section 3].

**Section 5. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,  
SB 0249, originated in the Senate.

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Secretary of the Senate

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

SENATE BILL NO. 249

INTRODUCED BY CURTISS, BENNETT, MCGEE, SHOCKLEY, VINCENT

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