EXHIBIT 1
DATE 3.12.09
SB 281

SB 281 FACT SHEET

For House Judiciary Committee
Prepared by Judge Larry Carver, P.O. Box 339, Stanford, Mt. 59479
On behalf of the Montana Magistrates' Association.
UPDATED: March 8, 2009

In 2003, a bill was presented on behalf of the Montana Magistrates Association requesting a change to 61-5-214, Drivers license suspension to allow courts to suspend drivers licenses for Title 45 code violations, non traffic violations, felony and misdemeanor crimes such as Negligent vehicular assault, criminal trespass to property, criminal endangerment, drug offenses, thefts and etc. Since the passage of that bill into law, the judges in the State and the Driver Improvement Bureau have a disagreement of interpretation of the statute that is stopping the electronic transfer of records between these agencies. Many of the judges interpret the statute to allow drivers licenses to be suspended for failure to appear in court on these types of violations. Driver Improvement disagrees and will not suspend a driver's license on these crimes. Therefore, the Montana Magistrates Association and Driver Improvement Bureau have joined efforts to clarify the statute in order to resolve this issue in order to implement electronic transfer of these records.

The clear interpretation of the current law now allows drivers licenses to be suspended for failure to appear upon an issued citation or notice to appear in all traffic cases including non-criminal violations such as seat belt ($20) and daytime speed ($20). The court can also suspend a driver's license for failure to comply with a court sentence in any violation including Title 45 code misdemeanors and felonies.

However, the controversy arises for failure to appear upon an issued citation or notice to appear in these Title 45 code criminal violations. These crimes have more of an impact on the citizens and residents of a community than traffic violations and can require payment of restitution, return of stolen property etc. We need to have the ability to require appearance in court on these violations and the tool to enforce the non-appearance. With the over-crowding of jails and the budget restraints of law enforcement agencies, the courts are seeing more notices to appear issued with less defendants arrested for these higher Title 45 code crimes. The result is more non-appearances in court.

Although, the court can issue a warrant of arrest for these violations, a large backlog exists in the entry and service of these warrants. I issued approximately 20 warrants for traffic and minor misdemeanor crimes in late August, 2008, and mailed them to the Issuing agency. However, on January 6, 2009, these warrants had not yet been entered into the Criminal Justice Information System. Secondly, non-appearance

warrants are generally only served upon a subsequent traffic stop or upon an arrest for another violation. A small percentage of offenders are ever served and most importantly, misdemeanor warrants have no effect on out of state offenders. I have hundreds of un-served warrants in my office.

Driver's license suspensions provide the best result. First of all 2 warning notices are given to the offender before a license is suspended. Most non-appearances are remedied by one of these notices. Then, upon the suspension of the driver's license, driver improvement sends another notice, which remedies another percentage of non-appearances. A large portion of out-of- state, non- appearances, are remedied upon the offender receiving a notice of suspension from their home state.

The electronic transfer of driver license suspensions and drivers license reinstatement form is a very important issue, especially for re-instating a suspended license. Many court systems are able to accept credit card transactions on-line via the internet for payment of bonds, fines, restitutions and re-instatement fees. Upon payment of these transactions and complying with court orders, within minutes electronic transfer will immediately reinstate the license. Currently these transactions are handled by mail or by fax, which can take days and is labor intensive. Electronic transfer is automatic and immediately accomplished. Until this interpretation problem is resolved, electronic transfer will not happen. Your support of SB 281 is greatly appreciated by the Montana Magistrates' Association. Thank you.