SENATE HIGHWAYS AND TRANSPORTATION
EXHIBIT NO. 1
DATE: 3/5/09
BILL NO. HB116

DEPARTMENT OF JUSTICE
HB 116: To Close Vehicle Insurance Loophole

Existing Law

HB 116 is requested in response to a recent decision of the Montana Supreme Court. The bill would amend Mont. Code Ann. § 61-6-302 to clarify that, when law enforcement stops a vehicle in which the owner of the vehicle is a passenger but someone else is driving, the owner has a duty under Montana law to produce proof of liability insurance.

As it is now written, 61-6-302, MCA requires that:

- Each person operating a motor vehicle must carry an insurance card approved by the department in the vehicle as proof of mandatory liability insurance compliance.
- The operator must show the insurance card upon demand of a justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer or a field deputy or inspector of the department.

The State v. Farmer Case

The Montana Supreme Court issued a decision in State v. Farmer in October 2008. The Court held that, as written, Montana law does *not* require the owner of a vehicle to provide proof of insurance unless the owner is actually operating the vehicle at the time of the traffic stop.

The following facts led to the Court's decision. A Glacier County law enforcement officer stopped a vehicle after observing that the vehicle did not have taillights. The officer asked the driver to produce proof of insurance. The driver did not. Through dispatch, the officer determined that the passenger, Robert Farmer, was the owner of the vehicle, and as a result, the officer issued a citation to Farmer for failure to carry valid liability insurance in his vehicle.

On appeal, Farmer argued that as a passenger and not the operator of the vehicle, he could not be cited with failure to provide proof of insurance. Based upon the plain language of MCA 61-6-302, the Court agreed.

Purpose of HB 116

The Department's proposed amendment would close this apparent loophole. It would require that, when the owner of a motor vehicle is present in the vehicle as a passenger at the time of a traffic stop, the duty to provide proof of liability insurance would apply to both the operator and the owner of the vehicle.

2009 Legislature
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