

1 HOUSE BILL NO. 631

2 INTRODUCED BY M. MENAHAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MOTOR VEHICLE LAWS RELATING TO DRIVER'S
5 LICENSE SUSPENSIONS, REVOCATIONS, AND RESTRICTIONS AND DRIVING UNDER THE INFLUENCE
6 OF ALCOHOL OR DRUGS OR DRIVING WITH EXCESSIVE ALCOHOL CONTENT; PROVIDING DEFINITIONS;
7 REPEALING THE DRIVER IMPROVEMENT AND REHABILITATION PROGRAM; REVISING LAWS RELATING
8 TO PROBATIONARY LICENSES AND INTERLOCK-RESTRICTED LICENSES; REVISING THE
9 COMMENCEMENT OF DRIVER'S LICENSE SUSPENSIONS AND REVOCATIONS; ESTABLISHING A NEW
10 PENALTY RELATED TO OPERATING A MOTOR VEHICLE WITHOUT AN INTERLOCK; EXPANDING THE
11 DEPARTMENT OF JUSTICE'S RULEMAKING AUTHORITY TO INCLUDE THE MONITORING OF PERSONS
12 WITH INTERLOCK-RESTRICTED LICENSES; REVISING COURT REPORTS TO THE DEPARTMENT OF
13 JUSTICE CONCERNING DRIVING PRIVILEGES, PROBATIONARY LICENSES, AND
14 INTERLOCK-RESTRICTED LICENSES; REPEALING CERTAIN PROVISIONS RELATED TO VEHICLE
15 FORFEITURE FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS OR DRIVING WITH
16 EXCESSIVE ALCOHOL CONCENTRATION; AMENDING SECTIONS 61-1-101, 61-2-302, 61-5-125, 61-5-134,
17 61-5-206, ~~61-5-208~~, 61-5-212, 61-5-215, 61-8-102, 61-8-401, 61-8-402, 61-8-406, 61-8-410, 61-8-440, 61-8-441,
18 61-8-731, AND 61-11-101, MCA; AND REPEALING SECTIONS 61-2-301, 61-8-421, 61-8-422, 61-8-442, AND
19 61-8-733, MCA."

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22
23 **Section 1.** Section 61-1-101, MCA, is amended to read:
24 **"61-1-101. Definitions.** As used in this title, unless the context indicates otherwise, the following
25 definitions apply:
26 (1) (a) "Authorized agent" means a person who has executed a written agreement with the department
27 and is specifically authorized by the department to electronically access and update the department's motor
28 vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or
29 purposes upon behalf of a third party.
30 (b) For purposes of this subsection (1), "person" means an individual, corporation, partnership, limited

1 partnership, limited liability company, association, joint venture, state agency, local government unit, another state
2 government, the United States, a political subdivision of this or another state, or any other legal or commercial
3 entity.

4 (2) "Authorized agent agreement" means the written agreement executed between an authorized agent
5 and the department that sets the technical and operational program standards, compliance criteria, payment
6 options, and service expectations by which the authorized agent is required to operate in performing specific
7 motor vehicle or driver-related record functions.

8 (3) "Bus" means a motor vehicle designed for carrying more than 10 passengers and used for the
9 transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the
10 transportation of persons for compensation.

11 (4) (a) "Business entity" means a corporation, association, partnership, limited liability partnership, limited
12 liability company, or other legal entity recognized under state law.

13 (b) The term does not include an individual.

14 (5) (a) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to
15 an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not limited to a
16 cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

17 (b) The term does not include a truck canopy cover or topper.

18 (6) "Certificate of title" means the paper record issued by the department or by the appropriate agency
19 of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons
20 and the motor vehicle specifically described in the record and that provides notice of a perfected security interest
21 in the motor vehicle.

22 (7) "Commercial driver's license" means:

23 (a) a driver's license issued under or granted by the laws of this state that authorizes a person to operate
24 a class of commercial motor vehicle; and

25 (b) the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid
26 commercial driver's license.

27 (8) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in
28 commerce to transport passengers or property if the vehicle:

29 (i) has a gross combination weight rating or a gross combination weight of 26,001 pounds or more,
30 whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

- 1 (ii) has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more, whichever is
2 greater;
- 3 (iii) is designed to transport at least 16 passengers, including the driver;
- 4 (iv) is a school bus; or
- 5 (v) is of any size and is used in the transportation of hazardous materials as defined in 61-8-801.
- 6 (b) The following vehicles are not commercial motor vehicles:
- 7 (i) an authorized emergency service vehicle:
- 8 (A) equipped with audible and visual signals as required under 61-9-401 and 61-9-402; and
- 9 (B) entitled to the exemptions granted under 61-8-107;
- 10 (ii) a vehicle:
- 11 (A) controlled and operated by a farmer, family member of the farmer, or person employed by the farmer;
- 12 (B) used to transport farm products, farm machinery, or farm supplies to or from the farm within Montana
13 within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana, within 150 miles
14 of the farm, including any area within that perimeter that is in the adjoining state; and
- 15 (C) not used to transport goods for compensation or for hire; or
- 16 (iii) a vehicle operated for military purposes by active duty military personnel, a member of the military
17 reserves, a member of the national guard on active duty, including personnel on full-time national guard duty,
18 personnel in part-time national guard training, and national guard military technicians, or active duty United States
19 coast guard personnel.
- 20 (c) For purposes of this subsection (8):
- 21 (i) "farmer" means a person who operates a farm or who is directly involved in the cultivation of land or
22 crops or the raising of livestock owned by or under the direct control of that person;
- 23 (ii) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight
24 of a combination or articulated vehicle;
- 25 (iii) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of
26 a single vehicle; and
- 27 (iv) "school bus" has the meaning provided in 49 CFR 383.5.
- 28 (9) "Commission" means the state transportation commission.
- 29 (10) "Custom-built motorcycle" means a motorcycle that is equipped with:
- 30 (a) an engine that was manufactured 20 years prior to the current calendar year and that has been

1 altered from the manufacturer's original design;

2 (b) an engine that was manufactured to resemble an engine 20 or more years old and that has been
3 constructed in whole or in part from nonoriginal materials.

4 (11) "Custom vehicle" means a motor vehicle other than a motorcycle that:

5 (a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or

6 (ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current
7 calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least
8 25 years old; and

9 (b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal
10 materials.

11 (12) "Customer identification number" means:

12 (a) a driver's license or identification card number when the customer is an individual who has been
13 issued a driver's license or identification card by a state driver licensing authority;

14 (b) a federal employer or tax identification number when the customer is a business entity that has been
15 issued a federal employer or tax identification number;

16 (c) the identification number assigned by the secretary of state to a business entity authorized to do
17 business in this state under Title 35 if the customer is a business entity that does not have a federal employer
18 or tax identification number other than a social security number; or

19 (d) if the customer has not been issued one of the numbers described in subsections (12)(a) through
20 (12)(c), a number assigned to the customer by the department when a transaction is initiated under this title.

21 (13) (a) "Dealer" means a person that, for commission or profit, engages in whole or in part in the
22 business of buying, selling, exchanging, or accepting on consignment new or used motor vehicles, trailers,
23 semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, off-highway vehicles, or special
24 mobile equipment that is not registered in the name of the person.

25 (b) The term does not include the following:

26 (i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting
27 under a judgment or order of any court of competent jurisdiction;

28 (ii) employees of the persons included in subsection (13)(b)(i) when engaged in the specific performance
29 of their duties as employees; or

30 (iii) public officers while performing or in the operation of their duties.

1 (14) "Declared weight" means the total unladen weight of a vehicle plus the weight of the maximum load
2 to be carried on the vehicle as stated by the registrant in the application for registration.

3 (15) "Department" means the department of justice acting directly or through its duly authorized officers
4 or agents.

5 (16) "Dolly or converter gear" means a device consisting of one or two axles with a fifth wheel and trailer
6 tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer.

7 (17) "Domiciled" means a place where:

8 (a) an individual establishes residence;

9 (b) a business entity maintains its principal place of business;

10 (c) the business entity's registered agent maintains an address; or

11 (d) a business entity most frequently uses, dispatches, or controls a motor vehicle, trailer, semitrailer,
12 or pole trailer that it owns or leases.

13 (18) "Driver" means a person who drives or is in actual physical control of a vehicle.

14 (19) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted by
15 the laws of this state, including:

16 (a) any temporary license or instruction permit;

17 (b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid license;

18 (c) any nonresident's driving privilege;

19 (d) a motorcycle endorsement; or

20 (e) a commercial driver's license.

21 (20) "DUI court" means a court that has established a special docket for handling cases involving persons
22 convicted under 61-8-401 or 61-8-406 and that implements a program of incentives and sanctions intended to
23 assist a participant to complete treatment ordered pursuant to 61-8-732 and to end the participant's criminal
24 behavior associated with driving under the influence of drugs or alcohol or with excessive blood alcohol
25 concentration.

26 ~~(20)~~(21) "Electric personal assistive mobility device" means a device that has two nontandem wheels,
27 is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the
28 maximum speed of the device to 12 1/2 miles an hour.

29 (22) "Essential driving purpose" means driving:

30 (a) directly to and from the person's residence and the person's place of regular employment;

- 1 (b) to and from the person's residence in search of employment;
- 2 (c) during work hours at the specific direction of the person's employer to carry out job-related functions;
- 3 (d) directly to and from the person's residence and a school or educational institution in which the person
 4 or a dependent family member is enrolled, but only during time periods immediately before and after regular
 5 school hours and not for extracurricular activities;
- 6 (e) to and from the person's residence to carry out functions essential to maintenance of the household;
- 7 (f) directly to and from the person's residence for a court-ordered chemical dependency assessment,
 8 education course, or treatment program; or
- 9 (g) directly to and from the person's residence to participate in a county sobriety program in which the
 10 person is actively enrolled.
- 11 ~~(24)~~(23) "For hire" means an action performed for remuneration of any kind, whether paid or promised,
 12 either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from
 13 which a remuneration is obtained or derived for transportation service.
- 14 ~~(22)~~(24) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load
 15 on the vehicle.
- 16 ~~(23)~~(25) "Highway" or "public highway" means the entire width between the boundary lines of every
 17 publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes
 18 of vehicular travel.
- 19 ~~(24)~~(26) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make
 20 arrests for violations of traffic regulations.
- 21 ~~(25)~~(27) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and
 22 exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations.
- 23 (28) "Interlock" means ignition equipment that:
- 24 (a) analyzes the breath to determine blood alcohol concentration;
- 25 (b) is approved by the department pursuant to 61-8-441; and
- 26 (c) is designed to prevent a motor vehicle from being operated by a person who has a blood alcohol
 27 concentration above a specific level.
- 28 (29) "Interlock-restricted license" means a driver's license that limits a person to driving a motor vehicle
 29 that is equipped with a functioning interlock except as provided in 61-2-302.
- 30 ~~(26)~~(30) "Kit vehicle" is a motor vehicle assembled from a manufactured kit either as:

- 1 (a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor vehicle; or
2 (b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and drivetrain,
3 commonly referred to as a donor vehicle.

4 ~~(27)~~(31) "Light vehicle" means a motor vehicle commonly referred to as an automobile, van, sport utility
5 vehicle, or truck having a manufacturer's rated capacity of 1 ton or less.

6 ~~(28)~~(32) "Manufactured home" has the meaning provided in 15-24-201.

7 ~~(29)~~(33) "Manufacturer" includes any person engaged in the manufacture of motor vehicles, trailers,
8 semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, or off-highway vehicles as a regular
9 business.

10 ~~(30)~~(34) "Manufacturer's certificate of origin" means the original paper record produced and issued by
11 the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and
12 transmitted by the manufacturer of a vehicle to the manufacturer's agent or a licensed dealer. The record must
13 establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of
14 ownership of the vehicle to the person or persons named in the certificate.

15 ~~(34)~~(35) (a) "Medium-speed electric vehicle" is a motor vehicle, upon or by which a person may be
16 transported, that:

17 (i) has a maximum speed of 45 miles an hour as certified by the manufacturer;

18 (ii) is propelled by its own power, using an electric motor or other device that transforms stored electrical
19 energy into the motion of the vehicle;

20 (iii) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power
21 grid or from renewable electrical energy sources;

22 (iv) is fully enclosed and includes at least one door for entry;

23 (v) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

24 (vi) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle
25 identification number as provided in 49 CFR, part 565;

26 (vii) bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that
27 indicates the vehicle's maximum speed rating; and

28 (viii) as certified by the manufacturer, is equipped as provided in 61-9-432.

29 (b) A medium-speed electric vehicle must be treated as a light vehicle for purposes of titling and
30 registration under Title 61, chapter 3.

- 1 (c) A medium-speed electric vehicle may not have a gross vehicle weight in excess of 5,000 pounds.
- 2 ~~(32)~~(36) "Mobile home" or "houstrailer" has the meaning provided in 15-24-201.
- 3 ~~(33)~~(37) "Montana resident" means:
- 4 (a) an individual who resides in Montana as determined under 1-1-215;
- 5 (b) for the purposes of chapter 3, a business entity that maintains a principal place of business or a
- 6 registered agent in this state.
- 7 ~~(34)~~(38) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any
- 8 machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal
- 9 source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.
- 10 (b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard
- 11 or any successor federal agency.
- 12 ~~(35)~~(39) (a) "Motor carrier" means a person or corporation or its lessees, trustees, or receivers appointed
- 13 by a court that are operating motor vehicles upon a public highway in this state for the transportation of property
- 14 for hire on a commercial basis.
- 15 (b) The term does not include motor carriers regulated under Title 69, chapter 12.
- 16 ~~(36)~~(40) (a) "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the operator and
- 17 that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one
- 18 or more attachments and a seat for the conveyance of a passenger.
- 19 (b) The term does not include a tractor, a bicycle as defined in 61-8-102, a motorized nonstandard
- 20 vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.
- 21 ~~(37)~~(41) (a) "Motor-driven cycle" means a motorcycle, including a motor scooter, with a motor that
- 22 produces 5 horsepower or less.
- 23 (b) The term does not include a bicycle, as defined in 61-8-102, or a motorized nonstandard vehicle.
- 24 ~~(38)~~(42) "Motor home" means a motor vehicle:
- 25 (a) designed to provide temporary living quarters, built as an integral part of or permanently attached to
- 26 a self-propelled motor vehicle chassis or van;
- 27 (b) containing permanently installed independent life support systems that meet the ANSIA/A119.2
- 28 standard; and
- 29 (c) providing at least four of the following types of facilities:
- 30 (i) cooking, refrigeration, or icebox;

- 1 (ii) self-contained toilet;
- 2 (iii) heating or air conditioning, or both;
- 3 (iv) potable water supply, including a faucet and sink; or
- 4 (v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply; or both.
- 5 ~~(39)~~(43) (a) "Motorized nonstandard vehicle" means a vehicle, upon or by which a person may be
- 6 transported, that:
- 7 (i) is propelled by its own power, using an internal combustion engine or an electric motor;
- 8 (ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and
- 9 (iii) does not display a manufacturer's certification in accordance with 49 CFR, part 567, or have a
- 10 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.
- 11 (b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a
- 12 "pocket rocket".
- 13 (c) The term does not include an electric personal assistive mobility device or a motorized wheelchair
- 14 or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled
- 15 person.
- 16 ~~(40)~~(44) (a) "Motor vehicle" means:
- 17 (i) a vehicle propelled by its own power and designed or used to transport persons or property upon the
- 18 highways of the state; and
- 19 (ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9.
- 20 (b) The term does not include a bicycle as defined in 61-8-102, an electric personal assistive mobility
- 21 device, a motorized nonstandard vehicle, or a motorized wheelchair or other low-powered, mechanically propelled
- 22 vehicle that is designed specifically for use by a physically disabled person and that is used as a means of
- 23 mobility for that person.
- 24 ~~(41)~~(45) "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal
- 25 or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person
- 26 as the result of a retail sale.
- 27 ~~(42)~~(46) "Nonresident" means a person who is not a Montana resident.
- 28 ~~(43)~~(47) (a) "Not used for general transportation purposes" means the operation of a motor vehicle,
- 29 registered as a collector's item, a custom vehicle, a street rod, or a custom-built motorcycle to or from a car or
- 30 motorcycle club activity or event or an exhibit, show, cruise night, or parade, or other occasional transportation

1 activity.

2 (b) The term does not include operation of a motor vehicle for routine or ordinary household
3 maintenance, employment, education, or other similar purposes.

4 ~~(44)~~(48) (a) "Off-highway vehicle" means a self-propelled vehicle designed for recreation or cross-country
5 travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to
6 motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land
7 transportation deriving motive power from any source other than muscle or wind.

8 (b) The term does not include:

9 (i) vehicles designed primarily for travel on, over, or in the water;

10 (ii) snowmobiles; or

11 (iii) motor vehicles designed to transport persons or property upon the highways unless the vehicle is
12 used for off-road recreation on public lands.

13 ~~(45)~~(49) "Operator" means a person who is in actual physical control of a motor vehicle.

14 ~~(46)~~(50) "Owner" means a person who holds the legal title to a vehicle. If a vehicle is the subject of an
15 agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions
16 stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the
17 event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control,
18 for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner is the
19 person in whom is vested the right of possession or control.

20 ~~(47)~~(51) "Person" means an individual, corporation, partnership, association, firm, or other legal entity.

21 ~~(48)~~(52) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine
22 powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person
23 sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the
24 vessel.

25 ~~(49)~~(53) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and
26 attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the
27 towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or
28 structural members capable generally of sustaining themselves as beams between the supporting connections.

29 ~~(50)~~(54) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for
30 violations of traffic regulations.

1 (55) "Probationary license" means a driver's license that restricts a person to driving a motor vehicle only
2 for an essential driving purpose.

3 ~~(54)~~(56) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use,
4 having a seat or saddle upon which the operator sits and a motor capable of producing not more than 50
5 horsepower.

6 (b) The term does not include golf carts.

7 ~~(52)~~(57) "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated
8 upon stationary rails.

9 ~~(53)~~(58) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without cars
10 coupled to the engine, that is operated upon rails.

11 (b) The term does not include streetcars.

12 ~~(54)~~(59) "Recreational vehicle" includes a motor home, travel trailer, or camper.

13 ~~(55)~~(60) "Registration" or "register" means the act or process of creating an electronic record, maintained
14 by the department, of the assignment of a license plate or a set of license plates to and the issuance of a
15 registration decal for a specific vehicle, the ownership of which has been established or is presumed in
16 department records.

17 ~~(56)~~(61) "Registration decal" means an adhesive sticker produced by the department and issued by the
18 department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, pole
19 trailer, motorboat, sailboat, personal watercraft, or snowmobile as proof of payment of all fees imposed for the
20 registration period indicated on the sticker as recorded by the department under 61-3-101.

21 ~~(57)~~(62) "Registration receipt" means a paper record that is produced and issued or, if authorized by the
22 department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer
23 to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic record of title
24 for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the
25 vehicle for the registration period indicated in the receipt.

26 ~~(58)~~(63) "Retail sale" means the sale of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer,
27 motorboat, snowmobile, off-highway vehicle, or special mobile equipment by a dealer to a person for purposes
28 other than resale.

29 ~~(59)~~(64) "Revocation" means the termination by action of the department of a person's driver's license,
30 privilege to drive a motor vehicle on the public highways, and privilege to apply for and be issued a driver's license

1 for a period of time designated by law, during which the license or privilege may not be renewed, restored, or
 2 exercised. An application for a new license may be presented and acted upon by the department after the
 3 expiration of the period of the revocation.

4 ~~(60)~~(65) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular
 5 travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways,
 6 the term refers to any roadway separately but not to all roadways collectively.

7 ~~(61)~~(66) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

8 (b) The term does not include a canoe or kayak propelled by wind.

9 ~~(62)~~(67) "School zone" means an area near a school beginning at the school's front door, encompassing
 10 the campus and school property, and including the streets directly adjacent to the school property and for as
 11 many blocks surrounding the school as determined by the local authority establishing a special speed limit under
 12 61-8-310(1)(d).

13 ~~(63)~~(68) "Sell" means to transfer ownership from one person to another person or from a dealer to
 14 another person for consideration.

15 ~~(64)~~(69) "Semitrailer" means a vehicle, with or without motive power, other than a pole trailer, designed
 16 for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and
 17 that of its load rests upon or is carried by another vehicle.

18 ~~(65)~~(70) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding
 19 accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that
 20 is not otherwise registered or licensed under the laws of the state of Montana.

21 (71) "Sobriety program" means a county-based alcohol breath testing program in which court-ordered
 22 participants are required to submit to daily alcohol breath tests BREATH TESTING, DRUG PATCH TESTING, URINALYSIS,
 23 CONTINUOUS OR TRANSDERMAL ALCOHOL MONITORING, OR ANY COMBINATION OF BREATH TESTING, DRUG PATCH TESTING,
 24 URINALYSIS, OR CONTINUOUS OR TRANSDERMAL ALCOHOL MONITORING as a condition of bond, pretrial release,
 25 SENTENCE, parole, or probation for individuals charged with or convicted of violations of 61-8-401 or 61-8-406.

26 ~~(66)~~(72) "Special mobile equipment" means a vehicle not designed for the transportation of persons or
 27 property on the highways but incidentally operated or moved over the highways, including road construction or
 28 maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is
 29 permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this
 30 subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.

1 ~~(67)~~(73) (a) "Specially constructed vehicle" means a motor vehicle, including a motorcycle, that:

2 (i) was not originally constructed under a distinctive make, model, or type by a generally recognized
3 manufacturer of motor vehicles;

4 (ii) has been structurally modified so that it does not have the same appearance as similar vehicles from
5 a generally recognized manufacturer of motor vehicles;

6 (iii) has been constructed or assembled entirely from custom-built parts and materials not obtained from
7 other vehicles;

8 (iv) has been constructed or assembled by using major component parts from one or more manufactured
9 vehicles and that cannot be identified as a specific make or model; or

10 (v) has been constructed by the use of a kit that cannot be visually identified as a specific make or model.

11 (b) The term does not include a motor vehicle that has been repaired or restored to its original design
12 by replacing parts.

13 ~~(68)~~(74) (a) "Sport utility vehicle" means a light vehicle designed to transport 10 or fewer persons that
14 is constructed on a truck chassis or that has special features for occasional off-road use.

15 (b) The term does not include trucks having a manufacturer's rated capacity of 1 ton or less.

16 ~~(69)~~(75) (a) "Stop", when required, means complete cessation from movement.

17 (b) "Stop", "stopping", or "standing", when prohibited, means any stopping or standing of a vehicle,
18 whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the
19 directions of a police officer, highway patrol officer, or traffic control sign or signal.

20 ~~(70)~~(76) "Storage lot" means property owned, leased, or rented by a dealer that is not contiguous to the
21 dealer's established place of business where a motor vehicle from the dealer's inventory may be placed when
22 space at the dealer's established place of business is not available.

23 ~~(74)~~(77) "Street" means the entire width between the boundary lines of every publicly maintained way
24 when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

25 ~~(72)~~(78) "Street rod" means a motor vehicle, other than a motorcycle, that:

26 (a) was manufactured prior to 1949 or was built to resemble a vehicle manufactured before 1949,
27 including a kit vehicle intended to resemble a vehicle manufactured before 1949; and

28 (b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal
29 materials.

30 ~~(73)~~(79) "Suspension" means the temporary withdrawal by action of the department of a person's driver's

1 license, privilege to drive a motor vehicle on the public highways, and privilege to apply for or be issued a driver's
2 license for a period of time designated by law.

3 ~~(74)~~(80) "Temporary registration permit" means a paper record:

4 (a) issued by the department, an authorized agent, a county treasurer, or a person, using a
5 department-approved electronic interface after an electronic record has been transmitted to the department, that
6 contains:

7 (i) required vehicle and owner information; and

8 (ii) the purpose for which the record was generated; and

9 (b) that, when placed in a durable license-plate style plastic pouch approved by the department and
10 displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat,
11 sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for 40 days from the date the record
12 is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs.

13 ~~(75)~~(81) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other
14 conveyances either singly or together while using any highways for purposes of travel.

15 ~~(76)~~(82) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed
16 for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests
17 upon the towing vehicle.

18 (b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101.

19 ~~(77)~~(83) "Transaction summary receipt" means an electronic record produced and issued by the
20 department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be
21 created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record
22 must contain a unique transaction record number and summarize and verify the electronic filing of the transaction
23 described in the receipt on the electronic record of title maintained under 61-3-101.

24 ~~(78)~~(84) "Travel trailer" means a vehicle:

25 (a) that is 40 feet or less in length;

26 (b) that is of a size or weight that does not require special permits when towed by a motor vehicle;

27 (c) with gross trailer area of less than 320 square feet; and

28 (d) that is designed to provide temporary facilities for recreational, travel, or camping use and not used
29 as a principal residence.

30 ~~(79)~~(85) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the

1 transportation of property.

2 ~~(80)~~(86) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles
3 and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

4 ~~(84)~~(87) "Under the influence" has the meaning provided in 61-8-401.

5 ~~(82)~~(88) "Used motor vehicle" includes any motor vehicle that has been sold, bargained, exchanged,
6 given away, or had its title transferred from the person who first took title to it from the manufacturer, importer,
7 dealer, wholesaler, or agent of the manufacturer or importer and that has been used so as to have become what
8 is commonly known as "secondhand" within the ordinary meaning of that term.

9 ~~(83)~~(89) "Van" means a motor vehicle designed for the transportation of at least six persons and not more
10 than nine persons and intended for but not limited to family or personal transportation without compensation.

11 ~~(84)~~(90) (a) "Vehicle" means a device in, upon, or by which any person or property may be transported
12 or drawn upon a public highway, except devices moved by animal power or used exclusively upon stationary rails
13 or tracks.

14 (b) The term does not include a manually or mechanically propelled wheelchair or other low-powered,
15 mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is
16 used as a means of mobility for that person.

17 ~~(85)~~(91) "Vehicle identification number" means the number, letters, or combination of numbers and letters
18 assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for
19 the purpose of identifying the motor vehicle or a component part of the motor vehicle.

20 ~~(86)~~(92) "Vessel" means every description of watercraft, unless otherwise defined by the department,
21 other than a seaplane on the water, used or capable of being used as a means of transportation on water.

22 ~~(87)~~(93) "Wholesaler" means a person that for a commission or with intent to make a profit or gain of
23 money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a
24 used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or
25 special mobile equipment only to dealers and auto auctions licensed under chapter 4, part 1."

26

27 **Section 2.** Section 61-2-302, MCA, is amended to read:

28 **~~"61-2-302. Establishment of driver rehabilitation and improvement program -- participation by~~**
29 **~~offending drivers Eligibility and requirements for probationary license and interlock-restricted license --~~**
30 **~~work vehicle exception.~~** (1) ~~The department may establish by administrative rules a driver rehabilitation and~~

1 improvement program or programs. The programs may consist of classroom instruction in rules of the road,
 2 driving techniques, defensive driving, driver attitudes and habits, actual on-the-road driver's training, and other
 3 subjects or tasks designed to contribute to proper driving attitudes, habits, and techniques and must include the
 4 requirements for obtaining a restricted probationary driver's license. Upon a recommendation from the court
 5 pursuant to 61-11-101 and payment of the reinstatement fee required under 61-2-107 or 61-5-218, a person
 6 whose driver's license has been suspended or revoked may apply for a probationary license or an
 7 interlock-restricted license under this section.

8 (2) Except as provided in subsection (3) or when otherwise provided ~~or restricted~~ by statute, ~~a person~~
 9 ~~whose driver's license is suspended or revoked by the department may participate in any driver rehabilitation and~~
 10 ~~improvement program established under this section~~ the department may issue a probationary license if the
 11 person's license is was:

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

14 (b) revoked and the person has:

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

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

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

18 (3) (a) Notwithstanding any provision of this part inconsistent with any other law of the state of Montana
 19 If a person's driver's license has been suspended following the report of a conviction for a second or subsequent
 20 offense under 61-8-401 or 61-8-406, the department shall issue the person:

21 (i) an interlock-restricted license if the person has met the requirements of subsection (3)(c) have been
 22 met; or

23 (ii) a probationary license if the department has received a report pursuant to 61-11-101 that the person
 24 is a participant in a DUI court or a sobriety program.

25 (b) When the department has received a report pursuant to 61-11-101 that indicates that an
 26 interlock-restricted license should be issued following a conviction for other than a second or subsequent offense
 27 under 61-8-401 or 61-8-406, the department shall issue the person an interlock-restricted license if the person
 28 has met the requirements of subsection (3)(c).

29 (c) Before issuing an interlock-restricted license, the department must:

30 (i) receive notice from an interlock provider that a device approved pursuant to 61-8-441 has been

1 installed in the vehicle that the person will be driving and that the person has paid, or has agreed to pay, the costs
 2 of leasing, installing, and maintaining the device for the required term; and

3 (ii) if the person was convicted of a felony offense under 61-8-401 or 61-8-406, receive notice from the
 4 person's probation officer that the person has been authorized pursuant to 61-8-731 to operate a motor vehicle
 5 equipped with an interlock.

6 (d) (i) The department shall grant a work-vehicle exception for a person issued an interlock-restricted
 7 driver's license when the person's employer submits to the department a written statement on a
 8 department-prescribed form that the person's employment requires the person to operate a motor vehicle owned
 9 or leased by the employer during working hours. The employer's statement must identify the motor vehicle or
 10 motor vehicles that the person may be required to drive at work.

11 (ii) The person shall carry a copy of the employer's written statement whenever the person is driving
 12 during work hours a motor vehicle owned or leased by the employer that is not equipped with an interlock.

13 (iii) The department shall maintain records of work-vehicle exceptions granted under this subsection
 14 (3)(d).

15 (IV) FOR PURPOSES OF THIS SUBSECTION (3)(D), A PERSON WHO IS SELF-EMPLOYED IS CONSIDERED TO BE AN
 16 EMPLOYER.

17 (4) Upon issuance of a probationary license or an interlock-restricted license under this section, the
 18 enforcement of any suspension or revocation order that constitutes the basis for any person's participation in the
 19 driver rehabilitation and improvement program provided for in this section may be stayed if that person complies
 20 with the requirements established for the driver rehabilitation and improvement program and meets the eligibility
 21 requirements of subsection (2) must be stayed.

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

25 (5) (a) The stay of enforcement of any suspension or revocation action must be terminated and the
 26 remainder, if any, of the suspension or revocation action must be reinstated if a person declines to participate
 27 in the driver rehabilitation and improvement program or fails to meet the attendance or other requirements
 28 established for participation in the program is found by the department to be noncompliant under subsection
 29 (5)(b).

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

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

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

6 ~~_____~~ (9) (a) Except as provided in subsection (9)(b), the department may issue a restricted probationary
 7 license to any person who enrolls and participates in the driver rehabilitation and improvement program.

8 (b) If the department receives notice from a court, peace officer, or interlock provider that the person has
 9 violated the restrictions imposed on a probationary license or an interlock-restricted license, has tampered with
 10 a functioning interlock, or has removed the interlock before the term of the person's restriction has expired, the
 11 department shall find the person to be noncompliant.

12 (c) A person other than a participant in a DUI court whose driver's license suspension or revocation has
 13 been reinstated pursuant to this subsection (5) is ineligible for a probationary license or an interlock-restricted
 14 license for the remainder of the term of the suspension or revocation.

15 (6) (a) Except as provided in subsection (6)(b), the term of a probationary license or an
 16 interlock-restricted license ends upon completion of the revocation or suspension period set by law.

17 (b) When an interlock-restricted license is issued to a person who is subject to a sentence for a felony
 18 offense under 61-8-401 or 61-8-406, the term of the interlock-restricted license ends upon completion of the
 19 period of probation set pursuant to 61-8-731.

20 (7) (a) A probationary license or an interlock-restricted license must be clearly marked with a notation
 21 that identifies the restriction to which the license holder is subject and the term of the restriction.

22 (b) Upon issuance of a probationary license or interlock-restricted license under this section, the licensee
 23 is subject to the restrictions set forth on the license.

24 ~~(b)(8)~~ The department may not issue a ~~restricted~~ probationary license or an interlock-restricted license
 25 that would permit an individual to drive a commercial motor vehicle during a period in which:

26 (i) the individual is disqualified from operating a commercial motor vehicle under state or federal law; or

27 ~~_____~~ (ii) the individual's driver's license or driving privilege is revoked, suspended, or canceled.

28 ~~(+0)(9)~~ It is a misdemeanor for a person to operate a motor vehicle in any manner in violation of the
 29 restrictions imposed on a ~~restricted~~ probationary license or an interlock-restricted license issued to the person
 30 under this section."

- 1
- 2 **Section 3.** Section 61-5-125, MCA, is amended to read:
- 3 **"61-5-125. Authority of department -- rulemaking authority.** (1) The department shall administer and
- 4 enforce the provisions of this chapter.
- 5 (2) The department shall adopt rules setting standards to govern driver's license examinations and
- 6 reexaminations. The rules:
- 7 (a) must specifically address the functional abilities and skills required for a person to exercise ordinary
- 8 and reasonable control in the safe operation of a motor vehicle on a highway;
- 9 (b) must include minimum uncorrected or corrected visual acuity requirements for both unrestricted and
- 10 restricted licensure and may include minimum field of vision and depth perception requirements and hearing
- 11 requirements for unrestricted and restricted licensure;
- 12 (c) may direct the design of one or more types of skills tests to assess an applicant's or licensee's ability
- 13 to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway. A skills test
- 14 may consist of:
- 15 (i) a comprehensive assessment of a person's functional abilities by means of an actual demonstration
- 16 of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or
- 17 (ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the
- 18 department, as related to a specific physical or mental condition or conditions or a request for reexamination;
- 19 (d) must include operational restrictions based upon the visual acuity of an applicant or licensee;
- 20 (e) may take into consideration any nationally recognized standards or recommended practices for
- 21 assessment of a person's ability to exercise ordinary and reasonable control in the safe operation of a motor
- 22 vehicle on the highway;
- 23 (f) must include appropriate licensing criteria relating to the use of adaptive equipment or operational
- 24 limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction;
- 25 (g) may be derived from medical guidelines and information compiled by driver licensing medical
- 26 advisory or review boards from other jurisdictions, as well as information received from advocacy groups for
- 27 persons with disabilities and senior citizens; and
- 28 (h) except as provided in 61-5-105, may not use a person's age or physical or mental disability, limitation,
- 29 or condition as a justification for denial of a license.
- 30 (3) The department may adopt additional rules governing:

- 1 (a) acceptable methods of proof of identification that must be supplied by a person upon application for
 2 or renewal of a driver's license;
- 3 (b) issuance of a hardship license to an underage applicant;
- 4 (c) the cancellation of a driver's license upon receipt of an insufficient funds check in payment of license
 5 fees;
- 6 ~~(d) circumstances under which the department may issue a probationary license to a person whose~~
 7 ~~license has been suspended or revoked or a person whose license is subject to a discretionary suspension or~~
 8 ~~revocation;~~
- 9 ~~_____ (e) restrictions to be imposed upon a probationary license;~~
- 10 ~~_____ (f) renewal of a driver's license by a person in the military assigned to active duty who had a valid~~
 11 ~~Montana driver's license at the time of entering active duty;~~
- 12 ~~(g)(e)~~ issuance of a replacement driver's license; and
- 13 ~~(h)(f)~~ a determination of the driver's license expiration date, minimum and maximum license terms, and
 14 license renewal requirements for a driver's license issued to a person who is a foreign national whose presence
 15 in the United States is temporarily authorized under federal law."

16

17 **Section 4.** Section 61-5-134, MCA, is amended to read:

18 **"61-5-134. Operation of motor vehicle by minor in violation of restricted first-year license --**
 19 **penalty.** (1) A person whose driver's license is restricted under 61-5-133 may not operate a motor vehicle,
 20 including a motorcycle, in violation of a restriction imposed under that section.

21 (2) A person convicted under this section shall be ordered to perform not less than 20 hours or more than
 22 60 hours of community service.

23 (3) Upon receipt of a report of a second or subsequent conviction under this section, the department
 24 shall suspend the person's driver's license for 6 months. A probationary driver's license may not be issued during
 25 the period of suspension."

26

27 **Section 5.** Section 61-5-206, MCA, is amended to read:

28 **"61-5-206. Authority of department to suspend license or driving privilege -- right to hearing.** (1)
 29 The department may suspend the driver's license or driving privilege of a driver without preliminary hearing upon
 30 a showing by its records or other sufficient evidence that the licensee:

- 1 (a) has committed or permitted an unlawful or fraudulent use of the license as specified in 61-5-302;
- 2 (b) has falsified the licensee's date of birth on the application for a driver's license;
- 3 (c) is under 21 years of age and has altered the licensee's or another's driver's license, identification
- 4 card, or tribal identification card to obtain alcohol; or
- 5 (d) has authorized another to use the licensee's driver's license, identification card, or tribal identification
- 6 card to obtain alcohol.

7 (2) If the department suspends a driver's license under 61-5-207 or this section or reinstates a license

8 suspension or revocation upon conviction or forfeiture of bail not vacated of any traffic violation by a person who

9 holds a probationary driver's license or interlock-restricted license under 61-2-302, the department shall

10 immediately notify the licensee in writing and upon the licensee's request shall afford the licensee an opportunity

11 for a hearing as early as practical, within 20 days after receipt of the request, in the county in which the licensee

12 resides unless the department and the licensee agree that the hearing may be held in some other county. At the

13 hearing, the department through its authorized agent may administer oaths and may issue subpoenas for the

14 attendance of witnesses and the production of relevant books and papers and may require a reexamination of

15 the licensee. At the hearing, the department shall either rescind its order of suspension or, for good cause, may

16 affirm, reduce, or extend the period of suspension of the license."

17

18 ~~Section 6. Section 61-5-208, MCA, is amended to read:~~

19 ~~"61-5-208. Period Commencement and completion of suspension or revocation action -- limitation~~

20 ~~on issuance of probationary license -- notation on driver's license suspension period for driving while~~

21 ~~under influence or driving with excessive alcohol concentration. (1) The department may not suspend or~~

22 ~~revoke a driver's license or privilege to drive a motor vehicle on the public highways, except as permitted by law.~~

23 ~~(2) (a) Except as provided in 61-2-302, a person whose license or privilege to drive a motor vehicle on~~

24 ~~the public highways has been suspended or revoked may not have the license, endorsement, or privilege~~

25 ~~renewed or restored until the revocation or suspension period has been completed.~~

26 ~~(b)(i) When a person is convicted or forfeits bail or collateral not vacated for a first offense of operating~~

27 ~~or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a~~

28 ~~combination of alcohol or drugs or for a first offense of operation of a motor vehicle by a person with alcohol~~

29 ~~concentration of 0.08 or more, the department shall, upon Upon receiving a report of a person's conviction or~~

30 ~~forfeiture of bail or collateral not vacated for a first offense under 61-8-401 or 61-8-406, the department shall~~

1 suspend the driver's license or driving privilege of the person for a period of 6 months:

2 ~~——— (ii) Upon receiving a report of a person's conviction or forfeiture of bail or collateral not vacated for a~~
 3 ~~second, third, or subsequent offense under 61-8-401 or 61-8-406 within 5 years of the first offense the time period~~
 4 ~~specified in 61-8-734, the department shall suspend the driver's license or driving privilege of the person for a~~
 5 ~~period of 1 year and may not issue a probationary license during the period of suspension unless the person~~
 6 ~~completes at least 45 days of the 1-year suspension and the report of conviction includes a recommendation from~~
 7 ~~the court that a probationary driver's license be issued subject to the requirements of 61-8-442. If the 1-year~~
 8 ~~suspension period passes and the person has not completed a chemical dependency education course,~~
 9 ~~treatment, or both, as required under 61-8-732, the license suspension remains in effect until the course,~~
 10 ~~treatment, or both, are completed.~~

11 ~~——— (c) For the purposes of subsection (2)(b), a person is considered to have committed a second, third, or~~
 12 ~~subsequent offense if fewer than 5 years have passed between the date of an offense that resulted in a prior~~
 13 ~~conviction and the date of the offense that resulted in the most recent conviction.~~

14 ~~——— (3) (a) Except as provided in subsection (3)(b), the The period of suspension or revocation for a person~~
 15 ~~convicted of any offense that makes mandatory the suspension or revocation of the person's driver's license~~
 16 ~~commences from the date of conviction or forfeiture of bail.~~

17 ~~——— (b) A suspension commences from the last day of the prior suspension or revocation period if the~~
 18 ~~suspension is for a conviction of driving with a suspended or revoked license.~~

19 ~~——— (4) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor~~
 20 ~~vehicle, the department shall suspend the person's driver's license as provided in 61-8-802.~~

21 ~~——— (5) (a) A driver's license that is issued after a license revocation to a person described in subsection~~
 22 ~~(5)(b) must be clearly marked with a notation that conveys the term of the person's probation restrictions:~~

23 ~~——— (b) The provisions of subsection (5)(a) apply to a license issued to a person for whom a court has~~
 24 ~~reported a felony conviction under 61-8-731, the judgment for which has as a condition of probation that the~~
 25 ~~person may not operate a motor vehicle unless:~~

26 ~~——— (i) operation is authorized by the person's probation officer; or~~

27 ~~——— (ii) a motor vehicle operated by the person is equipped with an ignition interlock device."~~

28

29 **Section 6.** Section 61-5-212, MCA, is amended to read:

30 **"61-5-212. Driving while license suspended or revoked -- penalty -- second offense of driving**

1 **without valid license or licensing exemption -- seizure of vehicle or rendering vehicle inoperable.** (1) (a)

2 A person commits the offense of driving a motor vehicle without a valid license or without statutory exemption or
3 during a suspension or revocation period if the person drives:

4 (i) a motor vehicle on any public highway of this state at a time when the person's privilege to drive or
5 apply for and be issued a driver's license is suspended or revoked in this state or any other state;

6 (ii) a commercial motor vehicle while the person's commercial driver's license is revoked, suspended,
7 or canceled in this state or any other state or the person is disqualified from operating a commercial motor vehicle
8 or from obtaining a commercial driver's license; or

9 (iii) a motor vehicle on any public highway of this state without possessing a valid driver's license, as
10 provided in 61-5-102, or without proof of a statutory exemption, as provided in 61-5-104.

11 (b) (i) Except as provided in subsection (1)(b)(ii), a person convicted of the offense of driving a motor
12 vehicle without a valid driver's license or without proof of a statutory exemption for the second time or driving
13 during a suspension or revocation period shall be punished by imprisonment for not less than 2 days or more than
14 6 months and may be fined not more than \$500.

15 (ii) If the reason for the suspension or revocation was that the person was convicted of a violation of
16 61-8-401 or 61-8-406 or a similar offense under the laws of any other state or the suspension was under 61-8-402
17 or 61-8-409 or a similar law of any other state for refusal to take a test for alcohol or drugs requested by a peace
18 officer who believed that the person might be driving under the influence, the person shall be punished by
19 imprisonment for a term of not less than 2 days or more than 6 months or a fine not to exceed \$2,000, or both,
20 and in addition, the court may order the person to perform up to 40 hours of community service.

21 ~~(2) (a) Upon receiving a record of the conviction of any person under this section upon a charge of~~
22 ~~driving a noncommercial vehicle while the person's driver's license, privilege to drive, or privilege to apply for and~~
23 ~~be issued a driver's license was suspended or revoked, the department shall extend the period of suspension~~
24 ~~or revocation for an additional 1-year period.~~

25 ~~————(b) Upon receiving a record of the conviction of any person under this section upon a charge of driving~~
26 ~~a commercial motor vehicle while the person's commercial driver's license was revoked, suspended, or canceled~~
27 ~~or the person was disqualified from operating a commercial motor vehicle under federal regulations, the~~
28 ~~department shall suspend the person's commercial driver's license in accordance with 61-8-802.~~

29 ~~————(3) The vehicle owned and operated at the time of an offense under this section by a person whose~~
30 ~~driver's license is suspended for violating the provisions of 61-8-401, 61-8-402, 61-8-406, 61-8-409, or 61-8-410~~

1 must, upon a person's first conviction, be seized or rendered inoperable by the county sheriff of the convicted
2 person's county of residence for a period of 30 days.

3 ~~(4)~~(3) The sentencing court shall order the action provided for under subsection ~~(3)~~ (2) and shall specify
4 the date on which the vehicle is to be returned or again rendered operable. The vehicle must be seized or
5 rendered inoperable by the sheriff within 10 days after the conviction.

6 ~~(5)~~(4) A convicted person is responsible for all costs associated with actions taken under subsection ~~(3)~~
7 (2). Joint ownership of the vehicle with another person does not prohibit the actions required by subsection ~~(3)~~
8 (2) unless the sentencing court determines that those actions would constitute an extreme hardship on a joint
9 owner who is determined to be without fault.

10 ~~(6)~~(5) A court may not suspend or defer imposition of penalties provided by this section."
11

12 **Section 7.** Section 61-5-215, MCA, is amended to read:

13 **"61-5-215. ~~Provisional licenses~~ Probationary license prohibited.** A ~~provisional, restricted, or~~
14 probationary license may not be issued upon a suspension under 61-5-214."
15

16 **Section 8.** Section 61-8-102, MCA, is amended to read:

17 **"61-8-102. Uniformity of interpretation -- definitions.** (1) Interpretation of this chapter in this state must
18 be as consistent as possible with the interpretation of similar laws in other states.

19 (2) As used in this chapter, unless the context requires otherwise, the following definitions apply:

20 (a) "Authorized emergency vehicle" means a vehicle of a governmental fire agency organized under Title
21 7, chapter 33, an ambulance, and an emergency vehicle designated or authorized by the department.

22 (b) "Bicycle" means:

23 (i) a vehicle propelled solely by human power upon which any person may ride and that has two tandem
24 wheels and a seat height of more than 25 inches from the ground when the seat is raised to its highest position,
25 except scooters and similar devices; or

26 (ii) a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion, and an
27 independent power source providing a maximum of 2 brake horsepower. If a combustion engine is used, the
28 maximum piston or rotor displacement may not exceed 3.05 cubic inches, 50 centimeters, regardless of the
29 number of chambers in the power source. The power source may not be capable of propelling the device,
30 unassisted, at a speed exceeding 30 miles an hour, 48.28 kilometers an hour, on a level surface. The device must

1 be equipped with a power drive system that functions directly or automatically only and does not require clutching
2 or shifting by the operator after the drive system is engaged.

3 (c) "Business district" means the territory contiguous to and including a highway when within any 600
4 feet along a highway there are buildings in use for business or industrial purposes, including but not limited to
5 hotels, banks, office buildings, railroad stations, and public buildings that occupy at least 300 feet of frontage on
6 one side or 300 feet collectively on both sides of the highway.

7 (d) "Controlled-access highway" means a highway, street, or roadway in respect to which owners or
8 occupants of abutting lands and other persons have no legal right of access to or from the highway, street, or
9 roadway except at the points and in the manner as determined by the public authority having jurisdiction over the
10 highway, street, or roadway.

11 (e) "Crosswalk" means:

12 (i) that part of a roadway at an intersection included within the connections of the lateral lines of the
13 sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges
14 of the traversable roadway;

15 (ii) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrians crossing
16 by lines or other markings on the surface.

17 (f) "Flag person" means a person who directs, controls, or alters the normal flow of vehicular traffic upon
18 a street or highway as a result of a vehicular traffic hazard then present on that street or highway. This person,
19 except a uniformed traffic enforcement officer exercising the officer's duty as a result of a planned vehicular traffic
20 hazard, must be equipped as required by the rules of the department of transportation.

21 (g) "Highway" has the meaning provided in 61-1-101, but includes ways that have been or are later
22 dedicated to public use.

23 ~~(h) "Ignition interlock device" means ignition equipment that:~~

24 ~~(i) analyzes the breath to determine blood alcohol concentration;~~

25 ~~(ii) is approved by the department pursuant to 61-8-441; and~~

26 ~~(iii) is designed to prevent a motor vehicle from being operated by a person who has consumed a specific~~
27 ~~amount of an alcoholic beverage.~~

28 ~~(h)~~ (i) "Intersection" means the area embraced within the prolongation or connection of the lateral curb
29 lines or if there are no curb lines then the lateral boundary lines of the roadways of two highways that join one
30 another at or approximately at right angles or the area within which vehicles traveling upon different highways

1 joining at any other angle may come in conflict.

2 (ii) When a highway includes two roadways 30 feet or more apart, then every crossing of each roadway
3 of the divided highway by an intersecting highway must be regarded as a separate intersection. If the intersecting
4 highways also include two roadways 30 feet or more apart, then every crossing of two roadways of the highways
5 must be regarded as a separate intersection.

6 ~~(j)~~(i) "Local authorities" means every county, municipal, and other local board or body having authority
7 to enact laws relating to traffic under the constitution and laws of this state.

8 ~~(k)~~(j) "Noncommercial motor vehicle" or "noncommercial vehicle" means any motor vehicle or
9 combination of motor vehicles that is not included in the definition of commercial motor vehicle in 61-1-101 and
10 includes but is not limited to the vehicles listed in 61-1-101(8)(b).

11 ~~(h)~~(k) "Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with
12 this title that are placed or erected by authority of a public body or official having jurisdiction for the purpose of
13 regulating, warning, or guiding traffic.

14 ~~(m)~~(l) "Pedestrian" means any person on foot or any person in a manually or mechanically propelled
15 wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically
16 disabled person.

17 ~~(n)~~(m) "Police vehicle" means a vehicle used in the service of any law enforcement agency.

18 ~~(o)~~(n) "Private road" or "driveway" means a way or place in private ownership and used for vehicular
19 travel by the owner and those having express or implied permission from the owner, but not by other persons.

20 ~~(p)~~(o) "Residence district" means the territory contiguous to and including a highway not comprising a
21 business district when the property on the highway for a distance of 300 feet or more is primarily improved with
22 residences or residences and buildings in use for business.

23 ~~(q)~~(p) "Right-of-way" means the privilege of the immediate use of the roadway.

24 ~~(r)~~(q) "School bus" has the meaning provided in 20-10-101.

25 ~~(s)~~(r) "Sidewalk" means that portion of a street that is between the curb lines or the lateral lines of a
26 roadway and the adjacent property lines and that is intended for use by pedestrians.

27 ~~(t)~~(s) "Traffic control signal" means a device, whether manually, electrically, or mechanically operated,
28 by which traffic is alternately directed to stop and to proceed.

29 ~~(u)~~(t) "Urban district" means the territory contiguous to and including any street that is built up with
30 structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a

1 distance of one-fourth mile or more."

2

3 **Section 9.** Section 61-8-401, MCA, is amended to read:

4 **"61-8-401. Driving under influence of alcohol or drugs -- definitions.** (1) It is unlawful and
5 punishable, as provided in ~~61-8-442, 61-8-714, and 61-8-731 through, 61-8-732, and 61-8-734,~~ for a person who
6 is under the influence of:

7 (a) alcohol to drive or be in actual physical control of a vehicle upon the ways of this state open to the
8 public;

9 (b) a dangerous drug to drive or be in actual physical control of a vehicle within this state;

10 (c) any other drug to drive or be in actual physical control of a vehicle within this state; or

11 (d) alcohol and any dangerous or other drug to drive or be in actual physical control of a vehicle within
12 this state.

13 (2) The fact that any person charged with a violation of subsection (1) is or has been entitled to use
14 alcohol or a drug under the laws of this state does not constitute a defense against any charge of violating
15 subsection (1).

16 (3) (a) "Under the influence" means that as a result of taking into the body alcohol, drugs, or any
17 combination of alcohol and drugs, a person's ability to safely operate a vehicle has been diminished.

18 (b) ~~Subject to 61-8-440, as As~~ used in this part, "vehicle" has the meaning provided in 61-1-101, except
19 that the term does not include a bicycle.

20 (4) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been
21 committed by any person driving or in actual physical control of a vehicle while under the influence of alcohol,
22 the concentration of alcohol in the person at the time of a test, as shown by analysis of a sample of the person's
23 blood or breath drawn or taken within a reasonable time after the alleged act, gives rise to the following
24 inferences:

25 (a) If there was at that time an alcohol concentration of 0.04 or less, it may be inferred that the person
26 was not under the influence of alcohol.

27 (b) If there was at that time an alcohol concentration in excess of 0.04 but less than 0.08, that fact may
28 not give rise to any inference that the person was or was not under the influence of alcohol, but the fact may be
29 considered with other competent evidence in determining the guilt or innocence of the person.

30 (c) If there was at that time an alcohol concentration of 0.08 or more, it may be inferred that the person

1 was under the influence of alcohol. The inference is rebuttable.

2 (5) The provisions of subsection (4) do not limit the introduction of any other competent evidence bearing
3 upon the issue of whether the person was under the influence of alcohol, drugs, or a combination of alcohol and
4 drugs.

5 (6) Each municipality in this state is given authority to enact 61-8-406, 61-8-408, 61-8-410, 61-8-714,
6 61-8-722, 61-8-731 ~~through, 61-8-732, and~~ 61-8-734, and subsections (1) through (5) of this section, with the
7 word "state" in 61-8-406 and subsection (1) of this section changed to read "municipality", as an ordinance and
8 is given jurisdiction of the enforcement of the ordinance and of the imposition of the fines and penalties provided
9 in the ordinance.

10 (7) Absolute liability as provided in 45-2-104 will be imposed for a violation of this section."
11

12 **Section 10.** Section 61-8-402, MCA, is amended to read:

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

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

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

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

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

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

26 (B) involved in a motor vehicle accident or collision resulting in serious bodily injury, as defined in
27 45-2-101, or death.

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

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

1 (4) If an arrested person refuses to submit to one or more tests requested and designated by the officer
2 as provided in subsection (2), the refused test or tests may not be given, but the officer shall, on behalf of the
3 department, immediately seize the person's driver's license. The peace officer shall immediately forward the
4 license to the department, along with a report certified under penalty of law stating which of the conditions set
5 forth in subsection (2)(a) provides the basis for the testing request and confirming that the person refused to
6 submit to one or more tests requested and designated by the peace officer. Upon receipt of the report, the
7 department shall suspend the license for the period provided in subsection (6).

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

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

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

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

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

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

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

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

29 (8) The department may recognize the seizure of a license of a tribal member by a peace officer acting
30 under the authority of a tribal government or an order issued by a tribal court suspending, revoking, or reinstating

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

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

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

9

10 **Section 11.** Section 61-8-406, MCA, is amended to read:

11 **"61-8-406. Operation of noncommercial vehicle by person with alcohol concentration of 0.08 or**
 12 **more -- operation of commercial vehicle by person with alcohol concentration of 0.04 or more.** (1) It is
 13 unlawful and punishable as provided in ~~61-8-442~~, 61-8-722, 61-8-723, and 61-8-731 through 61-8-732, and
 14 61-8-734 for any person to drive or be in actual physical control of:

15 (a) a noncommercial vehicle upon the ways of this state open to the public while the person's alcohol
 16 concentration, as shown by analysis of the person's blood, breath, or urine, is 0.08 or more; or

17 (b) a commercial motor vehicle upon the ways of this state open to the public while the person's alcohol
 18 concentration, as shown by analysis of the person's blood or breath, is 0.04 or more.

19 (2) Absolute liability, as provided in 45-2-104, will be imposed for a violation of this section."

20

21 **Section 12.** Section 61-8-410, MCA, is amended to read:

22 **"61-8-410. Operation of vehicle by person under twenty-one with alcohol concentration of 0.02**
 23 **or more.** (1) It is unlawful for a person under the age of 21 who has an alcohol concentration of 0.02 or more to
 24 drive or be in actual physical control of a vehicle upon ways of this state open to the public. Absolute liability, as
 25 provided for in 45-2-104, is imposed for a violation of this section.

26 (2) Upon a first conviction under this section, a person shall be punished by a fine of not less than \$100
 27 or more than \$500.

28 (3) Upon a second conviction under this section, a person shall be punished by a fine of not less than
 29 \$200 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not more than 10 days.

30 (4) Upon a third or subsequent conviction under this section, a person shall be punished by a fine of not

1 less than \$300 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not less than
2 24 consecutive hours or more than 60 days.

3 (5) In addition to the punishment provided in this section, regardless of disposition:

4 (a) the person shall comply with the chemical dependency education course and chemical dependency
5 treatment provisions in 61-8-732 as ordered by the court; and

6 (b) the department shall suspend the person's driver's license for 90 days upon the first conviction, 6
7 months upon the second conviction, and 1 year upon the third or subsequent conviction. A ~~restricted or~~
8 probationary driver's license may not be issued during the suspension period until the person has paid a license
9 reinstatement fee in accordance with 61-2-107 and, if the person was under the age of 18 at the time of the
10 offense, has completed at least 30 days of the suspension period.

11 (6) A conviction under this section may not be counted as a prior conviction under 61-8-401 or 61-8-406."
12

13 **Section 13.** Section 61-8-440, MCA, is amended to read:

14 "**61-8-440. ~~Ignition interlock device~~ Interlock -- assisting in starting and operating -- circumventing**
15 **-- ~~penalty penalties.~~** (1) It is unlawful for a person ~~who is subject to a restriction under 61-8-442 with an~~
16 interlock-restricted license to operate a motor vehicle not equipped with an ~~ignition interlock device~~.

17 (2) A person may not knowingly assist a person who is restricted to the use of an ~~ignition interlock device~~
18 to start and operate the restricted person's vehicle.

19 (3) A person may not knowingly circumvent the operation of an ~~ignition interlock device~~.

20 (4) (a) A person convicted of a violation of subsection (1) shall be punished by a fine of not less than
21 \$250 and not more than \$1,000 or by imprisonment of up to 6 months, or both.

22 (b) A person convicted of a violation of subsection (2) or (3) of this section shall be punished by a fine
23 of not more than \$500 or by imprisonment for not more than 6 months or both.

24 (5) This section does not apply if:

25 (a) the starting of a motor vehicle or the request to start a motor vehicle equipped with an ~~ignition~~
26 ~~interlock device~~ is done for the purpose of safety or mechanical repair of the device or the vehicle; and

27 (b) the person subject to the restriction does not operate the vehicle."
28

29 **Section 14.** Section 61-8-441, MCA, is amended to read:

30 "**61-8-441. Department rules regarding ~~ignition interlock devices~~ interlocks -- ignition interlock**

1 **device provider requirements.** (1) The department shall adopt rules providing for the approval of ignition
 2 interlock devices and, the installation, calibration, repair, and removal of approved devices, and the monitoring
 3 of persons with interlock-restricted licenses by requiring periodic reports from interlock providers.

4 (2) The department's rules must be based upon federal standards issued for similar devices.

5 (3) An ignition interlock device that is approved by the department must also:

6 (a) be designed so it does not impede safe operation of the vehicle;

7 (b) correlate well with the level established for alcohol impairment;

8 (c) work accurately and reliably in an unsupervised environment and under extreme weather conditions;

9 (d) require a deep lung breath sample or use an equally accurate measure of blood alcohol concentration
 10 equivalence;

11 (e) resist tampering and show evidence of tampering if it is attempted;

12 (f) be difficult to circumvent;

13 (g) minimize inconvenience of a sober user;

14 (h) operate reliably over the range of automobile environments and in connection with various
 15 manufacturing standards; and

16 (i) be manufactured by a person who is adequately insured for product liability.

17 (4) An ignition interlock device provider shall include in any lease agreement for an ignition interlock
 18 device a warning that a person who knowingly tampers with, circumvents, or otherwise misuses the device is
 19 subject to criminal prosecution."
 20

21 **Section 15.** Section 61-8-731, MCA, is amended to read:

22 **"61-8-731. Driving under influence of alcohol or drugs -- driving with excessive alcohol**
 23 **concentration -- penalty for fourth or subsequent offense.** (1) Except as provided in subsection (3), if a
 24 person is convicted of a violation of 61-8-401 or 61-8-406 and the person has either a single conviction under
 25 45-5-106 or any combination of three or more prior convictions under 45-5-104, 45-5-205, 61-8-401, or 61-8-406
 26 and the offense under 45-5-104 occurred while the person was operating a vehicle while under the influence of
 27 alcohol, a dangerous drug, any other drug, or any combination of the three, as provided in 61-8-401(1), the
 28 person is guilty of a felony and shall be punished by:

29 (a) sentencing the person to the department of corrections for placement in an appropriate correctional
 30 facility or program for a term of 13 months. The court shall order that if the person successfully completes a

1 residential alcohol treatment program operated or approved by the department of corrections, the remainder of
2 the 13-month sentence must be served on probation. The imposition or execution of the 13-month sentence may
3 not be deferred or suspended, and the person is not eligible for parole.

4 (b) sentencing the person to either the department of corrections or the Montana state prison or Montana
5 women's prison for a term of not more than 5 years, all of which must be suspended, to run consecutively to the
6 term imposed under subsection (1)(a); and

7 (c) a fine in an amount of not less than \$1,000 or more than \$10,000.

8 (2) The department of corrections may place an offender sentenced under subsection (1)(a) in a
9 residential alcohol treatment program operated or approved by the department of corrections or in a state prison.

10 (3) If a person is convicted of a violation of 61-8-401 or 61-8-406, the person has either a single
11 conviction under 45-5-106 or any combination of four or more prior convictions under 45-5-104, 45-5-205,
12 61-8-401, or 61-8-406 and the offense under 45-5-104 occurred while the person was operating a vehicle while
13 under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided
14 in 61-8-401(1), and the person was, upon a prior conviction, placed in a residential alcohol treatment program
15 under subsection (2), whether or not the person successfully completed the program, the person shall be
16 sentenced to the department of corrections for a term of not less than 13 months or more than 5 years or be fined
17 an amount of not less than \$1,000 or more than \$10,000, or both.

18 (4) The court shall, as a condition of probation, order:

19 (a) that the person abide by the standard conditions of probation promulgated by the department of
20 corrections;

21 (b) a person who is financially able to pay the costs of imprisonment, probation, and alcohol treatment
22 under this section;

23 (c) that the person may not frequent an establishment where alcoholic beverages are served;

24 (d) that the person may not consume alcoholic beverages;

25 (e) that the person may not operate a motor vehicle unless authorized by the person's probation officer;

26 (f) that the person enter in and remain in an aftercare treatment program for the entirety of the
27 probationary period;

28 (g) that the person submit to random or routine drug and alcohol testing; and

29 (h) that if the person is permitted to operate a motor vehicle, ~~the vehicle be equipped with an ignition~~
30 ~~interlock system~~ the person's driver's license must be restricted pursuant to 61-2-302.

1 (5) The sentencing judge may impose upon the defendant any other reasonable restrictions or conditions
2 during the period of probation. Reasonable restrictions or conditions may include but are not limited to:

3 (a) payment of a fine as provided in 46-18-231;

4 (b) payment of costs as provided in 46-18-232 and 46-18-233;

5 (c) payment of costs of assigned counsel as provided in 46-8-113;

6 (d) community service;

7 (e) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the
8 protection of society; or

9 (f) any combination of the restrictions or conditions listed in subsections (5)(a) through (5)(e).

10 (6) Following initial placement of a defendant in a treatment facility under subsection (2), the department
11 of corrections may, at its discretion, place the offender in another facility or program.

12 (7) The provisions of 46-18-203, 46-23-1001 through 46-23-1005, 46-23-1011 through 46-23-1014, and
13 46-23-1031 apply to persons sentenced under this section."
14

15 **Section 16.** Section 61-11-101, MCA, is amended to read:

16 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender**
17 **of licenses.** (1)(a) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes
18 mandatory the suspension or revocation of the driver's license or commercial driver's license of the person by
19 the department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses
20 then held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the
21 license and a record of the conviction to the department. If the person does not possess a driver's license, the
22 court shall indicate that fact in its report to the department.

23 ~~(2)(b)~~ A court having jurisdiction over offenses committed under a statute of this state or a municipal
24 ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or
25 ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after
26 the conviction becomes final. ~~The court may recommend that the department issue a restricted probationary~~
27 ~~license on the condition that the individual comply with the requirement that the person attend and complete a~~
28 ~~chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.~~

29 ~~(3)(c)~~ A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any
30 action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication

1 upon which it is based to the department within 5 days on forms furnished by the department.

2 (2) When the suspension or revocation of a person's driver's license is mandated by law or court order
 3 following a conviction, the report required under subsection (1) must indicate whether:

4 (a) the court recommends that the person be granted restricted driving privileges during the period of
 5 suspension or revocation, if permitted by law;

6 (b) if recommending restricted driving privileges be granted and subject to the limitations of 61-2-302,
 7 a probationary license or an interlock-restricted license should be issued; and

8 (c) the person is a participant in a DUI court or sobriety program.

9 ~~(4)~~(3) A conviction becomes final for the purposes of this part upon the later of:

10 (a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

11 (b) forfeiture of bail that is not vacated; or

12 (c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended
 13 execution of a sentence.

14 ~~(5)~~(4) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's
 15 license or who is required to hold a commercial driver's license, a court may not take any action, including
 16 deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control
 17 law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's
 18 driving record. The provisions of this subsection ~~(5)(a)~~ (4)(a) apply only to the conviction of a person who holds
 19 a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the
 20 conviction of a person who holds any other type of driver's license.

21 (b) For purposes of this subsection ~~(5)~~ (4), "who is required to hold a commercial driver's license" refers
 22 to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle
 23 at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in
 24 subsection (1)."

25
 26 **NEW SECTION. Section 17. Repealer.** The following sections of the Montana Code Annotated are
 27 repealed:

28 61-2-301. Purpose.

29 61-8-421. Forfeiture procedure.

30 61-8-422. Prohibition on transfer, sale, or encumbrance of vehicles subject to seizure or forfeiture --

- 1 penalty.
- 2 61-8-442. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration --
- 3 ignition interlock device.
- 4 61-8-733. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration --
- 5 forfeiture of vehicle.

6

7 COORDINATION SECTION. SECTION 18. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 102 AND

8 [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 2 OF HOUSE BILL NO. 102], AMENDING 61-2-302, IS VOID.

9

10 NEW SECTION. Section 19. Saving clause. [This act] does not affect rights and duties that matured,

11 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

12 - END -