

**MONTANA DEPARTMENT OF JUSTICE
SB 68: Hit and Run Accountability Act**

Background

Montana's Uniform Accident Reporting Act is intended to ensure that drivers involved in an accident stop to exchange information, assist others who might have been injured or killed in the accident, and report serious accidents to law enforcement.

Unfortunately, the current statute lacks sufficient clarity to guarantee that drivers carry out these duties. Judges, prosecutors and defendants have expressed confusion and frustration over the failure of the statute to precisely define the scope of the duties required under the Act. The intent was to make sure that victims receive assistance and that accidents are fully investigated so those responsible are held accountable, but obscure language has led to expensive litigation, uncertainty and contradictory interpretations of the law.

Example from Yellowstone District Court

In May 2008, James Hagberg was charged with felony hit and run in violation of 61-7-103, MCA, for running over a woman and leaving her dead in the road without providing her any assistance or leaving his contact information with anyone at the scene. Renae Merkel had apparently wrecked her motorcycle and was lying motionless in the traffic lane.

The cause of this motorcycle crash was unknown and it was unclear whether the woman died immediately after the crash, or was merely incapacitated. The State alleged that Hagberg ran over Ms. Merkel, briefly stopped and then left the scene without reporting the accident, seeking medical attention for Ms. Merkel, or speaking with law enforcement. When emergency personnel arrived shortly after, they found Merkel dead.

Noting that the "statute, at best, is convoluted, poorly worded and confusing," Judge Ingrid Gustafson held that, to convict Hagberg of hit and run, the State must prove that "Ms. Merkel was alive at the time Mr. Hagberg struck her." In other words, unless the State could prove beyond a reasonable doubt that Merkel was alive when struck by Hagberg's vehicle, Hagberg had no duty to stop after running her over.

Judge Gustafson further held that even if the State could prove Ms. Merkel was alive when struck, Hagberg had no duty to provide his information in light of the fact that Ms. Merkel was dead and thus incapable of receiving the information.

The Montana Supreme Court denied the state's request to take supervisory control over the case, holding that "we are not convinced that the District court is proceeding under a mistake of law."

In August 2010, Hagberg pleaded guilty to a single misdemeanor charge of failure to give notice of an accident by the quickest means.

SB 68 Changes to the Hit and Run Accountability Act

The changes of SB 68 will ensure that drivers on Montana's highways take responsibility for their involvement in accidents and collisions where someone is injured or killed.

SB 68 will prevent drivers from willfully ignoring accidents by:

- Requiring a driver to stop as soon as the driver knows or reasonably should have known that he or she was involved in an accident or collision with another person, including a dead person.
- Clarifying the terms "accident" and "person" to ensure that all roadway events involving at least one vehicle and a collision, injury, or death with any other person or deceased person will trigger the duty to stop, regardless of fault.

SB 68 will ensure that drivers take responsibility for their role in accidents by:

- Requiring drivers involved in an accident to remain at the scene until a law enforcement officer arrives:
 - if anyone in the accident was injured, killed or otherwise incapacitated,
 - where the driver made contact with a dead person, or
 - where property damage exceeds \$500.
- Forbidding drivers from delegating their duties to provide information and render assistance unless given permission to leave by a law enforcement officer.
- Permitting drivers to leave the scene if it is necessary to leave in order to procure emergency medical assistance or to notify authorities.

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