

1 HOUSE BILL NO. 178

2 INTRODUCED BY D. HOWARD, O'HARA, SALOMON, O'NEIL, MILLER, INGRAHAM, LONEY, VANCE,
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4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF JUSTICE TO USE THE
6 FEDERAL SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE) PROGRAM TO VERIFY THE
7 LAWFUL PRESENCE IN THE UNITED STATES OF AN APPLICANT FOR A DRIVER'S LICENSE OR
8 IDENTIFICATION CARD; ESTABLISHING A FEE FOR CERTAIN APPLICANTS FOR VERIFICATION USING
9 THE SAVE PROGRAM; ESTABLISHING A MINIMUM FEE FOR DRIVER'S LICENSES AND IDENTIFICATION
10 CARDS THAT EXPIRE IN 1 YEAR OR LESS; AMENDING THE DEPARTMENT'S RULEMAKING AUTHORITY
11 REGARDING ISSUANCE OF IDENTIFICATION CARDS; WITHDRAWING THE DEPARTMENT'S AUTHORITY
12 TO APPOINT AGENTS FOR ISSUANCE OF IDENTIFICATION CARDS; AMENDING SECTIONS 61-5-105,
13 61-5-111, 61-5-121, 61-12-501, 61-12-502, AND 61-12-504, MCA; AND REPEALING SECTION 61-12-503,
14 MCA."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 **Section 1.** Section 61-5-105, MCA, is amended to read:

19 **"61-5-105. Who may not be licensed.** The department may not issue a license under this chapter to
20 a person:

21 (1) who is under 16 years of age unless:

22 (a) the person is at least 15 years of age and has passed a driver's education course approved by the
23 department and the superintendent of public instruction; or

24 (b) the person is at least 13 years of age and, because of individual hardship, to be determined by the
25 department, needs a restricted license;

26 (2) whose license or driving privilege is currently suspended, revoked, or canceled or who is disqualified
27 from operating a commercial motor vehicle in this or any state, as evidenced by an ineligible status report from
28 the national driver register, established under 49 U.S.C. 30302, or from the commercial driver's license
29 information system, established under 49 U.S.C. 31309;

30 (3) who is addicted to the use of alcohol or narcotic drugs;

1 (4) who has previously been adjudged to be afflicted with or suffering from any mental disability or
 2 disease and who, at the time of application, has not been restored to competency by the methods provided by
 3 law;

4 (5) who is required by this chapter to take an examination;

5 (6) who has not deposited proof of financial responsibility when required under the provisions of chapter
 6 6 of this title;

7 (7) who has any condition characterized by lapse of consciousness or control, either temporary or
 8 prolonged, that is or may become chronic. However, the department may, in its discretion, issue a license to an
 9 otherwise qualified person suffering from a condition if the afflicted person's attending physician, licensed
 10 physician assistant, or advanced practice registered nurse, as defined in 37-8-102, attests in writing that the
 11 person's condition has stabilized and would not be likely to interfere with that person's ability to operate a motor
 12 vehicle safely and, if a commercial driver's license is involved, the person is physically qualified to operate a
 13 commercial motor vehicle under applicable state or federal regulations;

14 (8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate
 15 a motor vehicle on the highway;

16 (9) who is not a resident of or domiciled in Montana except as provided in 61-5-103(3); or

17 (10) ~~who does not submit proof satisfactory to the department that the applicant's WHOSE presence in the~~
 18 ~~United States is NOT authorized under federal law. If an applicant does not submit proof satisfactory to the~~
 19 ~~department that the applicant is a citizen of the United States~~ WHEN AN APPLICANT WHO IS NOT A CITIZEN OF THE
 20 UNITED STATES APPLIES FOR A DRIVER'S LICENSE, the department shall verify that the applicant is lawfully present
 21 in the United States by using the federal systematic alien verification for entitlements program. The department
 22 may not accept ~~as a primary source of identification~~ a driver's license issued by a another state ~~if the state does~~
 23 ~~not require that a driver licensed in that state be~~ as proof that an applicant is lawfully present in the United States
 24 under federal law."
 25

26 **Section 2.** Section 61-5-111, MCA, is amended to read:

27 **"61-5-111. Contents of driver's license, renewal, renewal by mail, license expirations, grace**
 28 **period, and fees for licenses, permits, and endorsements -- notice of expiration.** (1) (a) The department may
 29 appoint county treasurers and other qualified officers to act as its agents for the sale of driver's license receipts.
 30 The department shall adopt necessary rules governing sales. In areas in which the department provides driver

1 licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an
2 agent to sell receipts.

3 (b) The department may enter into an authorized agent agreement with the county treasurer of any
4 county in which the department no longer maintains a driver examination station for the purpose of providing
5 driver's license renewal services.

6 (2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a driver's
7 license to each qualifying applicant. The license must contain:

8 (i) a full-face photograph of the licensee in the size and form prescribed by the department;

9 (ii) a distinguishing number issued to the licensee;

10 (iii) the full legal name, date of birth, Montana mailing address, and a brief description of the licensee;

11 and

12 (iv) either the licensee's customary signature or a digital reproduction of the licensee's customary
13 signature.

14 (b) The department may not use the licensee's social security number as the distinguishing number
15 unless the licensee expressly authorizes the use. A license is not valid until it is signed by the licensee.

16 (3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records
17 check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's
18 eyesight. The department may also require the applicant to submit to a knowledge and road or skills test if:

19 (i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may
20 impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle
21 on the highway; and

22 (ii) the expired or expiring license does not include adaptive equipment or operational restrictions
23 appropriate to the applicant's functional abilities; or

24 (iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

25 (b) In the case of a commercial driver's license, the department shall, if the information was not provided
26 in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the
27 applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately
28 preceding the date of the renewal application and may also require that the applicant successfully complete a
29 written examination as required by federal regulations.

30 (c) A person is considered to have applied for renewal of a Montana driver's license if the application

1 is made within 6 months before or 3 months after the expiration of the person's license. Except as provided in
2 subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's
3 examination station.

4 (d) (i) Except as provided in subsections (3)(d)(iv) through (3)(d)(vi), a person may renew a driver's
5 license by mail if the person certifies that the person is temporarily out of state and will not be returning to the
6 state prior to the expiration of the license. A person may not renew by mail for a subsequent license term after
7 a mail renewal, except that a spouse or dependent of a person stationed outside Montana on active military duty
8 may renew a driver's license by mail for one additional consecutive term following a mail renewal.

9 (ii) An applicant who renews a driver's license by mail shall submit to the department an approved vision
10 examination and a medical evaluation from a licensed physician, licensed physician assistant, or advanced
11 practice registered nurse, as defined in 37-8-102, in addition to the fees required for renewal.

12 (iii) If the department does not have a digitized photograph or signature record of the renewal applicant
13 from the expiring license, then the department may require the renewal applicant to submit a personal photograph
14 and signature that meets the requirements prescribed by the department.

15 (iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail is 8 years.

16 (v) The department may not renew a license by mail if:

17 (A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for
18 the applicant; or

19 (B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the
20 retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572.

21 (vi) If a license was issued to a foreign national whose presence in the United States is temporarily
22 authorized under federal law, the license may not be renewed by mail.

23 (e) The department shall mail a driver's license renewal notice no earlier than 60 days and no later than
24 30 days prior to the expiration date of a driver's license. Except as provided in 61-3-119 and 61-5-115, the
25 department shall mail the notice to the Montana mailing address shown on the driver's license.

26 (4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the anniversary of
27 the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs
28 first.

29 (b) A license issued to a person who is 75 years of age or older expires on the anniversary of the
30 licensee's birthday 4 years or less after the date of issue.

1 (c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

2 (d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the anniversary
3 of the licensee's birthday 5 years or less after the date of issue.

4 (ii) When a person obtains a Montana commercial driver's license with a hazardous materials
5 endorsement after surrendering a comparable commercial driver's license with a hazardous materials
6 endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's birthday
7 5 years or less after the date of the issue of the surrendered license if, as reported in the commercial driver's
8 license information system, a security threat assessment was performed on the person as a condition of issuance
9 of the surrendered license.

10 (e) A license issued to a person who is a foreign national whose presence in the United States is
11 temporarily authorized under federal law expires, as determined by the department, no later than the expiration
12 date of the official document issued to the person by the bureau of citizenship and immigration services of the
13 department of homeland security authorizing the person's presence in the United States.

14 (5) When the department issues a driver's license to a person under 18 years of age, the license must
15 be clearly marked with a notation that conveys the restrictions imposed under 61-5-133.

16 (6) (a) Upon application for a driver's license or commercial driver's license and any combination of the
17 specified endorsements and except as provided in subsection (6)(b), the following fees must be paid:

18 (i) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;

19 (ii) motorcycle endorsement -- 50 cents a year or fraction of a year;

20 (iii) commercial driver's license:

21 (A) interstate -- \$10 a year or fraction of a year; or

22 (B) intrastate -- \$8.50 a year or fraction of a year.

23 (b) The MINIMUM fee for a driver's license or a commercial driver's license that expires in 1 year or less
24 is \$9.

25 ~~(b)(c)~~ A renewal notice for either a driver's license or a commercial driver's license is 50 cents.

26 (d) A fee of \$2 must be charged for either a driver's license or a commercial driver's license if the
27 applicant's lawful presence in the United States must be verified using the federal systematic alien verification
28 for entitlements program pursuant to 61-5-105."

29

30 **Section 3.** Section 61-5-121, MCA, is amended to read:

1 **"61-5-121. Disposition of fees.** (1) Except as provided in subsection (3), the disposition of the fees from
2 driver's licenses, motorcycle endorsements, commercial driver's licenses, and replacement driver's licenses
3 provided for in 61-5-114 is as follows:

4 (a) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 2.5%
5 of each driver's license fee, 2.5% of each commercial driver's license fee, and 3.75% of each replacement driver's
6 license fee must be deposited into the county general fund.

7 (ii) If the fees are collected by the department, the amount provided for in subsection (1)(a)(i) must be
8 deposited into the state general fund.

9 (b) (i) If the fee is collected by a county treasurer or other agent of the department, the amount of 3.34%
10 of each motorcycle endorsement must be deposited into the county general fund.

11 (ii) If the fee is collected by the department, the amount provided for in subsection (1)(b)(i) must be
12 deposited into the state general fund.

13 (c) The amount of 20.7% of each driver's license fee, 16.94% of each commercial driver's license fee,
14 and 8.75% of each replacement driver's license fee must be deposited into the state traffic education account.

15 (d) In addition to the amounts deposited pursuant to subsections (1)(a)(ii) and (1)(b)(ii), the remainder
16 of each driver's license fee, each commercial driver's license fee, and each replacement driver's license fee must
17 be deposited into the state general fund.

18 (e) The amount of 63.46% of each motorcycle endorsement fee must be deposited into the state
19 motorcycle safety account in the state special revenue fund, and the amount of 33.2% of each motorcycle
20 endorsement fee must be deposited into the state general fund.

21 (2) (a) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and
22 replacement driver's licenses are collected by a county treasurer or other agent of the department, the county
23 treasurer or agent shall deposit the amounts provided for in subsections (1)(a)(i) and (1)(b)(i) into the county
24 general fund. The county treasurer or agent shall then remit all remaining fees to the state for deposit as provided
25 in subsections (1)(c) through (1)(e).

26 (b) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and
27 replacement driver's licenses are collected by the department, it shall deposit the fees as provided in subsections
28 (1)(a)(ii), (1)(b)(ii), and (1)(c) through (1)(e).

29 (3) The fee for a renewal notice, whether collected by a county treasurer, an authorized agent, or the
30 department, must be remitted to the department for deposit in the state general fund.

1 (4) The fee for verification of lawful presence in the United States must be remitted to the department for
 2 deposit in the state general fund."

3

4 **Section 4.** Section 61-12-501, MCA, is amended to read:

5 **"61-12-501. Authority of department to issue identification cards -- lawful presence verification.**

6 (1) The department may issue an identification cards card to any person who maintains a residence in this state
 7 and whose presence in the United States is authorized under federal law.

8 (2) When an applicant who is not a citizen of the United States applies for an identification card, the
 9 department ~~must~~ SHALL verify that the applicant is lawfully present in the United States by using the federal
 10 systematic alien verification for entitlements program."

11

12 **Section 5.** Section 61-12-502, MCA, is amended to read:

13 **"61-12-502. Rules for identification cards.** The department shall formulate and adopt ~~reasonable~~ rules
 14 ~~for the application for and issuing~~ governing the issuance and cancellation of identification cards ~~and cancellation~~
 15 ~~thereof and shall require the furnishing of such information necessary for the purpose of this part that comport~~
 16 with the proof of identify, residence, and authorized presence standards for a driver's license issued under Title
 17 61, chapter 5."

18

19 **Section 6.** Section 61-12-504, MCA, is amended to read:

20 **"61-12-504. Fees for identification cards -- expiration of cards.** (1) (a) Fees not in excess of \$8 for
 21 Except as provided in subsections (1)(b) and (1)(c), the fee for an identification cards card issued pursuant to this
 22 part ~~must be collected and deposited in the general fund~~ is \$9.

23 (b) If the department is required to verify an applicant's lawful presence in the United States using the
 24 federal systematic alien verification for entitlements program, the applicant ~~must~~ SHALL pay a verification fee of
 25 \$2. This fee is in addition to the fee provided for in subsection (1)(a).

26 (c) A person with a disability, as defined in 39-30-103, may obtain a free identification card. An individual
 27 discharged from any correctional facility must be furnished a free identification card upon release, discharge, or
 28 parole.

29 (d) All fees paid under this section must be deposited in the state general fund.

30 (2) (a) Each Except as provided in subsection (2)(b), an identification card expires on the anniversary

1 of the date of birth of the holder 4 years after the date of issue.

2 (b) An identification card issued to a person whose presence in the United States is temporarily
3 authorized under federal laws expires, as determined by the department, no later than the expiration date of the
4 official document issued to the person by the United States citizenship and immigration services of the
5 department of homeland security that authorizes the person's presence in the United States."

6
7 NEW SECTION. Section 7. Repealer. The following section of the Montana Code Annotated is
8 repealed:

9 61-12-503. Agents for issuance of identification cards.

10 - END -