

## 1 HOUSE BILL NO. 367

2 INTRODUCED BY G. MACLAREN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT DELAYING IMPLEMENTATION OF THE MOTOR VEHICLE  
5 LIABILITY INSURANCE VERIFICATION PROGRAM; DELAYING USE OF THE SYSTEM FOR VEHICLE  
6 REGISTRATION PURPOSES UNTIL JANUARY 1, 2013; GRANTING THE DEPARTMENT OF JUSTICE  
7 RULEMAKING AUTHORITY TO DETERMINE A SCHEDULE FOR IMPLEMENTING THE PROGRAM;  
8 AMENDING SECTIONS 61-3-303, 61-3-312, 61-6-105, 61-6-157, AND 61-6-302, MCA; AND PROVIDING AN  
9 IMMEDIATE EFFECTIVE DATE."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12  
13 **Section 1.** Section 61-3-303, MCA, is amended to read:  
14 **"61-3-303. Original registration -- process -- fees.** (1) Except as provided in 61-3-324, a Montana  
15 resident who owns a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways  
16 of this state shall register the motor vehicle, trailer, semitrailer, or pole trailer in the office of the county treasurer  
17 in the county where the owner is domiciled.

18 (2) Except as provided in subsection (3) and subsection (11), the county treasurer shall register any  
19 vehicle for which:

20 (a) as of the date that the motor vehicle, trailer, semitrailer, or pole trailer is to be registered, the owner  
21 delivers an application for a certificate of title to the department, its authorized agent, or a county treasurer; or

22 (b) the county treasurer confirms that the department has an electronic record of title for the motor  
23 vehicle, trailer, semitrailer, or pole trailer as provided under 61-3-101.

24 (3) (a) A county treasurer may register a motor vehicle, trailer, semitrailer, or pole trailer for which a  
25 certificate of title and registration were issued in another jurisdiction and for which registration is required under  
26 61-3-701 after the county treasurer examines the current out-of-jurisdiction registration certificate or receipt and  
27 receives payment of the fees required in 61-3-701. The county treasurer may ask the motor vehicle, trailer,  
28 semitrailer, or pole trailer owner to provide additional information, prescribed by the department, to ensure that  
29 the electronic record of registration maintained by the department is complete.

30 (b) A county treasurer may register a motor vehicle, trailer, semitrailer, or pole trailer for which the new

1 owner cannot, due to circumstances beyond the new owner's control, surrender a previously assigned certificate  
2 of title. The new owner may submit an application for certificate of title, subject to the registration renewal  
3 limitations of 61-3-312.

4 (4) Upon registering a motor vehicle, trailer, semitrailer, or pole trailer for the first time in this state, the  
5 county treasurer shall:

6 (a) update the electronic record of title, if any, maintained for the vehicle by the department under  
7 61-3-101;

8 (b) assign a registration period for the vehicle under 61-3-311;

9 (c) determine the vehicle's age, if required, under 61-3-501;

10 (d) determine the amount of fees, including local option taxes or fees, to be paid under subsection (5);

11 and

12 (e) assign and issue license plates for the vehicle under 61-3-331.

13 (5) Unless otherwise provided by law, a person registering a motor vehicle shall pay to the county  
14 treasurer:

15 (a) the fees in lieu of tax or registration fees as required for:

16 (i) a light vehicle under 61-3-321 or 61-3-562, in addition to, if applicable, any local option tax or fee  
17 under 61-3-537 or 61-3-570;

18 (ii) a motor home under 61-3-321;

19 (iii) a travel trailer under 61-3-321;

20 (iv) a motorcycle or quadricycle under 61-3-321;

21 (v) a bus, a truck having a manufacturer's rated capacity of more than 1 ton, or a truck tractor under  
22 61-3-321 and 61-3-529; or

23 (vi) a trailer under 61-3-321;

24 (b) a donation of \$1 or more if the person indicates that the person wishes to donate to promote  
25 awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact  
26 anatomical gifts; and

27 (c) a donation of \$1 or more if the person indicates that the person wishes to donate to promote  
28 education on, support for, and awareness of traumatic brain injury.

29 (6) The county treasurer may not issue a registration receipt or license plates for the motor vehicle,  
30 trailer, semitrailer, or pole trailer to the owner unless the owner makes the payments required by subsection (5).

1 (7) The department may make full and complete investigation of the registration status of the motor  
2 vehicle, trailer, semitrailer, or pole trailer. A person seeking to register a motor vehicle, trailer, semitrailer, or pole  
3 trailer under this section shall provide additional information to support the registration to the department if  
4 requested.

5 (8) Revenue that accrues from the voluntary donation provided in subsection (5)(b) must be forwarded  
6 by the respective county treasurer to the department for deposit in the state special revenue fund to the credit  
7 of an account established by the department of public health and human services to support activities related to  
8 awareness and education efforts for procurement of organ and tissue donations for anatomical gifts.

9 (9) (a) Except as provided in subsection (9)(b), the fees in lieu of tax, taxes, and fees imposed on or  
10 collected from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, semitrailer, or pole trailer  
11 that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the  
12 travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is owned by the same person who  
13 registered the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer. Once registered, a travel  
14 trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is registered permanently unless ownership is  
15 transferred.

16 (b) Whenever ownership of a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is  
17 transferred, the new owner is required to register the travel trailer, motorcycle, quadricycle, trailer, semitrailer,  
18 or pole trailer as if it were being registered for the first time, including paying all of the required fees in lieu of tax,  
19 taxes, and fees.

20 (10) Revenue that accrues from the voluntary donation provided in subsection (5)(c) must be forwarded  
21 by the respective county treasurer to the department for deposit in the state special revenue fund to the credit  
22 of the account established in 2-15-2218 to support activities related to education regarding prevention of traumatic  
23 brain injury.

24 (11) Beginning ~~July 1, 2014~~ January 1, 2013, the county treasurer shall use the online motor vehicle  
25 liability insurance verification system provided in 61-6-157 to verify that the vehicle owner has complied with the  
26 requirements of 61-6-301. ~~Unless the verification system is temporarily unavailable, the county treasurer may not~~  
27 ~~issue license plates to a motor vehicle when compliance with 61-6-301 cannot be verified."~~

28  
29 **Section 2.** Section 61-3-312, MCA, is amended to read:  
30 **"61-3-312. Renewal of registration -- exceptions -- grace period.** (1) Except as provided in 61-3-313

1 and 61-3-721, the registration of a motor vehicle under this chapter must be renewed on or before the last day  
2 of the month of the motor vehicle's registration period following the expiration of the motor vehicle's registration.

3 (2) Except as provided in subsection (4), a person may renew a motor vehicle's registration by submitting  
4 full payment for the fees or taxes required under 61-3-303 and 61-3-321(12) to the department, an authorized  
5 agent, or a county treasurer in any county of this state.

6 (3) The department, an authorized agent, or a county treasurer may use the online motor vehicle liability  
7 insurance verification system provided in 61-6-157 to verify proof of compliance with 61-6-301.

8 (4) Beginning ~~July 1, 2014~~ January 1, 2013, and except when the verification system is temporarily  
9 unavailable, a registration may not be renewed when compliance with 61-6-301 cannot be determined using the  
10 verification system.

11 (5) Except as provided in 61-3-315, the registration period originally assigned under 61-3-311 must be  
12 retained and the duration of the renewed registration is determined in accordance with 61-3-311. A registration  
13 receipt is valid for the registration period for which it is issued.

14 (6) The owner of a motor vehicle subject to registration renewal under the provisions of this section is  
15 considered to have renewed the motor vehicle's registration in a timely manner if the owner submits full payment  
16 for the required fees or taxes, as prescribed in the mail renewal notice from the department, to the department,  
17 an authorized agent, or a county treasurer on or before the last day of the month of the motor vehicle's  
18 registration period and ~~if, beginning July 1, 2014,~~ the department, authorized agent, or county treasurer  
19 determines the owner is in compliance with 61-6-301 using the verification system provided in 61-6-157.

20 (7) The department, an authorized agent, or a county treasurer may not renew the registration of a motor  
21 vehicle for which ownership has been transferred and that was originally registered without being titled under the  
22 provisions of 61-3-303(3)(b) unless:

23 (a) the previously issued certificate of title has been surrendered to the department, an authorized agent,  
24 or the county treasurer and the process for issuing a certificate of title has been completed; or

25 (b) the person to whom ownership of the motor vehicle has been transferred presents an affidavit and  
26 bond in support of the application for a certificate of title as permitted in 61-3-208."  
27

28 **Section 3.** Section 61-6-105, MCA, is amended to read:

29 **"61-6-105. Department to administer law and make rules.** (1) The department shall administer and  
30 enforce the provisions of this part and may make rules necessary for the administration of the system.

1 (2) The rules must:

2 (a) establish standards and procedures for accessing the system by authorized personnel of the  
3 department, the courts, law enforcement personnel, and any other entities authorized by the department that are  
4 consistent with specifications and standards of the insurance industry committee on motor vehicle administration  
5 and other applicable industry standards;

6 (b) determine a schedule for the implementation of the system, subject to the testing requirements in  
7 61-6-157 and the time requirements in 61-3-303 and 61-3-312;

8 ~~(b)~~(c) provide for the suspension of a vehicle's registration when:

9 (i) a person fails to respond to a written inquiry from the department or its designee concerning the  
10 insurance status of a vehicle;

11 (ii) a person misrepresents or provides false information to the department or its designee regarding the  
12 operational status or use of a vehicle for which liability insurance is mandatory;

13 (iii) the department has reason to believe that a vehicle owner is not complying with the mandatory liability  
14 insurance requirements of 61-6-301; or

15 (iv) the department receives a report from a court that a person has been convicted of a violation of  
16 61-6-301 or 61-6-302 and the surrender of the vehicle registration receipt and license plates under 61-6-304 has  
17 been ordered;

18 ~~(c)~~(d) prohibit the reinstatement of a vehicle's registration and the new registration of a vehicle unless  
19 the applicable reinstatement fees have been paid;

20 ~~(d)~~(e) set a fee for the reinstatement of a vehicle's registration following a suspension imposed by the  
21 department. The fee may not exceed \$100 and is in addition to any other fine or penalty prescribed by the law.

22 ~~(e)~~(f) provide for periodic insurance data file transfers from insurers under specifications and standards  
23 set forth in 61-6-157 to identify vehicles that are not covered by an insurance policy and to monitor ongoing  
24 compliance with mandatory vehicle liability insurance requirements;

25 ~~(f)~~(g) provide for random checks to identify vehicles that are not covered by an insurance policy; and

26 ~~(g)~~(h) provide for a hearing for a person aggrieved by a suspension order issued by the department  
27 under the provisions of this part.

28 (3) The department may adopt additional rules to:

29 (a) assist authorized users in interpreting responses received from the system and determining the  
30 appropriate action to be taken as a result of a response; and

1 (b) otherwise clarify system operations and business rules."

2

3 **Section 4.** Section 61-6-157, MCA, is amended to read:

4 **"61-6-157. Creation of online motor vehicle liability insurance verification system.** (1) The  
5 department, in cooperation with the commissioner of insurance, shall establish an accessible common  
6 carrier-based motor vehicle insurance verification system to verify the compliance of a motor vehicle owner or  
7 operator with motor vehicle liability policy requirements under 61-6-103, 61-6-301, and 61-6-302 and facilitate  
8 or monitor proof of financial responsibility filings under 61-6-133 and 61-6-134.

9 (2) The department may contract with a private vendor or vendors to establish and maintain the system.

10 (3) The system must:

11 (a) send requests to insurers for verification of motor vehicle liability insurance using electronic services  
12 established by the insurers, through the internet, world wide web, or a similar proprietary or common carrier  
13 electronic system in compliance with the specifications and standards of the insurance industry committee on  
14 motor vehicle administration and other applicable industry standards;

15 (b) include appropriate provisions to secure its data against unauthorized access and to maintain a  
16 record of all requests and responses;

17 (c) be accessible, without fee, to authorized personnel of the department, the courts, law enforcement  
18 personnel, county treasurers, and authorized agents under the provisions of 61-3-116;

19 (d) interface, wherever possible, with existing department and law enforcement systems;

20 (e) receive insurance data file transfers from insurers under specifications and standards set forth in  
21 subsection (3)(a) to identify vehicles that are not covered by an insurance policy;

22 (f) provide a means by which low-volume insurers that are unable to deploy an online interface with the  
23 system can report insurance policy data to the department or its designee for inclusion in the system;

24 (g) provide a means to track separately or distinguish motor vehicles that are subject to a certificate of  
25 self-insurance under 61-6-143, a surety or indemnity bond under 61-6-137 or 61-6-301, or a deposit of cash or  
26 securities under 61-6-138;

27 (h) be available 24 hours a day, 7 days a week, subject to reasonable allowances for scheduled  
28 maintenance or temporary system failures, to verify the insurance status of any vehicle in a manner prescribed  
29 by the department; and

30 (i) be ~~installed and operational no later than July 1, 2011, following~~ used only for information-gathering

1 and educational purposes until the completion of an appropriate testing period of not less than 6 months.

2 (4) The provisions of Title 2, chapter 6, parts 1 and 2, do not apply to the information contained in the  
3 verification system.

4 (5) Every insurer shall cooperate with the department in establishing and maintaining the system and  
5 shall provide access to motor vehicle liability policy status information to verify liability coverage:

6 (a) for a vehicle insured by that company that is registered in this state; and

7 (b) if available, for a vehicle that is insured by that company or that is operated in this state and that is  
8 the subject of an accident investigation regardless of where the vehicle is registered."

9

10 **Section 5.** Section 61-6-302, MCA, is amended to read:

11 **"61-6-302. Proof of compliance.** (1) The registration receipt required by 61-3-322 must contain a  
12 statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate the vehicle  
13 without a valid motor vehicle liability insurance policy, a certificate of self-insurance, or a posted indemnity bond,  
14 as required by 61-6-301.

15 (2) Each owner or operator of a motor vehicle shall carry in the motor vehicle an insurance card  
16 approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of  
17 compliance with 61-6-301. If the card is issued under a commercial automobile insurance policy or a self-insured  
18 fleet, the card must indicate the status as "commercially insured" or "fleet". A motor vehicle owner or operator  
19 shall exhibit the insurance card upon demand of a justice of the peace, a city or municipal judge, a peace officer,  
20 a highway patrol officer, or a field deputy or inspector of the department. A person commits an offense under this  
21 subsection if the person fails to carry the insurance card in a motor vehicle or fails to exhibit the insurance card  
22 upon demand of a person specified in this subsection.

23 ~~(3) Beginning July 1, 2011, a person charged with violating subsection (2) may not be convicted if:~~

24 ~~—— (a) the arresting officer or another person authorized to access information from the online motor vehicle~~  
25 ~~liability insurance verification system under 61-6-309 submits to the system a request that provides proof of~~  
26 ~~insurance valid at the time of arrest; or~~

27 ~~—— (b) if the system under 61-6-157 is not available, the person produces in court or the office of the~~  
28 ~~arresting officer proof of insurance valid at the time of arrest.~~

29 ~~(4)~~(3) In lieu of charging an operator who is not the owner of a vehicle with violating subsection (2), the  
30 officer may issue a complaint and notice to appear charging the owner with a violation of 61-6-301 and serve the

1 complaint and notice to appear on the owner of the vehicle:

2 (a) personally; or

3 (b) by certified mail, return receipt requested, at the address for the owner listed on the registration  
4 receipt for the vehicle or, following query through available law enforcement systems, at the address maintained  
5 for the vehicle's owner by the jurisdiction in which the vehicle is titled and registered, or both.

6 (4) An owner or operator charged with violating subsection (2) may not be convicted if:

7 (a) the arresting officer or another person authorized to access information from the online motor vehicle  
8 liability insurance verification system under 61-6-309 submits to the system, when implemented, a request that  
9 provides proof of insurance valid at the time of arrest; or

10 (b) if the system under 61-6-157 is not available, the person produces in court or the office of the  
11 arresting officer proof of insurance valid at the time of arrest."

12

13 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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- END -