

SENATE BILL NO. 314

INTRODUCED BY D. WANZENRIED

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING DRIVER LICENSING LAWS; AUTHORIZING DRIVER'S TEST WAIVERS PURSUANT TO A RECIPROCITY AGREEMENT WITH A FOREIGN COUNTRY; CLARIFYING PROCEDURES FOR ANATOMICAL GIFT OR LIVING WILL DECLARATIONS ON DRIVER'S LICENSES AND IDENTIFICATION CARDS; CLARIFYING REPORTING STANDARDS FOR TRAFFIC CONVICTIONS; AMENDING SECTIONS 61-5-110, 61-5-301, AND 61-11-101, MCA; AND PROVIDING EFFECTIVE DATES."

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

**Section 1.** Section 61-5-110, MCA, is amended to read:

**"61-5-110. Records check of applicants -- examination of applicants -- cooperative driver testing programs -- reciprocal agreement with foreign country.** (1) Prior to examining an applicant for a driver's license, the department shall conduct a check of the applicant's driving record by querying the national driver register, established under 49 U.S.C. 30302, and the commercial driver's license information system, established under 49 U.S.C. 31309.

(2) (a) The department shall examine each applicant for a driver's license or motorcycle endorsement, except as otherwise provided in this section. The examination must include a test of the applicant's eyesight, a knowledge test examining the applicant's ability to read and understand highway signs and the applicant's knowledge of the traffic laws of this state, and, except as provided in 61-5-118, a road test or a skills test demonstrating the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle or motorcycle. The road test or skills test must be performed by the applicant in a motor vehicle that the applicant certifies is representative of the class and type of motor vehicle for which the applicant is seeking a license or endorsement.

(b) The knowledge test, road test, or skills test may be waived by the department ~~upon~~:

(i) upon certification of the applicant's successful completion of the test by a certified cooperative driver testing program; as provided in subsection (3) or by a certified third-party commercial driver testing program as provided in 61-5-118; or



1           (ii) in accordance with a driver's license reciprocity agreement between the department and a foreign  
2 country.

3           (3) The department is authorized to certify as a cooperative driver testing program any state-approved  
4 high school traffic education course offered by or in cooperation with a school district that employs an approved  
5 instructor who has current endorsement from the superintendent of public instruction as a teacher of traffic  
6 education or any motorcycle safety training course approved by the board of regents and that employs an  
7 approved instructor of motorcycle safety training and who agrees to:

8           (a) administer standardized knowledge and road tests or skills tests required by the department to  
9 students participating in the district's high school traffic education courses or motorcycle safety training courses  
10 approved by the board of regents;

11           (b) certify the test results to the department; and

12           (c) comply with regulations of the department, the superintendent of public instruction, and the board of  
13 regents.

14           (4) (a) Except as otherwise provided by law, ~~a resident~~ an applicant who has a valid driver's license  
15 issued by another jurisdiction may surrender that license for a Montana license of the same class, type, and  
16 endorsement upon payment of the required fees and successful completion of a vision examination. In addition,  
17 ~~a resident~~ an applicant surrendering a commercial driver's license issued by another jurisdiction shall successfully  
18 complete any examination required by federal regulations before being issued a commercial driver's license by  
19 the department.

20           (b) The department may require an applicant who surrenders a valid driver's license issued by another  
21 jurisdiction to submit to a knowledge and road or skills test if:

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

25           (ii) the surrendered license does not include readily discernible adaptive equipment or operational  
26 restrictions appropriate to the applicant's functional abilities; or

27           (iii) the applicant wants to remove or modify a restriction imposed on the surrendered license.

28           (c) When a license from another jurisdiction is surrendered, the department shall notify the issuing  
29 agency from the other jurisdiction that the applicant has surrendered the license. If the applicant wants to retain  
30 the license from another jurisdiction for identification or other nondriving purposes, the department shall place

1 a distinctive mark on the license, indicating that the license may be used for nondriving purposes only, and return  
2 the marked license to the applicant.

3 (5) The department may enter into a reciprocity agreement with a foreign country to provide for the  
4 mutual recognition and exchange of a valid driver's license issued by this state or the foreign country if the  
5 department determines that the licensing standards of the foreign country are comparable to those of this state.  
6 The agreement may not include the reciprocal exchange of a commercial driver's license."

7

8 **Section 2.** Section 61-5-301, MCA, is amended to read:

9 **"61-5-301. Indication on driver's license or identification card of intent to make anatomical gift**  
10 **or of living will declaration.** (1) ~~The department of justice shall provide on each~~ An application furnished by the  
11 department for the issuance or renewal of a driver's license under this chapter or for the issuance of an  
12 identification card under Title 61, chapter 12, part 5, must include spaces for indicating when the licensee has:

13 (a) executed a document under 72-17-201 of intent to make a gift of all or part of the driver's body under  
14 the Uniform Anatomical Gift Act; or

15 (b) executed a declaration under 50-9-103 relating to the use of life-sustaining treatment.

16 (2) The department shall provide each applicant, ~~at the time of application for a new~~ when applying for  
17 or renewing a driver's license or for a renewal when applying for an identification card, printed information calling  
18 the applicant's attention to the provisions of this section. Each applicant must be asked orally if the applicant  
19 wishes to make an anatomical gift and if the applicant has executed the declaration under 50-9-103 relating to  
20 the use of life-sustaining treatment.

21 (3) Each applicant must be given an opportunity to indicate in the spaces provided under subsection (1)  
22 the applicant's intent to make an anatomical gift or that the applicant has executed the declaration under 50-9-103  
23 relating to the use of life-sustaining treatment.

24 (4) The department shall issue to each applicant who indicates an intent to make an anatomical gift a  
25 statement that, when signed by the licensee in the manner prescribed in 72-17-201, constitutes a document of  
26 anatomical gift. ~~This statement must be printed on a sticker that the donor may attach permanently to the back~~  
27 If an applicant signs a statement under this subsection, a symbol indicating that the donor has made an  
28 anatomical gift must be imprinted on the face of the donor's driver's license or identification card.

29 (5) The department shall electronically transfer the information of all persons who volunteer, upon  
30 application for a driver's license or an identification card, to donate organs or tissue to the organ and tissue

1 donation registry created in 72-17-105 and 72-17-106 and any subsequent changes to the applicant's donor  
2 status."

3

4 **Section 3.** Section 61-11-101, MCA, is amended to read:

5 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender**

6 **of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory  
7 the suspension or revocation of the driver's license or commercial driver's license of the person by the  
8 department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then  
9 held by the convicted person. The court shall, within 5 days after the conviction ~~becomes final~~, forward the license  
10 and a record of the conviction to the department. If the person does not possess a driver's license, the court shall  
11 indicate that fact in its report to the department.

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

18 (3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any  
19 action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication  
20 upon which it is based to the department within 5 days on forms furnished by the department.

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

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

23 ~~—— (b) forfeiture of bail that is not vacated; or~~

24 ~~—— (c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended~~  
25 ~~execution of a sentence.~~

26 ~~(5)~~(4) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's  
27 license or who is required to hold a commercial driver's license, a court may not take any action, including  
28 deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control  
29 law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's  
30 driving record. The provisions of this subsection ~~(5)(a)~~ (4)(a) apply only to the conviction of a person who holds

1 a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the  
2 conviction of a person who holds any other type of driver's license.

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

7 ~~(6)~~(5) (a) If a person who holds a valid registry identification card issued pursuant to 50-46-307 or  
8 50-46-308 is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs  
9 when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410,  
10 the court in which the conviction occurs shall require the person to surrender the registry identification card.

11 (b) Within 5 days after the conviction becomes final, the court shall forward the registry identification card  
12 and a copy of the conviction to the department of public health and human services."

13  
14 **NEW SECTION. Section 4. Effective dates.** (1) Except as provided in subsection (2), [this act] is  
15 effective on passage and approval.

16 (2) [Section 3] is effective October 1, 2013.

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