

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A PROCESS FOR REMOVAL OF OBSTRUCTIONS
7 ON A HIGHWAY FOLLOWING A MOTOR VEHICLE ACCIDENT; PROVIDING FOR RESTORATION OF FLOW
8 OF TRAFFIC ON THE HIGHWAY AS QUICKLY AND SAFELY AS POSSIBLE; REQUIRING THE LAW
9 ENFORCEMENT OFFICER WHO IS CHARGED WITH COMPLETING AN ACCIDENT REPORT TO
10 DETERMINE WHEN TO DIRECT REMOVAL OF THE OBSTRUCTIONS; PROVIDING IMMUNITY FROM SUIT
11 FOR DAMAGE THAT MIGHT OCCUR IN REMOVING OBSTRUCTIONS; REQUIRING THAT OWNERS OF
12 CARGO BE CONTACTED FOR SALVAGE PURPOSES UNDER CERTAIN CIRCUMSTANCES; AND
13 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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17 **NEW SECTION. Section 1. Post-accident roadway clearance -- determination of removal of**
18 **obstructions -- immunity.** (1) If an accident, as defined in 61-7-101, results in a vehicle, personal property, or
19 spilled vehicle cargo obstructing the safe use of a travel lane of one or more lanes of a highway, road, or street,
20 the procedures provided in this section must be followed to safely restore traffic flow as quickly as possible.

21 (2) If an accident results in injury to a person, the emergency responder who is first at the accident shall
22 take any measures that are necessary to secure the accident site, including necessary traffic control, in order to
23 provide emergency care to the injured person.

24 (3) The law enforcement officer who is charged with investigating an accident pursuant to this chapter,
25 whether or not the accident resulted in injuries, shall, in consultation with the emergency responders and any
26 employees of the department of transportation who are at the site:

27 (a) determine when it is safe to move or remove any vehicles, property, or vehicle cargo obstructing the
28 safe use of a highway, road, or street in order to restore traffic movement; and

29 (b) direct that the highway, road, or street be cleared of the obstruction.

30 (4) A law enforcement officer who makes the determination under subsection (3) to direct movement or



1 removal of vehicles, property, or vehicle cargo from a highway, road, or street to restore the safe and efficient
2 movement of traffic after an accident and any emergency responder who assists in movement or removal are
3 immune from suit for any damages to the vehicle, property, or vehicle cargo arising from the movement or
4 removal.

5 (5) A person, firm, or company responsible for movement or removal of a vehicle, property, or vehicle
6 cargo under the direction of the law enforcement officer under subsection (3) is immune from suit for any
7 damages to the vehicle, property, or vehicle cargo arising from the movement or removal, provided that
8 reasonable care is taken in moving or removing the obstructions.

9 (6) If the accident involves a commercial motor vehicle and if cargo from that motor vehicle is obstructing
10 the highway, road, or street, the law enforcement officer who is charged with investigating the accident or the
11 officer's designee shall make a reasonable effort to contact the entity responsible for the cargo to allow for
12 salvage of the cargo. Cargo may not continue to obstruct the highway, road, or street after the determination to
13 remove obstructions under subsection (3) is made.

14 (7) For the purposes of this section, "emergency responder" means an individual from the department
15 of transportation, a public safety agency, or a private entity acting under a request from or authority granted by
16 a government agency, including law enforcement, firefighting, ambulance or medical, hazardous material incident
17 response teams, and civil defense, who provides services in an emergency situation or at the scene of an
18 accident.

19 (8) The provisions of Title 61, chapter 12, part 4, except the time limits imposed in 61-12-401, apply to
20 a vehicle removed as provided in this section.

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22 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
23 integral part of Title 61, chapter 7, and the provisions of Title 61, chapter 7, apply to [section 1].

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25 **NEW SECTION. Section 3. Two-thirds vote required.** Because [section 1] limits governmental liability,
26 Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of
27 the legislature for passage. If [this act] is not approved by at least two-thirds of the members of each house of
28 the legislature, then [this act] is void.

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30 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

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