

SENATE BILL NO. 93

INTRODUCED BY P. CONNELL

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A RESTRICTED-USE DRIVING PERMIT; ALLOWING A PERSON WHO MAY NOT BE ISSUED A DRIVER'S LICENSE UNDER THE INTERSTATE DRIVER LICENSE COMPACT TO ~~APPLY~~ PETITION A DISTRICT COURT FOR A RESTRICTED-USE DRIVING PERMIT; PROVIDING ELIGIBILITY REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 61-5-105 AND 61-5-212, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Restricted-use driving permit -- conditions -- definitions. (1) A person who, pursuant to 61-5-105(2), may not be issued a driver's license due to an ineligible status reported by another state to the national driver register may ~~apply to the department~~ PETITION THE DISTRICT COURT OF THE COUNTY IN WHICH THE PERSON RESIDES for a restricted-use driving permit for use only within the state of Montana if:

(a) the person has maintained continuous residence in Montana for at least 5 years and is not otherwise ineligible for a license under 61-5-105;

(b) the person submits a certified driving record from the licensing agency of each state that has reported the person's status as ineligible to the national driver register that shows that at least 5 years have elapsed from the effective date of the most recent withdrawal of the person's driver's license or driving privileges by the other state or states;

(c) for the 5-year period immediately preceding application for a restricted-use driving permit, the person has not been convicted ~~of a traffic violation or any crime in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime, including but not limited to driving under the influence of alcohol or dangerous drugs~~ IN ANY JURISDICTION OF A FELONY OR MISDEMEANOR OFFENSE;

(d) the person certifies that no traffic citations or alcohol-related or drug-related criminal charges are currently pending against the person;

(e) the person certifies that a good faith effort was made to resolve the person's ineligible status through the licensing agency of each state or states that reported the person's status as ineligible to the national driver register, including the payment of any pending fees or fines; and



1 (f) the person provides any other information required by department rule.

2 (2) The department may adopt rules to determine the process for issuance, withdrawal, and monitoring
3 of a restricted-use driving permit. The department may issue a restricted-use driving permit only to a person who
4 satisfies all of the requirements of this section AS DETERMINED BY A DISTRICT COURT PURSUANT TO SUBSECTION (1).
5 A person who is issued a restricted-use driving permit may use it only for an essential driving purpose AS DEFINED
6 BY THE DEPARTMENT.

7 (3) For purposes of this section, the following definitions apply:

8 ~~(a) "Essential driving purpose" means driving:~~

9 ~~—— (i) directly to and from the person's residence and the person's place of regular employment;~~

10 ~~—— (ii) to and from the person's residence in search of employment;~~

11 ~~—— (iii) during work hours at the specific direction of the person's employer to carry out job-related functions;~~

12 ~~—— (iv) directly to and from the person's residence and a school or educational institution in which the person
13 or a dependent family member is enrolled, but only during time periods immediately before or after regular school
14 hours and not for extracurricular activities;~~

15 ~~—— (v) to and from the person's residence to carry out functions essential to maintenance of the household;~~

16 ~~—— (vi) directly to and from the person's residence for a court-ordered chemical dependency assessment,
17 education course, or treatment program, if any; or~~

18 ~~—— (vii) directly to and from the person's residence to participate in any sobriety program in which the person
19 is actively enrolled.~~

20 ~~(b)(A)~~ "Most recent withdrawal" means the suspension, revocation, or denial of a driver's license or
21 driving privilege underlying a current ineligible status report made by another state's licensing agency to the
22 national driver register.

23 ~~(c)(B)~~ "National driver register" means the registry established under 49 U.S.C. 30302.

24 ~~(d)(C)~~ "Restricted-use driving permit" means a paper document authorizing a person to drive within this
25 state for essential driving purposes only that is issued by the department to a person whose status on the national
26 driver register is reported as ineligible to operate a motor vehicle other than a commercial motor vehicle.

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28 **Section 2.** Section 61-5-105, MCA, is amended to read:

29 **"61-5-105. Who may not be licensed.** The department may not issue a license under this chapter to
30 a person:

- 1 (1) who is under 16 years of age unless:
- 2 (a) the person is at least 15 years of age and has passed a driver's education course approved by the
3 department and the superintendent of public instruction; or
- 4 (b) the person is at least 13 years of age and, because of individual hardship, to be determined by the
5 department, needs a restricted license;
- 6 (2) whose license or driving privilege is currently suspended, revoked, or canceled, except as provided
7 in [section 1], or who is disqualified from operating a commercial motor vehicle in this or any state, as evidenced
8 by an ineligible status report from the national driver register, established under 49 U.S.C. 30302, or from the
9 commercial driver's license information system, established under 49 U.S.C. 31309;
- 10 (3) who is addicted to the use of alcohol or narcotic drugs;
- 11 (4) who has previously been adjudged to be afflicted with or suffering from any mental disability or
12 disease and who, at the time of application, has not been restored to competency by the methods provided by
13 law;
- 14 (5) who is required by this chapter to take an examination;
- 15 (6) who has not deposited proof of financial responsibility when required under the provisions of chapter
16 6 of this title;
- 17 (7) who has any condition characterized by lapse of consciousness or control, either temporary or
18 prolonged, that is or may become chronic. However, the department may, in its discretion, issue a license to an
19 otherwise qualified person suffering from a condition if the afflicted person's attending physician, licensed
20 physician assistant, or advanced practice registered nurse, as defined in 37-8-102, attests in writing that the
21 person's condition has stabilized and would not be likely to interfere with that person's ability to operate a motor
22 vehicle safely and, if a commercial driver's license is involved, the person is physically qualified to operate a
23 commercial motor vehicle under applicable state or federal regulations;_
- 24 (8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate
25 a motor vehicle on the highway;
- 26 (9) who is not a resident of or domiciled in Montana except as provided in 61-5-103(3); or
- 27 (10) whose presence in the United States is not authorized under federal law. When an applicant who
28 is not a citizen of the United States applies for a driver's license, the department shall verify that the applicant is
29 lawfully present in the United States by using the federal systematic alien verification for entitlements program.
30 The department may not accept a driver's license issued by another state as proof that an applicant is lawfully

1 present in the United States under federal law."

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3 **Section 3.** Section 61-5-212, MCA, is amended to read:

4 **"61-5-212. Driving while license suspended or revoked -- penalty -- second offense of driving**
5 **without valid license or licensing exemption -- seizure of vehicle or rendering vehicle inoperable.** (1) (a)

6 A person commits the offense of driving a motor vehicle without a valid license or without statutory exemption or
7 during a suspension or revocation period if the person drives:

8 (i) a motor vehicle on any public highway of this state at a time when the person's privilege to drive or
9 apply for and be issued a driver's license is suspended or revoked in this state or any other state unless the
10 person has obtained a restricted-use driving permit under [section 1];

11 (ii) a commercial motor vehicle while the person's commercial driver's license is revoked, suspended,
12 or canceled in this state or any other state or the person is disqualified from operating a commercial motor vehicle
13 or from obtaining a commercial driver's license; or

14 (iii) a motor vehicle on any public highway of this state without possessing a valid driver's license, as
15 provided in 61-5-102, or without proof of a statutory exemption, as provided in 61-5-104.

16 (b) (i) Except as provided in subsection (1)(b)(ii), a person convicted of the offense of driving a motor
17 vehicle without a valid driver's license or without proof of a statutory exemption for the second time or driving
18 during a suspension or revocation period shall be punished by imprisonment for not less than 2 days or more than
19 6 months and may be fined not more than \$500.

20 (ii) If the reason for the suspension or revocation was that the person was convicted of a violation of
21 61-8-401, 61-8-406, or 61-8-411 or a similar offense under the laws of any other state or the suspension was
22 under 61-8-402 or 61-8-409 or a similar law of any other state for refusal to take a test for alcohol or drugs
23 requested by a peace officer who believed that the person might be driving under the influence, the person shall
24 be punished by imprisonment for a term of not less than 2 days or more than 6 months or a fine not to exceed
25 \$2,000, or both, and in addition, the court may order the person to perform up to 40 hours of community service.

26 (2) (a) Upon receiving a record of the conviction of any person under this section upon a charge of driving
27 a noncommercial vehicle while the person's driver's license, privilege to drive, or privilege to apply for and be
28 issued a driver's license was suspended or revoked, the department shall extend the period of suspension or
29 revocation for an additional 1-year period.

30 (b) Upon receiving a record of the conviction of any person under this section upon a charge of driving

1 a commercial motor vehicle while the person's commercial driver's license was revoked, suspended, or canceled
2 or the person was disqualified from operating a commercial motor vehicle under federal regulations, the
3 department shall suspend the person's commercial driver's license in accordance with 61-8-802.

4 (3) The vehicle owned and operated at the time of an offense under this section by a person whose
5 driver's license is suspended for violating the provisions of 61-8-401, 61-8-402, 61-8-406, 61-8-409, 61-8-410,
6 or 61-8-411 must, upon a person's first conviction, be seized or rendered inoperable by the county sheriff of the
7 convicted person's county of residence for a period of 30 days.

8 (4) The sentencing court shall order the action provided for under subsection (3) and shall specify the
9 date on which the vehicle is to be returned or again rendered operable. The vehicle must be seized or rendered
10 inoperable by the sheriff within 10 days after the conviction.

11 (5) A convicted person is responsible for all costs associated with actions taken under subsection (3).
12 Joint ownership of the vehicle with another person does not prohibit the actions required by subsection (3) unless
13 the sentencing court determines that those actions would constitute an extreme hardship on a joint owner who
14 is determined to be without fault.

15 (6) A court may not suspend or defer imposition of penalties provided by this section."
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17 **NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an
18 integral part of Title 61, chapter 5, and the provisions of Title 61, chapter 5, apply to [section 1].

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20 **NEW SECTION. Section 5. Effective date.** [This act] is effective July 1, 2015.

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