

HOUSE BILL NO. 68  
INTRODUCED BY C. KAUFMANN  
BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING ROADWAYS; REVISING LAWS GOVERNING CERTAIN FOREST ROADS; REQUIRING OBEDIENCE TO THE TRAFFIC DIRECTION OF FLAG PERSONS AND CROSSING GUARDS; DEFINING "NATIONAL FOREST SYSTEM ROAD" AND AMENDING THE DEFINITION OF "SPECIAL SERVICE ROAD"; CLARIFYING WHEN STATE LAW APPLIES AND WHO HAS JURISDICTION ON NATIONAL FOREST SYSTEM ROADS AND SPECIAL SERVICE ROADS; AND AMENDING SECTIONS 23-2-821, 61-5-104, 61-8-102, 61-8-105, 61-8-110, 61-8-111, AND 61-8-112, MCA."

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

**Section 1.** Section 23-2-821, MCA, is amended to read:

**"23-2-821. Off-highway crossings of public roads -- use of certain national forest development system roads.** (1) Except as provided in subsection (2), an off-highway vehicle may make a direct crossing of a public road when the crossing is necessary to get to another authorized area of operation. The crossing must be made at an angle of approximately 90 degrees to the direction of traffic at a place where no obstruction prevents a quick and safe crossing. The off-highway vehicle must make a complete stop before entering upon any part of the traffic way, and the operator shall yield the right-of-way to all oncoming traffic.

(2) An off-highway vehicle may not be operated on or across a highway that is part of the federal-aid interstate system.

(3) An off-highway vehicle may be operated on or across a national forest development system road in this state, as defined in 61-8-110, if the road has been designated and approved for off-highway vehicle use by the United States forest service."

**Section 2.** Section 61-5-104, MCA, is amended to read:

**"61-5-104. Exemptions.** (1) The following persons are exempt from licensure under this chapter:

(a) a person who is a member of the armed forces of the United States while operating a motor vehicle owned by or leased to the United States government and being operated on official business;

(b) a person who is a member of the armed forces of the United States on active duty in Montana who holds a valid license issued by another state and the spouse of the person who holds a valid license issued by another state and who is not employed in Montana, except as a member of the armed forces. If a spouse of a member of the armed forces becomes gainfully employed in Montana, the spouse must be licensed, as required by 61-5-102, within 90 days of becoming employed.

(c) a person on active duty in the armed forces of the United States and in immediate possession of a valid license issued to that person in a foreign country by the armed forces of the United States, for a period of 45 days from the date of the person's return to the United States;

(d) a person who temporarily drives, operates, or moves a road machine, farm tractor, or implement of husbandry for use in intrastate commerce on a highway;

(e) a person who is a locomotive engineer, assistant engineer, conductor, brake tender, railroad utility person, or other member of the crew of a railroad locomotive or train being operated upon rails, including operation on a railroad crossing a public street, road, or highway. A person employed as described in this subsection is not required to display a driver's license to a law enforcement officer in connection with the operation of a railroad locomotive or train within Montana.

(f) a person who temporarily drives, operates, or moves an off-highway vehicle, as defined in 23-2-801, on a national forest development system road in this state, as defined in 61-8-110, that has been designated and approved for off-highway vehicle use by the United States forest service if the person:

(i) is under 16 years of age but at least 12 years of age; and

(ii) at the time of driving, operating, or moving the off-highway vehicle, has in the person's possession a certificate showing the successful completion of an off-highway vehicle safety education course approved by the department of fish, wildlife, and parks and is in the physical presence of a person who possesses a license issued under this chapter.

(2) A nonresident who is at least 15 years of age and who is in immediate possession of a valid operator's license issued to the nonresident by the nonresident's home state or country may operate a motor vehicle, except a commercial motor vehicle, in this state.

(3) A nonresident who is in immediate possession of a valid commercial driver's license issued to the nonresident by the nonresident's home jurisdiction, in accordance with the licensing and testing standards of 49 CFR, part 383, may operate a commercial motor vehicle in this state.

(4) A nonresident who is at least 18 years of age, whose home state or country does not require the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than 90 days

in any calendar year, if the motor vehicle is registered in the home state or country of the nonresident.

(5) A driver's license issued under this chapter to a person who enters the United States armed forces, if valid and in effect at the time that the person enters the service, continues in effect so long as the service continues, unless the license is suspended, revoked, or canceled for a cause as provided by law, and for up to 30 days following the date on which the licensee is honorably separated from the service. During the 30-day period, the license is valid only when the license and the licensee's discharge, separation, leave, or furlough papers are in the licensee's immediate possession."

**Section 3.** Section 61-8-102, MCA, is amended to read:

**"61-8-102. Uniformity of interpretation.** ~~This Interpretation of this chapter shall in this state must be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it as consistent as possible with the interpretation of similar laws in other states."~~

**Section 4.** Section 61-8-105, MCA, is amended to read:

**"61-8-105. Obedience to peace officers, highway patrol officers, flag persons, crossing guards, and public safety workers.** A person may not willfully fail or refuse to comply with a lawful order or direction of a peace officer, ~~highway patrol officer,~~ flag person, crossing guard, or public safety worker pertaining to the use of the highways by traffic. For purposes of this section:

(1) "peace officer" has the meaning provided in 7-32-303; and

(2) "public safety worker" means a person who is authorized to provide assistance at the scene of an incident that requires traffic control and who is either a member of a paid or volunteer fire department, an emergency medical service provider, a member of a search and rescue team, or a civilian accident investigator appointed by a law enforcement agency."

**Section 5.** Section 61-8-110, MCA, is amended to read:

**"61-8-110. Forest development National forest system road, special service road defined.** For the ~~purpose~~ purposes of 61-8-111 and 61-8-112 ~~a~~ the following definitions apply:

(1) ~~"forest development "~~"National forest system road" is defined as means a classified forest road that ~~is:~~

(a) under the jurisdiction of the United States forest service;

(b) wholly or partially within or adjacent to and serving the national forest system;

~~(c) located on national forest lands or on a right-of-way acquired by the United States and used necessary for the protection, administration, and utilization of the national forests and other lands administered by the United States forest service; and a forest system and the use and development of its resources; and~~

~~(d) needed for long-term motor vehicle access.~~

~~(2) "special "Special service road" is defined as means a national forest development system road or segment thereof, of a national forest system road:~~

~~(a) the right-of-way for which is controlled by the United States; and which is~~

~~(b) that is not a part of the highway system of the state or of a county or other public road authority of this state; and~~

~~(c) that is designated by the forest service, pursuant to the regulations of the secretary of the United States department of agriculture, as a special service road for the purpose of controlling and regulating its use to accomplish the purposes of the secretary of agriculture's regulations applicable to the administration of the national forest development transport transportation system."~~

**Section 6.** Section 61-8-111, MCA, is amended to read:

**"61-8-111. State laws applicable on national forest development system roads -- enforcement.** ~~Forest development~~ National forest system roads in the state, whether or not they meet the definition of a public highway by the laws of this state, are subject to the Montana traffic laws, ~~of this state~~ and the Montana highway patrol and county sheriffs ~~of this state shall~~ have jurisdiction ~~thereon~~ on national forest system roads to investigate accidents and enforce the Montana traffic laws."

**Section 7.** Section 61-8-112, MCA, is amended to read:

**"61-8-112. Special service roads not subject to state law enforcement -- when.** ~~When forest development roads, or segments thereof, are designated as special service roads by the United States forest service and by such designation are subjected to traffic rules in addition to or in conflict with the Montana traffic laws, neither the additional nor conflicting traffic rules so prescribed by the forest service nor the Montana traffic law with which they conflict shall be within the jurisdiction of Montana law enforcement officers of this state as to such~~ do not have jurisdiction to enforce traffic rules established by the United States forest service on special service roads when the rules are in addition to Montana law or when the rules conflict with Montana law."

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