

## HOUSE BILL NO. 544

INTRODUCED BY D. HAINES

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE INSURER TO NOTIFY THE DEPARTMENT OF JUSTICE IF REQUIRED MOTOR VEHICLE LIABILITY INSURANCE IS CANCELED; PROVIDING THAT MOTOR VEHICLE LIABILITY INSURANCE MUST BE OBTAINED AND PAID FOR IN INCREMENTS OF AT LEAST 6 MONTHS; LIMITING AN UNINSURED DRIVER'S RECOVERY OF DAMAGES RESULTING FROM AN AUTOMOBILE ACCIDENT; AND AMENDING SECTIONS 61-6-301 AND 61-6-304, MCA."

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

**NEW SECTION. Section 1. Notification to department of insurance cancellation -- action against driver's license.** If the insurance required by 61-6-301 is canceled by the insured or insurer, the insurer shall, within 3 business days of the cancellation, notify the department of the cancellation. Within 3 days of receipt of the notice, the department shall suspend the driver's license of each person insured under the canceled policy and notify each person that the suspended driver's license will be reinstated if the person provides the department with proof of compliance with 61-6-301 and that the driver's license will be revoked in 6 months if the person has not provided the department with proof of compliance with 61-6-301. A person may not be granted a new driver's license after revocation under this section unless the person has provided the department with proof of compliance with 61-6-301. A person obtaining a new driver's license after revocation under this section shall pay a \$100 fee in addition to the fee for the new license.

**Section 2.** Section 61-6-301, MCA, is amended to read:

**"61-6-301. Required motor vehicle insurance -- family member exclusion.** (1)(a) Except as provided in subsection (1)(b), an owner of a motor vehicle that is registered and operated in Montana by the owner or with the owner's permission shall continuously provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by maintenance or use of a motor vehicle, as defined in 61-1-102, in an amount not less than that required by 61-6-103, or a certificate of self-insurance issued in accordance with 61-6-143. The insurance must be obtained and paid for in increments of at least 6 months.

(b) Notwithstanding the mandatory motor vehicle liability insurance protection provided for in subsection

(1)(a), nothing in this part may be construed to prohibit the exclusion from insurance coverage of a named family member in a motor vehicle liability insurance policy.

(2) A motor vehicle owner who prefers to post an indemnity bond with the department in lieu of obtaining a policy of liability insurance may do so. The bond must guarantee that any loss resulting from liability imposed by law for bodily injury, death, or damage to property suffered by any person caused by accident and arising out of the operation, maintenance, and use of the motor vehicle sought to be registered must be paid within 30 days after final judgment is entered establishing the liability. The indemnity bond must guarantee payment in the amount provided for insurance under subsection (1).

(3) Any bond given in connection with this section is a continuing instrument and must cover the period for which the motor vehicle is to be registered and operated. The bond must be on a form approved by the commissioner of insurance and must be with a surety company authorized to do business in the state.

(4) It is unlawful for a person to operate a motor vehicle upon ways of this state open to the public without a valid policy of liability insurance in effect in an amount not less than that required by 61-6-103 unless the person has been issued a certificate of self-insurance under 61-6-143, has posted an indemnity bond with the department as provided in this section, or is operating a vehicle exempt under 61-6-303."

**Section 3.** Section 61-6-304, MCA, is amended to read:

**"61-6-304. Penalties -- limitation on amount of recovery for automobile accident occurring while uninsured.** (1) Conviction of a first offense under 61-6-301 or 61-6-302 is punishable by a fine of not less than \$250 or more than \$500 or by imprisonment in the county jail for not more than 10 days, or both. A second conviction is punishable by a fine of \$350 or by imprisonment in the county jail for not more than 10 days, or both. A third or subsequent conviction is punishable by a fine of \$500 or by imprisonment in the county jail for not more than 6 months, or both.

(2) Upon a second or subsequent conviction under 61-6-301 or 61-6-302, the sentencing court shall order the surrender of the vehicle registration receipt and license plates for the vehicle operated at the time of the offense if that vehicle was operated by the registered owner or a member of the registered owner's immediate family or by a person whose operation of that vehicle was authorized by the registered owner. The court shall send the receipt and plates, along with a copy of the complaint and dispositional order, to the department, which shall immediately suspend the receipt and plates for a period of 90 days from the date of a second conviction or 180 days from the date of a third or subsequent conviction. The receipt and plates may not be reinstated until the expiration of that period and until proof of compliance with 61-6-301 is furnished to the

department, but if the vehicle is transferred to a new owner, the new owner is entitled to register the vehicle.

(3) Upon a fourth and subsequent conviction under 61-6-301 or 61-6-302, the court shall order the surrender of the driver's license of the offender, if the vehicle operated at the time of the offense was registered to the offender or a member of the offender's immediate family. The court shall send the driver's license, along with a copy of the complaint and the dispositional order, to the department, which shall immediately suspend the driver's license. The department may not reinstate a driver's license suspended under this subsection until the registered owner provides the department proof of compliance with 61-6-301 and the department determines that the registered owner is otherwise eligible for licensure.

(4) The court may suspend a required fine only upon a determination that the offender is or will be unable to pay the fine.

(5) Except as provided in subsection (6), in an action to recover damages arising out of the maintenance or use of a motor vehicle, an injured person may not recover noneconomic damages in excess of the limits established in 61-6-124 if:

(a) the injured person was the owner of a motor vehicle involved in the accident;

(b) the injured person was previously convicted of violating 61-6-301 or 61-6-302; and

(c) at the time of the accident, the injured person's vehicle involved in the accident was not insured and the injured person could not establish financial responsibility as required by 61-6-132.

(6) If a person described in subsection (5) was injured by a driver who at the time of the accident was operating a motor vehicle in violation of 61-8-401 or 61-8-406, an action by the injured person to recover damages from the impaired driver is not limited by subsection (5).

(7) For purposes of subsection (5), "noneconomic damages" includes but is not limited to damages for pain and suffering, loss of enjoyment of life, physical impairment, disfigurement, or any other noneconomic loss.

~~(5)(8)~~ A court may not defer imposition of penalties provided by this section.

~~(6)(9)~~ An offender is considered to have been previously convicted for the purposes of sentencing if less than 5 years have elapsed between the commission of the present offense and a previous conviction."

**NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 61, chapter 6, part 3, and the provisions of Title 61 apply to [section 1].

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