

SENATE BILL NO. 189
INTRODUCED BY A. CURTISS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A DRIVER'S LICENSE MAY NOT BE SUSPENDED FOR NONPAYMENT OF CHILD OR SPOUSAL SUPPORT FOR MORE THAN 2 YEARS AND THAT DURING THE SUSPENSION PERIOD THE PERSON MUST BE ISSUED A PROBATIONARY LICENSE ALLOWING THE PERSON TO DRIVE FOR OCCUPATIONAL PURPOSES, INCLUDING HOMEMAKING, AND FOR EMERGENCIES; AMENDING SECTIONS 40-5-704 AND 40-5-709, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 40-5-704, MCA, is amended to read:

"40-5-704. Suspension, denial, and nonrenewal of licenses. (1) Upon receipt of the notice of suspension of the license under 40-5-703(5), a licensing authority shall implement the suspension of the license by:

- (a) determining if it has issued a license to the obligor whose name appears on the notice;
- (b) entering the suspension on the appropriate records;
- (c) reporting the suspension as appropriate;
- (d) making good faith efforts to deny recreational activity licenses for the next applicable license year;

and

- (e) if required by law, demanding surrender of the suspended license.

(2) An order issued by a support enforcement entity under 40-5-703 suspending a license and the notice of suspension given under 40-5-703(5) must be processed by the licensing authority without an additional review or hearing involving the licensing authority concerning suspension of the license.

(3) Notwithstanding the provisions of any other law setting terms of suspension, revocation, denial, termination, or renewal of a license, an order issued by a support enforcement entity suspending a license must be implemented by the licensing authority and continues until the support enforcement entity advises the licensing authority that the suspension has been stayed or terminated. However, a driver's license may not be suspended for more than 2 years or be subjected to consecutive suspensions for the same reason in order to extend the 2-year suspension period, and during the suspension period the person must be issued a probationary license

allowing the person to drive for occupational purposes, including homemaking, and for emergencies.

(4) In the event that a license is suspended, any funds paid by the obligor to the licensing authority for costs related to issuance, renewal, or maintenance of a license may not be refunded to the obligor.

(5) Unless an order staying suspension of a license is in effect, an obligor who continues to engage in the business, occupation, profession, recreational activity, or other licensed activity while the obligor's license is suspended under this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$250 or more than \$500 or by imprisonment in the county jail for a term not to exceed 6 months, or both. Upon conviction of a second or subsequent violation, the obligor shall be punished by a fine of not less than \$500 or more than \$2,000 or by imprisonment in the county jail for a term not to exceed 1 year, or both. The support enforcement entity or the licensing authority may elect the remedy under this section or any other remedy provided for engaging in a licensed activity without a license or while the license is suspended.

(6) The licensing authority is exempt from liability to the licensee for activities conducted in compliance with this part.

(7) The licensing authority has no jurisdiction to modify, remand, reverse, vacate, or stay the order of the support enforcement entity suspending a license.

(8) To the extent that inconsistencies exist between this part and the procedural requirements for suspension of a license issued by the department, this part supersedes those requirements."

Section 2. Section 40-5-709, MCA, is amended to read:

"40-5-709. Nondisciplinary suspension for failure to pay child support. Notwithstanding any other provision of this title, the support enforcement entity has the authority to suspend a license or privilege to obtain a license under this part without any action by the licensing authority. The licensing authority shall, upon receipt of notice of suspension of the license under 40-5-703(5) from the support enforcement entity, suspend the license or privilege to obtain a license of the named individual. The suspension must be nondisciplinary for professional or occupational licenses, and the provisions of 2-4-631 do not apply. A driver's license may not be suspended for more than 2 years or be subjected to consecutive suspensions for the same reason in order to extend the 2-year suspension period, and during the suspension period the person must be issued a probationary license allowing the person to drive for occupational purposes, including homemaking, and for emergencies."

NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to driver's licenses that are under suspension on [the effective date of this act], and a person

whose driver's license is under suspension on [the effective date of this act] must, upon request of the person, be issued a probationary license allowing the person to drive for occupational purposes, including homemaking, and for emergencies.

- END -

