

## SENATE BILL NO. 295

INTRODUCED BY BUTCHER, JACKSON, BLACK, GEBHARDT, WITT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN OPTIONAL METHOD OF COMPLYING WITH DRIVING REQUIREMENTS PURSUANT TO AN INSTRUCTION PERMIT OR TRAFFIC EDUCATION LEARNER LICENSE; PROVIDING THAT ~~INSTRUCTION PERMITS OR TRAFFIC EDUCATION LEARNER LICENSES~~ AN ALTERNATIVE DRIVER'S EDUCATION LEARNING PERMIT MAY BE ISSUED TO PERSONS ~~13~~ 14 1/2 YEARS OF AGE OR OLDER; PROVIDING THAT STUDENT INSTRUCTION MAY BE PROVIDED BY A CERTIFIED PARENT, GRANDPARENT, OR LEGAL GUARDIAN; PROVIDING REQUIREMENTS FOR CERTIFICATION OF A PARENT, GRANDPARENT, OR LEGAL GUARDIAN; PROVIDING REQUIREMENTS FOR THE DURATION OF INSTRUCTION; AUTHORIZING THE ADOPTION OF RULES; AMENDING SECTIONS 61-5-105, 61-5-106, 61-5-107, AND 61-5-125, MCA; AND PROVIDING ~~AN~~ A DELAYED EFFECTIVE DATE."

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

**Section 1.** Section 61-5-105, MCA, is amended to read:

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

- (1) who is under 16 years of age unless:
  - (a) the person is at least 15 years of age and:
    - (i) has passed a driver's education course approved by the department and the superintendent of public instruction; or
    - (ii) has complied with the requirements of 61-5-106(7); or
  - (b) the person is at least 13 years of age and, because of individual hardship, to be determined by the department, needs a restricted license;
- (2) whose license or driving privilege is currently suspended or revoked in this or any state, as evidenced by an ineligible status report from the national driver register, established under 49 U.S.C. 30302, or from the commercial driver's license information system, established under 49 U.S.C. 31309;
- (3) who is addicted to the use of alcohol or narcotic drugs;
- (4) who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of application, has not been restored to competency by the methods provided by

law;

(5) who is required by this chapter to take an examination;

(6) who has not deposited proof of financial responsibility when required under the provisions of chapter 6 of this title;

(7) who has any condition characterized by lapse of consciousness or control, either temporary or prolonged, that is or may become chronic. However, the department may in its discretion issue a license to an otherwise qualified person suffering from a condition if the afflicted person's attending physician attests in writing that the person's condition has stabilized and would not be likely to interfere with that person's ability to operate a motor vehicle safely and, if a commercial driver's license is involved, the person is physically qualified to operate a commercial motor vehicle under applicable state or federal regulations; or

(8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate a motor vehicle on the highway."

**Section 2.** Section 61-5-106, MCA, is amended to read:

**"61-5-106. Instruction permits -- traffic education learner licenses and permits -- temporary licenses -- ALTERNATIVE DRIVER'S EDUCATION LEARNING PERMITS.** (1) The department may issue an instruction permit to a person satisfying the age requirements specified in 61-5-105(1)~~(b)~~ after the applicant has successfully passed the knowledge test and the vision examination as provided in 61-5-110. ~~An~~ Except as provided in subsection (7), an instruction permit entitles the permittee, while in immediate possession of the permit and accompanied by a licensed driver seated beside the permittee, to drive a motor vehicle upon the public highways for a period of 6 months from the date the fees required in 61-5-111 are paid.

(2) ~~The~~ Except as provided in subsection (7), the department may issue a traffic education learner license to any person who is at least 14 1/2 years of age and who has successfully completed or is successfully participating in a traffic education course approved by the department and the superintendent of public instruction ~~or who is learning to drive under the supervision of a certified parent or legal guardian as provided in subsection (7).~~ A traffic education learner license entitles the licensee to operate a motor vehicle only when accompanied by an approved instructor or licensed parent or guardian and may be restricted to specific times or areas.

(3) (a) An instructor of a traffic education program approved by the department and by the superintendent of public instruction may issue a traffic education permit that is effective for a school year or more restricted period to an applicant who is enrolled in a traffic education program approved by the department and who meets the age requirements specified in 20-7-503.

(b) When in immediate possession of the traffic education permit, the permittee may operate on a designated highway or within a designated area:

- (i) a motor vehicle when an approved instructor is seated beside the permittee; or
- (ii) a motorcycle or quadricycle when under the immediate and proximate supervision of an approved instructor.

(4) The department may in its discretion issue a temporary driver's permit to an applicant for a driver's license permitting the applicant to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary driver's permit must be in the permittee's immediate possession while operating a motor vehicle, and it is invalid when the applicant's license has been issued or for good cause has been refused.

(5) The department may in its discretion issue a temporary commercial driver's license to an applicant permitting the applicant to operate a commercial motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a commercial driver's license. The temporary license must be in the applicant's immediate possession while operating a commercial motor vehicle and is invalid when the applicant's license has been issued or for good cause has been refused.

(6) The department may in its discretion issue a temporary medical assessment and rehabilitation driving permit as provided in 61-5-120.

~~———— (7) (a) The department may issue an instruction permit or traffic education learner license to a student allowing the student to operate a motor vehicle under the direct supervision of a parent or legal guardian. The name of the certified parent or legal guardian who will supervise the student must be listed on the instruction permit or traffic education learner license.~~

~~———— (b) In order to be certified as a special instructor for purposes of subsection (7)(a), a parent or legal guardian:~~

~~———— (i) must be a currently licensed driver;~~

~~———— (ii) may not have accumulated 5 or more habitual traffic offender points under 61-11-203 within the 12-month period preceding certification; and~~

~~———— (iii) must have passed the knowledge test, as provided in 61-5-110, within the 12-month period preceding certification.~~

~~———— (c) The training period for a student receiving an instruction permit or traffic education learner license pursuant to subsection (7)(a) is 12 to 24 months. A student receiving an instruction permit or traffic education learner license pursuant to subsection (7)(a) shall maintain a driving log signed and dated by the certified~~

supervising parent or legal guardian. The log must indicate that the student has driven under direct supervision for a minimum of:

- (i) 12 months of the training period;
- (ii) 5 hours each month or 250 miles each month; and
- (iii) at least 60 hours or 3,000 miles during the training period.

(7) (A) THE DEPARTMENT MAY ISSUE A 24-MONTH ALTERNATIVE DRIVER'S EDUCATION LEARNING PERMIT TO A STUDENT WHO IS AT LEAST 14 1/2 YEARS OF AGE AND WHO IS BEING EDUCATED IN A HOME SCHOOL OR A NONPUBLIC SCHOOL, AS DESCRIBED IN 20-5-102(2)(E), IF THE STUDENT HAS REGISTERED WITH THE COUNTY SUPERINTENDENT OF THE COUNTY IN WHICH THE STUDENT LIVES. A STUDENT IN A NONPUBLIC SCHOOL THAT OFFERS A STATE-ACCREDITED DRIVER'S EDUCATION PROGRAM IS NOT ELIGIBLE FOR A PERMIT UNDER THIS SUBSECTION (7). THE STUDENT MAY OPERATE A MOTOR VEHICLE USING THE ALTERNATIVE DRIVER'S EDUCATION LEARNING PERMIT ONLY WHEN THE STUDENT IS UNDER THE DIRECT SUPERVISION OF A PARENT, GRANDPARENT, OR LEGAL GUARDIAN WHO IS CERTIFIED AND WHOSE NAMES ARE LISTED ON THE LEARNING PERMIT.

(B) IN ORDER TO BE CERTIFIED AS AN INSTRUCTOR FOR AN ALTERNATIVE DRIVER'S EDUCATION LEARNING PERMIT, THE STUDENT'S PARENT, GRANDPARENT, OR LEGAL GUARDIAN:

- (I) MUST BE A CURRENTLY LICENSED DRIVER;
- (II) MAY NOT HAVE ACCUMULATED 5 OR MORE HABITUAL TRAFFIC OFFENDER POINTS UNDER 61-11-203 WITHIN THE 36-MONTH PERIOD PRECEDING CERTIFICATION;
- (III) MUST HAVE PASSED THE KNOWLEDGE TEST AND THE DRIVING TEST, AS PROVIDED IN 61-5-110, WITHIN THE 12-MONTH PERIOD PRECEDING CERTIFICATION OR POSSESS A CURRENT COMMERCIAL DRIVER'S LICENSE;
- (IV) SHALL PAY A \$25 CERTIFICATION FEE, WHICH THE DEPARTMENT SHALL DEPOSIT IN THE GENERAL FUND, AFTER THE DEPARTMENT VERIFIES THAT EACH INSTRUCTOR:

- (A) HAS COMPLIED WITH SUBSECTIONS (7)(B)(I), (7)(B)(II), AND (7)(B)(III);
- (B) HAS PROVIDED A SAMPLE OF THE DRIVER'S EDUCATION CURRICULA TO BE USED; AND
- (C) HAS VEHICLE LIABILITY INSURANCE THAT COVERS THE STUDENT.

(C) THE TRAINING PERIOD FOR A STUDENT RECEIVING AN ALTERNATIVE DRIVER'S EDUCATION LEARNING PERMIT PURSUANT TO SUBSECTION (7)(A) IS UP TO 24 MONTHS. A STUDENT RECEIVING A PERMIT SHALL MAINTAIN A LOG SIGNED AND DATED BY THE CERTIFIED SUPERVISING PARENT, GRANDPARENT, OR LEGAL GUARDIAN. THE LOG MUST INDICATE THAT THE STUDENT HAS DRIVEN UNDER DIRECT SUPERVISION ON A ROADWAY, AS DEFINED IN 61-1-206, UNDER THE FOLLOWING CONDITIONS:

- (I) FOR A MINIMUM OF 12 MONTHS OF THE TRAINING PERIOD;

- (II) 5 HOURS EACH MONTH OR 250 MILES EACH MONTH;
- (III) AT LEAST 60 HOURS OR 3,000 MILES DURING THE TRAINING PERIOD;
- (IV) IN RESIDENTIAL AREAS ONE-FOURTH OF THE TOTAL TIME; AND
- (V) DURING HOURS OF DARKNESS AT LEAST 10% OF THE TOTAL TIME."

**Section 3.** Section 61-5-107, MCA, is amended to read:

**"61-5-107. Application for license, instruction permit, or motorcycle endorsement.** (1) Each application for an instruction permit, driver's license, or motorcycle endorsement must be made upon a form furnished by the department. Each application must be accompanied by the proper fee, and payment of the fee entitles the applicant to not more than three attempts to pass the examination within a period of 6 months from the date of application. A voter registration form for mail registration as prescribed by the secretary of state must be attached to each driver's license application. If the applicant wishes to register to vote, the department shall accept the registration and forward the form to the election administrator.

(2) Each application must include the full legal name, date of birth, sex, residence address of the applicant [and the applicant's social security number], must include a brief description of the applicant, and must include a statement that allows the department to determine if:

(a) the applicant has previously been licensed as a driver or commercial vehicle operator, and, if so, when and by what state or country;

(b) any commercial driver's license has ever been suspended or revoked;

(c) an application has ever been denied and, if so, the date of and reason for suspension, revocation, or denial;

(d) the applicant has a physical or mental disability, limitation, or condition that impairs or may impair the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(e) the applicant relies upon, or intends to rely upon, any adaptive equipment or operational restrictions to attain the ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway, including the nature of the equipment or restrictions.

[(3) The department shall keep the applicant's social security number from this source confidential, except that the number may be used for purposes of subtitle VI of Title 49 of the U.S.C. or as otherwise permitted by state law administered by the department and may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(4) When application is received from an applicant previously licensed by another jurisdiction, the department shall request a copy of the applicant's driving record from the previous licensing jurisdiction. The driving record may be transmitted manually or by electronic medium. When received, the driving records become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(5) An application for an instruction permit or traffic education learner license under 61-5-106(7) must include the name of the certified parent, GRANDPARENT, or legal guardian who will supervise the student. (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

**Section 4.** Section 61-5-125, MCA, is amended to read:

**"61-5-125. Authority of department -- rulemaking authority.** (1) The department shall administer and enforce the provisions of this chapter.

(2) The department shall adopt rules setting standards to govern driver's license examinations and reexaminations. The rules:

(a) must specifically address the functional abilities and skills required for a person to exercise ordinary and reasonable control in the safe operation of a motor vehicle on a highway;

(b) must include minimum uncorrected or corrected visual acuity requirements for both unrestricted and restricted licensure and may include minimum field of vision and depth perception requirements and hearing requirements for unrestricted and restricted licensure;

(c) may direct the design of one or more types of skills tests to assess an applicant's or licensee's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway. A skills test may consist of:

(i) a comprehensive assessment of a person's functional abilities by means of an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or

(ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the department, as related to a specific physical or mental condition or conditions or a request for reexamination;

(d) must include operational restrictions based upon the visual acuity of an applicant or licensee;

(e) may take into consideration any nationally recognized standards or recommended practices for assessment of a person's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway;

(f) must include appropriate licensing criteria relating to the use of adaptive equipment or operational

limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction;

(g) may be derived from medical guidelines and information compiled by driver licensing medical advisory or review boards from other jurisdictions, as well as information received from advocacy groups for persons with disabilities and senior citizens; and

(h) except as provided in 61-5-105, may not use a person's age or physical or mental disability, limitation, or condition as a justification for denial of a license.

(3) The department may adopt additional rules governing:

(a) acceptable methods of proof of identification that must be supplied by a person upon application for or renewal of a driver's license;

(b) issuance of a hardship license to an underage applicant;

(c) the cancellation of a driver's license upon receipt of an insufficient funds check in payment of license fees;

(d) circumstances under which the department may issue a probationary license to a person whose license has been suspended or revoked or a person whose license is subject to a discretionary suspension or revocation;

(e) restrictions to be imposed upon a probationary license;

(f) renewal of a driver's license by a person in the military assigned to active duty who had a valid Montana driver's license at the time of entering active duty; and

(g) issuance of a duplicate driver's license.

(4) The department shall adopt rules to implement 61-5-106(7) AND SHALL:

(A) REQUIRE A STUDENT WHO IS ISSUED AN ALTERNATIVE DRIVER'S EDUCATION LEARNING PERMIT UNDER 61-5-106(7) TO KEEP A CERTIFIED COMMERCIAL DRIVER'S LOG BOOK IN WHICH THE STUDENT RECORDS DRIVING HOURS, MILES, TIME SPENT DRIVING IN RESIDENTIAL AREAS, AND TIME SPENT DRIVING DURING HOURS OF DARKNESS;

(B) DEVELOP A 24-MONTH ALTERNATIVE DRIVER'S EDUCATION LEARNING PERMIT FOR USE UNDER 61-5-106(7). THE LEARNING PERMIT MUST CONTAIN THE NAMES OF THE SUPERVISING PARENT, GRANDPARENT, OR LEGAL GUARDIAN WHO COMPLETED THE REQUIREMENTS FOR CERTIFICATION AS A SUPERVISING DRIVER."

NEW SECTION. Section 5. Effective date. [This act] is effective ~~July 1, 2003~~ JANUARY 1, 2004.

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