

HOUSE BILL NO. 180
INTRODUCED BY G. HOLLENBAUGH
BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING DRIVER'S LICENSES, COMMERCIAL DRIVER'S LICENSES, AND IDENTIFICATION CARDS; CLARIFYING REQUIREMENTS FOR AN INSTRUCTION PERMIT AND REMOVING THE AUTHORITY OF THE DEPARTMENT OF JUSTICE TO ISSUE CERTAIN TEMPORARY PERMITS; REQUIRING PAYMENT OF A NONREFUNDABLE DRIVER'S LICENSE APPLICATION FEE; REQUIRING LICENSING TO BE COMPLETED WITHIN 1 YEAR OF PAYMENT OF THE FEES; REVISING WHAT A DRIVER'S LICENSE APPLICATION MUST INCLUDE; REMOVING A REQUIREMENT THAT THE DEPARTMENT OF JUSTICE REQUEST AN APPLICANT'S DRIVING RECORD FROM OTHER JURISDICTIONS; ELIMINATING THE OPTION OF USING A LICENSEE'S SOCIAL SECURITY NUMBER AS A DRIVER'S LICENSE DISTINGUISHING NUMBER; PROVIDING FOR A MOTORCYCLE-ONLY DRIVER'S LICENSE; REVISING FEES FOR REPLACEMENT LICENSES; REVISING THE DEFINITION OF "CONVICTION" FOR CERTAIN PURPOSES; INCLUDING PROVISIONS FOR TESTING COMMERCIAL MOTOR VEHICLE OPERATORS FOR THE PRESENCE OF DRUGS OR A COMBINATION OF DRUGS AND ALCOHOL; REQUIRING CERTAIN NOTIFICATION PROCEDURES AND DRIVING RECORD EXCHANGES UPON ACTIONS TAKEN AFFECTING COMMERCIAL DRIVER'S LICENSES; ALLOWING THE DEPARTMENT OF JUSTICE TO ADOPT RULES GOVERNING ISSUANCE OF IDENTIFICATION CARDS; ESTABLISHING FEES AND PROCEDURES FOR ISSUANCE OF IDENTIFICATION CARDS; AMENDING SECTIONS 61-1-101, 61-3-116, 61-5-106, 61-5-107, 61-5-111, 61-5-114, 61-5-119, 61-5-121, 61-5-126, 61-5-211, 61-5-213, 61-6-102, 61-8-801, 61-8-803, 61-8-806, 61-8-808, 61-8-812, 61-8-817, 61-11-101, 61-11-102, 61-12-501, 61-12-502, AND 61-12-504, MCA; REPEALING SECTION 61-12-503, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 61-1-101, MCA, is amended to read:

"61-1-101. Definitions. As used in this title, unless the context indicates otherwise, the following definitions apply:

(1) (a) "Authorized agent" means a person who has executed a written agreement with the department and is specifically authorized by the department to electronically access and update the department's motor

vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or purposes upon behalf of a third party.

(b) For purposes of this subsection (1), "person" means an individual, corporation, partnership, limited partnership, limited liability company, association, joint venture, state agency, local government unit, another state government, the United States, a political subdivision of this or another state, or any other legal or commercial entity.

(2) "Authorized agent agreement" means the written agreement executed between an authorized agent and the department that sets the technical and operational program standards, compliance criteria, payment options, and service expectations by which the authorized agent must operate in performing specific motor vehicle or driver-related record functions.

(3) "Bus" means a motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(4) (a) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not limited to a cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

(b) The term does not include a truck canopy cover or topper.

(5) "Certificate of title" means the paper record issued by the department or by the appropriate agency of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons and the motor vehicle specifically described in the record and that provides notice of a perfected security interest in the motor vehicle.

(6) "Commercial driver's license" means:

(a) a driver's license issued under or granted by the laws of this state that authorizes a person to operate a class of commercial motor vehicle; and

(b) the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid commercial driver's license.

(7) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

(i) has a gross combination weight rating or a gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(ii) has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more, whichever is

greater;

(iii) is designed to transport at least 16 passengers, including the driver;

(iv) is a school bus; or

(v) is of any size and is used in the transportation of hazardous materials as defined in 61-8-801.

(b) The following vehicles are not commercial motor vehicles:

(i) an authorized emergency service vehicle:

(A) equipped with audible and visual signals as required under 61-9-401 and 61-9-402; and

(B) entitled to the exemptions granted under 61-8-107;

(ii) a vehicle:

(A) controlled and operated by a farmer, family member of the farmer, or person employed by the farmer;

(B) used to transport farm products, farm machinery, or farm supplies to or from the farm within Montana within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana, within 150 miles of the farm, including any area within that perimeter that is in the adjoining state; and

(C) not used to transport goods for compensation or for hire; or

(iii) a vehicle operated for military purposes by active duty military personnel, a member of the military reserves, a member of the national guard on active duty, including personnel on full-time national guard duty, personnel in part-time national guard training, and national guard military technicians, or active duty United States coast guard personnel.

(c) For purposes of this subsection (7):

(i) "farmer" means a person who operates a farm or who is directly involved in the cultivation of land or crops or the raising of livestock owned by or under the direct control of that person;

(ii) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle;

(iii) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle; and

(iv) "school bus" has the meaning provided in 49 CFR 383.5.

(8) "Commission" means the state transportation commission.

(9) "County where a vehicle is domiciled" means the county in which the vehicle owner permanently resides or, if a vehicle is owned by a corporation or is leased or used for commercial purposes, the county in which the vehicle is permanently assigned or most frequently used, dispatched, or controlled.

(10) "Custom vehicle" means a motor vehicle other than a motorcycle that:

(a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or
(ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least 25 years old; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(11) (a) "Dealer" means a person, firm, association, or corporation that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker, as defined in 61-4-131, of new or used motor vehicles, trailers, semitrailers, or pole trailers that are not registered in the name of the person, firm, association, or corporation and that are required to be licensed under chapter 4 of this title.

(b) The term does not include the following:

(i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(ii) employees of the persons included in subsection (11)(b)(i) when engaged in the specific performance of their duties as employees; or

(iii) public officers while performing or in the operation of their duties.

(12) "Declared weight" means the total unladen weight of a vehicle plus the weight of the maximum load to be carried on the vehicle as stated by the registrant in the application for registration.

(13) "Department" means the department of justice acting directly or through its duly authorized officers or agents.

(14) "Dolly or converter gear" means a device consisting of one or two axles with a fifth wheel and trailer tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer.

(15) "Driver" means a person who drives or is in actual physical control of a vehicle.

(16) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted by the laws of this state, including:

(a) any ~~temporary license~~ or instruction permit;

(b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid license;

(c) any nonresident's driving privilege;

(d) a ~~motorcycle endorsement~~ motorcycle-only driver's license, as defined in 61-5-119; or

(e) a commercial driver's license.

(17) "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour.

(18) "For hire" means an action performed for remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(19) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load on the vehicle.

(20) "Highway" or "public highway" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(21) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(22) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations.

(23) "Kit vehicle" is a motor vehicle assembled from a manufactured kit either as:

(a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor vehicle; or
(b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and drivetrain, commonly referred to as a donor vehicle.

(24) "Light vehicle" means a motor vehicle commonly referred to as an automobile, van, sport utility vehicle, or truck having a manufacturer's rated capacity of 1 ton or less.

(25) "Manufactured home" has the meaning provided in 15-1-101.

(26) "Manufacturer" includes any person, firm, corporation, or association engaged in the manufacture of motor vehicles, trailers, or semitrailers as a regular business.

(27) "Manufacturer's certificate of origin" means the original paper record produced and issued by the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and transmitted by the manufacturer of a vehicle to the manufacturer's agent or a licensed dealer. The record must establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of ownership of the vehicle to the person or persons named in the certificate.

(28) "Mobile home" or "houstrailer" has the meaning provided in 15-1-101.

(29) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any

machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

(b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard or any successor federal agency.

(30) (a) "Motor carrier" means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles upon a public highway in this state for the transportation of property for hire on a commercial basis.

(b) The term does not include motor carriers regulated under Title 69, chapter 12.

(31) (a) "Motorcycle" means a motor vehicle having not more than three wheels in contact with the ground and a saddle on which the operator sits or a platform on which the operator stands and a driving wheel in contact with the ground in addition to the wheels of the vehicle itself. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.

(b) The term does not include a tractor, a bicycle as defined in 61-8-102, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.

(32) (a) "Motor-driven cycle" means a motorcycle, including a motor scooter, with a motor that produces 5 horsepower or less.

(b) The term does not include a bicycle, as defined in 61-8-102, or a motorized nonstandard vehicle.

(33) "Motor home" means a motor vehicle:

(a) designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;

(b) containing permanently installed independent life support systems that meet the ANSIA/A119.2 standard; and

(c) providing at least four of the following types of facilities:

(i) cooking, refrigeration, or icebox;

(ii) self-contained toilet;

(iii) heating or air-conditioning, or both;

(iv) potable water supply, including a faucet and sink; or

(v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply; or both.

(34) (a) "Motorized nonstandard vehicle" means a vehicle, upon or by which a person may be transported, that:

(i) is propelled by its own power, using an internal combustion engine or an electric motor;

(ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and

(iii) does not display a manufacturer's certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.

(b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a "pocket rocket".

(c) The term does not include an electric personal assistive mobility device or a motorized wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

(35) (a) "Motor vehicle" means a vehicle propelled by its own power and designed or used to transport persons or property upon the highways of the state.

(b) The term does not include a bicycle as defined in 61-8-102 or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(36) "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person as the result of a retail sale.

(37) "Nonresident" means a person who is not a resident of this state.

(38) (a) "Not used for general transportation purposes" means the operation of a motor vehicle, registered as a collector's item, a custom vehicle, or a street rod, to or from a car club activity or event or an exhibit, show, cruise night, or parade, or other occasional transportation activity.

(b) The term does not include operation of a motor vehicle for routine or ordinary household maintenance, employment, education, or other similar purposes.

(39) (a) "Off-highway vehicle" means a self-propelled vehicle used for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(b) The term does not include:

(i) vehicles designed primarily for travel on, over, or in the water;

(ii) snowmobiles; or

(iii) vehicles otherwise issued a certificate of title and registered under the laws of the state, unless the vehicle is used for off-road recreation on public lands.

(40) "Operator" means a person who is in actual physical control of a motor vehicle.

(41) "Owner" means a person who holds the legal title to a vehicle. If a vehicle is the subject of an agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner is the person in whom is vested the right of possession or control.

(42) "Person" means an individual, corporation, partnership, association, firm, or other legal entity.

(43) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

(44) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connections.

(45) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(46) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle upon which the operator sits and a motor capable of producing not more than 50 horsepower.

(b) The term does not include golf carts.

(47) "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

(48) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without cars coupled to the engine, that is operated upon rails.

(b) The term does not include streetcars.

(49) "Recreational vehicle" includes self-propelled vehicles originally designed or permanently altered to provide temporary facilities for recreational, travel, or camping use.

(50) "Registration" or "register" means the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records.

(51) "Registration decal" means an adhesive sticker produced by the department and issued by the

department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, or pole trailer as proof of payment of all fees imposed for the registration period indicated on the sticker as recorded by the department under 61-3-101.

(52) "Registration receipt" means a paper record that is produced and issued or, if authorized by the department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic record of title for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the vehicle for the registration period indicated in the receipt.

(53) "Retail sale" means the sale of a new motor vehicle or used motor vehicle, a recreational vehicle, a trailer, a travel trailer, a motorcycle, a quadricycle, or special mobile equipment by a dealer to a person for purposes other than resale.

(54) "Revocation" means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and may not be renewed or restored. An application for a new license may be presented and acted upon by the department after the expiration of the period of the revocation.

(55) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways, the term refers to any roadway separately but not to all roadways collectively.

(56) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

(b) The term does not include a canoe or kayak propelled by wind.

(57) "Semitrailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle.

(58) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that is not otherwise registered or licensed under the laws of the state of Montana.

(59) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.

(60) (a) "Specially constructed vehicle" means a motor vehicle, including a motorcycle, that:

(i) was not originally constructed under a distinctive make, model, or type by a generally recognized manufacturer of motor vehicles;

(ii) has been structurally modified so that it does not have the same appearance as similar vehicles from a generally recognized manufacturer of motor vehicles;

(iii) has been constructed or assembled entirely from custom-built parts and materials not obtained from other vehicles;

(iv) has been constructed or assembled by using major component parts from one or more manufactured vehicles and that cannot be identified as a specific make or model; or

(v) has been constructed by the use of a kit that cannot be visually identified as a specific make or model.

(b) The term does not include a motor vehicle that has been repaired or restored to its original design by replacing parts.

(61) (a) "Sport utility vehicle" means a light vehicle designed to transport 10 or fewer persons that is constructed on a truck chassis or that has special features for occasional off-road use.

(b) The term does not include trucks having a manufacturer's rated capacity of 1 ton or less.

(62) (a) "Stop", when required, means complete cessation from movement.

(b) "Stop", "stopping", or "standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, highway patrol officer, or traffic control sign or signal.

(63) "Street" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(64) "Street rod" means a motor vehicle, other than a motorcycle, that:

(a) was manufactured prior to 1949 or was built to resemble a vehicle manufactured before 1949, including a kit vehicle intended to resemble a vehicle manufactured before 1949; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(65) "Suspension" means that the driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn, but only during the period of suspension.

(66) "Temporary registration permit" means a paper record:

(a) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains:

- (i) required vehicle and owner information; and
- (ii) the purpose for which the record was generated; and

(b) that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs.

(67) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel.

(68) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

- (b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101.

(69) "Transaction summary receipt" means an electronic record produced and issued by the department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record must contain a unique transaction record number and summarize and verify the electronic filing of the transaction described in the receipt on the electronic record of title maintained under 61-3-101.

(70) "Travel trailer" means a vehicle:

- (a) that is 40 feet or less in length;
- (b) that is of a size or weight that does not require special permits when towed by a motor vehicle;
- (c) with gross trailer area of less than 320 square feet; and
- (d) that is designed to provide temporary facilities for recreational, travel, or camping use and not used as a principal residence.

(71) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(72) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

(73) "Under the influence" has the meaning provided in 61-8-401.

(74) "Used motor vehicle" includes any motor vehicle that has been sold, bargained, exchanged, given away, or had its title transferred from the person who first took title to it from the manufacturer, importer, dealer, wholesaler, or agent of the manufacturer or importer and that has been used so as to have become what is

commonly known as "secondhand" within the ordinary meaning of that term.

(75) "Van" means a motor vehicle designed for the transportation of at least six persons and not more than nine persons and intended for but not limited to family or personal transportation without compensation.

(76) (a) "Vehicle" means a device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by animal power or used exclusively upon stationary rails or tracks.

(b) The term does not include a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(77) "Vehicle identification number" means the number, letters, or combination of numbers and letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for the purpose of identifying the motor vehicle or a component part of the motor vehicle.

(78) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(79) "Wholesaler" means a person, firm, partnership, association, or corporation that for a commission or with intent to make a profit or gain of money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a used motor vehicle, recreational vehicle, trailer, semitrailer, pole trailer, special mobile equipment, motorcycle, or quadricycle only to vehicle dealers and auto auctions licensed under chapter 4, part 1."

Section 2. Section 61-3-116, MCA, is amended to read:

"61-3-116. Services that may be performed by authorized agent. (1) The department may authorize a person to perform, on the department's behalf, specific motor vehicle titling, registration, ~~or~~ driver licensing, or identification card functions assigned to or administered by the department under Title 23, chapter 2, parts 5, 6, and 8, ~~or~~ this title. The authorization must be evidenced by an authorized agent agreement.

(2) An authorized agent must meet all of the requirements established by the department.

(3) An authorized agent shall submit to the department or its designee all statutorily prescribed fees, taxes, or penalties the authorized agent collects.

(4) (a) Except when specifically prohibited by statute or the authorized agent agreement, in addition to statutorily prescribed fees, taxes, and penalties, an authorized agent may collect and retain a reasonable convenience fee for services provided.

(b) If an authorized agent is a municipal or county officer, the convenience fee may be charged and collected as permitted under 7-5-2133 or 7-5-4125.

(5) The department may provide an automated mechanism to ensure that any statutorily prescribed fee, tax, or penalty collected by an authorized agent or a county treasurer in a county other than the county where a vehicle is domiciled is transferred to the county treasurer of the county where the vehicle is domiciled.

(6) As used in this section, "person" has the meaning provided in 61-1-101(1)(b)."

Section 3. Section 61-5-106, MCA, is amended to read:

"61-5-106. Instruction permits -- traffic education learner licenses and permits --temporary licenses. (1) (a) The department may issue an instruction permit, which is valid for 1 year from the date of issuance, to a person ~~satisfying~~ who meets the age requirements specified in 61-5-105(1), has submitted an application, as provided in 61-5-107, and after the applicant has either successfully passed the knowledge test and the vision examination, as provided in 61-5-110, or is otherwise awaiting a road or skills test under 61-5-110 or 61-5-111. Except as provided in subsections (1)(b) and (1)(c), an instruction permit entitles the permitholder, while in immediate possession of the permit and accompanied by a licensed driver seated beside the permitholder, to drive a motor vehicle other than a motorcycle upon the public highways.

(b) If the permitholder is under 18 years of age, the driver supervising the permitholder must be a parent or a legal guardian of the permitholder or, with the permission of the permitholder's parent or legal guardian, a licensed driver 18 years of age or older. Each occupant of a motor vehicle driven by a permitholder who is under 18 years of age shall wear a properly adjusted and fastened seatbelt or, if 61-9-420 applies, must be properly restrained in a child safety restraint.

(c) A person holding an instruction permit for a motorcycle may drive a motorcycle upon a public highway if the person is not carrying a passenger, has immediate possession of the permit, and is under the immediate and proximate visual supervision of one of the following persons, who must be at least 18 years of age if the permitholder is under 18 years of age:

(i) a motorcycle-endorsed licensed driver who is riding with the permitholder and who is operating a separate motorcycle or other motor vehicle; or

(ii) a licensed driver who is operating a separate motor vehicle if the permitholder has successfully completed a motorcycle safety training course through a cooperative driver testing program certified under 61-5-110.

(2) The department may issue a traffic education learner license, which is valid for 1 year from the date

of issuance, 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 and that is available to all who meet the age requirements specified in 20-7-503 and reside within the geographical boundaries of or attend a school in the school district that offers the course. 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."~~

Section 4. Section 61-5-107, MCA, is amended to read:

"61-5-107. Application for license, instruction permit, or motorcycle endorsement requirements -- fee -- voter and selective service registration. (1) Each application for an instruction permit, issuance or

~~renewal of a driver's license; or a commercial 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 a nonrefundable \$10 application fee, in addition to the license fee required under 61-5-111. The licensing process must be completed within 1 year of the time that the application fee is paid. Payment of the license 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~~ tests prescribed in 61-5-110.

(2) ~~Each~~ The application must include the applicant's full legal name, date of birth, sex, Montana residence address and mailing address, if separate, ~~of the applicant [and the applicant's social security number], must include~~ a brief physical description of the applicant, and a digital image of the applicant's full face and customary signature.

(3) The application must provide the following additional information:

(a) the name of each jurisdiction in which the applicant has previously been licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the application;

(b) a certification from the applicant that the applicant is not currently subject to a suspension, revocation, cancellation, disqualification, or withdrawal of a previously issued driver's license or any driving privileges in another jurisdiction and that the applicant does not have a driver's license from another jurisdiction;

(c) a brief description of any 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;

(d) a brief description of any adaptive equipment or operational restrictions that the applicant relies upon or intends to rely upon 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; ~~and~~

(e) if the applicant is a foreign national whose presence in the United States is temporarily authorized under federal law, the expiration date of the official document issued to the applicant by the bureau of citizenship and immigration services of the department of homeland security authorizing the applicant's presence in the United States; and

(f) if the applicant wishes to register to vote in Montana, any additional information, as prescribed by the secretary of state, necessary to comply with voter registration requirements under Title 13. The department shall promptly transmit to the secretary of state, either manually or electronically, the voter registration information

provided to the department by the applicant.

[(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) (a) When an application is received from an applicant who is not ineligible for licensure under 61-5-105 and who was previously licensed by another jurisdiction, the department shall request a copy of the applicant's driving record from each jurisdiction in which the applicant was licensed in the preceding 10-year period. The driving record may be transmitted manually or by electronic medium.~~

~~————(b) When received, the driving records must be appended to the driver's record created and maintained in this state. The department may rely on information contained in driving records received under this section to determine the appropriate action to be taken against the applicant upon subsequent receipt of a report of a conviction or other conduct requiring suspension or revocation of a driver's license under state law.~~

~~(5)(4)~~ An individual who is under 26 years of age but at least 15 years of age and who is required to register in compliance with the federal Military Selective Service Act, 50 App. U.S.C. 453, must be provided an opportunity to fulfill those registration requirements in conjunction with an application for an instruction permit, driver's license, commercial driver's license, or state identification card. If under 18 years of age but at least 15 years of age, an individual must be provided an opportunity to be registered by the selective service system upon attaining 18 years of age. Any registration information supplied on the application must be transmitted by the department to the selective service system. (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

Section 5. Section 61-5-111, MCA, is amended to read:

"61-5-111. Contents of driver's license, renewal, renewal by mail, license expirations, grace period, and fees for licenses, permits, and endorsements -- notice of expiration. (1)(a) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's license receipts. The department shall adopt necessary rules governing sales. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an agent to sell receipts.

(b) The department may enter into an authorized agent agreement with the county treasurer of any county in which the department no longer maintains a driver examination station for the purpose of providing

driver's license renewal services.

(2) (a) The department, upon receipt of payment of the fees specified in this ~~section~~ part, shall issue a driver's license to each qualifying applicant. The license must contain:

- (i) a full-face ~~photograph~~ digital image of the licensee ~~in the size and form prescribed by the department;~~
- (ii) a distinguishing number issued to the licensee;
- (iii) the full legal name, date of birth, Montana mailing address, and a brief description of the licensee;

and

(iv) ~~either the licensee's customary signature or~~ a digital reproduction of the licensee's customary signature.

(b) The department may not use the licensee's social security number as the distinguishing number ~~unless the licensee expressly authorizes the use. A license is not valid until it is signed by the licensee.~~

(3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's eyesight. The department may also require the applicant to submit to a knowledge and road or skills test if:

(i) the renewal 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

(ii) the expired or expiring license does not include adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

(b) In the case of a commercial driver's license, the department shall, if the information was not provided in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the renewal application and may also require that the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if the application is made within 6 months before or 3 months after the expiration of the person's license. Except as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's examination station.

(d) (i) Except as provided in subsections (3)(d)(iv) through (3)(d)(vi), a person ~~may renew a driver's license by mail if the person~~ who certifies that the person is temporarily out of state and will not be returning to

the state prior to the expiration of the license may renew a driver's license by mail. A person may not renew by mail for a subsequent license term after a mail renewal, except that a spouse or dependent of a person stationed outside Montana on active military duty may renew a driver's license by mail for one additional consecutive term following a mail renewal.

(ii) An applicant who renews a driver's license by mail shall submit to the department an approved vision examination and a medical evaluation from a licensed physician in addition to the fees required for renewal.

(iii) If the department does not have a digitized photograph or signature record of the renewal applicant from the expiring license, then the department may require the renewal applicant to submit a personal photograph and signature that meets the requirements prescribed by the department.

(iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail is 8 years.

(v) The department may not renew a license by mail if:

(A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for the applicant; or

(B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572.

(vi) If a license was issued to a foreign national whose presence in the United States is temporarily authorized under federal law, the license may not be renewed by mail.

(e) The department shall mail a driver's license renewal notice no earlier than 60 days and no later than 30 days prior to the expiration date of a driver's license. Except as provided in 61-3-119 and 61-5-115, the department shall mail the notice to the Montana mailing address shown on the driver's license.

(4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the anniversary of the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first.

(b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

(d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the anniversary of the licensee's birthday 5 years or less after the date of issue.

(ii) When a person obtains a Montana commercial driver's license with a hazardous materials endorsement after surrendering a comparable commercial driver's license with a hazardous materials endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's birthday

5 years or less after the date of the issue of the surrendered license if, as reported in the commercial driver's license information system, a security threat assessment was performed on the person as a condition of issuance of the surrendered license.

(e) A license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law expires, as determined by the department, no later than the expiration date of the official document issued to the person by the bureau of citizenship and immigration services of the department of homeland security authorizing the person's presence in the United States.

(5) When the department issues a driver's license to a person under 18 years of age, the license must be clearly marked with a notation that conveys the restrictions imposed under 61-5-133.

(6) (a) Upon application for a driver's license or commercial driver's license and any combination of the specified endorsements, in addition to the application fee required under 61-5-107, the following license fees must be paid:

(i) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;

~~(ii)~~(ii) (A) motorcycle endorsement -- 50 cents a year or fraction of a year;

(B) motorcycle-only driver's license -- the driver's license fee required under subsection (6)(a)(i), plus the motorcycle endorsement fee required under subsection (6)(a)(ii)(A);

(iii) commercial driver's license:

(A) interstate -- \$10 a year or fraction of a year; or

(B) intrastate -- \$8.50 a year or fraction of a year.

(b) A renewal notice for either a driver's license or a commercial driver's license is 50 cents."

Section 6. Section 61-5-114, MCA, is amended to read:

"61-5-114. Replacement license or permit. (1) If an instruction permit or driver's license issued under the provisions of this chapter is lost or destroyed or a person wants to update personal information contained on ~~an a previously issued~~ instruction permit or a driver's license ~~issued to the person~~, the person to whom the permit or license was issued may, upon the payment of a \$5 application fee ~~of and a \$10 license replacement fee~~, obtain a replacement permit or license, upon furnishing proof satisfactory to the department that the permit or license has been lost or destroyed or that personal information has changed.

(2) If the hazardous materials endorsement on a commercial driver's license issued under the provisions of this chapter is revoked or removed pursuant to the authority provided in 61-5-221, the person to whom the license was issued shall surrender to the department the person's commercial driver's license with the hazardous

materials endorsement and ~~may obtain, upon making application and paying a \$10 fee, apply for~~ a replacement license, as provided in this section, that does not include a hazardous materials endorsement."

Section 7. Section 61-5-119, MCA, is amended to read:

"61-5-119. Definitions. (1) For the purposes of 61-5-120, "driver rehabilitation specialist" means a person who:

(a) possesses current certification from the association of driver educators for the disabled as a driver rehabilitation specialist; or

(b) (i) provides comprehensive services in the clinical evaluation of the abilities of a person with a disability to safely operate a motor vehicle, utilizing, among other things, wheelchair and seating assessment, motor vehicle modification prescription, and driver education;

(ii) (A) possesses a bachelor's degree in rehabilitation, education, or health and safety, in physical, occupational, or recreational therapy, or in a related profession; or

(B) has an equivalent of 8 years of experience in driver rehabilitation and education; and

(iii) has at least 1 year of experience in the area of driver evaluation and training for individuals with disabilities.

(2) For the purposes of this chapter, unless the context requires otherwise, "~~cancellation~~" the following definitions apply:

(a) "Cancellation" means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to the license, and unless otherwise provided, the licensee may submit a new application for a driver's license at any time after cancellation without prejudice. ~~Except as provided in 61-5-201(3), the cancellation of a license is without prejudice and application for a new license may be made at any time after cancellation.~~

(b) "Motorcycle-only driver's license" means a driver's license issued under authority of this chapter that is endorsed for, but restricted to, the operation of a motorcycle."

Section 8. Section 61-5-121, MCA, is amended to read:

"61-5-121. Disposition of fees. (1) Except as provided in subsection (3), the disposition of the fees from driver's licenses, motorcycle endorsements, commercial driver's licenses, and replacement driver's licenses provided for in 61-5-114 is as follows:

(a) The amount of 22.3% of each driver's license fee, 18.25% of each commercial driver's license fee,

and 25% of each replacement driver's license fee must be deposited into an account in the state special revenue fund. Upon receiving an appropriation, the department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404. The department shall report the amount deposited and transferred under this subsection (1)(a) to the legislative finance committee by October 31 of the year preceding each regular session of the legislature.

(b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 2.5% of each driver's license fee, 2.5% of each commercial driver's license fee, and 3.75% of each replacement driver's license fee must be deposited into the county general fund.

(ii) If the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the state general fund.

(c) (i) If the fee is collected by a county treasurer or other agent of the department, the amount of 3.34% of each motorcycle endorsement must be deposited into the county general fund.

(ii) If the fee is collected by the department, the amount provided for in subsection (1)(c)(i) must be deposited into the state general fund.

(d) The amount of 20.7% of each driver's license fee, 16.94% of each commercial driver's license fee, and 8.75% of each replacement driver's license fee must be deposited into the state traffic education account.

(e) In addition to the amounts deposited pursuant to subsections (1)(b)(ii) and (1)(c)(ii), the remainder of each driver's license fee, each commercial driver's license fee, and each replacement driver's license fee must be deposited into the state general fund.

(f) The amount of 63.46% of each motorcycle endorsement fee must be deposited into the state motorcycle safety account in the state special revenue fund, and the amount of 33.2% of each motorcycle endorsement fee must be deposited into the state general fund.

(2) (a) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, the county treasurer or agent shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. The county treasurer or agent shall then remit all remaining fees to the state for deposit as provided in subsections (1)(a) and (1)(d) through (1)(f).

(b) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(f).

(3) The application fee required under 61-5-107 and 61-5-114 and the fee for a renewal notice required

under 61-5-111, whether collected by a county treasurer, an authorized agent, or the department, must be remitted to the department for deposit in the state general fund."

Section 9. Section 61-5-126, MCA, is amended to read:

"61-5-126. Providing information to selective service system. At the request of the director of the selective service system, provided for in 50 App. U.S.C. 460, the department shall provide a list of persons born in specified years who are holders of driver's licenses for the exclusive purpose of ensuring compliance with the military draft registration requirements of the federal Military Selective Service Act, (50 App. U.S.C. 451, et seq.) ~~The department shall notify the persons that information regarding them was released to the selective service system.~~ The department may not provide the selective service system with the social security or driver's license numbers of persons on the list for any purpose."

Section 10. Section 61-5-211, MCA, is amended to read:

"61-5-211. Right of appeal to court -- deadlines. (1) (a) A person whose application for a Montana driver's license is denied by the department or whose a driver's license or whose license has been is canceled, suspended, or revoked by the department, except when the cancellation or revocation is mandatory under the provisions of this chapter, may file a petition within 30 days after challenging the denial, cancellation, suspension, or revocation ~~for a hearing in the matter~~ in the district court in the county in which the person resides.

(b) The petition must be filed no later than 30 days after the effective date of the denial, cancellation, suspension, or revocation.

(c) The petition must be served upon the attorney general.

(d) The department shall respond to the petition within 40 days after service upon the attorney general.

(2) The court has jurisdiction, and it shall set the matter for hearing upon 30 days' written notice to the department, ~~and~~ The court shall take testimony and examine the facts of the case and determine whether the petitioner is entitled to a driver's license or is subject to suspension, cancellation, or revocation of the license under the provisions of this chapter."

Section 11. Section 61-5-213, MCA, is amended to read:

"61-5-213. Conviction defined. For the purposes of chapter 11, parts 1 through 3 of this chapter, ~~part 8 of chapter 8, chapter 11~~, and as it relates to any state or local law regulating the operation of a motor vehicle on highways or mandating the revocation or suspension of a driver's license or driving privilege, the term

"conviction" means:

- (1) ~~a plea of guilty or nolo contendere accepted by the court;~~
- ~~(2) an adjudication of guilt that has not been vacated by the appropriate court;~~
- ~~(3) a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal; the entry of a judgment or the imposition, or suspended execution, of sentence by a court of competent jurisdiction upon a guilty or nolo contendere plea or a verdict or finding of guilt;~~
- ~~(4)(2) a forfeiture of bail or collateral deposited to secure the person's appearance in court that has not been vacated; or~~
- ~~(3) if the offense is a felony, a deferred imposition of sentence upon a guilty or nolo contendere plea or a verdict or finding of guilt.~~
- ~~(5) the payment of a fine or court cost, regardless of whether it is suspended or rebated; or~~
- ~~(6) the violation of a condition of release without bail, regardless of whether the condition is imposed as part of probation."~~

Section 12. Section 61-6-102, MCA, is amended to read:

"61-6-102. Definitions. As used in this part, unless the context clearly indicates a different meaning, the following definitions apply:

(1) "Judgment" means any judgment that has become final by expiration without appeal of the time within which an appeal might have been perfected or by final affirmation on appeal rendered by a court of competent jurisdiction of any state or of the United States upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person or for damages because of injury to or destruction of property, including the loss of use of property, or upon a cause of action on an agreement of settlement for damages.

(2) "License" means any license; or temporary instruction permit, or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles.

(3) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by the nonresident of a motor vehicle or the use of a motor vehicle owned by the nonresident in this state.

(4) "Person" means every natural person, firm, partnership, association, or corporation.

(5) "Proof of financial responsibility" means proof of ability to respond in damages for liability on account

of accidents occurring subsequent to the effective date of the proof of financial responsibility, arising out of the ownership, maintenance, or use of a motor vehicle.

(6) "State" means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada."

Section 13. Section 61-8-801, MCA, is amended to read:

"61-8-801. Purpose -- ~~definition~~ definitions. (1) The purpose of this part is to reduce the number of commercial motor vehicle accidents in Montana, to provide greater safety to the motoring public and others by establishing stringent criteria governing the operation of commercial motor vehicles, and to deny the privilege of operating commercial motor vehicles upon the public streets and highways to those commercial motor vehicle operators who are not qualified.

(2) To fulfill this purpose, the legislature intends that this part:

(a) establish criteria and procedures for the operation of commercial motor vehicles that require safety practices commensurate with the danger inherent to their operation;

(b) provide for increased administrative punishment for commercial motor vehicle operators who use alcohol or drugs while operating commercial motor vehicles;

(c) provide greater control of commercial motor vehicle operators using the streets and highways; and

(d) conform Montana's laws on commercial driver licensing with federal regulations based on the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570, as amended.

(3) As used in this part, the following definitions apply:

(a) "Commercial driver license information system" means the information system established under 49 U.S.C. 31309 to serve as a clearinghouse and depository of information about the licensing, identification, and disqualification of operators of commercial motor vehicles.

(b) ~~"hazardous "~~"Hazardous material" means a substance or material, defined or listed as a hazardous material in Title 49, Code of Federal Regulations, in a quantity and form that may pose an unreasonable risk to health and safety or property when transported.

(c) "State of record" means the licensing agency of the state or jurisdiction that issued a commercial driver's license to a person and maintains the driving record for that person.

(4) As used in this part and elsewhere as it specifically relates to any state or local law regulating the operation of a commercial motor vehicle on highways, other than a parking violation, or mandating the disqualification of a person who holds a commercial driver's license or who is required to have a commercial

driver's license, "conviction" means:

- (a) a plea of guilty or nolo contendere accepted by the court;
- (b) an adjudication of guilt that has not been vacated by the appropriate court;
- (c) a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal or agency;
- (d) a forfeiture of bail or collateral deposited to secure the person's appearance in court that has not been vacated;
- (e) the payment of a fine or court cost, regardless of whether it is suspended; or
- (f) the violation of a condition of release without bail."

Section 14. Section 61-8-803, MCA, is amended to read:

"61-8-803. Suspension of commercial driver's license -- serious traffic violations. (1) If the department receives notice from a court or another licensing jurisdiction that a person holding or required to hold a commercial driver's license has been convicted of more than one serious traffic violation in separate incidents within a 3-year period, the department shall suspend the person's commercial driver's license:

- (a) for 60 days upon receipt of notice of the second conviction; or
 - (b) for 120 days upon receipt of notice of the third or subsequent conviction.
- (2) For purposes of this section, "serious traffic violation" means conviction, when operating a commercial motor vehicle, of:
- (a) speeding ~~in excess of~~ 15 or more miles an hour above a posted speed limit;
 - (b) reckless driving;
 - (c) improper or erratic traffic lane changes;
 - (d) following too closely;
 - (e) a violation of a state law or local ordinance relating to the operation of a motor vehicle, excluding a parking, weight, or equipment violation, that arises in connection with a fatal accident;
 - (f) operating a commercial motor vehicle without a commercial driver's license;
 - (g) operating a commercial motor vehicle without a commercial driver's license in one's possession or refusing to display a commercial driver's license upon request; or
 - (h) operating a commercial motor vehicle without the proper class of commercial driver's license or endorsements, or both, for the specific vehicle type or types being operated or for the passengers or type or types of cargo being transported.

(3) A person is considered to have committed a second or subsequent serious traffic violation if less than 3 years have passed between the date of an offense that resulted in a prior conviction and the date of the offense that resulted in the most recent conviction."

Section 15. Section 61-8-806, MCA, is amended to read:

"61-8-806. Blood and breath tests of commercial vehicle operators -- procedure -- suspension.

(1) A person who operates a commercial motor vehicle upon the ways of this state open to the public is considered to have given consent to one or more tests of the person's blood or breath for the purpose of determining a any measured amount or detected presence of alcohol in the person's body ~~if the person is requested to submit to the~~ or determining if the person is under the influence of drugs or a combination of drugs and alcohol. The test or tests by a must be administered at the direction of a peace officer when the peace officer ~~who~~ has reasonable grounds to believe that the person was driving or in actual physical control of a commercial motor vehicle upon the ways of this state open to the public while having a measured alcohol concentration or detected presence of alcohol or while under the influence of drugs or a combination of drugs and alcohol. The peace officer may designate the blood or breath test or tests to be administered and may request that the person submit to a preliminary alcohol screening test before a blood; or breath; ~~or urine~~ test is taken.

(2) A person who is unconscious or who is otherwise incapable of refusal is considered not to have withdrawn the consent provided in subsection (1).

(3) If a person refuses to submit to one or more tests designated by the officer, the test or tests may not be given, but the officer shall immediately seize the person's commercial driver's license and forward the license to the department, along with a report certified under penalty of law that the officer had reasonable grounds to believe that the person was driving or was in actual physical control of a commercial motor vehicle upon ways of this state open to the public while having a measurable alcohol concentration or detected presence of alcohol or while under the influence of drugs or a combination of drugs and alcohol and that the person had refused to submit to one or more tests upon the request of the officer. Upon receipt of the report, the department shall suspend the license for a period provided in subsection (5).

(4) Upon seizure of a person's commercial driver's license, the peace officer shall issue, on behalf of the department, a temporary 5-day noncommercial driving permit, effective 12 hours after the time of issuance, and shall provide the person with written notice of the license suspension and the right to a hearing under 61-8-808.

(5) Upon receipt of the officer's certified report, the department shall suspend the person's commercial driver's license, with no provision for a restricted probationary commercial driver's license, for:

(a) 1 year, upon a first refusal, except that if the violation occurred in a commercial motor vehicle transporting placardable hazardous materials, the suspension for a first refusal must be for 3 years;

(b) life, upon a second or subsequent refusal at any time as determined from the records of the department, subject to department rules adopted to implement federal rules allowing for driver rehabilitation and license reinstatement, if otherwise eligible, upon service of a minimum period of 10 years' suspension. If the person has a prior conviction of a major offense listed in 61-8-802(2) arising from a separate incident, the conviction has the same effect as a previous testing refusal for purposes of this subsection (5)(b)."

Section 16. Section 61-8-808, MCA, is amended to read:

"61-8-808. Right of appeal to court. (1) Within 30 days after notice of the suspension and the right to a hearing has been given by the peace officer under 61-8-805 or 61-8-806, the person may file a petition to challenge the suspension in the district court in the county where the finding of 0.04 or more alcohol concentration or refusal was made.

(2) The court has jurisdiction and shall set the matter for hearing. The court shall give at least 10 days' written notice to the county attorney of the county where the appeal is filed. The county attorney shall represent the state.

(3) The court shall take testimony and examine the facts of the case, except that:

(a) with regard to a suspension under 61-8-805, the issue is limited to whether the person was driving or had actual physical control of a commercial motor vehicle while the person's alcohol concentration was 0.04 or more; and

(b) with regard to a suspension under 61-8-806, the issues are limited to whether a peace officer had reasonable grounds to believe that the person had been driving or was in actual physical control of a commercial motor vehicle upon ways of this state open to the public while the person had a measurable or detectable alcohol concentration or while the person was under the influence of drugs or a combination of drugs and alcohol, whether the person was ordered to submit to a test, and whether the person refused to submit to the test.

(4) The court shall determine whether the petitioner is entitled to a commercial driver's license or is subject to suspension as provided in this part."

Section 17. Section 61-8-812, MCA, is amended to read:

"61-8-812. Operation of out-of-service vehicle -- criminal and civil penalties -- suspension of commercial driver's license. (1) A person may not operate a commercial motor vehicle during any period in

which the person, the commercial motor vehicle the person is operating, or the motor carrier operation is subject to an out-of-service order issued under state or federal authority.

(2) A violation of this section is a misdemeanor and a person convicted of a violation of this section shall be fined not less than \$25 or more than \$500 for the first offense and not less than \$25 or more than \$1,000 for each subsequent offense.

(3) (a) In addition to the misdemeanor penalties provided in subsection (2) and suspension of the person's commercial driver's license as provided in subsection (4), a person who violates an out-of-service order issued under state or federal authority is subject to a civil penalty of not less than \$1,100 or more than \$2,750.

(b) The department or the county attorney of the county in which the violation occurred may petition the district court to impose the civil penalty. Venue for an action to collect a civil penalty pursuant to this section is the county in which the violation occurred or in the first judicial district.

(c) A civil penalty collected under this section must be deposited in the state general fund.

(4) Upon receipt of notice from a court of competent jurisdiction or another licensing jurisdiction that a person holding a commercial driver's license has been convicted of violating an out-of-service order, the department shall suspend the person's commercial driver's license for:

(a) 6 months for a first conviction;

(b) 1 year for a second conviction if the vehicle being operated by the person at the time of the violation was not transporting placardable hazardous materials or was not designed or being used to transport more than 15 passengers, inclusive of the driver; and

(c) 3 years:

(i) for a second conviction if the vehicle:

(A) being operated at the time of the violation was transporting placardable hazardous materials; or

(B) was designed or being used to transport more than 15 passengers, inclusive of the driver; and

(ii) for a third or subsequent conviction.

(5) For purposes of this section, an offender is considered to have been previously convicted if less than 10 years have elapsed between the commission of the present offense and a previous conviction.

(6) A ~~temporary~~ or probationary commercial driver's license may not be issued while a commercial driver's license is suspended under subsection (4)."

Section 18. Section 61-8-817, MCA, is amended to read:

"61-8-817. Notification to other states of traffic violations of licensing -- disqualification --

conviction -- record exchange. (1) Within 10 days after issuing, renewing, transferring, or upgrading a commercial driver's license, the department shall:

(a) notify the commercial driver license information system of the action;

(b) provide all information required to properly identify the person to whom the license was issued; and

(c) if the person was previously licensed in another state, change the person's state of record to Montana.

(2) Within 10 days after disqualifying a person from operating a commercial motor vehicle or suspending, revoking, or canceling a person's commercial driver's license, the department shall notify the commercial driver license information system and, if the person is licensed by another state, the person's state of record of the action.

(3) The department, upon receipt of a report of a conviction ~~or a~~ for the violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, by a person who holds a commercial driver's license from another state or who is licensed in another state, shall report the conviction to the ~~licensing entity in the state where the driver is licensed~~ person's state of record as follows:

(1)(a) beginning September 30, 2005, within 30 days of conviction; and

(2)(b) beginning September 30, 2008, within 10 days of conviction.

(4) Within 30 days after receiving a request from the licensing agency of another state for a driving record of a person currently or previously licensed by the department, the department shall provide the information to the requester.

(5) When the department issues a commercial driver's license to a person who was previously licensed in another state, the department shall request, using the commercial driver license information system, the person's driving record from each jurisdiction in which the person was licensed in the preceding 10-year period. Upon receipt of each driving record from another state, the record must be reviewed by the department to determine if a suspension is required under this part."

Section 19. Section 61-11-101, MCA, is amended to read:

"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender of licenses. (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license

and a record of the conviction to the department. If the person does not possess a driver's license, the court shall indicate that fact in its report to the department.

(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in 61-5-213; or, if applicable, 61-8-801, to the department within 5 days after the conviction becomes final. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

(3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department.

(4) A conviction becomes final for the purposes of this part upon the later of:

(a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

(b) forfeiture of bail that is not vacated; or

(c) if applicable, imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended execution of a sentence.

(5) A court may not take any action, including deferring imposition of judgment, ~~on a conviction~~ that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, ~~in any type of motor vehicle,~~ from appearing on the ~~person's~~ driving record of a person who holds a commercial driver's license or who was operating a commercial motor vehicle when the violation was committed."

Section 20. Section 61-11-102, MCA, is amended to read:

"61-11-102. Records to be kept by department. (1) Except as provided in subsection (6), the department shall create and maintain a central database of electronic files that includes an individual Montana driving record for each person:

(a) who has been issued a Montana driver's license;

(b) who does not have a driver's license from, or active driving record in, another jurisdiction and for whom the department receives a report of conviction of a traffic violation or an offense requiring suspension or revocation of the person's driver's license; and

(c) whose driver's license or driving privileges have been suspended, revoked, canceled, or otherwise withdrawn by the department.

(2) (a) An individual Montana driving record maintained under this section must include:

(i) personal information obtained from the application for a driver's license or a report of conviction;

(ii) the person's driver's license number, license type, status, endorsements, restrictions, issue and expiration dates, and any suspensions, revocations, disqualifications, or cancellations that have been imposed against the person;

(iii) all convictions reported to the department for the person; and

(iv) traffic accidents in which the person was involved, except that a record of involvement in a traffic accident may not be entered on a licensee's record unless the licensee was convicted, as defined in 61-11-203, for an act causally related to the accident.

(b) If the department receives notice that a person has been disqualified by the federal motor carrier safety administration as an imminent hazard under 49 CFR 383.52, the department shall record the disqualification on the person's individual Montana driving record.

(c) The department shall retain records created under this section for a period of time that meets or exceeds the standards established under 49 CFR, part 384.

(3) The department is further authorized, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, to forward, by electronic or other means, a report of the conviction to the motor vehicle administrator in the state in which the person is a resident or licensed.

(4) The department may place on a computer storage device the information contained on original records or reproductions of original records made pursuant to this section. Signatures on records are not required to be placed on a computer storage device.

(5) (a) Except as provided in subsection (5)(b), a reproduction of the information placed on a computer storage device is an original of the record for all purposes and is admissible in evidence without further foundation in all courts or administrative agencies when ~~the reproduction of the information is signed by a named custodian of the record and~~ the following certification appears on each page of the reproduction:

The individual named below, being a designated custodian of the driver records of the department of justice, motor vehicle division, certifies this document as a true reproduction, in accordance with 61-11-102(5), of the information contained in a computer storage device of the department of justice, motor vehicle division.

Signed: _____

(Print Full Name of Record Custodian)

(b) An order, record, or paper generated from the department's central database of electronic files of individual Montana driving records may be certified electronically by the generating computer. The certification must be a certification of the order, record, or paper as it appeared on a specific date. A court or the office of a clerk of court of this state that is electronically connected by a terminal device to the department's central database of electronic individual Montana driving records may receive and use as evidence without further foundation the computer-generated certified information obtained by the terminal device from the file. An authorized employee of a court of record of this state may certify in writing that an order, record, or paper was produced from a terminal device that is located in and under the control of the court and that is connected to the department's central database of electronic individual Montana driving records files and that the order, record, or paper was not altered in any way.

(6) The department may remove any individual Montana driving record from the active database of electronic files maintained under this section if there has been no change in license status on or additional reports of conviction to the record in the immediately preceding 16 years. Any individual driving record removed must be retained elsewhere by the department as an inactive record in an electronic storage device that is searchable and retrievable."

Section 21. Section 61-12-501, MCA, is amended to read:

"61-12-501. Authority of department to issue identification cards. The department may issue an identification card to any person card to a Montana resident who submits a completed application provided by the department that includes the information required in 61-5-107(2) and who pays the fees as provided in 61-12-504."

Section 22. Section 61-12-502, MCA, is amended to read:

"61-12-502. Rules for identification cards. The department ~~shall formulate and~~ may adopt reasonable rules for the application for and issuing rules governing the issuance and cancellation of identification cards ~~and cancellation thereof and shall require the furnishing of such information necessary for the purpose of this part that~~ comport with proof of identity, residency, authorized presence, and voter and selective service registration requirements for a driver's license issued under this title."

Section 23. Section 61-12-504, MCA, is amended to read:

"61-12-504. Fees for identification cards ~~Identification card fees -- term -- renewal -- replacement.~~

(1) ~~(a) Fees not in excess of \$8 for~~ Except as provided in subsections (1)(b) and (1)(c), an identification card ~~card~~ may be issued pursuant to this part upon payment of a \$5 application fee and a card fee, based on the term of the identification card issued, of \$2 a year or fraction of a year. The fees must be collected and deposited in the general fund.

~~(b) A~~ The application fee and the card fee must be waived when an identification card is issued to:

~~(i) a person with a disability, as defined in 39-30-103, may obtain a free identification card. An individual~~
~~(ii) a person discharged from any correctional facility must be furnished a free identification card upon release, discharge, or parole; or~~

~~(iii) a person who voluntarily surrenders a valid driver's license because the person no longer has the functional ability, because of a physical or mental disability or limitation, to safely operate a motor vehicle.~~

~~(c) The \$5 application fee must be waived for a person who applies for a driver's license and identification card at the same time.~~

(2) ~~(a) Each~~ Except as provided in subsections (2)(b) and (2)(c), an identification card expires on the anniversary of the date of birth of the holder 4 ~~cardholder's birthday 8 years or less~~ after the date of issue.

~~(b) An identification card issued to a person who is under 21 years of age expires on the anniversary of the cardholder's birthday 4 years or less after the date of issue or on the cardholder's 21st birthday, whichever occurs first.~~

~~(c) An identification card issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law expires, as determined by the department, no later than the expiration date of the official document authorizing the person's presence in the United States issued to the person by the U.S. bureau of citizenship and immigration services of the department of homeland security.~~

~~(3) A person is considered to have applied for renewal of a Montana identification card if the application is made within 6 months before or 3 months after the expiration of the person's card.~~

~~(4) If an identification card is lost or a person wants to update personal information contained on the identification card during the term of the card, a replacement card may be issued upon proof satisfactory to the department that the card has been lost or personal information has changed and upon payment of a \$5 application fee and a \$5 card replacement fee."~~

NEW SECTION. Section 24. Repealer. Section 61-12-503, MCA, is repealed.

NEW SECTION. **Section 25. Effective date.** [This act] is effective July 1, 2007.

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