

SENATE BILL NO. 228
INTRODUCED BY J. LASLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING INCENTIVES FOR PARTICIPATION IN THE DRIVER REHABILITATION AND IMPROVEMENT PROGRAM; ALLOWING A JUDGE TO DEFER IMPOSITION OF CERTAIN SENTENCES FOR MISDEMEANOR TRAFFIC OFFENSES, CONDITIONED UPON OFFENDER PARTICIPATION IN THE DRIVER REHABILITATION AND IMPROVEMENT PROGRAM; ALLOWING REMOVAL OF CONVICTION POINTS FROM A PERSON'S DRIVING RECORD IF THE DRIVER PARTICIPATES IN THE DRIVER REHABILITATION AND IMPROVEMENT PROGRAM; AND AMENDING SECTIONS 61-2-302, 61-8-711, 61-11-203, AND 61-13-104, MCA."

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

Section 1. Section 61-2-302, MCA, is amended to read:

"61-2-302. Establishment of driver rehabilitation and improvement program -- participation by offending drivers. (1) The department may establish by administrative rules a driver rehabilitation and improvement program or programs. The programs may consist of classroom instruction in rules of the road, driving techniques, defensive driving, driver attitudes and habits, actual on-the-road driver's training, and other subjects or tasks designed to contribute to proper driving attitudes, habits, and techniques and must include the requirements for obtaining a restricted probationary driver's license.

(2) Except when otherwise provided or restricted by statute, a person whose driver's license is suspended or revoked by the department may participate in any driver rehabilitation and improvement program established under this section if the person's license is:

(a) suspended as a result of a violation of the traffic laws of this state, unless the suspension was imposed under the authority provided in Title 61, chapter 8, part 8; or

(b) revoked and the person has:

(i) completed at least 3 months of a 1-year revocation; or

(ii) completed 1 year of a 3-year revocation; and

(iii) met the requirements for reobtaining a Montana driver's license.

(3) Notwithstanding any provision of this part inconsistent with any other law of the state of Montana, the enforcement of any suspension or revocation order that constitutes the basis for any person's participation in the

driver rehabilitation and improvement program provided for in this section may be stayed if that person complies with the requirements established for the driver rehabilitation and improvement program and meets the eligibility requirements of subsection (2).

(4) If a person's driver's license has been surrendered before the person's selection for participation in the driver rehabilitation and improvement program, the license may be returned upon receipt of the person's agreement to participate in the program.

(5) The stay of enforcement of any suspension or revocation action must be terminated and the suspension or revocation action must be reinstated if a person declines to participate in the driver rehabilitation and improvement program or fails to meet the attendance or other requirements established for participation in the program.

(6) This part does not create a right to be included in any program established under this part.

(7) The department may establish a schedule of fees that may be charged to those persons participating in the driver improvement and rehabilitation program. The fees must be used to help defray costs of maintaining the program.

(8) A person may be referred to this program by a driver improvement analyst, city judge, justice of the peace, youth court judge, judge of a district court of the state, or hearing examiner of the department.

(9) (a) Except as provided in subsection (9)(b), the department may issue a restricted probationary license to any person who enrolls and participates in the driver rehabilitation and improvement program. Upon issuance of a probationary license under this section, the licensee is subject to the restrictions set forth on the license.

(b) The department may not issue a restricted probationary license that would permit an individual to drive a commercial motor vehicle during a period in which:

- (i) the individual is disqualified from operating a commercial motor vehicle under state or federal law; or
- (ii) the individual's driver's license or driving privilege is revoked, suspended, or canceled.

(10) It is a misdemeanor for a person to operate a motor vehicle in any manner in violation of the restrictions imposed on a restricted license issued to the person under this section.

(11) Imposition of a sentence for a first conviction of a misdemeanor offense may be deferred, conditioned upon the offender's participation in the driver rehabilitation and improvement program as provided in 61-8-711.

(12) The department shall remove three conviction points accumulated according to the schedule provided in [section 4] from a person's driving record maintained by the department under 61-11-102 if the person

participates in the driver rehabilitation and improvement program. No more than three points may be removed in a 2-year period, and participation in the program is required for removal of additional points after the 2-year period."

Section 2. Section 61-8-711, MCA, is amended to read:

"61-8-711. Violation of chapter -- penalty. (1) It is a misdemeanor for a person to violate any of the provisions of this chapter unless the violation is declared to be a felony.

(2) ~~Each~~ Except as provided in subsection (6), a person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction be punished by a fine of not less than \$10 or more than \$100. For a second conviction within 1 year after the first conviction, the person shall be punished by a fine of not less than \$25 or more than \$200. Upon a third or subsequent conviction within 1 year after the first conviction, the person shall be punished by a fine of not less than \$50 or more than \$500.

(3) Except as provided in subsection (4), failure to pay a fine imposed under this chapter is a civil contempt of the court. On failure of payment of a fine, the court may:

(a) order enforcement of the fine by execution in the manner provided in 25-13-204 and under the provisions of Title 25, chapter 13; or

(b) if the court finds that the person is unable to pay, order the person to perform community service.

(4) If property is not found in an amount necessary to satisfy the unpaid portion of the fine and if the court makes a written finding that community service is inappropriate, the person shall be imprisoned in the county jail in the county in which the offense was committed, and the imprisonment shall be the number of days that the fine is divisible by the dollar amount of the incarceration credit contained in 46-18-403.

(5) Upon conviction, the court costs or any part of the court costs may be assessed against the defendant in the discretion of the court.

(6) A judge may defer imposition of a sentence for the first conviction of a misdemeanor offense against an offender, conditioned upon the offender's participation in the driver rehabilitation and improvement program established under 61-2-302."

Section 3. Section 61-11-203, MCA, is amended to read:

"61-11-203. Definitions. As used in this part, the following definitions apply:

(1) "Conviction" has the meaning provided in 61-5-213.

(2) "Habitual traffic offender" means any person who within a 3-year period accumulates 30 or more conviction points according to the schedule specified in ~~this subsection:~~

- ~~—— (a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;~~
- ~~—— (b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle, or negligent vehicular assault, 12 points;~~
- ~~—— (c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in the commission of which a motor vehicle is used, 12 points;~~
- ~~—— (d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind or operation of a motor vehicle by a person with alcohol concentration of 0.08 or more, 10 points;~~
- ~~—— (e) operating a motor vehicle while the license to do so has been suspended or revoked, 6 points;~~
- ~~—— (f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance, as described in 61-7-105, 8 points;~~
- ~~—— (g) willful failure of the driver involved in an accident resulting in property damage of \$250 to stop at the scene of the accident and give the required information or failure to otherwise report an accident in violation of the law, 4 points;~~
- ~~—— (h) reckless driving, 5 points;~~
- ~~—— (i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;~~
- ~~—— (j) any of the mandatory motor vehicle liability protection offenses under 61-6-301 and 61-6-302, 5 points;~~
- ~~—— (k) operating a motor vehicle without a license to do so, 2 points. However, this subsection (2)(k) does not apply to operating a motor vehicle within a period of 180 days from the date the license expired.~~
- ~~—— (l) speeding, except as provided in 61-8-725(2), 3 points;~~
- ~~—— (m) all other moving violations, 2 points.~~
- ~~—— (3) There may not be multiple application of cumulative points when two or more charges are filed involving a single occurrence. If there are two or more convictions involving a single occurrence, only the number of points for the specific conviction carrying the highest points is chargeable against that defendant.~~
- ~~—— (4) [section 4].~~

(3) "License" means any type of license or permit to operate a motor vehicle.

~~(5)~~(4) "Moving violation" means a violation of a traffic regulation of this state or another jurisdiction by a person while operating a motor vehicle or in actual physical control of a motor vehicle upon a highway.

~~(6)~~(5) A traffic regulation includes any provision governing motor vehicle operation, equipment, safety,

size, weight, and load restrictions or driver licensing. A traffic regulation does not include provisions governing vehicle registration or local parking."

NEW SECTION. Section 4. Conviction points -- removal from record. (1) Conviction of an offense referenced in this section results in the accumulation of conviction points, according to the following schedule, on a person's driving record maintained by the department under 61-11-102 and subjects the offender to the provisions of this part in addition to all other penalties provided by law:

- (a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;
- (b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle, or negligent vehicular assault, 12 points;
- (c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in the commission of which a motor vehicle is used, 12 points;
- (d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind or operation of a motor vehicle by a person with alcohol concentration of 0.08 or more, 10 points;
- (e) operating a motor vehicle while the license to do so has been suspended or revoked, 6 points;
- (f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance, as described in 61-7-105, 8 points;
- (g) willful failure of the driver involved in an accident resulting in property damage of \$250 to stop at the scene of the accident and give the required information or failure to otherwise report an accident in violation of the law, 4 points;
- (h) reckless driving, 5 points;
- (i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;
- (j) any of the mandatory motor vehicle liability protection offenses under 61-6-301 and 61-6-302, 5 points;
- (k) operating a motor vehicle without a license to do so, 2 points. However, this subsection (1)(k) does not apply to operating a motor vehicle within a period of 180 days from the date on which the license expired.
- (l) speeding, except as provided in 61-8-725(2), 3 points; and
- (m) all other moving violations, 2 points.

(2) There may not be multiple application of cumulative points when two or more charges are filed involving a single occurrence. If there are two or more convictions involving a single occurrence, only the number of points for the specific conviction carrying the highest points is chargeable against that defendant.

(3) The department shall remove three conviction points from a person's driving record if the person participates in the driver rehabilitation and improvement program established under 61-2-302. No more than three points may be removed in a 2-year period, and participation in the program is required for removal of any additional points after the 2-year period.

Section 5. Section 61-13-104, MCA, is amended to read:

"61-13-104. Penalty -- no record permitted. (1) A driver who violates 61-13-103 shall be fined \$20, but the violation is not a misdemeanor pursuant to 45-2-101, 46-18-236, 61-8-104, or 61-8-711. A violation of 61-13-103 may not be counted as a moving violation for purposes of suspending a driver's license under ~~61-11-203(2)(m)~~ [section 4(1)(m)]. Bond for this offense is \$20, and a jail sentence may not be imposed.

(2) A violation of 61-13-103 may not be recorded or charged against the driver's record of a person violating 61-13-103.

(3) An insurance company may not hold a violation of 61-13-103 against the insured or increase the insured's premiums ~~due to~~ because of a violation of 61-13-103."

NEW SECTION. **Section 6. Codification instruction.** [Section 4] is intended to be codified as an integral part of Title 61, chapter 11, part 2, and the provisions of Title 61, chapter 11, part 2, apply to [section 4].

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