

SENATE BILL NO. 81

INTRODUCED BY D. WANZENRIED

BY REQUEST OF THE DEPARTMENT OF JUSTICE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COMMERCIAL DRIVER LICENSING LAWS TO
6 CONFORM TO CHANGES IN FEDERAL MOTOR VEHICLE SAFETY ADMINISTRATION REGULATIONS;
7 CREATING RECORDKEEPING REQUIREMENTS FOR MEDICAL CERTIFICATE EXPIRATION DATES AND
8 INFORMATION FOR CERTAIN COMMERCIAL DRIVERS; AUTHORIZING LICENSE DOWNGRADE IN
9 CERTAIN CIRCUMSTANCES; REVISING CERTAIN LICENSE SUSPENSION PROVISIONS; AMENDING
10 SECTIONS 61-1-101, 61-5-112, ~~61-5-114~~, 61-5-221, 61-8-102, 61-8-801, 61-8-803, 61-8-812, 61-11-102, AND
11 61-11-105, MCA; AND PROVIDING EFFECTIVE DATES."

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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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15 **NEW SECTION. Section 1. Self-certification of operation status -- medical certificate submission**
16 **and tracking -- notice of expiration -- downgrade of license.** (1) The department may not issue or renew a
17 commercial driver's license unless the person applying for the license:

18 (a) certifies to the department the status of operation or expected operation of the commercial motor
19 vehicle as being either nonexcepted interstate commerce or excepted interstate commerce, as those terms are
20 described in 49 CFR 383.71, or intrastate commerce; and

21 (b) when nonexcepted interstate commerce is certified, submits to the department a current medical
22 examiner's certificate as prescribed in 49 CFR, part 391, or when intrastate commerce is certified, submits to the
23 department a current medical examiner's certificate as prescribed in 49 CFR, part 391, or a medical statement
24 as prescribed by department rule.

25 (2) The department may not issue a commercial driver's license to a person seeking to transfer a valid
26 commercial driver's license issued by another state driver licensing authority unless the requirements of
27 subsection (1)(a) are met, and if the driver certifies to nonexcepted interstate commerce operation, the
28 department shall check the person's CDLIS driver record to verify that the person's medical certification status
29 is "certified".

30 (3) The department shall mail to the holder of a commercial driver's license certified for nonexcepted

1 interstate commerce a notice of pending medical certificate expiration no earlier than 60 days and no later than
 2 30 days prior to the expiration date of the current medical certificate. The department shall mail the notice to the
 3 Montana mailing address shown on the commercial driver's license or, if more recent, the mailing address
 4 updated pursuant to 61-3-119 and 61-5-115.

5 (4) On or before the expiration date of the current medical certificate, the holder of a commercial driver's
 6 license certified for nonexcepted interstate commerce shall submit a new medical certificate to the department.

7 (5) If a new medical certificate is not submitted as required in subsection (4), the department shall, within
 8 10 days of expiration of the current medical certificate:

9 (a) update the CDLIS driver record to a status of "not certified";

10 (b) downgrade the person's commercial driver's license; and

11 (c) notify the person of the status change and the license downgrade on the CDLIS driver record.

12 (6) The department may reinstate a commercial driver's license that was downgraded under subsection
 13 (5) if, within the original term of the downgraded license, the person:

14 (a) submits a current medical certificate to the department;

15 (b) certifies to a change in operation status to excepted interstate; or

16 (c) certifies to a change in operation status to intrastate and submits either a current medical examiner's
 17 certificate as prescribed in 49 CFR, part 391, or a medical statement as prescribed by department rule.

18 (7) Within 10 days of issuance, transfer, renewal, downgrade, or upgrade of a commercial driver's
 19 license, the department shall update the CDLIS driver record for the license holder in accordance with the
 20 requirements of 49 CFR, part 383.

21 (8) A DOWNGRADE OR SUBSEQUENT UPGRADE OF A CDLIS DRIVER RECORD PURSUANT TO THIS SECTION IS AN
 22 ELECTRONIC TRANSACTION. THE DEPARTMENT MAY NOT REQUIRE THE SURRENDER OR REPLACEMENT OF A COMMERCIAL
 23 DRIVER'S LICENSE UNDER THIS SECTION UNLESS THE LICENSE IS EXPIRED.

24 (9) UNLESS THE COMMERCIAL DRIVER'S LICENSE IS EXPIRED, THE DEPARTMENT MAY NOT REQUIRE A LICENSE
 25 HOLDER TO TAKE THE KNOWLEDGE AND ROAD OR SKILLS TESTS REQUIRED UNDER 61-5-110 OR 61-5-111 TO REINSTATE
 26 THE COMMERCIAL DRIVER'S LICENSE PURSUANT TO SUBSECTION (6).

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28 **Section 2.** Section 61-1-101, MCA, is amended to read:

29 **"61-1-101. Definitions.** As used in this title, unless the context indicates otherwise, the following
 30 definitions apply:

1 (1) (a) "Authorized agent" means a person who has executed a written agreement with the department
2 and is specifically authorized by the department to electronically access and update the department's motor
3 vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or
4 purposes upon behalf of a third party.

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

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

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

16 (4) (a) "Business entity" means a corporation, association, partnership, limited liability partnership, limited
17 liability company, or other legal entity recognized under state law.

18 (b) The term does not include an individual.

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

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

23 (6) "CDLIS driver record" means the electronic record of a person's commercial driver's license status
24 and history stored as part of the commercial driver's license system established under 49 U.S.C. 31309.

25 ~~(6)(7)~~ "Certificate of title" means the paper record issued by the department or by the appropriate agency
26 of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons
27 and the motor vehicle specifically described in the record and that provides notice of a perfected security interest
28 in the motor vehicle.

29 ~~(7)(8)~~ "Commercial driver's license" means:

30 (a) a driver's license issued under or granted by the laws of this state that authorizes a person to operate

1 a class of commercial motor vehicle; and

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

4 ~~(8)~~(9) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in
5 commerce to transport passengers or property if the vehicle:

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

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

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

11 (iv) is a school bus; or

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

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

14 (i) an authorized emergency service vehicle:

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

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

17 (ii) a vehicle:

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

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

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

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

27 (c) For purposes of this subsection ~~(8)~~ (9):

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

30 (ii) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight

1 of a combination or articulated vehicle;

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

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

5 ~~(9)(10)~~ "Commission" means the state transportation commission.

6 ~~(10)(11)~~ "Custom-built motorcycle" means a motorcycle that is equipped with:

7 (a) an engine that was manufactured 20 years prior to the current calendar year and that has been
8 altered from the manufacturer's original design;

9 (b) an engine that was manufactured to resemble an engine 20 or more years old and that has been
10 constructed in whole or in part from nonoriginal materials.

11 ~~(11)(12)~~ "Custom vehicle" means a motor vehicle other than a motorcycle that:

12 (a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or

13 (ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current
14 calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least
15 25 years old; and

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

18 ~~(12)(13)~~ "Customer identification number" means:

19 (a) a driver's license or identification card number when the customer is an individual who has been
20 issued a driver's license or identification card by a state driver licensing authority;

21 (b) a federal employer or tax identification number when the customer is a business entity that has been
22 issued a federal employer or tax identification number;

23 (c) the identification number assigned by the secretary of state to a business entity authorized to do
24 business in this state under Title 35 if the customer is a business entity that does not have a federal employer
25 or tax identification number other than a social security number; or

26 (d) if the customer has not been issued one of the numbers described in subsections ~~(12)(a)~~ (13)(a)
27 through ~~(12)(e)~~ (13)(c), a number assigned to the customer by the department when a transaction is initiated
28 under this title.

29 ~~(13)(14)~~ (a) "Dealer" means a person that, for commission or profit, engages in whole or in part in the
30 business of buying, selling, exchanging, or accepting on consignment new or used motor vehicles, trailers,

1 semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, off-highway vehicles, or special
2 mobile equipment that is not registered in the name of the person.

3 (b) The term does not include the following:

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

6 (ii) employees of the persons included in subsection ~~(13)(b)(i)~~ (14)(b)(i) when engaged in the specific
7 performance of their duties as employees; or

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

9 ~~(14)~~(15) "Declared weight" means the total unladen weight of a vehicle plus the weight of the maximum
10 load to be carried on the vehicle as stated by the registrant in the application for registration.

11 ~~(15)~~(16) "Department" means the department of justice acting directly or through its duly authorized
12 officers or agents.

13 ~~(16)~~(17) "Dolly or converter gear" means a device consisting of one or two axles with a fifth wheel and
14 trailer tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer.

15 ~~(17)~~(18) "Domiciled" means a place where:

16 (a) an individual establishes residence;

17 (b) a business entity maintains its principal place of business;

18 (c) the business entity's registered agent maintains an address; or

19 (d) a business entity most frequently uses, dispatches, or controls a motor vehicle, trailer, semitrailer,
20 or pole trailer that it owns or leases.

21 (19) "Downgrade" means the removal of a person's privilege to operate a commercial motor vehicle, as
22 maintained by the department on the individual Montana driving record and the CDLIS driver record for that
23 person.

24 ~~(18)~~(20) "Driver" means a person who drives or is in actual physical control of a vehicle.

25 ~~(19)~~(21) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted
26 by the laws of this state, including:

27 (a) any temporary license or instruction permit;

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

29 (c) any nonresident's driving privilege;

30 (d) a motorcycle endorsement; or

1 (e) a commercial driver's license.

2 ~~(20)~~(22) "Electric personal assistive mobility device" means a device that has two nontandem wheels,
3 is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the
4 maximum speed of the device to 12 1/2 miles an hour.

5 ~~(21)~~(23) "For hire" means an action performed for remuneration of any kind, whether paid or promised,
6 either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from
7 which a remuneration is obtained or derived for transportation service.

8 ~~(22)~~(24) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load
9 on the vehicle.

10 (25) "Hazardous material" means:

11 (a) any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be
12 placarded under 49 CFR, part 172; or

13 (b) any quantity of a material listed as a select agent or toxin in 42 CFR, part 73.

14 ~~(23)~~(26) "Highway" or "public highway" means the entire width between the boundary lines of every
15 publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes
16 of vehicular travel.

17 ~~(24)~~(27) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make
18 arrests for violations of traffic regulations.

19 ~~(25)~~(28) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and
20 exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations.

21 ~~(26)~~(29) "Kit vehicle" is a motor vehicle assembled from a manufactured kit either as:

22 (a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor vehicle; or

23 (b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and drivetrain,
24 commonly referred to as a donor vehicle.

25 ~~(27)~~(30) "Light vehicle" means a motor vehicle commonly referred to as an automobile, van, sport utility
26 vehicle, or truck having a manufacturer's rated capacity of 1 ton or less.

27 ~~(28)~~(31) "Manufactured home" has the meaning provided in 15-24-201.

28 ~~(29)~~(32) "Manufacturer" includes any person engaged in the manufacture of motor vehicles, trailers,
29 semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, or off-highway vehicles as a regular
30 business.

1 ~~(30)~~(33) "Manufacturer's certificate of origin" means the original paper record produced and issued by
2 the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and
3 transmitted by the manufacturer of a vehicle to the manufacturer's agent or a licensed dealer. The record must
4 establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of
5 ownership of the vehicle to the person or persons named in the certificate.

6 ~~(31)~~(34) (a) "Medium-speed electric vehicle" is a motor vehicle, upon or by which a person may be
7 transported, that:

8 (i) has a maximum speed of 45 miles an hour as certified by the manufacturer;

9 (ii) is propelled by its own power, using an electric motor or other device that transforms stored electrical
10 energy into the motion of the vehicle;

11 (iii) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power
12 grid or from renewable electrical energy sources;

13 (iv) is fully enclosed and includes at least one door for entry;

14 (v) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

15 (vi) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle
16 identification number as provided in 49 CFR, part 565;

17 (vii) bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that
18 indicates the vehicle's maximum speed rating; and

19 (viii) as certified by the manufacturer, is equipped as provided in 61-9-432.

20 (b) A medium-speed electric vehicle must be treated as a light vehicle for purposes of titling and
21 registration under Title 61, chapter 3.

22 (c) A medium-speed electric vehicle may not have a gross vehicle weight in excess of 5,000 pounds.

23 ~~(32)~~(35) "Mobile home" or "housetrailer" has the meaning provided in 15-24-201.

24 ~~(33)~~(36) "Montana resident" means:

25 (a) an individual who resides in Montana as determined under 1-1-215;

26 (b) for the purposes of chapter 3, a business entity that maintains a principal place of business or a
27 registered agent in this state.

28 ~~(34)~~(37) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any
29 machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal
30 source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

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

3 ~~(35)~~(38) (a) "Motor carrier" means a person or corporation or its lessees, trustees, or receivers appointed
4 by a court that are operating motor vehicles upon a public highway in this state for the transportation of property
5 for hire on a commercial basis.

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

7 ~~(36)~~(39) (a) "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the operator and
8 that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one
9 or more attachments and a seat for the conveyance of a passenger.

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

12 ~~(37)~~(40) (a) "Motor-driven cycle" means a motorcycle, including a motor scooter, with a motor that
13 produces 5 horsepower or less.

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

15 ~~(38)~~(41) "Motor home" means a motor vehicle:

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

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

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

21 (i) cooking, refrigeration, or icebox;

22 (ii) self-contained toilet;

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

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

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

26 ~~(39)~~(42) (a) "Motorized nonstandard vehicle" means a vehicle, upon or by which a person may be
27 transported, that:

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

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

30 (iii) does not display a manufacturer's certification in accordance with 49 CFR, part 567, or have a

1 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.

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

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

7 ~~(40)~~(43) (a) "Motor vehicle" means:

8 (i) a vehicle propelled by its own power and designed or used to transport persons or property upon the
9 highways of the state; and

10 (ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9.

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

15 ~~(41)~~(44) "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal
16 or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person
17 as the result of a retail sale.

18 ~~(42)~~(45) "Nonresident" means a person who is not a Montana resident.

19 ~~(43)~~(46) (a) "Not used for general transportation purposes" means the operation of a motor vehicle,
20 registered as a collector's item, a custom vehicle, a street rod, or a custom-built motorcycle to or from a car or
21 motorcycle club activity or event or an exhibit, show, cruise night, or parade, or other occasional transportation
22 activity.

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

25 ~~(44)~~(47) (a) "Off-highway vehicle" means a self-propelled vehicle designed for recreation or cross-country
26 travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to
27 motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land
28 transportation deriving motive power from any source other than muscle or wind.

29 (b) The term does not include:

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

1 (ii) snowmobiles; or
2 (iii) motor vehicles designed to transport persons or property upon the highways unless the vehicle is
3 used for off-road recreation on public lands.

4 ~~(45)~~(48) "Operator" means a person who is in actual physical control of a motor vehicle.

5 ~~(46)~~(49) "Owner" means a person who holds the legal title to a vehicle. If a vehicle is the subject of an
6 agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions
7 stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the
8 event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control,
9 for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner is the
10 person in whom is vested the right of possession or control.

11 ~~(47)~~(50) "Person" means an individual, corporation, partnership, association, firm, or other legal entity.

12 ~~(48)~~(51) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine
13 powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person
14 sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the
15 vessel.

16 ~~(49)~~(52) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and
17 attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the
18 towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or
19 structural members capable generally of sustaining themselves as beams between the supporting connections.

20 ~~(50)~~(53) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for
21 violations of traffic regulations.

22 ~~(51)~~(54) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use,
23 having a seat or saddle upon which the operator sits and a motor capable of producing not more than 50
24 horsepower.

25 (b) The term does not include golf carts.

26 ~~(52)~~(55) "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated
27 upon stationary rails.

28 ~~(53)~~(56) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without cars
29 coupled to the engine, that is operated upon rails.

30 (b) The term does not include streetcars.

1 ~~(54)~~(57) "Recreational vehicle" includes a motor home, travel trailer, or camper.

2 ~~(55)~~(58) "Registration" or "register" means the act or process of creating an electronic record, maintained
3 by the department, of the assignment of a license plate or a set of license plates to and the issuance of a
4 registration decal for a specific vehicle, the ownership of which has been established or is presumed in
5 department records.

6 ~~(56)~~(59) "Registration decal" means an adhesive sticker produced by the department and issued by the
7 department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, pole
8 trailer, motorboat, sailboat, personal watercraft, or snowmobile as proof of payment of all fees imposed for the
9 registration period indicated on the sticker as recorded by the department under 61-3-101.

10 ~~(57)~~(60) "Registration receipt" means a paper record that is produced and issued or, if authorized by the
11 department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer
12 to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic record of title
13 for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the
14 vehicle for the registration period indicated in the receipt.

15 ~~(58)~~(61) "Retail sale" means the sale of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer,
16 motorboat, snowmobile, off-highway vehicle, or special mobile equipment by a dealer to a person for purposes
17 other than resale.

18 ~~(59)~~(62) "Revocation" means the termination by action of the department of a person's driver's license,
19 privilege to drive a motor vehicle on the public highways, and privilege to apply for and be issued a driver's license
20 for a period of time designated by law, during which the license or privilege may not be renewed, restored, or
21 exercised. An application for a new license may be presented and acted upon by the department after the
22 expiration of the period of the revocation.

23 ~~(60)~~(63) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular
24 travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways,
25 the term refers to any roadway separately but not to all roadways collectively.

26 ~~(61)~~(64) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

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

28 ~~(62)~~(65) "School zone" means an area near a school beginning at the school's front door, encompassing
29 the campus and school property, and including the streets directly adjacent to the school property and for as
30 many blocks surrounding the school as determined by the local authority establishing a special speed limit under

1 61-8-310(1)(d).

2 ~~(63)~~(66) "Sell" means to transfer ownership from one person to another person or from a dealer to
3 another person for consideration.

4 ~~(64)~~(67) "Semitrailer" means a vehicle, with or without motive power, other than a pole trailer, designed
5 for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and
6 that of its load rests upon or is carried by another vehicle.

7 ~~(65)~~(68) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding
8 accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that
9 is not otherwise registered or licensed under the laws of the state of Montana.

10 ~~(66)~~(69) "Special mobile equipment" means a vehicle not designed for the transportation of persons or
11 property on the highways but incidentally operated or moved over the highways, including road construction or
12 maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is
13 permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this
14 subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.

15 ~~(67)~~(70) (a) "Specially constructed vehicle" means a motor vehicle, including a motorcycle, that:

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

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

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

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

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

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

27 ~~(68)~~(71) (a) "Sport utility vehicle" means a light vehicle designed to transport 10 or fewer persons that
28 is constructed on a truck chassis or that has special features for occasional off-road use.

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

30 ~~(69)~~(72) (a) "Stop", when required, means complete cessation from movement.

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

4 ~~(70)~~(73) "Storage lot" means property owned, leased, or rented by a dealer that is not contiguous to the
5 dealer's established place of business where a motor vehicle from the dealer's inventory may be placed when
6 space at the dealer's established place of business is not available.

7 ~~(71)~~(74) "Street" means the entire width between the boundary lines of every publicly maintained way
8 when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

9 ~~(72)~~(75) "Street rod" means a motor vehicle, other than a motorcycle, that:

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

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

14 ~~(73)~~(76) "Suspension" means the temporary withdrawal by action of the department of a person's driver's
15 license, privilege to drive a motor vehicle on the public highways, and privilege to apply for or be issued a driver's
16 license for a period of time designated by law.

17 ~~(74)~~(77) "Temporary registration permit" means a paper record:

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

21 (i) required vehicle and owner information; and

22 (ii) the purpose for which the record was generated; and

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

27 ~~(75)~~(78) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other
28 conveyances either singly or together while using any highways for purposes of travel.

29 ~~(76)~~(79) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed
30 for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests

1 upon the towing vehicle.

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

3 ~~(77)~~(80) "Transaction summary receipt" means an electronic record produced and issued by the
4 department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be
5 created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record
6 must contain a unique transaction record number and summarize and verify the electronic filing of the transaction
7 described in the receipt on the electronic record of title maintained under 61-3-101.

8 ~~(78)~~(81) "Travel trailer" means a vehicle:

9 (a) that is 40 feet or less in length;

10 (b) that is of a size or weight that does not require special permits when towed by a motor vehicle;

11 (c) with gross trailer area of less than 320 square feet; and

12 (d) that is designed to provide temporary facilities for recreational, travel, or camping use and not used
13 as a principal residence.

14 ~~(79)~~(82) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the
15 transportation of property.

16 ~~(80)~~(83) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles
17 and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

18 ~~(81)~~(84) "Under the influence" has the meaning provided in 61-8-401.

19 ~~(82)~~(85) "Used motor vehicle" includes any motor vehicle that has been sold, bargained, exchanged,
20 given away, or had its title transferred from the person who first took title to it from the manufacturer, importer,
21 dealer, wholesaler, or agent of the manufacturer or importer and that has been used so as to have become what
22 is commonly known as "secondhand" within the ordinary meaning of that term.

23 ~~(83)~~(86) "Van" means a motor vehicle designed for the transportation of at least six persons and not more
24 than nine persons and intended for but not limited to family or personal transportation without compensation.

25 ~~(84)~~(87) (a) "Vehicle" means a device in, upon, or by which any person or property may be transported
26 or drawn upon a public highway, except devices moved by animal power or used exclusively upon stationary rails
27 or tracks.

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

1 ~~(85)~~(88) "Vehicle identification number" means the number, letters, or combination of numbers and letters
2 assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for
3 the purpose of identifying the motor vehicle or a component part of the motor vehicle.

4 ~~(86)~~(89) "Vessel" means every description of watercraft, unless otherwise defined by the department,
5 other than a seaplane on the water, used or capable of being used as a means of transportation on water.

6 ~~(87)~~(90) "Wholesaler" means a person that for a commission or with intent to make a profit or gain of
7 money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a
8 used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or
9 special mobile equipment only to dealers and auto auctions licensed under chapter 4, part 1."

10

11 **Section 3.** Section 61-5-112, MCA, is amended to read:

12 **"61-5-112. Types and classes of commercial driver's licenses -- classification -- rulemaking --**
13 **reciprocity agreements.** (1) The department shall adopt rules that it considers necessary for the safety and
14 welfare of the traveling public governing the classification of commercial driver's licenses and related
15 endorsements and the examination of commercial driver's license applicants and renewal applicants. The rules
16 must:

17 (a) subject to the exceptions provided in this section, comport with the licensing standards and
18 requirements of 49 CFR, part 383, the medical qualifications of 49 CFR, part 391, and the security threat
19 assessment provisions of 49 CFR, part 1572;

20 (b) allow for the issuance of a type 2 (intrastate only) commercial driver's license in accordance with
21 medical qualification and visual acuity standards prescribed by the department;

22 (c) allow for the issuance of a type 2 commercial driver's license to a person who is 18 years of age or
23 older;

24 (d) allow for issuance of a seasonal commercial driver's license based on standards established by the
25 department for the waiver of the knowledge and road or skills test for a qualified person employed in farm-related
26 service industries who has a good driving record and sufficient prior driving experience;

27 (e) prescribe the operational and seasonal restrictions for a seasonal commercial driver's license;

28 (f) prescribe the requirements for the medical statement that must be submitted in order for a person to
29 be qualified for a type 2 commercial driver's license; and

30 (g) prescribe the minimum standards for certification of a third-party commercial driver testing program

1 and any test waiver under 61-5-118.

2 (2) The department is authorized to enter into reciprocal agreements with adjacent states that would
3 allow certain drivers of vehicles transporting farm products, farm machinery, or farm supplies within 150 miles
4 of a farm to operate without a commercial driver's license because the vehicles are not considered commercial
5 motor vehicles as provided in 61-1-101~~(b)(iii)~~ (9)(b)(ii)."

6

7 ~~Section 4.~~ Section 61-5-114, MCA, is amended to read:

8 ~~"61-5-114. Replacement license or permit. (1) If an instruction permit or driver's license issued under~~
9 ~~the provisions of this chapter is lost or destroyed or a person wants to update personal information contained on~~
10 ~~an instruction permit or a driver's license issued to the person, the person to whom the permit or license was~~
11 ~~issued may, upon the payment of a fee of \$10, obtain a replacement permit or license, upon furnishing proof~~
12 ~~satisfactory to the department that the permit or license has been lost or destroyed or that personal information~~
13 ~~has changed.~~

14 ~~(2) (a) If When the hazardous materials endorsement on a commercial driver's license issued under the~~
15 ~~provisions of this chapter is revoked or removed pursuant to the authority provided in 61-5-221, the person to~~
16 ~~whom the license was issued shall surrender to the department the person's commercial driver's license with the~~
17 ~~hazardous materials endorsement and may obtain, upon making application and paying a \$10 fee, a replacement~~
18 ~~license that does not include a hazardous materials endorsement.~~

19 ~~(b) When a commercial driver's license issued under the provisions of this chapter is downgraded~~
20 ~~pursuant to the authority provided in [section 1], the person to whom the license was issued shall surrender to~~
21 ~~the department the person's commercial driver's license and may obtain a replacement driver's license upon~~
22 ~~payment of a \$10 fee.~~

23 ~~(c) When a previously downgraded commercial driver's license is reinstated pursuant to the authority~~
24 ~~provided in [section 1], the person shall surrender to the department the person's driver's license and may obtain~~
25 ~~a replacement commercial driver's license upon payment of a \$10 fee.~~

26

27 **Section 4.** Section 61-5-221, MCA, is amended to read:

28 **"61-5-221. Authority to revoke or remove hazardous materials endorsement.** (1) If the transportation
29 security administration of the department of homeland security informs the department that a person does not
30 meet the standards for the security threat assessment provided in 49 CFR, part 1572, the department shall

1 revoke the person's hazardous materials endorsement to a commercial driver's license. Revocation of the
2 hazardous materials endorsement results in immediate withdrawal of the person's authority to transport
3 hazardous materials, ~~as defined in 61-8-801~~, material in commerce, but does not otherwise affect the person's
4 commercial driver's license or any unrelated endorsements.

5 (2) A person whose hazardous materials endorsement has been revoked or removed under this section
6 shall surrender the person's commercial driver's license to the department and apply for a replacement license,
7 as provided in 61-5-114, that does not include the hazardous materials endorsement.

8 (3) Upon surrender of a hazardous materials endorsement by a person who is disqualified from holding
9 a hazardous materials endorsement under 49 CFR, part 1572, the department shall note the removal of the
10 hazardous materials endorsement on its records and on the commercial driver's license information system."
11

11

12 **Section 5.** Section 61-8-102, MCA, is amended to read:

13 **"61-8-102. Uniformity of interpretation -- definitions.** (1) Interpretation of this chapter in this state must
14 be as consistent as possible with the interpretation of similar laws in other states.

15 (2) As used in this chapter, unless the context requires otherwise, the following definitions apply:

16 (a) "Authorized emergency vehicle" means a vehicle of a governmental fire agency organized under Title
17 7, chapter 33, an ambulance, and an emergency vehicle designated or authorized by the department.

18 (b) "Bicycle" means:

19 (i) a vehicle propelled solely by human power upon which any person may ride and that has two tandem
20 wheels and a seat height of more than 25 inches from the ground when the seat is raised to its highest position,
21 except scooters and similar devices; or

22 (ii) a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion, and an
23 independent power source providing a maximum of 2 brake horsepower. If a combustion engine is used, the
24 maximum piston or rotor displacement may not exceed 3.05 cubic inches, 50 centimeters, regardless of the
25 number of chambers in the power source. The power source may not be capable of propelling the device,
26 unassisted, at a speed exceeding 30 miles an hour, 48.28 kilometers an hour, on a level surface. The device must
27 be equipped with a power drive system that functions directly or automatically only and does not require clutching
28 or shifting by the operator after the drive system is engaged.

29 (c) "Business district" means the territory contiguous to and including a highway when within any 600
30 feet along a highway there are buildings in use for business or industrial purposes, including but not limited to

1 hotels, banks, office buildings, railroad stations, and public buildings that occupy at least 300 feet of frontage on
2 one side or 300 feet collectively on both sides of the highway.

3 (d) "Controlled-access highway" means a highway, street, or roadway in respect to which owners or
4 occupants of abutting lands and other persons have no legal right of access to or from the highway, street, or
5 roadway except at the points and in the manner as determined by the public authority having jurisdiction over the
6 highway, street, or roadway.

7 (e) "Crosswalk" means:

8 (i) that part of a roadway at an intersection included within the connections of the lateral lines of the
9 sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges
10 of the traversable roadway;

11 (ii) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrians crossing
12 by lines or other markings on the surface.

13 (f) "Flag person" means a person who directs, controls, or alters the normal flow of vehicular traffic upon
14 a street or highway as a result of a vehicular traffic hazard then present on that street or highway. This person,
15 except a uniformed traffic enforcement officer exercising the officer's duty as a result of a planned vehicular traffic
16 hazard, must be equipped as required by the rules of the department of transportation.

17 (g) "Highway" has the meaning provided in 61-1-101, but includes ways that have been or are later
18 dedicated to public use.

19 (h) "Ignition interlock device" means ignition equipment that:

20 (i) analyzes the breath to determine blood alcohol concentration;

21 (ii) is approved by the department pursuant to 61-8-441; and

22 (iii) is designed to prevent a motor vehicle from being operated by a person who has consumed a specific
23 amount of an alcoholic beverage.

24 (i) (i) "Intersection" means the area embraced within the prolongation or connection of the lateral curb
25 lines or if there are no curb lines then the lateral boundary lines of the roadways of two highways that join one
26 another at or approximately at right angles or the area within which vehicles traveling upon different highways
27 joining at any other angle may come in conflict.

28 (ii) When a highway includes two roadways 30 feet or more apart, then every crossing of each roadway
29 of the divided highway by an intersecting highway must be regarded as a separate intersection. If the intersecting
30 highways also include two roadways 30 feet or more apart, then every crossing of two roadways of the highways

1 must be regarded as a separate intersection.

2 (j) "Local authorities" means every county, municipal, and other local board or body having authority to
3 enact laws relating to traffic under the constitution and laws of this state.

4 (k) "Noncommercial motor vehicle" or "noncommercial vehicle" means any motor vehicle or combination
5 of motor vehicles that is not included in the definition of commercial motor vehicle in 61-1-101 and includes but
6 is not limited to the vehicles listed in 61-1-101 ~~(8)(b)~~ (9)(b).

7 (l) "Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with
8 this title that are placed or erected by authority of a public body or official having jurisdiction for the purpose of
9 regulating, warning, or guiding traffic.

10 (m) "Pedestrian" means any person on foot or any person in a manually or mechanically propelled
11 wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically
12 disabled person.

13 (n) "Police vehicle" means a vehicle used in the service of any law enforcement agency.

14 (o) "Private road" or "driveway" means a way or place in private ownership and used for vehicular travel
15 by the owner and those having express or implied permission from the owner, but not by other persons.

16 (p) "Residence district" means the territory contiguous to and including a highway not comprising a
17 business district when the property on the highway for a distance of 300 feet or more is primarily improved with
18 residences or residences and buildings in use for business.

19 (q) "Right-of-way" means the privilege of the immediate use of the roadway.

20 (r) "School bus" has the meaning provided in 20-10-101.

21 (s) "Sidewalk" means that portion of a street that is between the curb lines or the lateral lines of a
22 roadway and the adjacent property lines and that is intended for use by pedestrians.

23 (t) "Traffic control signal" means a device, whether manually, electrically, or mechanically operated, by
24 which traffic is alternately directed to stop and to proceed.

25 (u) "Urban district" means the territory contiguous to and including any street that is built up with
26 structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a
27 distance of one-fourth mile or more."

28

29 **Section 6.** Section 61-8-801, MCA, is amended to read:

30 **"61-8-801. Purpose --definition.** (1) The purpose of this part is to reduce the number of commercial

1 motor vehicle accidents in Montana, to provide greater safety to the motoring public and others by establishing
 2 stringent criteria governing the operation of commercial motor vehicles, and to deny the privilege of operating
 3 commercial motor vehicles upon the public streets and highways to those commercial motor vehicle operators
 4 who are not qualified.

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

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

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

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

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

13 ~~———(3) As used in this part, "hazardous material" means a substance or material, defined or listed as a~~
 14 ~~hazardous material in Title 49, Code of Federal Regulations, in a quantity and form that may pose an~~
 15 ~~unreasonable risk to health and safety or property when transported."~~

16

17 **Section 7.** Section 61-8-803, MCA, is amended to read:

18 **"61-8-803. Suspension of commercial driver's license -- serious traffic violations.** (1) If the
 19 department receives notice from a court or another licensing jurisdiction that a person holding or required to hold
 20 a commercial driver's license has been convicted of more than one serious traffic violation in separate incidents
 21 within a 3-year period, the department shall suspend the person's commercial driver's license:

22 (a) for 60 days upon receipt of notice of the second conviction; or

23 (b) for 120 days upon receipt of notice of the third or subsequent conviction.

24 (2) For purposes of this section, "serious traffic violation" means conviction, when operating a
 25 commercial motor vehicle, of:

26 (a) speeding ~~in excess of~~ 15 or more miles an hour above a posted speed limit;

27 (b) reckless driving;

28 (c) improper or erratic traffic lane changes;

29 (d) following too closely;

30 (e) a violation of a state law or local ordinance relating to the operation of a motor vehicle, excluding a

- 1 parking, weight, or equipment violation, that arises in connection with a fatal accident;
- 2 (f) operating a commercial motor vehicle without a commercial driver's license;
- 3 (g) operating a commercial motor vehicle without a commercial driver's license in one's possession or
- 4 refusing to display a commercial driver's license upon request; ~~or~~
- 5 (h) operating a commercial motor vehicle without the proper class of commercial driver's license or
- 6 endorsements, or both, for the specific vehicle type or types being operated or for the passengers or type or types
- 7 of cargo being transported; or
- 8 (i) using a mobile device to send text messages while operating a commercial motor vehicle in violation
- 9 of a state or local law or ordinance on motor vehicle traffic control.

10 (3) A person is considered to have committed a second or subsequent serious traffic violation if less than

11 3 years have passed between the date of an offense that resulted in a prior conviction and the date of the offense

12 that resulted in the most recent conviction."

13

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

15 **"61-8-812. Operation of out-of-service vehicle -- criminal and civil penalties -- suspension of**

16 **commercial driver's license.** (1) A person may not operate a commercial motor vehicle during any period in

17 which the person, the commercial motor vehicle the person is operating, or the motor carrier operation is subject

18 to an out-of-service order issued under state or federal authority.

19 (2) A violation of this section is a misdemeanor and a person convicted of a violation of this section shall

20 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

21 each subsequent offense.

22 (3) (a) In addition to the misdemeanor penalties provided in subsection (2) and suspension of the

23 person's commercial driver's license as provided in subsection (4), a person who violates an out-of-service order

24 issued under state or federal authority is subject to a civil penalty of not less than \$1,100 or more than \$2,750.

25 (b) The department or the county attorney of the county in which the violation occurred may petition the

26 district court to impose the civil penalty. Venue for an action to collect a civil penalty pursuant to this section is

27 the county in which the violation occurred or in the first judicial district.

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

29 (4) Upon receipt of notice from a court of competent jurisdiction or another licensing jurisdiction that a

30 person holding a commercial driver's license has been convicted of violating an out-of-service order, the

1 department shall suspend the person's commercial driver's license for:

2 (a) 6 months for a first conviction;

3 (b) ~~1 year~~ 2 years for a second conviction if the vehicle being operated by the person at the time of the
4 violation was not transporting placardable hazardous materials or was not designed or being used to transport
5 more than 15 passengers, inclusive of the driver; and

6 (c) 3 years:

7 (i) for a second conviction if the vehicle:

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

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

10 (ii) for a third or subsequent conviction.

11 (5) For purposes of this section, an offender is considered to have been previously convicted if less than
12 10 years have elapsed between the commission of the present offense and a previous conviction.

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

15

16 **Section 9.** Section 61-11-102, MCA, is amended to read:

17 "**61-11-102. Records to be kept by department.** (1) Except as provided in subsection ~~(6)~~ (8), the
18 department shall create and maintain a central database of electronic files that includes an individual Montana
19 driving record for each person:

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

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

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

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

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

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

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

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

5 (3) (a) The department shall create and maintain a CDLIS driver record for each person who has been
6 issued a Montana commercial driver's license or for whom a record of conviction, disqualification, or other
7 licensure action has been taken for violations of any state or local law relating to motor vehicle traffic regulation,
8 other than a parking violation, committed while operating a commercial motor vehicle.

9 **(b) A CDLIS driver record maintained by the department must meet the requirements of 49 CFR 384.225.**

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

13 ~~(c)~~(4) The department shall retain records created under this section for a period of time that meets or
14 exceeds the standards established under 49 CFR, part 384.

15 ~~(3)~~(5) The department is further authorized, upon receiving a record of the conviction in this state of a
16 nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, to forward, by
17 electronic or other means, a report of the conviction to the motor vehicle administrator in the state in which the
18 person is a resident or licensed.

19 ~~(4)~~(6) The department may place on a computer storage device the information contained on original
20 records or reproductions of original records made pursuant to this section. Signatures on records are not required
21 to be placed on a computer storage device.

22 ~~(5)~~(7) (a) Except as provided in subsection ~~(5)(b)~~ (7)(b), a reproduction of the information placed on a
23 computer storage device is an original of the record for all purposes and is admissible in evidence without further
24 foundation in all courts or administrative agencies when the reproduction of the information is signed by a named
25 custodian of the record and the following certification appears on each page:

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

29 Signed:.....

30 (Print Full Name)



1 (b) An order, record, or paper generated from the department's central database of electronic files of
 2 individual Montana driving records may be certified electronically by the generating computer. The certification
 3 must be a certification of the order, record, or paper as it appeared on a specific date.

4 (c) A court, an office of a clerk of court, or an attorney licensed to practice law in this state may receive
 5 and use a computer-generated individual Montana driving record as evidence without further foundation when:

6 (i) the individual Montana driving record is electronically transmitted from the department's central
 7 database of electronic individual Montana driving records to a department-authorized terminal device maintained
 8 by the court, the office of the clerk of court, or the attorney; and

9 (ii) the judge, an officer of the court, or the attorney certifies that the record was not altered in any way.

10 ~~(6)~~(8) The department may remove any individual Montana driving record from the active database of
 11 electronic files maintained under this section if there has been no change in license status on or additional reports
 12 of conviction to the record in the immediately preceding 16 years. Any individual driving record removed must be
 13 retained elsewhere by the department as an inactive record in an electronic storage device that is searchable and
 14 retrievable."
 15

16 **Section 10.** Section 61-11-105, MCA, is amended to read:

17 **"61-11-105. Release of information -- fees.** (1) Subject to the limitations of this section, the department
 18 shall, upon request, furnish a person the individual Montana driving record of a driver or licensee, containing the
 19 following data:

20 (a) the driver's or licensee's name, driver's license number, and date of birth;

21 (b) driver's license status, including the license type and any endorsements, the license issue date,
 22 license restrictions, any suspensions, revocations, or cancellations that have been imposed against the driver
 23 or licensee, and the license expiration date;

24 (c) convictions of the driver or licensee; and

25 (d) traffic accidents in which the driver or licensee was involved.

26 (2) The department may not enter into any agreement to disclose or sell, in bulk, any data contained in
 27 an individual Montana driving record unless the requester of the information provides the department with the
 28 names, driver's license numbers, and dates of birth of the drivers or licensees from whose records a change in
 29 license status or conviction activity is to be reported.

30 (3) (a) The department may not disclose personal information or highly restricted personal information

1 from an individual Montana driving record, except as permitted or required under 61-11-507, 61-11-508, or
2 61-11-509.

3 (b) The department may not disclose medical certification status, driver self-certification status, or
4 medical certificate information from a CDLIS driver record as part of an individual Montana driving record except
5 as expressly authorized under 49 CFR 384.225.

6 (4) Information relating to a traffic accident that did not involve a conviction, as defined in 61-11-203, may
7 not be released by the department unless the release is requested or approved by a party involved in the accident
8 or is required by court order or a duly executed subpoena.

9 (5) (a) Subject to the requirements of subsection (6) and except as provided in subsection (5)(b), a fee
10 of \$4 must be paid for each individual Montana driving record requested. A fee of \$10 must be paid if a certified
11 Montana record, as provided in 61-11-102~~(5)~~(7), is requested. A fee of 6 cents must be paid for each individual
12 Montana driving record that is searched by the department to report to a requester a change in license status or
13 conviction activity from one or more individual Montana driving records.

14 (b) An individual Montana driving record must be provided without charge to any criminal justice agency,
15 as defined in 44-5-103, or other state or federal agency.

16 (6) In addition to the fees required in 61-11-510(3) and subsection (5) of this section, an individual
17 Montana driving record or any report compiled from one or more individual Montana driving records that are
18 electronically transmitted to a requester through a point of entry for electronic government services are subject
19 to the convenience fee established under 2-17-1103.

20 (7) The department may require a requester, other than a federal, state, or local government agency,
21 seeking one or more individual Montana driving records or any data otherwise contained in one or more individual
22 Montana driving records in electronic format to use a point of entry for electronic government services to obtain
23 the record or data."
24

25 NEW SECTION. Section 11. Codification instruction. [Section 1] is intended to be codified as an
26 integral part of Title 61, chapter 5, part 1, and the provisions of Title 61, chapter 5, part 1, apply to [section 1].
27

28 NEW SECTION. Section 12. Direction to code commissioner. Sections 61-5-220 and 61-5-221 are
29 intended to be renumbered and codified as an integral part of Title 61, chapter 5, part 1.
30

