

HOUSE BILL NO. 297

INTRODUCED BY V. COURT

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE USE OR IMMEDIATE PHYSICAL POSSESSION OF A HAND-HELD ELECTRONIC COMMUNICATIONS DEVICE WHILE A PERSON IS OPERATING A MOTOR VEHICLE; PROVIDING FOR PENALTIES AND EXEMPTIONS; REQUIRING THE DEPARTMENT OF JUSTICE TO INCLUDE INFORMATION ON DISTRACTED DRIVING IN ITS DRIVER EDUCATION PROGRAMS AND DRIVER'S LICENSE MANUAL; AND AMENDING SECTION 61-5-110, MCA."

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

Section 1. Section 61-5-110, MCA, is amended to read:

"61-5-110. Records check of applicants -- examination of applicants -- cooperative driver testing programs -- reciprocal agreement with foreign country. (1) Prior to examining an applicant for a driver's license, the department shall conduct a check of the applicant's driving record by querying the national driver register, established under 49 U.S.C. 30302, and the commercial driver's license information system, established under 49 U.S.C. 31309.

(2) (a) The department shall examine each applicant for a driver's license or motorcycle endorsement, except as otherwise provided in this section. The examination must include a test of the applicant's eyesight, a knowledge test examining the applicant's ability to read and understand highway signs and the applicant's knowledge of the traffic laws of this state, including the provisions of [section 2], and, except as provided in 61-5-118, a road test or a skills test demonstrating the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle or motorcycle. The road test or skills test must be performed by the applicant in a motor vehicle that the applicant certifies is representative of the class and type of motor vehicle for which the applicant is seeking a license or endorsement.

(b) The knowledge test, road test, or skills test may be waived by the department:

(i) upon certification of the applicant's successful completion of the test by a certified cooperative driver testing program as provided in subsection (3) or by a certified third-party commercial driver testing program as provided in 61-5-118; or

(ii) in accordance with a driver's license reciprocity agreement between the department and a foreign



1 country.

2 (c) The skills test may be waived by the department upon the applicant's completion of the requirements
3 of 61-5-123.

4 (3) The department is authorized to certify as a cooperative driver testing program any state-approved
5 high school traffic education course offered by or in cooperation with a school district that employs an approved
6 instructor who has current endorsement from the superintendent of public instruction as a teacher of traffic
7 education or any motorcycle safety training course approved by the board of regents and that employs an
8 approved instructor of motorcycle safety training and who agrees to:

9 (a) administer standardized knowledge and road tests or skills tests required by the department to
10 students participating in the district's high school traffic education courses or motorcycle safety training courses
11 approved by the board of regents;

12 (b) certify the test results to the department; and

13 (c) comply with regulations of the department, the superintendent of public instruction, and the board of
14 regents.

15 (4) (a) Except as otherwise provided by law, an applicant who has a valid driver's license issued by
16 another jurisdiction may surrender that license for a Montana license of the same class, type, and endorsement
17 upon payment of the required fees and successful completion of a vision examination. In addition, an applicant
18 surrendering a commercial driver's license issued by another jurisdiction shall successfully complete any
19 examination required by federal regulations before being issued a commercial driver's license by the department.

20 (b) The department may require an applicant who surrenders a valid driver's license issued by another
21 jurisdiction to submit to a knowledge and road or skills test if:

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

25 (ii) the surrendered license does not include readily discernible adaptive equipment or operational
26 restrictions appropriate to the applicant's functional abilities; or

27 (iii) the applicant wants to remove or modify a restriction imposed on the surrendered license.

28 (c) When a license from another jurisdiction is surrendered, the department shall notify the issuing
29 agency from the other jurisdiction that the applicant has surrendered the license. If the applicant wants to retain
30 the license from another jurisdiction for identification or other nondriving purposes, the department shall place

1 a distinctive mark on the license, indicating that the license may be used for nondriving purposes only, and return
2 the marked license to the applicant.

3 (5) The department may enter into a reciprocity agreement with a foreign country to provide for the
4 mutual recognition and exchange of a valid driver's license issued by this state or the foreign country if the
5 department determines that the licensing standards of the foreign country are comparable to those of this state.
6 The agreement may not include the reciprocal exchange of a commercial driver's license."

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8 **NEW SECTION. Section 2. Hand-held electronic communications device use prohibited --**

9 **penalties -- exceptions.** (1) (a) Except as provided in subsections (1)(b) and (5), a person may not use or have
10 in the person's immediate physical possession a hand-held electronic communications device while operating
11 a motor vehicle on a highway, including operation while temporarily stationary because of traffic, a traffic light,
12 or a stop sign.

13 (b) A person may use or have in the person's immediate physical possession a hand-held electronic
14 communications device while operating a motor vehicle if the vehicle has been driven off of or to the side of an
15 active roadway and has stopped in a location where it can safely remain stationary.

16 (2) (a) A person who violates subsection (1) shall be fined \$50. A person who commits a second violation
17 of subsection (1) shall be fined \$100. A person who commits a third or subsequent violation of subsection (1) shall
18 be fined \$200.

19 (b) A violation of this section may not be recorded or charged against a driver's record, points may not
20 be assessed against the driver's record pursuant to 61-11-203, and an insurance company may not hold a
21 violation of this section against the insured driver.

22 (3) An operator of a motor vehicle who commits a moving violation, as defined in 61-11-203, while
23 engaged in an activity prohibited in this section shall be fined \$100 in addition to the penalty or fine imposed for
24 the moving violation.

25 (4) The provisions of this section may not be construed as authorizing the seizure or forfeiture of a
26 hand-held electronic communications device unless otherwise provided by law.

27 (5) This section does not apply to an operator of a motor vehicle who, while the vehicle is in motion:

28 (a) is using the hand-held electronic communications device to obtain emergency assistance, to report
29 a fire or police emergency, or in the reasonable belief that an individual's life or safety is in danger;

30 (b) is using a hands-free accessory;

1 (c) is an employee of a governmental fire agency, ambulance service, or law enforcement agency, is an
2 emergency responder, or is the operator of an authorized emergency vehicle, as defined in 61-8-102, while
3 operating an authorized emergency vehicle in the performance of the person's duties as an emergency service
4 provider;

5 (d) is registered with a county sheriff to assist in emergency response and holds a valid amateur radio
6 operator license issued by the federal communications commission and is using a two-way radio while engaged
7 in an emergency response; or

8 (e) is employed as a commercial motor vehicle operator or a school bus driver and who uses a hand-held
9 electronic communications device within the permissible scope of the person's employment.

10 (6) The department shall include information on the provisions of this section and the dangers of
11 distracted driving in its driver's license manual and in its driver's license examination. The department shall
12 encourage schools that offer traffic education to include information on the provisions of this section in the
13 distracted driving education information provided for in 61-5-135.

14 (7) As used in this section, the following definitions apply:

15 (a) "Hand-held electronic communications device" means a hand-held or portable electronic device that
16 uses shortwave analog or digital radio transmissions between the device and a transmitter to permit wireless
17 communications to and from the user of the device. A hand-held electronic communications device includes but
18 is not limited to a cell phone, text messaging device, paging device, personal digital assistant, and tablet or laptop
19 computer.

20 (b) "Hands-free accessory" means an external accessory that connects to an electronic communications
21 device and enables the operator or a motor vehicle to use the electronic communications device without touching
22 it.

23 (c) "Immediate physical possession" means touching the hand-held electronic communications device.
24 Having the device on one's person or in a motor vehicle does not constitute immediate physical possession.

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26 **NEW SECTION. Section 3. Codification instruction.** [Section 2] is intended to be codified as an
27 integral part of Title 61, chapter 8, part 3, and the provisions of Title 61, chapter 8, part 3, apply to [section 2].

28 - END -