

## SENATE BILL NO. 291

INTRODUCED BY B. HAMLETT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO THE USE OF SEATBELTS AND  
5 CHILD SAFETY RESTRAINTS; ELIMINATING THE SECONDARY ENFORCEMENT RESTRICTION FOR  
6 RESTRAINT VIOLATIONS; ESTABLISHING FOR PERSONS UNDER 18 YEARS OF AGE ONLY A PRIMARY  
7 ENFORCEMENT RESTRICTION FOR RESTRAINT VIOLATIONS; REVISING AND ESTABLISHING  
8 PENALTIES FOR RESTRAINT VIOLATIONS ONLY FOR INDIVIDUALS UNDER 18 YEARS OF AGE;  
9 EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 61-5-106, 61-5-133, 61-8-723, 61-13-101,  
10 61-13-102, 61-13-103, 61-13-104, AND 61-13-105, MCA; REPEALING SECTIONS 61-9-419, 61-9-420,  
11 61-9-421, 61-9-422, AND 61-9-423, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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15 **Section 1.** Section 61-5-106, MCA, is amended to read:

16 **"61-5-106. Instruction permits -- traffic education learner licenses and permits -- temporary**  
17 **licenses.** (1) (a) The department may issue an instruction permit, which is valid for 1 year from the date of  
18 issuance, to a person satisfying the age requirements specified in 61-5-105(1) after the applicant has successfully  
19 passed the knowledge test and the vision examination, as provided in 61-5-110. Except as provided in  
20 subsections (1)(b) and (1)(c), an instruction permit entitles the permitholder, while in immediate possession of  
21 the permit and accompanied by a licensed driver seated beside the permitholder, to drive a motor vehicle other  
22 than a motorcycle ~~upon~~ on the public highways.

23 (b) If the permitholder is under 18 years of age, the driver supervising the permitholder must be a parent  
24 or a legal guardian of the permitholder or, with the permission of the permitholder's parent or legal guardian, a  
25 licensed driver 18 years of age or older. Each occupant of a ~~motor passenger~~ passenger vehicle, as defined in 61-13-102,  
26 driven by a permitholder who is under 18 years of age ~~shall wear a properly adjusted and fastened seatbelt or,~~  
27 ~~if 61-9-420 applies,~~ must be properly restrained in a child safety restraint as required under 61-13-103.

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

1 if the permitholder is under 18 years of age:

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

4 (ii) a licensed driver who is operating a separate motor vehicle if the permitholder has successfully  
5 completed a motorcycle safety training course through a cooperative driver testing program certified under  
6 61-5-110.

7 (2) The department may issue a traffic education learner license, which is valid for 1 year from the date  
8 of issuance, to any person who is at least 14 1/2 years of age and who has successfully completed or is  
9 successfully participating in a traffic education course approved by the department and the superintendent of  
10 public instruction and that is available to all who meet the age requirements specified in 20-7-503 and reside  
11 within the geographical boundaries of or attend a school in the school district that offers the course. A traffic  
12 education learner license entitles the licensee to operate a motor vehicle only when accompanied by an approved  
13 instructor or licensed parent or guardian and may be restricted to specific times or areas.

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

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

20 (i) a motor vehicle when an approved instructor is seated beside the permittee; or

21 (ii) a motorcycle or quadricycle when under the immediate and proximate supervision of an approved  
22 instructor.

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

28 (5) The department may in its discretion issue a temporary commercial driver's license to an applicant  
29 permitting the applicant to operate a commercial motor vehicle while the department is completing its investigation  
30 and determination of all facts relative to the applicant's right to receive a commercial driver's license. The

1 temporary license must be in the applicant's immediate possession while operating a commercial motor vehicle  
2 and is invalid when the applicant's license has been issued or for good cause has been refused.

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

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6 **Section 2.** Section 61-5-133, MCA, is amended to read:

7 **"61-5-133. First year restrictions on driver's license issued to minor.** (1) A driver's license issued  
8 to a person who is under 18 years of age is subject to the following restrictions for 1 year from the date of  
9 issuance of the license or until the person is 18 years of age, whichever occurs first:

10 (a) A restricted licensee may not operate a ~~motor passenger~~ vehicle, ~~required by 61-9-409 to be~~  
11 ~~equipped with seatbelts, as defined in 61-13-102,~~ unless each occupant of the ~~motor passenger~~ vehicle is  
12 ~~wearing a seatbelt, as defined in 61-13-102, or is properly restrained; as required under 61-9-420 61-13-103.~~ The  
13 number of ~~motor vehicle~~ occupants may not exceed the number of seatbelts with which the ~~motor~~ vehicle is  
14 equipped.

15 (b) A restricted licensee may not operate a motor vehicle between the hours of 11 p.m. and 5 a.m. unless  
16 the restricted licensee is:

17 (i) accompanied by a licensed driver who is 18 years of age or older or, if the restricted licensee is  
18 operating a motorcycle, the restricted licensee is under the immediate and proximate visual supervision of a  
19 licensed driver who is 18 years of age or older and who is riding with the licensee and is operating a separate  
20 motorcycle or other motor vehicle;

21 (ii) driving to the restricted licensee's place of employment from the restricted licensee's residence, is  
22 returning to the restricted licensee's residence from the restricted licensee's place of employment, or is driving  
23 in the course and scope of employment;

24 (iii) driving from the restricted licensee's residence to a school-sponsored event at a school attended by  
25 the restricted licensee, including any site for school-provided transportation to and from the event, or is returning  
26 from the event or site to the restricted licensee's residence;

27 (iv) driving from the restricted licensee's residence to an event sponsored by a religious organization or  
28 is returning from the event to the restricted licensee's residence;

29 (v) driving for a purpose related to a medical emergency, fire emergency, or law enforcement-related  
30 emergency;

1 (vi) driving for the sole purpose of transporting farm or ranch products, machinery, or supplies within 150  
2 miles of a farm or ranch headquarters;

3 (vii) an emancipated minor; or

4 (viii) driving under a specific authorization for a specific purpose from the restricted licensee's parent or  
5 legal guardian. A peace officer may verify the authorization by contacting the parent or legal guardian.

6 (c) (i) For the first 6 months of the 1-year restriction period, a restricted licensee may not operate a motor  
7 vehicle with more than one passenger who is under 18 years of age unless:

8 (A) the restricted licensee is supervised by a licensed driver who is at least 18 years of age; or

9 (B) the additional passengers under 18 years of age are members of the restricted licensee's family.

10 (ii) For the second 6 months of the 1-year restriction period, a restricted licensee may not operate a motor  
11 vehicle with more than three passengers who are under 18 years of age unless:

12 (A) the restricted licensee is supervised by a licensed driver who is at least 18 years of age; or

13 (B) the additional passengers under 18 years of age are members of the restricted licensee's family.

14 (iii) For the first 6 months of the 1-year restriction period, a restricted licensee may not operate a  
15 motorcycle with a passenger who is under 18 years of age.

16 (2) For purposes of this section, the term "restricted licensee" means an individual described in  
17 subsection (1) and includes a person under 18 years of age who holds a motorcycle-only endorsement issued  
18 by the department, and the term "motor vehicle" includes a motorcycle, except when otherwise noted."

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20 **Section 3.** Section 61-8-723, MCA, is amended to read:

21 **"61-8-723. Offenses committed by persons under 18 years of age.** A Except as provided in  
22 61-13-104, a person under 18 years of age who is convicted of an offense under this title may not be punished  
23 by incarceration, but shall be punished by:

24 (1) a fine not to exceed the fine that could be imposed on the person if the person were an adult,  
25 provided that the person may not be imprisoned for failure to pay the fine;

26 (2) revocation of the person's driver's license by the court or suspension of the license for a period set  
27 by the court;

28 (3) impoundment by a law enforcement officer designated by the court of the motor vehicle operated by  
29 the person for a period of time not exceeding 60 days if the court finds that the person either owns the vehicle  
30 or is the only person who uses the vehicle; or

1 (4) any combination of subsections (1) through (3)."

2

3 **Section 4.** Section 61-13-101, MCA, is amended to read:

4 **"61-13-101. Short title.** This part may be cited as the "Montana ~~Seatbelt Use~~ Passenger Vehicle  
5 Occupant Restraint Act"."

6

7 **Section 5.** Section 61-13-102, MCA, is amended to read:

8 **"61-13-102. Definitions.** As used in this part, the following definitions apply:

9 (1) "Appropriate use", as applied to a child safety restraint, means the use of a child safety restraint  
10 suitable to the age, weight, and height of the child being transported.

11 (2) "Child safety restraint" means a seating system, other than a seatbelt alone, that:

12 (a) is specifically designed for use in a motor vehicle;

13 (b) is either permanently affixed to the vehicle or affixed to the vehicle by a seatbelt or a set of  
14 anchorage originally installed by the vehicle manufacturer to restrain, seat, or position a child; and

15 (c) conforms to the requirements of federal motor vehicle safety standards as evidenced by the  
16 manufacturer's certificate affixed to the restraint.

17 ~~(1)~~(3) "Department" means the department of justice transportation.

18 (2) "Highway" means the entire width between the boundary lines of each publicly maintained way when  
19 any part thereof is open to public use for vehicular travel.

20 ~~———~~(3) "Motor vehicle" means a vehicle propelled by its own power and designed primarily to transport  
21 persons or property upon the highways of the state.

22 (4) ~~"Occupants"~~ "Occupant" means the driver and passengers a person in a motor passenger vehicle.

23 (5) "Passenger vehicle" means a motor vehicle designed for transporting no more than 10 people,  
24 including the driver, that is originally equipped with seatbelts that conform to federal motor vehicle safety  
25 standards as evidenced by the manufacturer's certificate affixed to the door of the vehicle.

26 (6) "Properly restrained" means the correct use and position of a seatbelt or the appropriate use of a  
27 child safety restraint as prescribed by the manufacturer of the product.

28 ~~(5)~~(7) "Seatbelt" means a system using that uses a lap belt, a shoulder belt, or other belt or combination  
29 of belts installed in a motor vehicle to restrain occupants, which system and that conforms to federal motor vehicle  
30 safety standards."

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**Section 6.** Section 61-13-103, MCA, is amended to read:

**"61-13-103. ~~Seatbelt use~~ Proper restraint required -- exceptions.** (1) ~~A~~ Unless an occupant is exempted under subsection (2), a driver may not operate a ~~motor passenger~~ motor passenger vehicle ~~upon~~ on a highway of the state of Montana unless each occupant of a ~~designated seating position is wearing a properly adjusted and fastened seatbelt or, if 61-9-420 applies, the vehicle is properly restrained in a child safety restraint.~~

(2) The provisions of this section do not apply to:

(a) an occupant of a ~~motor passenger~~ motor passenger vehicle who possesses a written statement from a licensed physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, certifying that the occupant is unable to wear a seatbelt for medical reasons, to be properly restrained;

(b) an occupant of a ~~motor passenger~~ motor passenger vehicle in which all seatbelts are being used by other occupants;

(c) an operator of a motorcycle or a motor-driven cycle;

(d) an occupant of a vehicle licensed as special mobile equipment; or

(e) an occupant who makes frequent stops with a ~~motor passenger~~ motor passenger vehicle during official job duties and who may be exempted by the department.

(3) The department may adopt rules to implement subsection (2)(e).

(4) The department or its agent may not require a driver who may be in violation of this section to stop except:

(a) upon reasonable cause to believe:

(i) that the driver is:

(A) is under 18 years of age; or

(B) has violated another traffic regulation; or

(ii) that the driver's vehicle is unsafe or not equipped as required by law; or

(b) if a person in the vehicle who is under 6 years of age and weighs less than 60 pounds is not properly restrained ~~under 61-9-420 or this section.~~

(5) Except as provided in subsections (2) and (6), an occupant under 18 years of age who is not properly restrained is in violation of this section and subject to the penalty provided for in 61-13-104(2).

(6) If a driver who is at least 18 years of age is stopped under subsection (4)(a)(i)(A), neither the driver nor any other occupant may be charged with violating this section."

1           **Section 7.** Section 61-13-104, MCA, is amended to read:

2           **"61-13-104. Penalty -- no record permitted.** (1) ~~A~~ Except as provided in subsection (2):

3           (a) a driver who violates 61-13-103 shall be fined \$20, but the violation is not a misdemeanor pursuant  
4 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  
5 for purposes of suspending a driver's license under 61-11-203(2)(m); and

6           (b) Bond bond for this offense is \$20, and a jail sentence may not be imposed.

7           (2) (a) A driver under 18 years of age or an occupant under 18 years of age who violates 61-13-103 must  
8 appear in court to answer the notice to appear or the summons.

9           (b) If a driver under 18 years of age is found to have violated 61-13-103, the penalty is:

10           (i) for a first offense, the driver's license or permit must be suspended for 7 days and the driver must  
11 complete up to 10 hours of community service; or

12           (ii) for a second or subsequent offense in any 12-month period, the driver's license or permit must be  
13 suspended for not less than 7 days or more than 30 days, and the driver must complete up to 20 hours of  
14 community service and pay a fine of not less than \$10 or more than \$100, except that the court may substitute  
15 community service in lieu of the fine.

16           (c) If an occupant, other than the driver, who is between 14 and 18 years of age is found to have violated  
17 61-13-103, the penalty is:

18           (i) for a first offense, the occupant must complete between 1 hour and 10 hours of community service;

19 or

20           (ii) for a second or subsequent offense in any 12-month period, the occupant must complete between  
21 1 hour and 20 hours of community service and must pay a fine of not less than \$10 or more than \$100, except  
22 that the court may substitute community service in lieu of the fine.

23           (3) A jail sentence may not be imposed for a violation of 61-13-103.

24           ~~(2)(4)~~ A violation of 61-13-103 may not be:

25           (a) recorded or charged against the driver's or an occupant's record of a person violating 61-13-103;

26 or

27           (b) counted as a moving violation for the purpose of suspending a driver's license under  
28 61-11-203(2)(m).

29           ~~(3)(5)~~ An insurance company may not hold a violation of 61-13-103 against the insured or increase the  
30 insured's premiums due to a violation of 61-13-103."

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**Section 8.** Section 61-13-105, MCA, is amended to read:

**"61-13-105. Education program.** ~~The highway traffic safety division of the department shall continue~~  
~~its~~ provide a program for public information and education concerning the benefits of wearing being properly  
restrained by seatbelts and child safety restraints and the proper use of seatbelts and appropriate use of child  
safety restraints. The department shall include within such in the program the requirements of 61-13-103 and the  
penalty specified in 61-13-104."

**NEW SECTION. Section 9. Repealer.** The following sections of the Montana Code Annotated are  
repealed:

- 61-9-419. "Properly restrained" defined.
- 61-9-420. Child safety restraint systems -- standards -- exemptions.
- 61-9-421. Certain vehicles exempt.
- 61-9-422. Evidence admissible without presumption of negligence.
- 61-9-423. Penalty.

**NEW SECTION. Section 10. Saving clause.** [This act] does not affect rights and duties that matured,  
penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**NEW SECTION. Section 11. Effective date.** [This act] is effective on passage and approval.

- END -