

HOUSE BILL NO. 146

INTRODUCED BY D. ZOLNIKOV

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING WHEN TEMPORARY ROADBLOCKS MAY BE USED BY LAW ENFORCEMENT AGENCIES; AUTHORIZING RULEMAKING; AND AMENDING SECTIONS 46-5-502 AND 46-5-510, MCA."

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

Section 1. Section 46-5-502, MCA, is amended to read:

"46-5-502. Authority to establish temporary roadblocks. ~~(1) Any~~ A law enforcement agency of this state is authorized to establish, within its jurisdiction, temporary roadblocks on the highways of this state ~~for the purpose of to:~~

~~(a) apprehending~~ apprehend persons known to be wanted for a violation of the laws of this state, of any other state, or of the United States ~~who are using the highways of this state, identifying drivers, or checking for driver's licenses, vehicle registration, and insurance;~~

(b) EXCEPT AS PROVIDED IN 7-33-2212, respond to an active emergency; or

(c) respond to or mitigate conditions in areas where a significant number of known causal factors of motor vehicle accidents involving fatalities, injuries, or other serious legal violations are known to have occurred.

~~(2) During a temporary roadblock, verification of a valid driver's license, vehicle registration, and insurance may be required.~~

~~(3)(2)~~ In the course of conducting a roadblock under subsection (1)(c), a law enforcement officer may not issue a ticket, citation, or summons for a secondary offense.

~~(4)(3)~~ For purposes of this section, the following definitions apply:

(a) "Active emergency" means an incident that threatens public safety, health, or welfare and requires immediate action.

(b) "Secondary offense" means a violation of an offense, including a violation of 61-13-103, for which a law enforcement officer may only issue a ticket, citation, or summons after the driver has already been stopped for a violation of another offense."

1 **Section 2.** Section 46-5-510, MCA, is amended to read:

2 "**46-5-510. Establishing temporary roadblock -- plan required -- exception.** (1) A written plan for
3 establishing a temporary roadblock pursuant to 46-5-502(1)(c) must:

4 (a) must be designed by supervisory officers within the law enforcement agency to ensure motorist
5 safety, minimize motorist inconvenience, and prevent the arbitrary selection of vehicles by providing a schedule
6 for the selection of vehicles to be stopped;

7 (b) be approved in advance of conducting the roadblock by supervisory officers within the law
8 enforcement agency;

9 (c) ensure that a temporary roadblock is minimally intrusive and does not allow for unconstrained
10 discretion by law enforcement agents performing the roadblock; and

11 (d) include:

12 (i) the purpose of the temporary roadblock;

13 (ii) the location, date, and time at which the temporary roadblock will be conducted;

14 (iii) the pattern sequence of vehicles to be stopped;

15 (iv) a drawing that shows how the temporary roadblock will be established;

16 (v) a copy of the public service announcement to be used to advertise the temporary roadblock; and

17 (vi) the names of the media to be notified of the temporary roadblock.

18 (2) All major media outlets in the area where the temporary roadblock is to be performed must be notified
19 at least 48 hours prior to the scheduled temporary roadblock.

20 (3) This section does not apply to a roadblock established by a law enforcement agency pursuant to
21 46-5-502(1)(a) or (1)(b).

22 (4) The department of justice may adopt rules to implement the provisions of this part."

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