

## SENATE BILL NO. 196

INTRODUCED BY S. FITZPATRICK, S. LAVIN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAW RELATED TO TRAFFIC VIOLATIONS IN WORK  
5 ZONES; CLARIFYING WORK ZONE TRAFFIC VIOLATION PENALTIES; AND AMENDING SECTION  
6 SECTIONS 61-8-301, 61-8-314, AND 61-8-370, MCA."

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

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10 **SECTION 1. SECTION 61-8-301, MCA, IS AMENDED TO READ:**

11 **"61-8-301. Reckless driving -- reckless endangerment of highway worker.** (1) A person commits  
12 the offense of reckless driving if the person:

13 (a) operates a vehicle in willful or wanton disregard for the safety of persons or property; or  
14 (b) operates a vehicle in willful or wanton disregard for the safety of persons or property while passing,  
15 in either direction, a school bus that has stopped and is displaying the visual flashing red signal, as provided in  
16 61-8-351 and 61-9-402. This subsection (1)(b) does not apply to situations described in 61-8-351(6).

17 (2) A municipality may enact and enforce 61-8-715 and subsection (1) of this section as an ordinance.

18 (3) A person who is convicted of the offense of reckless driving or of reckless endangerment of a  
19 highway worker is subject to the penalties provided in 61-8-715.

20 (4) (a) A person commits the offense of reckless endangerment of a highway worker if the person  
21 purposely, knowingly, or negligently drives a motor vehicle in a highway ~~construction~~ work zone in a manner that  
22 endangers persons or property or if the person purposely removes, ignores, or intentionally strikes an official  
23 traffic control device in a ~~construction~~ work zone for reasons other than:

24 (i) avoidance of an obstacle;  
25 (ii) an emergency; or  
26 (iii) to protect the health and safety of an occupant of the vehicle or of another person.

27 (b) As used in this section:  
28 (i) ~~"construction zone" has the same meaning as is provided in 61-8-314; and~~  
29 (ii) "highway worker" means an employee of the department of transportation, a local authority, a utility  
30 company, or a private contractor; and

1 (ii) "work zone" has the meaning provided in 61-8-314."

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3 **Section 2.** Section 61-8-314, MCA, is amended to read:

4 **"61-8-314. Traffic violations in construction zone and work zone -- definitions.** (1) As used in this  
5 section, the following definitions apply:

6 (a) ~~"Construction zone" means an area on a public highway or on the adjacent right-of-way where~~  
7 ~~construction, repair, maintenance, or survey work is being performed by the department of transportation, a local~~  
8 ~~authority, a utility company, or a private contractor under contract with the department of transportation or a local~~  
9 ~~authority. A construction zone may include a work zone. "HIGHWAY WORKER" HAS THE SAME MEANING AS IN~~  
10 ~~61-8-301.~~

11 (b) "Public highway" has the same meaning as in 60-1-103.

12 (c) "Work zone" means ~~the area where the construction, repair, maintenance, or survey work is actually~~  
13 ~~taking place~~ AN AREA ON A PUBLIC HIGHWAY OR ON THE ADJACENT RIGHT-OF-WAY WHERE CONSTRUCTION, REPAIR,  
14 MAINTENANCE, OR SURVEY WORK IS BEING PERFORMED BY THE DEPARTMENT OF TRANSPORTATION, A LOCAL AUTHORITY,  
15 A UTILITY COMPANY, OR A PRIVATE CONTRACTOR WITH THE DEPARTMENT OF TRANSPORTATION OR WITH A LOCAL  
16 AUTHORITY. The boundaries of the work zone must be clearly identified by the posting of signs.

17 (2) A person may not operate a motor vehicle ~~in a construction zone or~~ in a work zone on a public  
18 highway in violation of any of the provisions of part 3 of this chapter.

19 (3) The speed limit ~~in a construction zone or~~ in a work zone must be set by the department of  
20 transportation or the local authority based on traffic conditions or the condition of the construction, repair,  
21 maintenance, or survey project.

22 (4) (a) If the department of transportation, the local authority, the utility company, or the private contractor  
23 determines, based on traffic conditions or the condition of the construction, repair, maintenance, or survey project,  
24 that special speed limits in work zones ~~or construction zones~~ are warranted, then the department, the local  
25 authority, the utility company, or the private contractor shall post signs that:

26 (i) conform to the department of transportation's manual on uniform traffic control devices;

27 (ii) indicate the boundaries of ~~the construction zone and~~ the work zone; and

28 (iii) display the speed limit in effect within ~~both zones~~ THE WORK ZONE.

29 (b) The department of transportation, the local authority, the utility company, or the private contractor  
30 shall clearly indicate at the boundary of a ~~construction~~ WORK zone that a person who violates any of the provisions

1 of part 3 of this chapter in the work zone is subject to the fine provided in subsection (5)(a).

2 (c) The boundaries of the work zone may not exceed 500 feet in advance of and beyond the actual  
3 construction activity.

4 (d) The department of transportation, the local authority, the utility company, or the private contractor  
5 shall remove or cover the signs when no work is in progress and no hazard exists.

6 (5) ~~(a)~~ A person convicted of a traffic violation in a work zone is guilty of a misdemeanor. Upon arrest  
7 and conviction;

8 (i)(A) if a HIGHWAY worker was present in the work zone at the time AND PLACE of the traffic violation, the  
9 person shall be punished by a fine of not less than double the penalty provided for the violation in part 7 of this  
10 chapter; or

11 (ii)(B) if no HIGHWAY worker was present in the work zone at the time AND PLACE of the traffic violation,  
12 the person is subject to the penalty provided for the violation in part 7 of this chapter.

13 ~~(b) A person convicted of a traffic violation in a construction zone is guilty of a misdemeanor. Upon arrest  
14 and conviction, the person is subject to the penalty provided for the violation in part 7 of this chapter."~~

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16 **SECTION 3. SECTION 61-8-370, MCA, IS AMENDED TO READ:**

17 **"61-8-370. Securing of load -- requirement -- exemptions.** (1) A person operating a loaded vehicle  
18 on a public highway shall load the vehicle or secure the load sufficiently to prevent littering or creating an  
19 obstruction dangerous to the public traveling on the highway.

20 (2) The following vehicles are exempt from the provisions in subsection (1):

21 (a) a commercial motor vehicle that is operating in compliance with state and federal laws and  
22 requirements governing the securing of loads;

23 (b) a vehicle transporting processed or unprocessed agricultural products or inputs, including but not  
24 limited to fertilizer, manure, and pesticides;

25 (c) a vehicle performing road maintenance; and

26 (d) a vehicle in a marked construction work zone."

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