

1 HOUSE BILL NO. 84

2 INTRODUCED BY J. DOOLING

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING DRIVER'S LICENSE LAWS; PROVIDING
6 FOR PROBATIONARY LICENSES; PROVIDING FOR PERIODS FOR SUSPENSION OR REVOCATION OF
7 LICENSES FOR CERTAIN CONVICTIONS; REVISING TESTING LAWS; PROVIDING WAIVERS FOR
8 CERTAIN MILITARY PERSONNEL AND VETERANS APPLYING FOR COMMERCIAL DRIVER'S LICENSES;
9 AMENDING SECTIONS 44-4-1205, 50-46-320, 61-5-104, 61-5-106, 61-5-108, 61-5-110, 61-5-111, 61-5-123,
10 61-5-132, 61-5-201, 61-5-205, 61-5-212, 61-5-231, 61-7-118, 61-8-378, 61-8-410, 61-8-734, 61-8-803, 61-11-
11 101, 61-12-501, AND 61-12-504, MCA; AND REPEALING SECTION 61-5-208, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 NEW SECTION. **Section 1. Requirements for probationary license.** (1) A probationary license
16 authorizes a person to drive a noncommercial vehicle for essential driving purposes only.

17 (2) The department may only issue a probationary license when all reinstatement and administrative
18 fees owed the department are paid and the driver is otherwise qualified for licensure.

19 (3) A person whose driver's license or privilege to drive is revoked by the department pursuant to 61-
20 5-205(1) or 61-5-211 is eligible for a probationary license after completing at least 90 days of the revocation
21 duration.

22 (4) A person whose driver's license or privilege to drive is suspended under 61-5-205(2)(a) is eligible
23 for a probationary license:

24 (a) for a first offense, immediately unless the report of conviction includes a statement the court does
25 not recommend a probationary license;

26 (b) for a second offense, when:

27 (i) the court submits a recommendation for a probationary license to the department; and

28 (ii) except as provided in subsection (5), a minimum of 45 days of the suspension duration is

1 completed.

2 (c) for a third offense, when:

3 (i) the court submits a recommendation for a probationary license to the department; and

4 (ii) except as provided in subsection (5), a minimum of 90 days of the suspension duration is
5 completed.

6 (5) The department may waive the mandatory waiting periods if the department receives a report that:

7 (a) the person is enrolled in a 24/7 sobriety and drug monitoring program as provided in 44-4-1203; or

8 (b) the person is enrolled in a treatment court and the treatment court recommends a probationary
9 license pursuant to 61-5-231.

10 (6) A person whose driver's license is suspended pursuant to 61-5-205(2)(b) through (2)(d) is
11 immediately eligible for a probationary license.

12 (7) (a) Except as provided in subsection (7)(b), a person whose driver's license is suspended
13 pursuant to 61-5-205(2)(e) is eligible for a probationary license immediately.

14 (b) If the person was under age 18 at the time of the offense, the person is eligible after a minimum of
15 30 days of the suspension duration is completed.

16

17 **NEW SECTION. Section 2. Duration of suspension or revocation -- limitation on issuance of**
18 **probationary license -- notation on driving record -- requirements for reinstatement.** (1) (a) The duration
19 of a revocation under 61-5-205(1)(a), (1)(b), (1)(d), (1)(e), (1)(f), or (1)(g) must be for 1 year.

20 (b) The duration of a revocation under 61-5-205(1)(c) must be for 1 year unless the individual
21 received a felony conviction under 61-7-103, in which case the duration of the revocation is 2 years.

22 (2) The department shall include a felony probation restriction and the duration of the restriction when
23 issuing a driver's license to a person convicted under 61-8-731 for whom a condition of probation is that the
24 person may not operate a motor vehicle unless:

25 (a) operating the motor vehicle is authorized by the person's probation officer; or

26 (b) the motor vehicle is equipped with an ignition interlock device.

27 (3) The duration of a suspension under 61-5-205(2)(a) for a misdemeanor driving under the influence
28 of alcohol or drugs is:

- 1 (a) for a first offense, 6 months; and
- 2 (b) for a second or subsequent offense, 1 year.
- 3 (4) The duration for a suspension under 61-5-205(2)(b) for three reckless driving offenses is 1 year.
- 4 (5) The duration for a suspension under 61-5-203(2)(c) for theft of fuel is:
- 5 (a) for a first offense, 30 days;
- 6 (b) for a second offense, 6 months; and
- 7 (c) for a third or subsequent offense, 1 year.
- 8 (6) (a) Except as provided in subsection (6)(b), the duration for a suspension under 61-5-205(2)(d)
- 9 for driving while an individual's driver's license or driving privilege is suspended or revoked is:
- 10 (i) for a first offense, 30 days;
- 11 (ii) for a second offense, 6 months; and
- 12 (iii) for a third or subsequent offense, 1 year.
- 13 (b) If the reason for the license suspension or revocation was for driving under the influence of alcohol
- 14 or drugs, the duration for the suspension is 1 year.
- 15 (7) The duration of a suspension under 61-5-205(2)(e) is:
- 16 (a) for a first offense, 90 days;
- 17 (b) for a second offense, 6 months; and
- 18 (c) for a third offense, 1 year.
- 19 (8) If applicable, the department shall suspend the commercial driver's license or privilege to drive of
- 20 a commercial driver or individual operating a commercial motor vehicle as provided in Title 61, part 8.
- 21 (9) The department may not reinstate the driver's license or privilege to drive for a suspension under
- 22 61-5-205(2)(a) for a second or subsequent offense until the person submits proof of completing the chemical
- 23 dependency treatment required under 61-8-732.

24

25 **Section 3.** Section 44-4-1205, MCA, is amended to read:

26 **"44-4-1205. Authority of court to order participation in sobriety and drug monitoring program --**

27 **probationary license -- imposition of conditions.** (1) (a) Any court or agency utilizing the sobriety program

28 may stay any sanctions that it imposed against an offender while the offender is in compliance with the sobriety

1 program.

2 (b) If an individual convicted of the offense of aggravated driving under the influence in violation of 61-
3 8-465, a second or subsequent offense of driving under the influence in violation of 61-8-401, or a second or
4 subsequent offense of driving with excessive alcohol concentration in violation of 61-8-406 has been required to
5 participate in the sobriety program, the court may, upon the individual's obtaining proof of insurance pursuant to
6 61-6-301, notify the department that as a participant in the sobriety program, the individual is eligible for a
7 restricted probationary driver's license pursuant to 61-2-302, notwithstanding the requirements of ~~61-5-208~~
8 [section 2] that an individual is required to complete a certain portion of a suspension period before a
9 probationary license may be issued.

10 (c) If the individual fails to comply with the requirements of the sobriety program, the court may notify
11 the department of the individual's noncompliance and direct the department to withdraw the individual's
12 probationary driver's license and reinstate the remainder of the suspension period provided in ~~61-5-208~~ [section
13 2].

14 (2) Upon an offender's participation in the sobriety program and payment of the fees required by 44-4-
15 1204:

16 (a) the court may condition any bond or pretrial release for an individual charged with a violation of
17 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any
18 other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a
19 contributing factor in the commission of the crime;

20 (b) the court may condition the granting of a suspended execution of sentence or probation for an
21 individual convicted of a violation of 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a
22 second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse
23 of alcohol or dangerous drugs was a contributing factor in the commission of the crime;

24 (c) the board of pardons and parole may condition parole for a violation of 61-8-465, a second or
25 subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any other statute that
26 imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor
27 in the commission of the crime; or

28 (d) the department of corrections may establish conditions for conditional release for a violation of 61-

1 8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any
2 other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a
3 contributing factor in the commission of the crime.

4 (3) An entity referred to in subsections (2)(a) through (2)(d) may condition any bond or pretrial
5 release, suspended execution of sentence, probation, parole, or conditional release as provided in those
6 subsections for an individual charged with or convicted of a violation of any statute involving domestic abuse or
7 the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the
8 commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent
9 violation of the statute.

10 (4) A person is eligible to participate in and a court may compel a person to participate in a sobriety
11 program if the person:

12 (a) is charged with violating 61-8-465; or

13 (b) (i) is charged with or has been convicted of violating 61-8-401 or 61-8-406; and

14 (ii) at any time in the 10 years preceding the date of the current charge or conviction:

15 (A) has been convicted in this state of a violation of 61-8-401, 61-8-406, or 61-8-465;

16 (B) has been convicted of a violation of a statute or regulation in another state or on a federally
17 recognized Indian reservation that is similar to 61-8-401, 61-8-406, or 61-8-465; or

18 (C) has forfeited bail or collateral deposited to secure the defendant's appearance in court in this
19 state, in another state, or on a federally recognized Indian reservation for a charge of violating 61-8-401, 61-8-
20 406, 61-8-465, or a similar statute or regulation and the forfeiture has not been vacated.

21 (5) As used in this section, "conviction" has the meaning provided in 45-2-101."
22

23 **Section 4.** Section 50-46-320, MCA, is amended to read:

24 **"50-46-320. Limitations of act.** (1) This part does not permit:

25 (a) any individual, including a registered cardholder, to operate, navigate, or be in actual physical
26 control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

27 (b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

28 (i) in a health care facility as defined in 50-5-101;

1 (ii) in a school or a postsecondary school as defined in 20-5-402;

2 (iii) on or in any property owned by a school district or a postsecondary school;

3 (iv) on or in any property leased by a school district or a postsecondary school when the property is
4 being used for school-related purposes;

5 (v) in a school bus or other form of public transportation;

6 (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;

7 (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;

8 (viii) at a public park, public beach, public recreation center, or youth center;

9 (ix) in or on the property of any church, synagogue, or other place of worship;

10 (x) in plain view of or in a place open to the general public; or

11 (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or
12 welfare of children.

13 (2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate
14 marijuana or manufacture marijuana concentrates or marijuana-infused products for use by a registered
15 cardholder in a manner that is visible from the street or other public area.

16 (3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that
17 allows use of marijuana by a registered cardholder.

18 (4) Nothing in this part may be construed to require:

19 (a) a government medical assistance program, a group benefit plan that is covered by the provisions
20 of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to
21 reimburse an individual for costs associated with the use of marijuana by a registered cardholder;

22 (b) an employer to accommodate the use of marijuana by a registered cardholder;

23 (c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular
24 activities; or

25 (d) a property owner to allow a tenant who is a registered cardholder, provider, marijuana-infused
26 products provider, dispensary, or testing laboratory to cultivate, manufacture, dispense, sell, or test marijuana,
27 marijuana concentrates, or marijuana-infused products or to allow a registered cardholder to use marijuana.

28 (5) Nothing in this part may be construed to:

1 (a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for
2 a debilitating medical condition; or

3 (b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or
4 discrimination pursuant to 49-1-102.

5 (6) Nothing in this part may be construed to allow a provider, marijuana-infused products provider, or
6 employee of a licensee to use marijuana or to prevent criminal prosecution of a provider, marijuana-infused
7 products provider, or employee of a licensee who uses marijuana or paraphernalia for personal use.

8 (7) (a) A law enforcement officer who has reasonable cause to believe that an individual with a valid
9 registry identification card is driving under the influence of marijuana may apply for a search warrant to require
10 the individual to provide a sample of the individual's blood for testing pursuant to the provisions of 61-8-405. An
11 individual with a delta-9-tetrahydrocannabinol level of 5 ng/ml may be charged with a violation of 61-8-401 or
12 61-8-411.

13 (b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection
14 (1)(a) is subject to revocation of the individual's registry identification card or license if the individual is convicted
15 of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial
16 offense with which the individual was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411. A
17 revocation under this section must be for the period of suspension or revocation set forth:

18 (i) ~~in 61-5-208 for a violation of 61-8-401, 61-8-406, or 61-8-411; or~~

19 (ii) ~~in 61-8-410 for a violation of 61-8-410.~~

20 (c) If an individual's registry identification card or license is subject to renewal during the revocation
21 period, the individual may not renew the card until the full revocation period has elapsed. The card or license
22 may be renewed only if the individual submits all materials required for renewal.

23 (8) A provider or marijuana-infused products provider who violates 15-64-103 or 15-64-104 is subject
24 to revocation of the person's license from the date of the violation until a period of up to 1 year after the
25 department of revenue certifies compliance with 15-64-103 or 15-64-104."

26

27 **Section 5.** Section 61-5-104, MCA, is amended to read:

28 **"61-5-104. Exemptions.** (1) The following persons are exempt from licensure under this chapter:

1 (a) a person who is a member of the armed forces of the United States while operating a motor
2 vehicle owned by or leased to the United States government and being operated on official business;

3 (b) a person who is a member of the armed forces of the United States on active duty in Montana who
4 holds a valid license issued by another state and the spouse of the person who holds a valid license issued by
5 another state and who is not employed in Montana, except as a member of the armed forces. If a spouse of a
6 member of the armed forces becomes gainfully employed in Montana, the spouse must be licensed, as
7 required by 61-5-102, within 90 days of becoming employed.

8 (c) a person on active duty in the armed forces of the United States and in immediate possession of a
9 valid license issued to that person in a foreign country by the armed forces of the United States, for a period of
10 45 days from the date of the person's return to the United States;

11 (d) a person who temporarily drives, operates, or moves a road machine, farm tractor, as defined in
12 61-9-102, or implement of husbandry for use in intrastate commerce on a highway;

13 (e) a person who is a locomotive engineer, assistant engineer, conductor, brake tender, railroad utility
14 person, or other member of the crew of a railroad locomotive or train being operated upon rails, including
15 operation on a railroad crossing a public street, road, or highway. A person employed as described in this
16 subsection is not required to display a driver's license to a law enforcement officer in connection with the
17 operation of a railroad train within Montana.

18 (f) a person who temporarily drives, operates, or moves an off-highway vehicle on a forest
19 development road in this state, as defined in 61-8-110, that has been designated and approved for off-highway
20 vehicle use by the United States forest service if the person:

21 (i) is under 16 years of age but at least 12 years of age; and

22 (ii) at the time of driving, operating, or moving the off-highway vehicle, has in the person's possession
23 a certificate showing the successful completion of an off-highway vehicle safety education course approved by
24 the department of fish, wildlife, and parks and is in the physical presence of a person who possesses a license
25 issued under this chapter.

26 (2) A nonresident who is at least 15 years of age and who is in immediate possession of a valid
27 operator's license issued to the nonresident by the nonresident's home state or country may operate a motor
28 vehicle, except a commercial motor vehicle, in this state.

1 (3) (a) A nonresident who is in immediate possession of a valid commercial driver's license issued to
2 the nonresident by the nonresident's home jurisdiction, in accordance with the licensing and testing standards
3 of 49 CFR, part 383, may operate a commercial motor vehicle in this state.

4 (b) For the purpose of this chapter, "jurisdiction" means a state, territory, or possession of the United
5 States, the District of Columbia, a province or territory of Canada, or the federal district of Mexico.

6 (4) A nonresident who is at least 18 years of age, whose home state or country does not require the
7 licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than 90 days
8 in any calendar year, if the motor vehicle is registered in the home state or country of the nonresident.

9 (5) (a) A driver's license issued under this chapter to a person who enters the United States armed
10 forces, if valid and in effect at the time that the person enters the service, continues in effect so long as the
11 service continues, unless the license is suspended, revoked, or canceled for a cause as provided by law, and
12 for up to 90 days following the date on which the licensee is honorably separated from the service.

13 (b) A person serving in the United States armed forces may renew the person's driver's license or
14 identification card at any point of the person's service, and any renewed license continues in effect as long as
15 the service continues, unless the license or identification card is suspended, revoked, or canceled for a cause
16 as provided by law.

17 (c) A person serving in the United States armed forces may apply for a Montana driver's license upon
18 meeting the requirements in 61-5-103, and this license continues in effect as long as the service continues,
19 unless the license is suspended, revoked, or canceled for a cause as provided by law, and for up to 90 days
20 following the date on which the licensee is honorably separated from the service.

21 (6) An applicant for a noncommercial Montana driver's license may operate a motor vehicle while
22 completing a skills test with a licensed department employee or authorized agent sitting beside the applicant."
23

24 **Section 6.** Section 61-5-106, MCA, is amended to read:

25 **"61-5-106. Instruction permits -- temporary driver's permits.** (1) (a) The department may issue a
26 learner license, which is valid for 1 year from the date of issuance, to a person satisfying the age requirements
27 specified in 61-5-105(1) after the applicant has successfully passed the knowledge test and the vision
28 examination, as provided in 61-5-110. Except as provided in subsections (1)(b) and (1)(c) a, learner license

1 entitles the licensee, while in immediate possession of the license and accompanied by a licensed driver seated
2 beside the licensee, to drive a motor vehicle other than a motorcycle upon the public highways.

3 (b) ~~If the licensee is under 18 years of age,~~

4 (i) Except as provided in (1)(b)(ii), if the licensee is under 18 years of age, the driver supervising the
5 licensee must be a parent or a legal guardian of the licensee or, with the permission of the licensee's parent or
6 legal guardian, a licensed driver 18 years of age or older. Each occupant of a motor vehicle driven by a
7 licensee who is under 18 years of age shall wear a properly adjusted and fastened seatbelt or, if 61-9-420
8 applies, must be properly restrained in a child safety restraint.

9 (ii) If the licensee is a ward of the state, the driver supervising the licensee must be a licensed driver
10 18 years of age or older.

11 (c) A person holding a learner license for a motorcycle may drive a motorcycle upon a public highway
12 if the person is not carrying a passenger, has immediate possession of the license, and is under the immediate
13 and proximate visual supervision of one of the following persons, who must be at least 18 years of age if the
14 licensee is under 18 years of age:

15 (i) a motorcycle-endorsed licensed driver who is riding with the licensee and who is operating a
16 separate motorcycle or other motor vehicle; or

17 (ii) a licensed driver who is operating a separate motor vehicle if the licensee has successfully
18 completed a motorcycle safety training course through a cooperative driver testing program certified under 61-
19 5-110.

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

27 (3) (a) An instructor of a traffic education program approved by the department and by the
28 superintendent of public instruction may issue a traffic education permit that is effective for a school year or

1 more restricted period to an applicant who is enrolled in a traffic education program approved by the
2 department and who meets the age requirements specified in 20-7-503.

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

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

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

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

13 (5) The department may in its discretion issue a temporary commercial driver's license to an applicant
14 permitting the applicant to operate a commercial motor vehicle while the department is completing its
15 investigation and determination of all facts relative to the applicant's right to receive a commercial driver's
16 license. The temporary license must be in the applicant's immediate possession while operating a commercial
17 motor vehicle and is invalid when the applicant's license has been issued or for good cause has been refused.

18 (6) The department may in its discretion issue a temporary medical assessment and rehabilitation
19 driving permit, as provided in 61-5-120."
20

21 **Section 7.** Section 61-5-108, MCA, is amended to read:

22 **"61-5-108. Application of minors -- imputed liability.** (1) The application of a person who is under
23 18 years of age for a learner license, driver's license, or medical assessment and rehabilitation driving permit
24 must be signed and verified before a person authorized to administer oaths or an employee of the department
25 by:

26 (a) a parent of the applicant ~~or;~~ or

27 (b) if none is available, by some other responsible adult who is willing to assume the obligation imposed
28 under this chapter upon a person signing the application of a minor. Pursuant to 61-6-133, the minor may

1 submit to the department a certificate of insurance.

2 (2) Any negligence or willful misconduct of a minor who is under 18 years of age when driving a motor
3 vehicle upon a highway must be imputed to a person who has signed the application of the minor for a learner
4 license, driver's license, or medical and rehabilitation driving permit. The person who signs the application is
5 jointly and severally liable with the minor for any damages caused by the negligence or willful misconduct
6 unless a motor vehicle liability policy, as provided for in chapter 6 of this title, covering the minor is in effect, in
7 which case there is no imputed liability as described in this section."

8

9 **Section 8.** Section 61-5-110, MCA, is amended to read:

10 **"61-5-110. Records check of applicants -- examination of applicants -- cooperative driver**
11 **testing programs -- reciprocal agreement with foreign country.** (1) Prior to examining an applicant for a
12 driver's license, the department shall conduct a check of the applicant's driving record by querying the national
13 driver register, established under 49 U.S.C. 30302, and the commercial driver's license information system,
14 established under 49 U.S.C. 31309.

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

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

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

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

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

3 (d) An applicant for a commercial driver's license must comply with commercial entry-level driver
4 training as established under 49 CFR 380.600-609.

5 (e) Prior to licensing, renewing, or upgrading a commercial driver's license or commercial learner
6 permit, the department shall conduct a check of the applicant's eligibility by querying the commercial drug and
7 alcohol clearinghouse, pursuant to 49 CFR 382.725(a)(2). The department is prohibited from licensing,
8 renewing, or upgrading a commercial driver's license or commercial learner permit when the result from the
9 clearinghouse indicates the driver is prohibited from operating a commercial motor vehicle.

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

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

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

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

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

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

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

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

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

7 (c) When a license from another jurisdiction is surrendered, the department shall notify the issuing
 8 agency from the other jurisdiction that the applicant has surrendered the license or identification card. If the
 9 applicant wants to retain the noncommercial license from another jurisdiction for identification or other
 10 nondriving purposes, the department shall ~~place a distinctive mark on the license, indicating that the license~~
 11 ~~may be used for nondriving purposes only, and return the marked license to the applicant.~~ void the license or
 12 identification card and return it to the applicant. The department may not return a commercial driver's license to
 13 an applicant who has surrendered it to the department.

14 (5) The department may enter into a reciprocity agreement with a foreign country to provide for the
 15 mutual recognition and exchange of a valid driver's license issued by this state or the foreign country if the
 16 department determines that the licensing standards of the foreign country are comparable to those of this state.
 17 The agreement may not include the reciprocal exchange of a commercial driver's license."
 18

19 **Section 9.** Section 61-5-111, MCA, is amended to read:

20 **"61-5-111. Contents of driver's license, renewal, license expirations, license replacements,**
 21 **grace period, and fees for licenses, permits, and endorsements -- notice of expiration.** (1) (a) The
 22 department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's
 23 license receipts. In areas in which the department provides driver licensing services 3 days or more a week, the
 24 department is responsible for sale of receipts and may appoint an agent to sell receipts.

25 (b) The department may enter into an authorized agent agreement with the county treasurer of any
 26 county in which the department no longer maintains a driver examination station for the purpose of providing
 27 driver's license renewal services.

28 (2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a

1 driver's license to each qualifying applicant. The license must contain:

2 (i) a full-face photograph of the licensee in the size and form prescribed by the department;

3 (ii) a distinguishing number issued to the licensee;

4 (iii) the full legal name, date of birth, and Montana residence address unless the licensee requests use
5 of the mailing address, except that the Montana residence address must be used for a REAL ID-compliant
6 driver's license unless authorized by department rule;

7 (iv) a brief description of the licensee;

8 (v) either the licensee's customary manual signature or a reproduction of the licensee's customary
9 manual signature; and

10 (vi) if the applicant qualifies under subsection (7), indication of the applicant's status as a veteran.

11 (b) The department may not use the licensee's social security number as the distinguishing number. A
12 license is not valid until it is signed by the licensee.

13 (3) (a) When a person applies for renewal of a driver's license, the department shall conduct a
14 records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the
15 applicant's eyesight. The department may also require the applicant to submit to a knowledge and road or skills
16 test if:

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

20 (ii) the expired or expiring license does not include adaptive equipment or operational restrictions
21 appropriate to the applicant's functional abilities; or

22 (iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

23 (b) In the case of a commercial driver's license, the department shall, if the information was not
24 provided in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in
25 which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period
26 immediately preceding the date of the renewal application and may also require that the applicant successfully
27 complete a written examination as required by federal regulations.

28 (c) A person is considered to have applied for renewal of a Montana driver's license if the application

1 is made within 6 months before or ~~3 months~~ 1 year after the expiration of the person's license. Except as
 2 provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana
 3 driver's examination station.

4 (d) (i) Except as provided in subsections (3)(d)(iii) through (3)(d)(vi), a person may renew a driver's
 5 license by mail or online.

6 (ii) An applicant who renews a driver's license by mail or online shall submit ~~to the department an~~
 7 ~~approved vision examination and a medical evaluation from a licensed physician, licensed physician assistant,~~
 8 ~~or advanced practice registered nurse, as defined in 37-8-102, in addition to a completed application and the~~
 9 fees required for renewal.

10 (iii) If the department does not have a digitized photograph and signature record of the renewal
 11 applicant from the expiring license, then the renewal applicant shall apply in person.

12 (iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail or online
 13 is 8 years.

14 (v) The department may not renew a license by mail or online if:

15 (A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for
 16 the applicant;

17 (B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the
 18 retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572;

19 (C) the applicant seeks a change of address, a change of date of birth, or a name change; or

20 (D) the applicant's license:

21 (I) has been expired for ~~3 months or longer~~ more than 1 year; or

22 (II) except as provided in subsection ~~(3)(e)~~ (3)(f), was renewed by mail or online at the time of the
 23 applicant's previous renewal.

24 ~~(vi) If a license was issued to a foreign national whose presence in the United States is temporarily~~
 25 ~~authorized under federal law, the license may not be renewed by mail or online.~~

26 (e) A renewal applicant who is stationed outside the state on active military duty may renew the
 27 license by mail or online as long as the applicant is on active military duty.

28 ~~(e)(f)~~ The spouse or a dependent of a renewal applicant who is stationed outside Montana on active

1 military duty may renew the applicant's license by mail or online for one additional consecutive term following a
2 renewal by mail or online.

3 ~~(f)~~(g) The department shall send electronically or mail a driver's license renewal notice no earlier than
4 120 days and no later than 30 days prior to the expiration date of a driver's license. The department shall send
5 the notice to the licensee's Montana mailing address shown on the driver's license or, if requested by the
6 licensee, provide the notice using an authorized method of electronic delivery, or both.

7 (4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the anniversary
8 of the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever
9 occurs first.

10 (b) A license issued to a person who is 75 years of age or older expires on the anniversary of the
11 licensee's birthday 4 years or less after the date of issue.

12 (c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

13 (d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the
14 anniversary of the licensee's birthday 4 years or less after the date of issue.

15 (ii) When a person obtains a Montana commercial driver's license with a hazardous materials
16 endorsement after surrendering a comparable commercial driver's license with a hazardous materials
17 endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's
18 birthday 4 years or less after the date of the issue of the surrendered license if, as reported in the commercial
19 driver's license information system, a security threat assessment was performed on the person as a condition of
20 issuance of the surrendered license.

21 (e) A license issued to a person who is a foreign national whose presence in the United States is
22 temporarily authorized under federal law expires, as determined by the department, no later than the expiration
23 date of the official document issued to the person by the bureau of citizenship and immigration services of the
24 department of homeland security authorizing the person's presence in the United States.

25 (5) When the department issues a driver's license to a person under 18 years of age, the license must
26 be clearly marked with a notation that conveys the restrictions imposed under 61-5-133.

27 (6) (a) Upon application for a driver's license or commercial driver's license and any combination of
28 the specified endorsements, the following fees must be paid:

- 1 (i) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;
- 2 (ii) motorcycle endorsement -- 50 cents a year or fraction of a year;
- 3 (iii) commercial driver's license:
- 4 (A) interstate -- \$10 a year or fraction of a year; or
- 5 (B) intrastate -- \$8.50 a year or fraction of a year.
- 6 (b) A renewal notice for either a driver's license or a commercial driver's license is 50 cents.
- 7 (7) (a) Upon receiving a request from a person whose status as a veteran has been verified by the
- 8 department of military affairs pursuant to 10-2-1301 and upon receiving the information and fees required in this
- 9 part, the department shall include the word "veteran" on the face of the license.
- 10 (b) After a person's status as a veteran is denoted on a driver's license, the department may not
- 11 require further documentation of that status from the holder of the license upon subsequent renewal or
- 12 replacement.
- 13 (8) (a) Except as provided in subsection (8)(b), an applicant may request a replacement driver's
- 14 license online or by mail.
- 15 (b) If the department does not have a digitized photograph and signature record of the applicant, the
- 16 applicant shall apply in person.
- 17 (c) The term of the replacement license must be the term of the applicant's current driver's license.
- 18 (9) (a) An applicant may request an expedited delivery service for a driver's license or identification
- 19 card. The department shall set a fee for expedited delivery based on the cost of providing this service.
- 20 (b) The fees for expedited delivery must be deposited in the motor vehicle division administration
- 21 account established in 61-3-112 and used for the purposes of expediting delivery, including actual costs for
- 22 delivery, personnel, and related technology."

23

24 **Section 10.** Section 61-5-123, MCA, is amended to read:

25 **"61-5-123. Waiver of skills test or knowledge test related to military commercial motor vehicles**

26 **experience.** (1) ~~The department may waive the skills test or knowledge test, or both, required for a commercial~~

27 ~~driver's license if an applicant meets the conditions in subsection (2) and is:~~ As used in this section, "current or

28 former military service member" means a person:

1 (a) ~~a veteran of the armed forces of the United States who was honorably discharged~~ honorably
2 discharged from the armed forces of the United States;

3 (b) currently serving in the armed forces of the United States;

4 (c) serving full-time in a reserve component, as defined in 37-1-138; or

5 (d) honorably discharged from the reserve component after serving full-time in the reserve
6 component.

7 (2) The department may waive the skills test or knowledge test, or both, required for a commercial
8 driver's license if an applicant is a current or former military service member and meets the conditions in
9 subsection (3), (4), or (5).

10 (3) A current or former military service member applying for waiver of the knowledge test shall certify
11 and provide evidence that, during the 1-year period immediately prior to the application, the member:

12 (a) is or was regularly employed and designated as a:

13 (i) motor transport operator—88M (Army);

14 (ii) PATRIOT launching station operator—14T (Army);

15 (iii) fueler—92F (Army);

16 (iv) vehicle operator—2T1 (Air Force);

17 (v) fueler—2F0 (Air Force);

18 (vi) pavement and construction equipment operator—3E2 (Air Force);

19 (vii) motor vehicle operator—3531 (Marine Corps); or

20 (viii) equipment operator—E.O. (Navy);

21 (b) is operating a vehicle representative of the commercial motor vehicle type the driver applicant
22 expects to operate upon separation from the military, or operated a similar vehicle type immediately preceding
23 separation from the military;

24 (c) has not simultaneously held more than one civilian license;

25 (d) has not had any license suspended, revoked, or canceled;

26 (e) has not had any convictions for any type of motor vehicle for the disqualifying offenses contained
27 in 49 CFR 383.51(b);

28 (f) has not had more than one conviction for any type of motor vehicle for serious traffic violations

1 contained in 49 CFR 383.51(c); and

2 (g) has not had any conviction for a violation of federal, military, state, or local law relating to motor
3 vehicle traffic control, other than a parking violation, arising in connection with any traffic accident, and has no
4 record of an accident in which the current or former military service member was at fault.

5 (4) A current or former military service member applying for waiver of the skills test shall:

6 (a) certify and provide evidence that the member:

7 (i) is or was regularly employed within the last year in a military position requiring operation of a
8 commercial motor vehicle;

9 (ii) was exempted from the commercial driver's license requirements in 49 CFR 383.3(c); and

10 (iii) was operating, for at least the 2 years immediately preceding separation from the military, a vehicle
11 representative of the commercial motor vehicle type the driver applicant operates or expects to operate; and

12 (b) certify that, during the 2-year period immediately prior to applying for a commercial driver's
13 license, the member:

14 (i) has not simultaneously held more than one civilian license;

15 (ii) has not had any license suspended, revoked, or cancelled;

16 (iii) has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in
17 49 CFR 383.51(b);

18 (iv) has not had more than one conviction for any type of motor vehicle for serious traffic violations
19 contained in 49 CFR 383.51(c); and

20 (v) has not had any conviction for a violation of federal, military, state, or local law relating to motor
21 vehicle traffic control, other than a parking violation, arising in connection with any traffic accident, and has no
22 record of an accident in which the current or former military member was at fault.

23 (5) A current or former military service member applying for a waiver of the applicable knowledge and
24 skills testing for a passenger, tank vehicle, or hazardous materials endorsement shall certify and provide
25 evidence that during the 1-year period immediately prior to the application, the member:

26 (a) is or was regularly employed in a military position requiring:

27 (i) operation of a passenger commercial motor vehicle, if requesting a waiver of the knowledge and
28 driving skills test for a passenger endorsement;

1 (ii) operation of a tank vehicle, if requesting a waiver of the knowledge and driving skills test for a tank
 2 vehicle endorsement; or

3 (iii) transportation of hazardous materials, if requesting a waiver of the knowledge and driving skills test
 4 for a hazardous materials endorsement;

5 (b) has not simultaneously held more than one civilian license;

6 (c) has not had any convictions for any type of motor vehicle for the disqualifying offenses contained
 7 in 49 CFR 383.51(b);

8 (d) has not had more than one conviction for any type of motor vehicle for serious traffic violations
 9 contained in 49 CFR 383.51(c); and

10 (e) has not had any conviction for a violation of federal, military, state, or local law relating to motor
 11 vehicle traffic control, other than a parking violation, arising in connection with any traffic accident, and has no
 12 record of an accident in which the current or former military member was at fault.

13 ~~(2) An applicant shall:~~

14 ~~(a) certify that, during the 2-year period immediately prior to application, the applicant:~~

15 ~~(i) did not have more than one license except for a military license;~~

16 ~~(ii) did not have a license suspended, revoked, or canceled;~~

17 ~~(iii) was not convicted of a disqualifying offense as provided in 49 CFR 383.51(b);~~

18 ~~(iv) did not have more than one conviction for a serious traffic violation as provided in 49 CFR~~
 19 ~~383.51(c); and~~

20 ~~(v) did not have any conviction for a violation of military, state, or local law relating to motor vehicle~~
 21 ~~traffic control other than a parking violation arising in connection with any traffic accident and has no record of~~
 22 ~~an accident in which the applicant was at fault; and~~

23 ~~(b) provide evidence and certify that:~~

24 ~~(i) the applicant has passed a knowledge test for a commercial motor vehicle for the class of motor~~
 25 ~~vehicle for which the applicant is seeking a commercial driver's license given by the military;~~

26 ~~(ii) the military position in which the applicant served required regular operation over at least a 2-year~~
 27 ~~period immediately prior to either discharge or application, as applicable, of a commercial motor vehicle~~
 28 ~~representative of the class of motor vehicle for which the applicant is seeking a commercial driver's license; and~~

1 ~~(iii) the applicant was exempted under 49 CFR 383.3(c) from the requirements of this part when~~
2 ~~operating a commercial motor vehicle in the military."~~

3
4 **Section 11.** Section 61-5-132, MCA, is amended to read:

5 **"61-5-132. Prerequisites for issuance of driver's license to minor.** (1) The department may issue
6 a driver's license, subject to the restrictions of 61-5-133, to a person under 18 years of age if the person:

7 (a) has held a learner license or traffic education permit for a period of not less than 6 months;

8 (b) has passed a road test or a skills test, as provided in 61-5-110;

9 (c) presents written certification from the person's parent or legal guardian, or if none is available, a
10 responsible adult, that states that the person has had at least 50 hours of driving experience, 10 of which were
11 at night, during which the person was supervised by a parent, a legal guardian, or a person at least 18 years of
12 age, with the consent of the parent or legal guardian, who had a valid driver's license; and

13 (d) presents written certification from the person's parent or legal guardian, or if none is available, a
14 responsible adult, that states that, during the 6-month period immediately preceding application for a driver's
15 license, the person has not been convicted of a traffic violation or convicted of or adjudicated for an offense
16 involving the use of alcohol or drugs and the person has no pending traffic, alcohol, or drug citations.

17 (2) If a parent or a legal guardian, or if none is available, a responsible adult for a person under 18
18 years of age cannot certify that the person has a 6-month conviction-free record for traffic, alcohol, and drug
19 violations and no pending traffic, alcohol, or drug citations, the department may extend the person's learner
20 license for an additional 1-year period or until the person's 18th birthday, whichever occurs first.

21 (3) (a) The requirements of subsections (1)(a) through (1)(c) do not apply to a person under 18 years
22 of age who has been licensed in another state for at least 6 months and surrenders a valid driver's license from
23 that state.

24 (b) The requirements of subsection (1)(c) do not apply to a person under 18 years of age who, at the
25 time of application for a driver's license, is an enrollee of a job corps program located in Montana. The
26 department may require the applicant to provide current documentation of the applicant's job corps program
27 enrollment status."

28

1 **Section 12.** Section 61-5-201, MCA, is amended to read:

2 **"61-5-201. Authority of department to cancel, suspend, or revoke license.** (1) The department
3 may cancel a driver's license if it has reasonable grounds to believe that:

4 (a) the licensee was not entitled to the issuance;

5 (b) since the issuance, the licensee has become ineligible as determined pursuant to the provisions of
6 61-5-105; or

7 (c) the licensee failed to give the required or correct information in the licensee's application or
8 committed any fraud in making the application.

9 (2) Upon cancellation, the licensee shall surrender the canceled license to the department.

10 (3) A person whose driver's license is canceled because the person failed to give the required or
11 correct information on the application or committed any fraud in making the application is disqualified from
12 operating a commercial motor vehicle for a period of 60 days from the date of the cancellation.

13 (4) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle
14 on the public highways of this state, except as permitted by law.

15 (5) Except as provided in subsection (6), the period of duration of the suspension or revocation
16 commences from the date of conviction as defined in 61-5-213, or from the date of the event mandating an
17 administrative suspension or other sanction.

18 (6) Commercial drivers or other persons operating a commercial vehicle shall serve the full duration of
19 an applicable commercial suspension or other sanction.

20 (7) Except as authorized by law, a person whose license or privilege to drive a motor vehicle on the
21 public highways of this state has been suspended or revoked may not have the license, endorsement, or
22 privilege restored until the revocation or suspension duration has been completed, all reinstatement and
23 administrative fees owed the department are paid, and the person is otherwise qualified for licensure.

24 (8) The department shall independently determine the applicable prior convictions in determining the
25 correct duration of the sanction based on the information contained on the individual's Montana driver record.

26 (9) The department shall apply the appropriate revocation or suspension, including type, duration, and
27 requirements, based on the reported conviction or event mandating an administrative suspension or revocation
28 in this state or a violation of a similar statute or regulation in another state or on a federally recognized Indian

1 reservation."

2

3 **Section 13.** Section 61-5-205, MCA, is amended to read:

4 **"61-5-205. Mandatory revocation or suspension of license upon certain convictions —~~duration~~**

5 **~~of action — exceptions.~~** (1) The department shall revoke an individual's driver's license or driving privilege if

6 the department receives ~~notice from a court or another licensing jurisdiction~~ a report of conviction, as defined in

7 61-5-213, in this state or a violation of a similar statute or regulation in another state or on a federally

8 recognized Indian reservation, that the individual has been convicted of any of the following offenses:

9 (a) negligent homicide resulting from the operation of a motor vehicle;

10 (b) any felony in the commission of which a motor vehicle is used;

11 (c) failure to stop and render aid as required under the laws of this state in the event of a motor
12 vehicle accident resulting in ~~the~~ death or personal injury ~~of another;~~

13 (d) perjury or the making of a false affidavit or statement under oath to the department under this
14 chapter or under any other law relating to the ownership or operation of motor vehicles;

15 (e) fleeing from or eluding a peace officer; ~~or~~

16 (f) negligent ~~vehicular assault as defined in 45-5-205 involving a motor vehicle.~~ operation of a vehicle,
17 other than a bicycle, while under the influence of alcohol or drugs and causing bodily injury to another; or

18 (g) a felony offense of driving under the influence of alcohol or drugs.

19 (2) The department shall suspend an individual's driver's license or driving privilege if the department

20 receives ~~notice from a court or another licensing jurisdiction~~ a report of conviction, as defined in 61-5-213, in

21 this state or a violation of a similar statute or regulation in another state or on a federally recognized Indian

22 reservation, that the individual has been convicted of any of the following offenses:

23 (a) ~~a driving offense under 61-8-401, 61-8-406, or 61-8-411~~ misdemeanor offense of driving under the
24 influence of alcohol or drugs;

25 (b) three reckless driving offenses committed within a period of 12 months; ~~or~~

26 (c) ~~a theft offense under 45-6-301 if the theft consisted of theft of motor vehicle fuel and a motor~~
27 ~~vehicle was used in the commission of the offense;~~

28 (d) driving while the individual's license is suspended or revoked; or

1 (e) operating a motor vehicle by a person under 21 years of age with an alcohol concentration of 0.02
 2 or more.

3 ~~(3) A revocation under subsections (1)(a), (1)(b), and (1)(d) through (1)(f) must be for a period of 1~~
 4 ~~year. A revocation under subsection (1)(c) must be for a period of 2 years if the offender received a felony~~
 5 ~~conviction under 61-7-103.~~

6 ~~(4) (a) Except as provided in subsections (4)(b) and (4)(c), a suspension under subsection (2) must~~
 7 ~~be for a period of 1 year.~~

8 ~~(b) A suspension under subsection (2)(a) must be for the period set forth in 61-5-208.~~

9 ~~(c) A suspension under subsection (2)(c) must be for one of the following periods:~~

10 ~~(i) 30 days for a first offense;~~

11 ~~(ii) 6 months for a second offense; and~~

12 ~~(iii) 1 year for a third or subsequent offense."~~

13

14 **Section 14.** Section 61-5-212, MCA, is amended to read:

15 **"61-5-212. Driving while license suspended or revoked -- penalty -- second offense of driving**

16 **without licensing exemption.** ~~(1)(a)~~ A person commits the offense of driving a motor vehicle without

17 statutory exemption or during a suspension or revocation period if the person drives:

18 ~~(i)(a)~~ a motor vehicle on any public highway of this state at a time when the person's privilege to drive
 19 or apply for and be issued a driver's license is suspended or revoked in this state or any other state unless the
 20 person has obtained a restricted-use driving permit under 61-5-232;

21 ~~(ii)(b)~~ a commercial motor vehicle while the person's commercial driver's license is revoked,
 22 suspended, or canceled in this state or any other state or the person is disqualified from operating a
 23 commercial motor vehicle or from obtaining a commercial driver's license; or

24 ~~(iii)(c)~~ a motor vehicle on any public highway of this state without proof of a statutory exemption, as
 25 provided in 61-5-104.

26 ~~(b) (i)(2) (a)~~ A person convicted of the offense of driving a motor vehicle without proof of a statutory
 27 exemption for the second time shall be punished by imprisonment for not less than 2 days or more than 6
 28 months and may be fined not more than \$500.

1 ~~(ii)(b)~~ Except as provided in subsection ~~(1)(b)(iii)~~ (2)(c), a person convicted of the offense of driving
 2 during a suspension or revocation period shall be fined an amount not to exceed \$500 or be imprisoned for a
 3 term of not more than 6 months, or both.

4 ~~(iii)(c)~~ If the reason for the suspension or revocation was that the person was convicted of a violation of
 5 61-8-401, 61-8-406, or 61-8-411 or a similar offense under the laws of any other state or the suspension was
 6 under 61-8-402 or 61-8-409 or a similar law of any other state for refusal to take a test for alcohol or drugs
 7 requested by a peace officer who believed that the person might be driving under the influence, the person
 8 shall be imprisoned for a term of not less than 2 days or more than 6 months or be fined an amount not to
 9 exceed \$2,000, or both, and in addition, the court may order the person to perform up to 40 hours of community
 10 service.

11 ~~(2) (a)~~ Upon receiving a record of the conviction of any person under this section upon a charge of
 12 driving a noncommercial vehicle while the person's driver's license, privilege to drive, or privilege to apply for
 13 and be issued a driver's license was suspended or revoked, the department shall extend the period of
 14 suspension or revocation for an additional 1-year period.

15 ~~(b)~~ Upon receiving a record of the conviction of any person under this section upon a charge of
 16 driving a commercial motor vehicle while the person's commercial driver's license was revoked, suspended, or
 17 canceled or the person was disqualified from operating a commercial motor vehicle under federal regulations,
 18 the department shall suspend the person's commercial driver's license in accordance with 61-8-802."

19

20 **Section 15.** Section 61-5-231, MCA, is amended to read:

21 **"61-5-231. Authorization of probationary license by DUI court -- definition.** (1) If a person
 22 convicted of a second or subsequent misdemeanor offense of driving under the influence of alcohol or drugs
 23 under 61-8-401 or 61-8-411, driving with excessive alcohol concentration under 61-8-406, or aggravated driving
 24 under the influence under 61-8-465 is participating in a DUI court, the court may, in the court's discretion,
 25 authorize a probationary driver's license for the participant subject to 61-8-442 and any other conditions
 26 imposed within the scope of the court's authority.

27 (2) If the participant fails to comply with the court's conditions, the court may revoke the probationary
 28 driver's license and impose a driver's license suspension for the time period established pursuant to ~~61-5-208~~

1 [section 2] commencing from the date of the court's revocation of the probationary license.

2 (3) For purposes of this section, "DUI court" means any court that has established a special docket for
3 handling cases involving persons charged with violations under 61-8-401, 61-8-406, 61-8-411, or 61-8-465 and
4 that implements a program of incentives and sanctions intended to assist a participant in completing treatment
5 ordered pursuant to 61-8-732 and ending the participant's criminal behavior associated with driving under the
6 influence of alcohol or drugs or with excessive alcohol concentration."

7

8 **Section 16.** Section 61-7-118, MCA, is amended to read:

9 **"61-7-118. Penalty for violation.** (1) Except as provided in subsections (2) and (3), a person violating
10 any provision of 61-7-103, 61-7-105 through 61-7-110, or 61-7-112 through 61-7-114 is guilty of a
11 misdemeanor. Upon a first conviction, the offender shall be punished by a fine of not less than \$200 or more
12 than \$300 or by imprisonment for not more than 20 days. For a second conviction within 1 year of the first
13 conviction, the offender shall be punished by a fine of not less than \$300 or more than \$400, by imprisonment
14 for not more than 30 days, or both. Upon a third or subsequent conviction within 1 year of the first conviction, an
15 offender shall be punished by a fine of not less than \$400 or more than \$500, by imprisonment for not more
16 than 6 months, or both.

17 (2) A driver failing to comply with any provisions of 61-7-103 or 61-7-105 in an accident resulting in
18 injury to any person shall upon conviction be punished by imprisonment for a term of not less than 30 days or
19 more than 1 year, by a fine of not less than \$100 or more than \$5,000, or by both fine and imprisonment.

20 (3) A driver failing to comply with any provision of 61-7-103 or 61-7-105 in an accident resulting in
21 serious bodily injury, as defined in 45-2-101, or death of any person or resulting in the driver striking the body of
22 a deceased person shall upon conviction be punished by imprisonment in the state prison for a term of not less
23 than 1 year or more than 10 years, by a fine in an amount not to exceed \$50,000, or by both fine and
24 imprisonment. ~~Upon conviction, the department shall also revoke the driver's license, permit to drive, or any
25 nonresident operating privilege for the period prescribed in 61-5-205.~~

26 (4) Subject to the limitations of 46-18-231(3), an offender who fails to pay a fine shall be imprisoned in
27 the county jail in the county in which the offense was committed, and the punishment must be commuted at the
28 rate of 1 day's incarceration for each \$75 of the fine."

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Section 17. Section 61-8-378, MCA, is amended to read:

"61-8-378. Low-speed electric vehicle -- golf cart operated by person with low-speed restricted driver's license -- operating requirements. (1) A person with a low-speed restricted driver's license may operate only a low-speed electric vehicle ~~may be operated only by a person with a low-speed restricted driver's license or golf cart.~~

(2) A low-speed electric vehicle or golf cart operated by a person with a low-speed restricted driver's license may be operated only on a highway for which the posted speed limit does not exceed 25 miles per hour.

(3) A low-speed electric vehicle or golf cart operated by a person with a low-speed restricted driver's license may not cross a highway with a posted speed limit of greater than 45 miles per hour.

(4) Except as provided in subsections (1) through (3), the provisions of this chapter apply to a low-speed electric vehicle or golf cart operated by a person with a low-speed restricted driver's license."

Section 18. Section 61-8-410, MCA, is amended to read:

"61-8-410. Operation of vehicle by person under 21 years of age with alcohol concentration of 0.02 or more. (1) It is unlawful for a person under the age of 21 who has an alcohol concentration of 0.02 or more to drive or be in actual physical control of a vehicle upon ways of this state open to the public. Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section.

(2) Upon a first conviction under this section, a person shall be punished by a fine of not less than \$100 or more than \$500.

(3) Upon a second conviction under this section, a person shall be punished by a fine of not less than \$200 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not more than 10 days.

(4) Upon a third or subsequent conviction under this section, a person shall be punished by a fine of not less than \$300 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not less than 24 consecutive hours or more than 60 days.

(5) In addition to the punishment provided in this section, regardless of disposition:

(a) ~~the~~ the person shall comply with the chemical dependency education course and chemical

1 dependency treatment provisions in 61-8-732 as ordered by the court; and,

2 ~~(b) the department shall suspend the person's driver's license for 90 days upon the first conviction, 6~~
 3 ~~months upon the second conviction, and 1 year upon the third or subsequent conviction. A restricted or~~
 4 ~~probationary driver's license may not be issued during the suspension period until the person has paid a license~~
 5 ~~reinstatement fee in accordance with 61-2-107 and, if the person was under the age of 18 at the time of the~~
 6 ~~offense, has completed at least 30 days of the suspension period.~~

7 (6) A conviction under this section may not be counted as a prior conviction under 61-8-401 or 61-8-
 8 406."

9

10 **Section 19.** Section 61-8-734, MCA, is amended to read:

11 **"61-8-734. Driving under influence of alcohol or drugs -- driving with excessive alcohol**
 12 **concentration -- conviction defined -- place of imprisonment -- home arrest -- exceptions -- deferral of**
 13 **sentence not allowed.** (1) (a) For the purpose of determining the number of convictions for prior offenses
 14 referred to in 61-8-465, 61-8-714, 61-8-722, or 61-8-731, "conviction" means a final conviction, as defined in
 15 45-2-101, in this state, conviction for a violation of a similar statute or regulation in another state or on a
 16 federally recognized Indian reservation, or a forfeiture of bail or collateral deposited to secure the defendant's
 17 appearance in court in this state, in another state, or on a federally recognized Indian reservation, which
 18 forfeiture has not been vacated.

19 (b) An offender is considered to have been previously convicted for the purposes of sentencing if less
 20 than 10 years have elapsed between the commission of the present offense and a previous conviction unless
 21 the offense is the offender's third or subsequent offense, in which case all previous convictions must be used
 22 for sentencing purposes.

23 (c) A previous conviction under 61-8-714 or 61-8-722 for violation of 61-8-401, 61-8-406, 61-8-411, or
 24 61-8-465 and a previous conviction for a violation of 45-5-104, 45-5-205, or 45-5-628(1)(e) when the offense
 25 under 45-5-104 occurred while the person was operating a vehicle in violation of 61-8-401(1) may be counted
 26 for purposes of determining the number of a subsequent conviction for violation of 61-8-401, 61-8-406, 61-8-
 27 411, or 61-8-465.

28 (2) Except as provided in 61-8-731, the court may order that a term of imprisonment imposed under

1 61-8-465, 61-8-714, 61-8-722, or 61-8-731 be served in another facility made available by the county and
 2 approved by the sentencing court. The defendant, if financially able, shall bear the expense of the imprisonment
 3 in the facility. The court may impose restrictions on the defendant's ability to leave the premises of the facility
 4 and require that the defendant follow the rules of that facility. The facility may be, but is not required to be, a
 5 community-based prerelease center as provided for in 53-1-203. The prerelease center may accept or reject a
 6 defendant referred by the sentencing court.

7 (3) Subject to the limitations set forth in 61-8-465, 61-8-714, and 61-8-722 concerning minimum
 8 periods of imprisonment, the court may order that a term of imprisonment imposed under those sections be
 9 served by imprisonment under home arrest, as provided in Title 46, chapter 18, part 10.

10 (4) A court may not defer imposition of sentence under 61-8-465, 61-8-714, 61-8-722, or 61-8-731.

11 ~~(5) The provisions of 61-2-107, 61-5-205(2), and 61-5-208(2), relating to suspension of driver's~~
 12 ~~licenses and later reinstatement of driving privileges, apply to any conviction under 61-8-465, 61-8-714, or 61-8-~~
 13 ~~722 for a violation of 61-8-401, 61-8-406, 61-8-411, or 61-8-465."~~

14

15 **Section 20.** Section 61-8-803, MCA, is amended to read:

16 **"61-8-803. Suspension of commercial driver's license -- serious traffic violations.** (1) If the
 17 department receives notice from a court or another licensing jurisdiction that a person holding or required to
 18 hold a commercial driver's license has been convicted of more than one serious traffic violation in separate
 19 incidents within a 3-year period while operating a commercial motor vehicle, or while operating a
 20 noncommercial motor vehicle, if the conviction results in the cancellation, suspension, or revocation of the
 21 noncommercial driving privileges, 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: for:~~

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

27 (b) reckless driving, including offenses of driving a motor vehicle in willful or wanton disregard for the
 28 safety of persons or property;

- 1 (c) improper or erratic traffic lane changes;
- 2 (d) following too closely;
- 3 (e) a violation of a state law or local ordinance relating to the operation of a motor vehicle, excluding a
4 parking, weight, or equipment violation, that arises in connection with a fatal accident;
- 5 (f) operating a commercial motor vehicle without a commercial driver's license;
- 6 (g) operating a commercial motor vehicle without a commercial driver's license in one's possession or
7 refusing to display a commercial driver's license upon request;
- 8 (h) operating a commercial motor vehicle without the proper class of commercial driver's license or
9 endorsements, or both, for the specific vehicle type or types being operated or for the passengers or type or
10 types of cargo being transported; or
- 11 ~~(i) using a mobile device to send text messages while operating a commercial motor vehicle in~~
12 ~~violation of a state or local law or ordinance on motor vehicle traffic control.~~ using a hand-held mobile device
13 while operating a commercial motor vehicle. The use of a hand-held mobile device means using at least one
14 hand to hold a mobile device or make a call, dialing a mobile device by pressing more than a single button, or
15 reaching for a mobile device in a manner that requires a driver to maneuver so that the driver is no longer in a
16 seated driving position and restrained by a seatbelt; or
- 17 (j) using a device as follows:
- 18 (i) texting;
- 19 (ii) using short-message services;
- 20 (iii) e-mailing;
- 21 (iv) instant messaging;
- 22 (v) initiating a command or request to access a web page;
- 23 (vi) pressing more than a single button to initiate or terminate a call using a mobile device; or
- 24 (vii) engaging in any other form of electronic text retrieval or entry for present or future communication.
- 25 (3) A person is considered to have committed a second or subsequent serious traffic violation if less
26 than 3 years have passed between the date of an offense that resulted in a prior conviction and the date of the
27 offense that resulted in the most recent conviction."
28

1 **Section 21.** Section 61-11-101, MCA, is amended to read:

2 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses --**

3 **surrender of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8,
4 makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the
5 person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's
6 licenses then held by the convicted person. The court shall, within 5 days after the conviction, forward the
7 license and a record of the conviction to the department. If the person does not possess a driver's license, the
8 court shall indicate that fact in its report to the department.

9 (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal
10 ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or
11 ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days
12 after the conviction. The court may recommend that the department issue a restricted probationary license on
13 the condition that the individual comply with the requirement that the person attend and complete a chemical
14 dependency education course, treatment, or both, as ordered by the court under 61-8-732.

15 (3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any
16 action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication
17 upon which it is based to the department within 5 days on forms furnished by the department.

18 (4) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's
19 license or who is required to hold a commercial driver's license, a court may not take any action, including
20 deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic
21 control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the
22 person's driving record. The provisions of this subsection (4)(a) apply only to the conviction of a person who
23 holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to
24 the conviction of a person who holds any other type of driver's license.

25 (b) For purposes of this subsection (4), "who is required to hold a commercial driver's license" refers
26 to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle
27 at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in
28 subsection (1).

1 (5) (a) If a person who holds a valid registry identification card or license issued pursuant to 50-46-
 2 307 or 50-46-308 is convicted of or pleads guilty to any offense related to driving under the influence of alcohol
 3 or drugs when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, 61-
 4 8-410, or 61-8-411, the court in which the conviction occurs shall require the person to surrender the registry
 5 identification card or license.

6 (b) Within 5 days after the conviction, the court shall forward the registry identification card and a copy
 7 of the conviction to the department of public health and human services.

8 (6) All reports to the department must be in a format with the requisite data prescribed by the
 9 department."

10
 11 **Section 22.** Section 61-12-501, MCA, is amended to read:

12 **"61-12-501. Authority of department to issue identification cards -- lawful presence verification.**

13 (1) The department may issue an identification card to any person who ~~maintains a residence in this is a~~
 14 resident of this state and whose presence in the United States is authorized under federal law.

15 (2) When an applicant who is not a citizen of the United States applies for an identification card, the
 16 department shall verify that the applicant is lawfully present in the United States by using the federal systematic
 17 alien verification for entitlements program."

18
 19 **Section 23.** Section 61-12-504, MCA, is amended to read:

20 **"61-12-504. Fees for identification cards -- expiration of cards.** (1) The department may appoint
 21 county treasurers and other qualified officers to act as its agents for the sale of identification card receipts, new
 22 issuance, replacements, and renewal services.

23 (2) The department, upon receipt of payment of the fees specified in this section, shall issue one
 24 identification card to each qualifying applicant and may issue additional cards for good cause shown.

25 (3) The identification card must contain:

26 (a) a full-face photograph of the licensee in the size and form prescribed by the department;

27 (b) a distinguishing number issued to the licensee, which may not be the licensee's social security
 28 number;

1 (c) the full legal name, date of birth, and Montana residence address unless the licensee requests use
2 of the mailing address, except that the Montana residence address must be used for a REAL ID-compliant
3 driver's license unless authorized by department rule;

4 (d) a brief description of the licensee;

5 (e) either the licensee's customary manual signature or a reproduction of the licensee's customary
6 manual signature;

7 (f) if the licensee qualifies under 61-5-111, indication of the licensee's status as a veteran; and

8 (g) the signature of the licensee. An identification card is invalid unless signed.

9 (4) When an identification card from another jurisdiction is surrendered, the department shall notify
10 the issuing agency from the other jurisdiction that the applicant has surrendered the identification card. If the
11 applicant wants to retain the identification card, the department shall void the identification card and return it to
12 the applicant.

13 (5) (a) A person is considered to have applied for renewal of a Montana identification card if the
14 application is made within 6 months before or 1 year after the expiration of the person's identification card.
15 Except as provided in subsection (5)(b), a person seeking to renew an identification card shall appear in person
16 at a Montana driver's examination station.

17 (b) (i) Except as provided in 61-5-111, a person may renew an identification card by mail or online.

18 (ii) An applicant who renews an identification card by mail or online shall submit a completed
19 application and the fees required for renewal.

20 (iii) If the department does not have a digitized photograph and signature record of the renewal
21 applicant from the expiring identification card, then the renewal applicant shall apply in person.

22 (iv) The department may not renew an identification card by mail or online if:

23 (A) the applicant seeks a change of address, a change of date of birth, or a name change; or

24 (B) the applicant's identification card has been expired for more than 1 year or was renewed by mail
25 or online at the time of the applicant's previous renewal.

26 (c) A renewal applicant who is stationed outside the state on active military duty may renew the
27 identification card by mail or online as long as the applicant is on active military duty.

28 (d) The spouse or a dependent of a renewal applicant who is stationed outside the state on active

1 military duty may renew the applicant's identification card by mail or online for one additional consecutive term
 2 following a renewal by mail or online.

3 (6) (a) Except as provided in subsection (6)(b), an applicant may request a replacement identification
 4 card online or by mail.

5 (b) If the department does not have a digitized photograph and signature record of the applicant, the
 6 applicant shall apply in person.

7 (c) The term of the replacement identification card must be the term of the applicant's current
 8 identification card.

9 ~~(1) Upon (7)~~ Except as provided in subsections (6)(a) and (6)(b), on application for an identification
 10 card issued pursuant to this part, a fee of \$16 must be collected and deposited in the general fund, except that
 11 the fee for a card issued under subsection ~~(3)(b)~~ (9)(b) is \$8.

12 ~~(2)(8)~~ A person with a disability, as defined in 39-30-103, may obtain a free identification card. An
 13 individual discharged from any correctional facility must be furnished a free identification card upon release,
 14 discharge, or parole.

15 ~~(3)(9)~~ (a) Except as provided in subsections ~~(3)(b) and (3)(c)~~ (9)(b) and (9)(c), an identification card
 16 expires on the anniversary of the cardholder's date of birth 8 years after the date of issue.

17 (b) An identification card issued to a person who is under ~~24~~ 20 1/2 years of age expires on the
 18 anniversary of the cardholder's date of birth 4 years after the card's issue date.

19 (c) An identification card issued to a person whose presence in the United States is temporarily
 20 authorized under federal laws expires, as determined by the department, no later than the expiration date of the
 21 official document issued to the person by the United States citizenship and immigration services of the
 22 department of homeland security that authorizes the person's presence in the United States."

23

24 NEW SECTION. Section 24. Repealer. The following section of the Montana Code Annotated is
 25 repealed:

26 61-5-208. Period of suspension or revocation -- limitation on issuance of probationary license -- notation
 27 on driver's license.

28

