

## 1 HOUSE BILL NO. 264

2 INTRODUCED BY R. FITZGERALD

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS FOR PASSING EMERGENCY  
 5 VEHICLES; REVISING THE SPEED RULES FOR PASSING EMERGENCY AND POLICE VEHICLES;  
 6 INCLUDING TOW TRUCKS AS VEHICLES TO MOVE OVER FOR; CREATING THE OFFENSE OF  
 7 RECKLESS ENDANGERMENT OF EMERGENCY PERSONNEL; DESIGNATING RECKLESS  
 8 ENDANGERMENT OF HIGHWAY WORKERS AND RECKLESS ENDANGERMENT OF EMERGENCY  
 9 PERSONNEL AS SERIOUS TRAFFIC VIOLATIONS; AND AMENDING SECTIONS 61-8-346, 61-8-715, AND  
 10 61-8-803, MCA."

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

13

14 **Section 1.** Section 61-8-346, MCA, is amended to read:

15 **"61-8-346. Operation of vehicles on approach of authorized emergency vehicles or police**  
 16 **vehicles -- approaching stationary emergency vehicles or police vehicles -- reckless endangerment of**

17 **emergency personnel.** (1) Upon the ~~immediate~~ approach of an authorized emergency vehicle making use of  
 18 audible and visual signals meeting the requirements of 61-9-402 or of a police vehicle properly and lawfully  
 19 making use of an audible signal only, the operator of every other vehicle shall yield the right-of-way and shall  
 20 immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the  
 21 roadway clear of any intersection and shall stop and remain in that position until the authorized emergency  
 22 vehicle or police vehicle has passed, except when otherwise directed by a police officer or highway patrol  
 23 officer.

24 (2) This section does not relieve the driver of an authorized emergency vehicle or police vehicle from  
 25 the duty to drive with due regard for the safety of all persons using the highway.

26 (3) ~~Except as provided in subsection (4), upon~~ On approaching and passing a stationary authorized  
 27 emergency vehicle or police vehicle, or tow truck that is displaying visible signals of flashing or rotating amber,  
 28 blue, red, or green lights, or any temporary sign advising of an emergency scene or accident ahead, the

1 operator of the approaching vehicle shall:

2 ~~(a) (a) reduce the vehicle's speed to a reasonable speed appropriate to the road and conditions that~~  
 3 ~~is no faster than half the ordinary posted speed limit, or reduce the vehicle's speed to the temporarily posted~~  
 4 ~~speed if one has been posted;~~

5 ~~(b) proceed with caution; and,~~

6 ~~(c) if possible considering safety and traffic conditions;~~

7 ~~(i) move to a lane that is not adjacent to the lane in which the authorized emergency vehicle or police~~  
 8 ~~vehicle, or tow truck is located or;~~

9 ~~(ii) move as far away from the authorized emergency vehicle or police vehicle, or tow truck as~~  
 10 ~~possible; or~~

11 ~~(iii) follow flagger instructions or instructions on sign boards; or~~

12 ~~(b) if changing lanes is not possible or is determined to be unsafe, reduce the vehicle's speed,~~  
 13 ~~proceed with caution, and maintain a reduced speed, appropriate to the road and the conditions, through the~~  
 14 ~~area where the authorized emergency vehicle or police vehicle is stopped.~~

15 ~~(4) Upon approaching a stationary authorized emergency vehicle or police vehicle that is displaying~~  
 16 ~~visible signals of flashing or rotating amber, blue, red, or green lights on a public highway with a posted speed~~  
 17 ~~limit of 50 miles per hour or greater when driving in a lane that is directly next to the emergency vehicle or~~  
 18 ~~police vehicle, the operator of the approaching vehicle shall reduce the vehicle's speed by at least 20 miles per~~  
 19 ~~hour below the posted speed limit.~~ An operator of a vehicle who violates subsection (3) commits the offense of  
 20 reckless endangerment of emergency personnel."

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22 **Section 2.** Section 61-8-715, MCA, is amended to read:

23 **"61-8-715. Reckless driving -- reckless endangerment of highway workers -- reckless**

24 **endangerment of emergency personnel -- penalty.** (1) Except as provided in subsection (2), a person

25 convicted of reckless driving under 61-8-301(1)(a) or (1)(b) or, convicted of reckless endangerment of a

26 highway worker under 61-8-301(4), or convicted of reckless endangerment of emergency personnel under 61-

27 8-346 shall be punished upon a first conviction by imprisonment for a term of not more than 90 days, a fine of

28 not less than \$25 or more than \$300, or both. On a second or subsequent conviction, the person shall be

1 punished by imprisonment for a term of not less than 10 days or more than 6 months, a fine of not less than  
2 \$50 or more than \$500, or both.

3 (2) A person who is convicted of reckless driving under 61-8-301 or convicted of reckless  
4 endangerment of emergency personnel under 61-8-346 and whose offense results in the death or serious  
5 bodily injury of another person shall be punished by a fine in an amount not exceeding \$10,000, incarceration  
6 for a term not to exceed 1 year, or both."

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8 **Section 3.** Section 61-8-803, MCA, is amended to read:

9 **"61-8-803. Suspension of commercial driver's license -- serious traffic violations.** (1) If the  
10 department receives notice from a court or another licensing jurisdiction that a person holding or required to  
11 hold a commercial driver's license has been convicted of more than one serious traffic violation in separate  
12 incidents within a 3-year period, the department shall suspend the person's commercial driver's license:

13 (a) for 60 days upon receipt of notice of the second conviction; or

14 (b) for 120 days upon receipt of notice of the third or subsequent conviction.

15 (2) For purposes of this section, "serious traffic violation" means conviction, when operating a  
16 commercial motor vehicle, of:

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

18 (b) reckless driving, reckless endangerment of a highway worker, or reckless endangerment of  
19 emergency personnel;

20 (c) improper or erratic traffic lane changes;

21 (d) following too closely;

22 (e) a violation of a state law or local ordinance relating to the operation of a motor vehicle, excluding a  
23 parking, weight, or equipment violation, that arises in connection with a fatal accident;

24 (f) operating a commercial motor vehicle without a commercial driver's license;

25 (g) operating a commercial motor vehicle without a commercial driver's license in one's possession or  
26 refusing to display a commercial driver's license upon request;

27 (h) operating a commercial motor vehicle without the proper class of commercial driver's license or  
28 endorsements, or both, for the specific vehicle type or types being operated or for the passengers or type or

1 types of cargo being transported; or

2 (i) using a mobile device to send text messages while operating a commercial motor vehicle in

3 violation of a state or local law or ordinance on motor vehicle traffic control.

4 (3) A person is considered to have committed a second or subsequent serious traffic violation if less

5 than 3 years have passed between the date of an offense that resulted in a prior conviction and the date of the

6 offense that resulted in the most recent conviction."

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