

1 HOUSE BILL NO. 193

2 INTRODUCED BY F. ANDERSON, S. KERNS, M. REGIER, N. NICOL, R. FITZGERALD, G. KMETZ

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PENALTY LAWS RELATED TO DRIVING WITHOUT
5 MANDATORY AUTOMOBILE INSURANCE; INCREASING FINES; REQUIRING THE SURRENDER OF AN
6 OFFENDER'S LICENSE IF THE OFFENDER CAUSED AN ACCIDENT AND HAS NOT MADE THE VICTIM
7 WHOLE; PROVIDING FOR A RESTRICTED LICENSE; PROVIDING A FEE FOR THE RESTRICTED
8 LICENSE; AND AMENDING SECTION 61-6-304, MCA."

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

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12 Section 1. Section 61-6-304, MCA, is amended to read:

13 "61-6-304. Penalties. (1) Conviction of a first offense under 61-6-301 or 61-6-302 is punishable by a
14 fine of not less than ~~\$250~~ \$350 or more than \$500. A second conviction is punishable by a fine of ~~\$350~~ not less
15 than \$500 or more than \$750. A third or subsequent conviction is punishable by a fine of ~~\$500~~ not less than
16 \$750 or more than \$1,000 or by imprisonment in the county jail for not more than 10 days, or both.

17 (2) Upon a second or subsequent conviction under 61-6-301 or 61-6-302, the sentencing court
18 shall order the surrender of the vehicle registration receipt and license plates for the vehicle operated at the
19 time of the offense if that vehicle was operated by the registered owner or a member of the registered owner's
20 immediate family or by a person whose operation of that vehicle was authorized by the registered owner. The
21 court shall report the surrender of the registration receipt and license plates to the department, which shall
22 immediately suspend the vehicle's registration. The vehicle's registration status may not be reinstated until
23 proof of compliance with 61-6-301 is furnished to the department, but if the vehicle is transferred to a new
24 owner, the new owner is entitled to register the vehicle. The surrendered license plates must be recycled or
25 destroyed by the court unless the court decides to retain the license plates for the owner until the registration
26 suspension has been completed or the requirements for a restricted registration receipt have been met. Upon
27 proof of compliance with 61-6-301 and payment of fees required under 61-3-333 for replacement license plates
28 and registration decal and under 61-3-341 for a replacement registration receipt, during the period of 90 days

1 ~~(4)~~(5) An offender is considered to have been previously convicted for the purposes of sentencing if
2 less than 5 years have elapsed between the commission of the present offense and a previous conviction."

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4 COORDINATION SECTION. Section 2. Coordination instruction. If both Senate Bill No. 108 and
5 [this act] are passed and approved and if Senate Bill No. 108 contains a section that amends 61-6-302, then
6 the [section 1 of this act], amending 61-6-304, is void and 61-6-304 must be amended as follows:

7 **"61-6-304. Penalties.** (1) Conviction of a first offense under 61-6-301 ~~or 61-6-302~~ is punishable by a
8 fine of not less than ~~\$250~~ \$350 or more than \$500. A second conviction is punishable by a fine of ~~\$350~~ not less
9 than \$500 or more than \$750. A third or subsequent conviction is punishable by a fine of ~~\$500~~ not less than
10 \$750 or more than \$1,000 or by imprisonment in the county jail for not more than 10 days, or both.

11 (2) Upon a second or subsequent conviction under 61-6-301 ~~or 61-6-302~~, the sentencing court
12 shall order the surrender of the vehicle registration receipt and license plates for the vehicle operated at the
13 time of the offense if that vehicle was operated by the registered owner or a member of the registered owner's
14 immediate family or by a person whose operation of that vehicle was authorized by the registered owner. The
15 court shall report the surrender of the registration receipt and license plates to the department, which shall
16 immediately suspend the vehicle's registration. The vehicle's registration status may not be reinstated until
17 proof of compliance with 61-6-301 is furnished to the department, but if the vehicle is transferred to a new
18 owner, the new owner is entitled to register the vehicle. The surrendered license plates must be recycled or
19 destroyed by the court unless the court decides to retain the license plates for the owner until the registration
20 suspension has been completed or the requirements for a restricted registration receipt have been met. Upon
21 proof of compliance with 61-6-301 and payment of fees required under 61-3-333 for replacement license plates
22 and registration decal and under 61-3-341 for a replacement registration receipt, during the period of 90 days
23 from the date of a second conviction or 180 days from the date of a third or subsequent conviction, the
24 department shall issue a restricted registration receipt to the offender. A restricted registration receipt limits the
25 use of the motor vehicle operated at the time of the offense to use solely for employment purposes until the
26 date indicated on the restricted registration receipt.

27 (3) Upon a fourth or subsequent conviction under 61-6-301 ~~or 61-6-302~~, the court shall order the
28 surrender of the driver's license of the offender, if the vehicle operated at the time of the offense was registered

1 to the offender or a member of the offender's immediate family. The court shall send the driver's license, along
2 with a copy of the complaint and the dispositional order, to the department, which shall immediately suspend
3 the driver's license. The department may not reinstate a driver's license suspended under this subsection until
4 the registered owner provides the department proof of compliance with 61-6-301 and the department
5 determines that the registered owner is otherwise eligible for licensure.

6 (4) (a) In addition to the penalties imposed under this section, the court shall order the surrender of
7 the offender's driver's license and follow the procedure provided for in subsection (3) if the offender:

8 (i) is convicted of violating 61-6-301; and
9 (ii) while violating 61-6-301, was considered at fault for causing an accident that resulted in
10 personal injury or property damage to a victim and for which the victim has not been made whole as determined
11 by the court. If a victim willingly accepts an offer for less than the total damages, the court shall find the victim
12 has been made whole. Fault for causing an accident is determined by a final determination by a court of
13 competent jurisdiction.

14 (b) Except as provided in subsection (4)(c), an offender's driver's license may not be reinstated
15 until the victim of the accident has been made whole for personal injury or property damage sustained as
16 determined by a court of competent jurisdiction. If a victim willingly accepts an offer for less than the total
17 damages, the court shall find the victim has been made whole.

18 (c) An offender who surrenders a driver's license pursuant to this subsection (4) may apply for a
19 restricted license that allows the offender to drive subject to travel restrictions set forth by the court. If the court
20 grants the offender's request for a restricted license, the offender shall pay a \$20 administrative fee to the
21 department of justice.

22 (4)(5) An offender is considered to have been previously convicted for the purposes of sentencing if
23 less than 5 years have elapsed between the commission of the present offense and a previous conviction."

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26 - END -