

SENATE BILL NO. 92

INTRODUCED BY D. EMRICH

(Primary Sponsor)

BY REQUEST OF THE STATE PUBLIC DEFENDER

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING JAIL PENALTIES FOR DRIVING WHILE LICENSE IS SUSPENDED OR REVOKED; AND AMENDING SECTION 61-5-212, MCA."

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

**Section 1.** Section 61-5-212, MCA, is amended to read:

**"61-5-212. Driving while license suspended or revoked -- penalty -- second offense of driving without licensing exemption.** (1) (a) A person commits the offense of driving a motor vehicle without statutory exemption or during a suspension or revocation period if the person drives:

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

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

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

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

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

(iii) If the reason for the suspension or revocation was that the person was convicted of a violation

1 of 61-8-1002(1)(a), (1)(b), (1)(c), (1)(d), or (1)(e) or a similar offense under the laws of any other state or the  
2 suspension was under 61-8-1016 or a similar law of any other state for refusal to take a test for alcohol or drugs  
3 requested by a peace officer who believed that the person might be driving under the influence, the person  
4 shall ~~be imprisoned for a term of not less than 2 days or more than 6 months or~~ be fined an amount not to  
5 exceed \$2,000, ~~or both,~~ and in addition, the court may order the person to perform up to 40 hours of community  
6 service.

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

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

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