

Amendment - 1st Reading/2nd House-blue (S) Highways and Transportation

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0470.002.001

HOUSE BILL NO. 470

INTRODUCED BY R. FITZGERALD, G. NIKOLAKAKOS, M. MARLER, D. FERN, M. THANE, L. BREWSTER,
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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MOTOR VEHICLE LAWS; REVISING LAWS
REGARDING YIELDING TO MOVING EMERGENCY VEHICLES; REVISING LAWS REGARDING SLOWING
DOWN AND MOVING OVER FOR STATIONARY EMERGENCY VEHICLES AND HIGHWAY MAINTENANCE
WORKER VEHICLES; REVISING RECKLESS ENDANGERMENT OF EMERGENCY PERSONNEL;
REVISING RECKLESS ENDANGERMENT OF HIGHWAY WORKERS; PROVIDING DEFINITIONS;
AMENDING SECTIONS 61-8-301, 61-8-321, 61-8-715, AND 61-9-402, AND 61-9-431, MCA; AND
REPEALING SECTION 61-8-346, MCA."

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

NEW SECTION. Section 1. Short title. [Sections 1 through 6] may be cited as the "Yield -- Slow
Down -- Move Over Act".

NEW SECTION. Section 2. Definitions. As used in [sections 3 through 6], the following definitions
apply:

(1) "Emergency lights" means:

(a) for a law enforcement vehicle or an authorized emergency vehicle, visual signals meeting the
requirements of 61-9-402; and

(b) for a highway ~~maintenance~~-WORKER vehicle, visible signals of flashing or rotating amber, blue,
red, or green lights.

(2) "Highway ~~maintenance~~-WORKER vehicle" means ~~an authorized vehicle that is engaged in~~
~~highway maintenance activities when the authorized vehicle is displaying flashing lights that meet the~~
~~requirements of the department of transportation~~ A VEHICLE AUTHORIZED TO WORK WITHIN A PUBLIC HIGHWAY. The

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term also includes a tow truck, a snow plow, OR ANY OTHER VEHICLE WITH ADDITIONAL LIGHTING EQUIPMENT
ACTIVATED IN ADDITION with lights additional to its original equipment manufacturer lights, a rural electric
cooperative vehicle, and a rural telephone cooperative vehicle.

(3) "Highway worker" means ~~a person~~ AN EMPLOYEE OF THE DEPARTMENT OF TRANSPORTATION, A
LOCAL AUTHORITY, OR ANY OTHER ENTITY AUTHORIZED TO WORK ON A PUBLIC HIGHWAY WHEN operating or working
within 100 feet of a highway maintenance WORKER vehicle using its emergency lights.

(4) "Siren" means an audible signal meeting the requirements of 61-9-402.

NEW SECTION. Section 3. Yielding to moving emergency vehicle. When being approached by a
law enforcement vehicle or authorized emergency vehicle using its siren or emergency lights, the operator of a
moving vehicle, unless otherwise directed by a law enforcement officer, shall:

(1) yield the right-of-way to the law enforcement vehicle or authorized emergency vehicle; and

(2) unless already stationary and out of the way of the law enforcement vehicle or authorized
emergency vehicle:

(a) drive cautiously to a position that is parallel to and as close as possible to the right-hand edge
or curb of the roadway and is not in an intersection; and

(b) remain stationary until the law enforcement vehicle or authorized emergency vehicle has
passed.

NEW SECTION. Section 4. Approaching stationary emergency vehicle OR STATIONARY HIGHWAY
WORKER VEHICLE. When approaching a stationary law enforcement vehicle or authorized emergency vehicle
using its siren or emergency lights or a stationary highway maintenance WORKER vehicle using its emergency
lights, the operator of a moving vehicle shall:

(1) cautiously and carefully reduce the vehicle's speed to the temporary posted speed limit. If a
temporary speed limit has not been posted, the operator of a moving vehicle shall reduce the vehicle's speed to
a speed:

(a) 20 miles an hour below the posted speed limit on the interstate if the operator of a moving
vehicle is able to move lanes, or to one-half the posted speed limit if the operator of a moving vehicle is not able

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1 to move lanes;

2 (b) 30 miles an hour below the posted speed limit on a state highway or county road if the operator
3 of a moving vehicle is able to move lanes, or to one-half the posted speed limit if the operator of a moving
4 vehicle is not able to move lanes; and

5 (c) one-half the posted speed limit on any other road; and

6 (2) follow flagger instructions or instructions on a temporary sign board. If flaggers or a temporary
7 sign board are not yet posted:

8 (a) if on a multi-lane highway, move to a lane that is not adjacent to the lane in which the
9 stationary law enforcement vehicle, authorized emergency vehicle, or highway ~~maintenance~~ WORKER vehicle is
10 located; or

11 (b) move over as far as safely possible under the circumstances.
12

13 NEW SECTION. Section 5. Reckless endangerment of emergency personnel or -- RECKLESS

14 ENDANGERMENT OF highway workers. (1) (A) An operator of a vehicle who violates [section 4] WHEN AN
15 EMERGENCY VEHICLE IS STATIONARY AND USING ITS EMERGENCY LIGHTS OR SIREN commits the offense of reckless
16 endangerment of emergency personnel, or

17 (B) AN OPERATOR OF A VEHICLE WHO VIOLATES [SECTION 4] WHEN A HIGHWAY WORKER VEHICLE IS
18 STATIONARY AND USING ITS EMERGENCY LIGHTS COMMITS THE OFFENSE OF RECKLESS ENDANGERMENT OF highway
19 workers.

20 (2) AN OPERATOR OF A VEHICLE COMMITS THE OFFENSE OF RECKLESS ENDANGERMENT OF HIGHWAY
21 WORKERS IF THE PERSON PURPOSELY, KNOWINGLY, OR NEGLIGENTLY DRIVES A MOTOR VEHICLE IN A HIGHWAY WORK
22 ZONE, AS DEFINED IN 61-8-314, IN A MANNER THAT ENDANGERS PERSONS OR PROPERTY OR IF THE PERSON PURPOSELY
23 REMOVES, IGNORES, OR INTENTIONALLY STRIKES AN OFFICIAL TRAFFIC CONTROL DEVICE IN A WORK ZONE FOR REASONS
24 OTHER THAN:

25 (A) AVOIDANCE OF AN OBSTACLE;

26 (B) AN EMERGENCY; OR

27 (C) TO PROTECT THE HEALTH AND SAFETY OF AN OCCUPANT OF THE VEHICLE OR OF ANOTHER PERSON.

28 (2)(3) Reckless endangerment of emergency personnel or reckless endangerment of highway

1 workers is punishable under 61-8-715.

2

3 NEW SECTION. Section 6. Duty of emergency driver -- duty of highway worker. (1) [Sections 3
4 and 4] do not relieve the driver of a law enforcement vehicle or authorized emergency vehicle from the duty to
5 drive with due regard for the safety of all persons using the highway.

6 (2) [Section 4] does not relieve a highway worker of the duty to take standard safety precautions or
7 to behave reasonably under the circumstances.

8

9 SECTION 7. SECTION 61-8-301, MCA, IS AMENDED TO READ:

10 **"61-8-301. Reckless driving —~~reckless endangerment of highway worker.~~** (1) A person commits
11 the offense of reckless driving if the person:

12 (a) operates a vehicle in willful or wanton disregard for the safety of persons or property; or

13 (b) operates a vehicle in willful or wanton disregard for the safety of persons or property while
14 passing, in either direction, a school bus that has stopped and is displaying the visual flashing red signal, as
15 provided in 61-8-351 and 61-9-402. This subsection (1)(b) does not apply to situations described in 61-8-
16 351(7).

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

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

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

25 ~~(i) avoidance of an obstacle;~~

26 ~~(ii) an emergency; or~~

27 ~~(iii) to protect the health and safety of an occupant of the vehicle or of another person.~~

28 ~~(b) As used in this section:~~

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(i) ~~"highway worker" means an employee of the department of transportation, a local authority, a utility company, or a private contractor; and~~

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

Section 8. Section 61-8-321, MCA, is amended to read:

"61-8-321. Drive on right side of roadway -- exceptions. (1) Upon all roadways of sufficient width, a vehicle must be operated upon the right half of the roadway, except as follows:

(a) when overtaking and passing another vehicle proceeding in the same direction under the rules governing the passing movement;

(b) when the right half of a roadway is closed to traffic while under construction or repair;

(c) upon a roadway divided into three marked lanes for traffic under the rules applicable on a divided roadway;

(d) upon a roadway designated by official traffic control devices for one-way traffic;

(e) when the operator of a vehicle is complying with the provisions of 61-8-346 [section 3 or 4];

(f) when an obstruction exists that makes it necessary to drive to the left of the center of the roadway; or

(g) when a police vehicle or authorized emergency vehicle is performing a job-related duty as provided in 61-8-107.

(2) A person operating a vehicle to the left of the center of the roadway for any of the reasons provided in subsection (1) shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the roadway that are within a distance that constitutes an immediate hazard.

(3) (a) Except as provided in subsection (3)(b) and subject to subsection (4), upon all roadways having two or more lanes for traffic moving in the same direction, a vehicle must be driven in the right-hand lane.

(b) A vehicle being operated upon a roadway having two or more lanes for traffic moving in the same direction is not required to be driven in the right-hand lane when:

(i) overtaking and passing another vehicle proceeding in the same direction;

(ii) traveling at a speed greater than the traffic flow;

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- 1 (iii) moving left to allow traffic to merge;
- 2 (iv) traveling on a roadway within the official boundaries of a city or town, except as provided in
- 3 subsection (4);
- 4 (v) preparing for a left turn at an intersection or into a private road or driveway when a left turn is
- 5 legally permitted;
- 6 (vi) exiting onto a left-hand exit from a controlled-access highway;
- 7 (vii) an obstruction or hazardous conditions make it necessary to drive in a lane other than the right-
- 8 hand lane;
- 9 (viii) road or vehicle conditions make it safer to drive in a lane other than the right-hand lane; or
- 10 (ix) authorized snow-removal equipment is operating on the roadway.
- 11 (4) When traveling upon an interstate highway, as defined in 60-1-103, within the official
- 12 boundaries of a city or town, a vehicle must be driven in the right-hand lane unless otherwise directed or
- 13 permitted by an official traffic control device."
- 14

15 **Section 9.** Section 61-8-715, MCA, is amended to read:

16 **"61-8-715. Reckless driving -- ~~reckless endangerment of highway workers~~ -- reckless**

17 **endangerment of emergency personnel or highway workers -- penalty.** (1) Except as provided in

18 subsection (2), a person convicted of reckless driving under 61-8-301(1)(a) or (1)(b), ~~convicted of reckless~~

19 ~~endangerment of a highway worker under 61-8-301(4)~~, CONVICTED OF RECKLESS ENDANGERMENT OF A HIGHWAY

20 WORKER UNDER [SECTION 5], or convicted of reckless endangerment of emergency personnel or reckless

21 endangerment of highway workers under 61-8-346 [section 5] shall be punished ~~upon~~ on a first conviction by

22 imprisonment for a term of not more than 90 days, a fine of not less than \$100 or more than \$500, or both. On a

23 second or subsequent conviction, the person shall be punished by imprisonment for a term of not less than 10

24 days or more than 6 months, a fine of not less than \$500 or more than \$1,000, or both.

25 (2) A person who is convicted of reckless driving under 61-8-301 or convicted of reckless

26 endangerment of emergency personnel or reckless endangerment of highway workers under 61-8-346 [section

27 5] and whose offense results in the death or serious bodily injury of another person shall be punished by a fine

28 in an amount not exceeding \$10,000, incarceration for a term not to exceed 1 year, or both."

1

2 **Section 10.** Section 61-9-402, MCA, is amended to read:

3 **"61-9-402. Audible and visual signals on police, emergency vehicles, and on-scene command**

4 **vehicles -- immunity.** (1) A police vehicle must be equipped with a siren capable of giving an audible signal
5 and may be equipped with alternately flashing or rotating red or blue lights as specified in this section.

6 (2) An authorized emergency vehicle must be equipped:

7 (a) with a siren and an alternately flashing or rotating red light as specified in this section; and

8 (b) with signal lamps mounted as high and as widely spaced laterally as practicable that are
9 capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two
10 alternately flashing red lights located at the same level. These lights must have sufficient intensity to be visible
11 at 500 feet in normal sunlight.

12 (3) (a) A bus used for the transportation of school children must be equipped with signal lamps
13 mounted as high and as widely spaced laterally as practicable, displaying to the front at least two red and two
14 amber alternating flashing lights and to the rear at least two red and two amber alternating flashing lights.
15 These lights must have sufficient intensity to be visible at 500 feet in normal sunlight.

16 (b) Additional red flashing lights may be mounted to the front and to the rear at a height of at least
17 36 inches and not more than 72 inches from the ground. If additional red lights are mounted, they must be
18 installed so that they can be actuated only if the school bus is stopped.

19 (c) The specifications for the warning lights must be prescribed by the board of public education
20 and approved by the department.

21 (4) A police vehicle and an authorized emergency vehicle may, and an emergency service vehicle
22 must, be equipped with alternately flashing or rotating amber lights as specified in this section.

23 (5) The use of signal equipment as described in this section imposes upon the operators of other
24 vehicles the obligation to yield right-of-way or to stop and to proceed past the signal or light as provided in ~~61-8-~~
25 ~~346~~ sections 4 and 5 and subject to the provisions of 61-8-209 and 61-8-303.

26 (6) An employee, agent, or representative of the state or a political subdivision of the state or of a
27 governmental fire agency organized under Title 7, chapter 33, who is operating a police vehicle, an authorized
28 emergency vehicle, or an emergency service vehicle and using signal equipment in rendering assistance at a

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highway crash scene or in response to any other hazard on the roadway that presents an immediate hazard or an emergency or life-threatening situation is not liable, except for willful misconduct, bad faith, or gross negligence, for injuries, costs, damages, expenses, or other liabilities resulting from a motorist operating a vehicle in violation of subsection (5).

(7) Blue, red, and amber lights required in this section must be mounted as high as and as widely spaced laterally as practicable and be capable of displaying to the front two alternately flashing lights of the specified color located at the same level and to the rear two alternately flashing lights of the specified color located at the same level or one rotating light of the specified color, mounted as high as is practicable and visible from both the front and the rear. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight. Except as provided in 61-9-204(6), only police vehicles, as defined in 61-8-102, may display blue lights, lenses, or globes.

(8) A police vehicle and authorized emergency vehicle may be equipped with a flashing signal lamp that is green in color, visible from 360 degrees, and attached to the exterior roof of the vehicle for purposes of designation as the on-scene command and control vehicle in an emergency or disaster. The green light must have sufficient intensity to be visible at 500 feet in normal sunlight. Only the on-scene command and control vehicle may display green lights, lenses, or globes.

(9) Only a police vehicle or an authorized emergency vehicle may be equipped with the means to flash or alternate its headlamps or its backup lights.

(10) A violation of subsection (5) is considered reckless endangerment of a highway worker, as provided in 61-8-304 (4) [SECTION 5(2)], and is punishable as provided in 61-8-715."

SECTION 11. SECTION 61-9-431, MCA, IS AMENDED TO READ:

"61-9-431. Use of warning signs, flares, reflectors, lanterns, and flag persons. (1) The operator of a commercial tow truck, in compliance with the requirements of 61-8-906 and 61-8-907, shall, when rendering assistance at a hazard on the highway that necessitates the obstruction of a portion or all of the roadway exclusive of the berm or shoulder, place at least two warning signs as required in this section as soon as is practicable under the circumstances. Flag persons and cones may be used to augment the warning signs.

(2) Highway warning signs must be of a uniform type, with dimensions of 3 x 3 feet, lettering 5

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1 inches high, and reflectorized orange or reflectorized fluorescent pink background and black border, as
2 prescribed by the department. The signs must be designed to be visible both during the day and at night. The
3 warning signs must bear the words "accident ahead", "emergency vehicle ahead", "lane closed ahead", "road
4 closed ahead", "wreck ahead", "tow truck ahead", or "wrecker ahead", as prescribed by the department.

5 (3) The operator of a commercial tow truck used for the purpose of rendering assistance at a
6 hazard on the highway that necessitates the obstruction of a portion of the roadway shall place a highway
7 warning sign as required in subsection (2):

8 (a) in an area in which the posted speed limit is 45 miles an hour or less, not less than 600 feet in
9 advance of the hazard and an equal distance to the rear of the hazard; and

10 (b) in an area in which the posted speed limit is more than 45 miles an hour or no speed limit is
11 posted, 1,000 feet in advance of the hazard, except on a divided highway where the hazard does not cause
12 disruption of traffic traveling on the opposite side of the divided highway, and an equal distance to the rear of
13 the hazard.

14 (4) A local government unit may adopt an ordinance exempting an operator of a commercial tow
15 truck from the requirements of subsection (2) within the limits of an incorporated city or town.

16 (5) When a hazard exists on the highway during the hours of darkness, the operator of a
17 commercial tow truck called to render assistance shall place warning signs upon the highway as prescribed in
18 this section and shall also place at least one red flare, red lantern, or warning light or reflector in close proximity
19 to each warning sign.

20 (6) A violation of warning signs placed as provided in subsection (3) is considered reckless
21 endangerment of a highway worker, as provided in ~~61-8-304(4)~~ section 5(2), and is punishable as provided in
22 61-8-715."

23
24 **NEW SECTION. Section 12. Repealer.** The following section of the Montana Code Annotated is
25 repealed:

26 61-8-346. Operation of vehicles on approach of authorized emergency vehicles or law enforcement
27 vehicles -- approaching stationary emergency vehicles or law enforcement vehicles -- reckless endangerment
28 of emergency personnel.

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2 NEW SECTION. Section 13. Codification instruction. [Sections 1 through 6] are intended to be
3 codified as an integral part of Title 61, chapter 8, part 3, and the provisions of Title 61, chapter 8, part 3, apply
4 to [sections 1 through 6].

5

6 COORDINATION SECTION. Section 14. Coordination instruction. If both House Bill No. 374 and
7 [this act] are passed and approved, House Bill No. 374 contains sections amending 61-8-346 and 61-8-715,
8 and [this act] contains a section repealing 61-8-346, then [section 3 of this act] must be amended as follows:

9 "NEW SECTION. Section 3. Yielding to moving emergency vehicle. (1) When being approached
10 by a law enforcement vehicle or authorized emergency vehicle using its siren or emergency lights, the operator
11 of a moving vehicle, unless otherwise directed by a law enforcement officer, shall:

12 (1)(a) yield the right-of-way to the law enforcement vehicle or authorized emergency vehicle; and

13 (2)(b) unless already stationary and out of the way of the law enforcement vehicle or authorized
14 emergency vehicle:

15 (a)(i) drive cautiously to a position that is parallel to and as close as possible to the right-hand edge
16 or curb of the roadway and is not in an intersection; and

17 (b)(ii) remain stationary until the law enforcement vehicle or authorized emergency vehicle has
18 passed.

19 (2) An operator of a vehicle who violates this section is subject to the penalties provided in 61-8-
20 715(3)."

21

22

- END -