

SENATE BILL NO. 108

INTRODUCED BY B. USHER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO PROOF OF MOTOR VEHICLE INSURANCE; ELIMINATING THE REQUIREMENT FOR CARRYING PROOF OF INSURANCE; ~~AND~~ AMENDING SECTIONS 61-6-105, 61-6-123, 61-6-142, 61-6-157, 61-6-302, 61-6-304, AND 61-6-309, MCA; AND ADDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, peace officers can access the motor vehicle insurance verification system to verify compliance with motor vehicle liability policy requirements, making it unnecessary for drivers to carry proof of insurance as currently required in section 61-6-302, MCA.

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

Section 1. Section 61-6-105, MCA, is amended to read:

"61-6-105. Department to administer law and make rules. (1) The department shall administer and enforce the provisions of this part and may make rules necessary for the administration of the system.

(2) The rules must:

(a) establish standards and procedures for accessing the system by authorized personnel of the department, the courts, law enforcement personnel, and any other entities authorized by the department that are consistent with specifications and standards of the insurance industry committee on motor vehicle administration and other applicable industry standards;

(b) determine a schedule for the implementation of the system, subject to the testing requirements in 61-6-157;

(c) provide for the suspension of a vehicle's registration when:

(i) a person fails to respond to a written inquiry from the department or its designee concerning the insurance status of a vehicle;

(ii) a person misrepresents or provides false information to the department or its designee

- 1 regarding the operational status or use of a vehicle for which liability insurance is mandatory;
- 2 (iii) the department has reason to believe that a vehicle owner is not complying with the mandatory
- 3 liability insurance requirements of 61-6-301; or
- 4 (iv) the department receives a report from a court that a person has been convicted of a violation of
- 5 61-6-301 ~~or 61-6-302~~ and the surrender of the vehicle registration receipt and license plates under 61-6-304
- 6 has been ordered;
- 7 (d) prohibit the reinstatement of a vehicle's registration and the new registration of a vehicle unless
- 8 the applicable reinstatement fees have been paid;
- 9 (e) set a fee for the reinstatement of a vehicle's registration following a suspension imposed by the
- 10 department. The fee may not exceed \$100 and is in addition to any other fine or penalty prescribed by the law.
- 11 (f) provide for periodic insurance data file transfers from insurers under specifications and
- 12 standards set forth in 61-6-157 to identify vehicles that are not covered by an insurance policy and to monitor
- 13 ongoing compliance with mandatory vehicle liability insurance requirements;
- 14 (g) provide for random checks to identify vehicles that are not covered by an insurance policy or
- 15 specific checks to determine whether a vehicle that has previously been shown as uninsured is now insured;
- 16 and
- 17 (h) provide for a hearing for a person aggrieved by a suspension order issued by the department
- 18 under the provisions of this part.
- 19 (3) The department may adopt additional rules to:
- 20 (a) assist authorized users in interpreting responses received from the system and determining the
- 21 appropriate action to be taken as a result of a response; and
- 22 (b) otherwise clarify system operations and business rules."
- 23

24 **Section 2.** Section 61-6-123, MCA, is amended to read:

25 **"61-6-123. Suspension to continue until judgments paid and proof given -- maximum period of**

26 **suspension.** A license or nonresident's operating privilege remains suspended and may not be renewed, nor

27 may a license be issued in the name of a judgment debtor, including a judgment debtor not previously licensed,

28 until each judgment is stayed, satisfied in full, or satisfied to the extent provided in this part and until the person

gives proof of compliance with 61-6-301 subject to the exemptions provided in 61-6-122 and 61-6-125 or 6 years have passed from date judgment was first entered and the person has complied with 61-6-301 ~~and 61-6-302.~~"

Section 3. Section 61-6-142, MCA, is amended to read:

"61-6-142. Duration of proof -- when money or securities may be canceled or returned. (1) The department shall direct and the state treasurer shall return to the person entitled any money or securities deposited pursuant to this part as proof of financial responsibility, or the department shall waive the requirement of filing proof under this part, in any of the following events:

(a) at any time after 3 years from the date the proof was required when during the 3-year period preceding the request the department has not received record of a conviction or a forfeiture of bail that would require or permit the suspension or revocation of the license or nonresident's operating privilege of the person by or for whom the proof was furnished;

(b) in the event of the death of the person on whose behalf the proof was filed or the permanent incapacity of the person to operate a motor vehicle; or

(c) in the event the person who has given proof surrenders the person's license to the department.

(2) However, the department may not consent to the return of any money or securities if any action for damages upon a liability covered by the proof is then pending or any judgment upon any liability is then unsatisfied or if the person who has deposited the money or securities has, within 1 year immediately preceding the request, been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of the facts or that the applicant has been released from all liability or has been finally adjudicated not to be liable for the injury or damage is sufficient evidence in the absence of evidence to the contrary in the records of the department.

(3) Whenever any person whose proof has been canceled or returned under subsection (1)(c) applies for a license within a period of 3 years from the date proof was originally required, the application must be refused unless the applicant complies with the insurance or bond requirements under 61-6-301 ~~and 61-6-302.~~"

Section 4. Section 61-6-157, MCA, is amended to read:

"61-6-157. Creation of online motor vehicle liability insurance verification system. (1) The

department, in cooperation with the commissioner of insurance, shall establish an accessible common carrier-based motor vehicle insurance verification system to verify the compliance of a motor vehicle owner or operator with motor vehicle liability policy requirements under 61-6-103, and 61-6-301, ~~and 61-6-302~~ and facilitate or monitor proof of financial responsibility filings under 61-6-133 and 61-6-134.

(2) The department may contract with a private vendor or vendors to establish and maintain the system.

(3) The system must:

(a) send requests to insurers for verification of motor vehicle liability insurance using electronic services established by the insurers, through the internet, world wide web, or a similar proprietary or common carrier electronic system in compliance with the specifications and standards of the insurance industry committee on motor vehicle administration and other applicable industry standards;

(b) include appropriate provisions to secure its data against unauthorized access and to maintain a record of all requests and responses;

(c) be accessible, without fee, to authorized personnel of the department, the courts, law enforcement personnel, county treasurers, and authorized agents under the provisions of 61-3-116;

(d) interface, wherever possible, with existing department and law enforcement systems;

(e) receive insurance data file transfers from insurers under specifications and standards set forth in subsection (3)(a) to identify vehicles that are not covered by an insurance policy;

(f) provide a means by which low-volume insurers that are unable to deploy an online interface with the system can report insurance policy data to the department or its designee for inclusion in the system;

(g) provide a means to track separately or distinguish motor vehicles that are subject to a certificate of self-insurance under 61-6-143, a surety or indemnity bond under 61-6-137, or a deposit of cash or securities under 61-6-138;

(h) be available 24 hours a day, 7 days a week, subject to reasonable allowances for scheduled maintenance or temporary system failures, to verify the insurance status of any vehicle in a manner prescribed by the department; and

(i) be used only for information-gathering and educational purposes until the completion of an appropriate testing period of not less than 6 months.

(4) The provisions of Title 2, chapter 6, parts 10 and 11, do not apply to the information contained in the verification system.

(5) Every insurer shall cooperate with the department in establishing and maintaining the system and shall provide access to motor vehicle liability policy status information to verify liability coverage:

(a) for a vehicle insured by that company that is registered in this state; and

(b) if available, for a vehicle that is insured by that company or that is operated in this state and that is the subject of an accident investigation regardless of where the vehicle is registered."

Section 5. Section 61-6-302, MCA, is amended to read:

"61-6-302. Proof of compliance Notice of insurance requirement. ~~(1)~~ The registration receipt required by 61-3-322 must contain a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate the vehicle without a valid motor vehicle liability insurance policy, or a certificate of self-insurance, as required by 61-6-301.

~~(2) (a) Each owner or operator of a motor vehicle shall carry in the motor vehicle as proof of compliance with 61-6-301 either:~~

~~(i) an insurance card approved by the department but issued by the insurance carrier to the motor vehicle owner; or~~

~~(ii) an electronic device on which an electronic document issued by the insurance carrier showing proof of compliance with 61-6-301 may be displayed.~~

~~(b) If the insurance card or electronic document is issued under a commercial automobile insurance policy or a self-insured fleet, the insurance card or electronic document must indicate the status as "commercially insured" or "fleet".~~

~~(c) A motor vehicle owner or operator shall exhibit the insurance card or display the electronic document on demand of a justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy or inspector of the department.~~

~~(d) A person commits an offense under this subsection if the person fails to carry in the motor vehicle~~

~~the insurance card or an electronic device on which the electronic document may be displayed or fails to exhibit the insurance card or display the electronic document on demand of a person specified in subsection (2)(c).~~

~~(e) For the purposes of this subsection (2), "insurance card" includes an electronic representation or equivalent of a documentary insurance card that the insurer delivers by electronic means, as defined in 33-15-601, to satisfy the requirements of this subsection (2).~~

~~(3) In lieu of charging an operator who is not the owner of a vehicle with violating subsection (2), the officer may issue a complaint and notice to appear charging the owner with a violation of 61-6-301 and serve the complaint and notice to appear on the owner of the vehicle:~~

~~(a) personally; or~~

~~(b) by certified mail, return receipt requested, at the address for the owner listed on the registration receipt for the vehicle or, following query through available law enforcement systems, at the address maintained for the vehicle's owner by the jurisdiction in which the vehicle is titled and registered, or both.~~

~~(4) An owner or operator charged with violating subsection (2) may not be convicted if:~~

~~(a) the arresting or issuing officer or another person authorized to access information from the online motor vehicle liability insurance verification system under 61-6-309 submits to the system, when implemented, a request that provides proof of insurance valid at the time the alleged violation took place; or~~

~~(b) when the system under 61-6-157 is not available, the person produces in court or the office of the arresting or issuing officer proof of insurance valid at the time the alleged violation took place."~~

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

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

(2) Upon a second or subsequent conviction under 61-6-301 ~~or 61-6-302~~, the sentencing court shall order the surrender of the vehicle registration receipt and license plates for the vehicle operated at the time of the offense if that vehicle was operated by the registered owner or a member of the registered owner's immediate family or by a person whose operation of that vehicle was authorized by the registered owner. The

1 court shall report the surrender of the registration receipt and license plates to the department, which shall
2 immediately suspend the vehicle's registration. The vehicle's registration status may not be reinstated until
3 proof of compliance with 61-6-301 is furnished to the department, but if the vehicle is transferred to a new
4 owner, the new owner is entitled to register the vehicle. The surrendered license plates must be recycled or
5 destroyed by the court unless the court decides to retain the license plates for the owner until the registration
6 suspension has been completed or the requirements for a restricted registration receipt have been met. Upon
7 proof of compliance with 61-6-301 and payment of fees required under 61-3-333 for replacement license plates
8 and registration decal and under 61-3-341 for a replacement registration receipt, during the period of 90 days
9 from the date of a second conviction or 180 days from the date of a third or subsequent conviction, the
10 department shall issue a restricted registration receipt to the offender. A restricted registration receipt limits the
11 use of the motor vehicle operated at the time of the offense to use solely for employment purposes until the
12 date indicated on the restricted registration receipt.

13 (3) Upon a fourth or subsequent conviction under 61-6-301 or ~~61-6-302~~, the court shall order the
14 surrender of the driver's license of the offender, if the vehicle operated at the time of the offense was registered
15 to the offender or a member of the offender's immediate family. The court shall send the driver's license, along
16 with a copy of the complaint and the dispositional order, to the department, which shall immediately suspend
17 the driver's license. The department may not reinstate a driver's license suspended under this subsection until
18 the registered owner provides the department proof of compliance with 61-6-301 and the department
19 determines that the registered owner is otherwise eligible for licensure.

20 (4) An offender is considered to have been previously convicted for the purposes of sentencing if
21 less than 5 years have elapsed between the commission of the present offense and a previous conviction."
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23 **Section 7.** Section 61-6-309, MCA, is amended to read:

24 **"61-6-309. Law enforcement use of verification system.** (1) ~~Notwithstanding the requirements of~~
25 ~~61-6-302, a~~ A peace officer or authorized employee of a law enforcement agency may, during the course of a
26 traffic stop or accident investigation, access the verification system provided under 61-6-157 to verify whether a
27 motor vehicle is covered by a valid motor vehicle liability policy that meets the requirements of 61-6-103 and
28 61-6-301.

(2) (a) Except as provided in ~~subsection-subsections~~ (2)(b) and (2)(c), the response received from the system supersedes an insurance card or electronic document showing proof of compliance with 61-6-301 produced or displayed by a vehicle owner or operator, and notwithstanding the display of an insurance card or electronic document by the owner or operator, the peace officer may issue a complaint and notice to appear to the owner or operator for a violation of 61-6-301 ~~or 61-6-302~~.

(b) Subsection (2)(a) does not apply if the vehicle is:

- (i) covered under a commercial automobile insurance coverage policy;
- (ii) part of a self-insured fleet as provided in 61-6-143; or
- (iii) included in an insurance binder, as allowed by 33-15-411, that has not been entered into the system at the time the system is accessed under subsection (1) of this section.

(c) A person charged with violating 61-6-301 may not be convicted if the person produces in court or in the office of the peace officer who conducted the traffic stop an insurance card or electronic document showing proof of compliance with 61-6-301 valid at the time of the traffic stop.

(3) Except upon reasonable cause to believe that a driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped as required by law, a peace officer may not use the verification system to stop a driver for operating a motor vehicle in violation of 61-6-301."

NEW SECTION. SECTION 8. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

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