

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

January 23, 1979

The seventh meeting of the Highways and Transportation Committee was called to order by Chairman Mark Etchart on the above date in Room 410 of the State Capitol Building at 1:40 p.m.

ROLL CALL: Senators Etchart, Hazelbaker, Manning, Healy and Hager were present. Senator Kolstad and Senator Graham were absent.

CONSIDERATION OF SENATE BILL 98: Senator Hazelbaker, chief sponsor of Senate Bill 98 stated this is an act to amend Section 61-5-106 to allow students who have completed driver education to obtain an instruction permit. Senator Hazelbaker reported the student has a drivers permit as long as he is in the driver education class. However, when he passes, he no longer has the permit, if he is under 15 years of age. By changing the law, there will not be a gap in their driver education.

Chairman Etchart asked if there were any other proponents of Senate Bill 98:

Sergeant Irwin L. Garrick (Bud) from the Highway Patrol stated the present law says that if an individual is at least 14 years of age and participating in a driver education class, he can get an instruction permit. If he completes the course and is 14½ years of age, but not 15 years of age, he cannot get his license and is not able to drive legally. SB 98 would alleviate this by saying that if he is successful and is 14½ years of age, not yet 15 years of age, he still may drive with the parent/guardian or instructor. The student thus would benefit from the additional practice.

Chairman Etchart asked if there were any other proponents of Senate Bill 98.

Robert Stockton, Office of the Superintendent of Public Instruction stated their office felt the child should not go through a break until such time as he/she is of age to get a license. They feel it is favorable for the child to drive with parent/guardian, or instructor.

Chairman Etchart asked if there were any opponents to SB 98. There were none. Hearing Closed.

ACTION TAKEN ON SENATE BILL 98: Senator Manning made the motion to pass Senate Bill 98 and place Senate Bill 98 on the Consent Calendar.

Senator Healy said he agrees with that motion.

The motion carried unanimously to DO PASS Senate Bill 98 and place Senate Bill 98 on the Consent Calendar.

CONSIDERATION OF SENATE BILL 113: Chairman Etchart asked if there were any proponents of Senate Bill 113.

Dave Cogley, Legislative Council reported it was his responsibility to recodify laws concerning motor vehicles. Part of his business is to search throughout the Code all references to the bills we are amending. Also, to clean up conflicts where a bill was drafted in a past session and the person doing the drafting was not aware of a previous law. This pertains to this bill. I have prepared a Summary Explanation (Exhibit A) to explain each change, section by section. This is quite long, however, I will go through it section by section. There are four (4) amendments to this bill. Mr. Cogley went through Exhibit A.

After Dave Cogley finished going over the Summary Explanation of the changes on Senate Bill 113, Chairman Etchart carried over other testimony until the next meeting, Thursday, Jan. 25, 1979 at 1:30. The meeting adjourned at 2:54 so Committee Members could be present for the 3:00 Senate Session.

Mark Etchart
SENATOR MARK ETCHART, CHAIRMAN

ROLL CALL

1-23-79

Highway & Trans. COMMITTEE

46th LEGISLATIVE SESSION - 1979

Each Day Attach to Minutes.

DATE Jan 23, 1979

COMMITTEE ON Highways & Transportation BILL NO. S.B. 113

BILL NO. S.B. 113

SB 98

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Opp
William L. Remine	SB 113 West. Interstate Disaster & Recycles SB 113		Am
Bob Stabenow	Office of Public Env. Justice	✓	
Wayne Whitescarver	West. Dept. of Agriculture - trans		
Carlton McCallin	West. Dept. of Ag.		
Harry C. Maynard	Dept. of Justice - Water Use	✓ - 113	
Bud Larson	M. H. P.	✓ - 113	

NAME: Bob Stoth DATE: 1-23-19

ADDRESS: Office of Public Info.

PHONE: 449-3167

REPRESENTING WHOM? OPJ

APPEARING ON WHICH PROPOSAL: SB 98

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: William L. Romine DATE: 1-23-79

ADDRESS: P.O. Box 1691 Helena, Mont.

PHONE: 442-2220

REPRESENTING WHOM? Plaster & Gypsum Dismantlers & Recyclers Assoc.

APPEARING ON WHICH PROPOSAL: S.B. 113

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: The Association submits that the stricken language on line 12, page 93 results in a substantive change of law. The stricken language should be reinstated. The sheriff should have the power to remove abandoned vehicles from private property. Many cars are abandoned along side county ~~roads~~ roads, but on private property, such as farm or ranch land. The rancher, farmer or other landowner should be able to call the sheriff and have the car removed.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

January 23

1979

MR. President:

We, your committee on.....Highways and Transportation.....

having had under considerationSenate..... Bill No. 98.....

Respectfully report as follows: That.....Senate..... Bill No. 98.....

was unanimously passed and was unanimously placed on the
Consent Calendar.

DO PASS

SENATE MEMBERS
CARROLL GRAHAM
CHAIRMAN
FRANK HAZELBAKER
VICE CHAIRMAN
CHET BLAYLOCK
PAT M. GOODOVER
DANA S. DOWLING
EXECUTIVE DIRECTOR
CODE COMMISSIONER
LEANOR ECK
ADMINISTRATIVE ASSISTANT
OBERTA MOODY
DIRECTOR, LEGISLATIVE SERVICES



HOUSE MEMBERS
OSCAR KVAALEN
REX MANUEL
ROBERT L. MARKS
JOHN VINCENT
H. DAVID COGLEY
DIRECTOR, LEGAL SERVICES
ROBERT PERSON
DIRECTOR, RESEARCH
SHAROLE CONNELLY
DIRECTOR, ACCOUNTING DIVISION

Montana Legislative Council

State Capitol
Helena, 59601

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LC 0045

1979 Legislature
Code Commissioner Bill - Summary

Leg. Bill No. 113

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO MOTOR VEHICLES; REPEALING SECTION 61-8-721, MCA; AND REPEALING SECTIONS 31-167, 31-186, 32-1116, 32-1119, 32-2101, 32-2124.2, 32-21-154, 53-134, 53-135, AND 53-140 THROUGH 53-144, R.C.M. 1947.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 61-1-101. "Act" is changed to "title" to make definitions applicable to the entire title, rather than having various definitions of the same term applying to specific parts and sections within the title as in the R.C.M. 1947. The MCA title follows the format of the Uniform Motor Vehicle code, in collecting all the definitions for the entire title in the first chapter.

Section 2. 61-1-102. The various definitions of "motor vehicle" found in the motor vehicle law were collected in this section in recodification. This amendment strikes those definitions and provides one definition applicable throughout the new title.

Section 3. 61-1-103. Consolidates the definitions of "vehicle".

Section 4. 61-1-104. Consolidates the definitions of "special mobile equipment".

Section 5. 61-1-105. Consolidates the definitions of "motorcycle".

Section 6. 61-1-107. Consolidates the definitions of "truck" and "motortruck".

Section 7. 61-1-108. Consolidates the definitions of "truck tractor".

Section 8. 61-1-109. Consolidates the definitions of "farm tractor".

Section 9. 61-1-111. Consolidates the definitions of "trailer".

Section 10. 61-1-112. Consolidates the definitions of "semitrailer".

Section 11. 61-1-201. Consolidates and clarifies the definitions of "highway".

Section 12. 61-1-202. Makes definition of "public highway" applicable throughout the title.

Section 13. 61-1-203. Consolidates and clarifies the definitions of "street".

Section 14. 61-1-305. Clarifies definition of "highway patrolman".

Section 15. 61-1-307. Consolidates the definitions of "person".

Section 16. 61-1-310. Consolidates the definitions of "owner".

Section 17. 61-1-311. Consolidates the definitions of "operator".

Section 18. 61-1-314. Consolidates the definitions of "dealer".

Section 19. 61-1-315. Makes the definition of "trailer dealer" applicable throughout the Title.

Section 20. 61-1-316. Makes the definition of "manufacturer" applicable throughout the Title.

Section 21. 61-1-403. Makes definition of "traffic-control signal" applicable throughout the Title.

Section 22. 61-1-504. Deleted "or suspension" because the term is not properly used in this definition of revocation, and causes confusion between "suspension" and "revocation".

Section 23. New section. Enacts a definition of "certified ownership".

Section 24. 61-2-203. The old R.C.M. reference here was intended to cover all equipment requirements, but does not include several enacted after the reference was made. A reference to chapter 9 of the new title covers all equipment requirements.

Section 25. 61-2-204. The session laws referred to in the amendment transferred all functions of the position of highway patrol chief to the division of motor vehicles. The function in this section is a personal one, and one which the division felt should remain with the highway patrol chief.

Section 26. 61-3-101. Deletes subsection (9) for the following reasons. Section 1, Chapter 272, Laws of 1971, abolished the position of Registrar of Motor Vehicles and transferred the functions of that office, with one exception, to the division of motor vehicles. Accordingly, in recodification all references to "registrar" were changed to "division". In subsection (9) such substitution is not appropriate. The director of the division has also determined that using prison inmates in any clerical capacity is not possible, and has not been done for some time. And the reference to "motor department" is to an agency which existed prior to 1925 in the office of the secretary of state who was the original registrar of motor vehicles. (See Chapter 75, Laws of 1917) It should be safe to assume that the prescribed transfer of records has taken place.

Section 27. 61-3-105. Changes "licensee" to "registrant" for clarification. Changed "act" to "title" to make the section apply generally. Added the exception language to alert the user to the provisions of 61-3-701(3).

Section 28. 61-3-106. Again the reference to the secretary of state as registrar is obsolete and is changed to division as explained in 26 above. "Certificate of title" is changed to "certificate of ownership", the more commonly used term, in an effort to achieve uniform terminology.

Section 29. 61-3-201. Deletes redundant language. In (3) replaces "registration" with "certificate of ownership". Registration is normally considered the process of annually registering the vehicle with the county treasurer and paying ad valorem taxes on it. The term is used on occasion to refer to other processes as well, i.e., obtaining a G.V.W. license, obtaining an original certificate of ownership, or obtaining a dealer's license, and thus the term has to be read in context. The change is made here to clearly indicate the intended meaning. In (4) "title" is replaced with "certificate of ownership", the more commonly used term, in an effort to achieve uniform terminology.

Section 30. 61-3-202. Deletes the requirement that the registration number assigned to a vehicle be shown on the certificate of ownership, since the number may change many times during the time the certificate of ownership is valid.

Section 31. 61-3-301. The language "without a license", which is stricken, is redundant and unclear. If "license" refers to driver's license, then it repeats 61-5-102. If it means vehicle license, then it is synonymous with vehicle registration and is redundant with the language following it in the section.

Subsection (4) refers to 61-3-704 as the applicable penalty. But 61-3-601 also provides a penalty for this section, which is different. 61-3-601 is the more recent statute, and this reference is changed accordingly.

Section 32. 61-3-317. Deletes subsection (2). This subsection is in conflict with 61-4-111, both as to who (dealer or purchaser) is to obtain new registration and the period in which it is to be done. This subsection allows a 20-day grace period, while 61-4-111 allows 4 working days. This subsection is also repetitive of the first subsection.

Section 33. 61-3-321. Strikes disbursement instruction in subsection (5), which is obsolete because of reorganization of state accounting procedures. Strikes last clause of subsection (6) because it is redundant with the rest of the section. Strikes subsection (8), which does not fit with the subject matter of the rest of the section. The subsection is essentially reenacted in section 34.

Section 34. New section. There is some confusion as to which fees under 61-3-321(8) are deposited in the earmarked fund. All fees presently being deposited in the fund are deposited pursuant to some other statute. Also, Section 29, Chapter 121, Laws of 1965 deleted the language in former 53-117, R.C.M. 1947, establishing this fund. However, a number of other sections referring to the fund were not changed and the money they direct to be deposited in the fund has continued to be so deposited. This section therefore clarifies that there is a fund and which fees are to be deposited in it.

Section 35. 61-3-322. Deletes subsection (4) (which is redundant with the rest of the section) except the requirement that the treasurer keep in his office a copy of the registration form, which is placed in subsection (1).

Section 36. 61-3-405. Changes "department" to "division". Department is undefined, and it is not clear from the context what department was originally intended. The function is now one which by statute belongs to the division of motor vehicles.

Section 37. 61-3-411. Deleted redundant language.

Section 38. 61-3-502. Changes "department" (department of highways) to "division" (division of motor vehicles) since the division is the usual agency designated by statute to handle registration matters. Changes an erroneous reference to 61-4-102 to 61-4-103.

Section 39. 61-3-503. Clarifies that the assessment date for vehicles subject to staggered registration is the first day of the registration period.

Section 40. 61-3-505. Deletes subsection (2) as obsolete. No notation of payment of tax is currently made or provided for on certificates of title (ownership).

Section 41. 61-3-508. Changes an erroneous reference to 53-122, R.C.M. 1947, to the correct reference.

Section 42. 61-3-601. Changes the application of the penalty section to include later enacted provisions by referring to the chapter generally. Excepts specific penalty provisions.

Section 43. 61-3-602. Make enforcement responsibilities applicable to the chapter generally, same as above.

Section 44. 61-3-603. The statutes are fairly consistent in using the term "certificate of ownership" rather than "certificate of title". This amendment is made for uniform terminology.

Section 45. 61-3-604. Changes "engine number" to "vehicle identification number" in subsection (2), so that the language is consistent with subsection (1).

Section 46. 61-3-701. Changes "Owner's Certificate of Registration Receipt" to "Owner's Certificate of Registration and Tax Receipt" and "certificate of title" to "certificate of ownership" for uniformity in terminology.

Section 47. 61-4-101. Deletes a reference to a subparagraph of law which no longer exists.

Section 48. 61-4-104. Deletes a reference to "another section of this act". "This act" is Chapter 256, Laws of 1965, and that act contains no section which is relevant to this reference.

Section 49. 61-4-113. Corrects an inaccurate reference to the division.

Section 50. 61-4-114. Changes an inaccurate reference to 61-4-102 to 61-4-103.

Section 51. 61-4-305. Adds a reference to alert reader that motor carrier fees are still required, as provided by 61-4-304.

Section 52. 61-4-403. Makes grammatical change.

Section 53. 61-5-101. In recodification the word "division" (division of motor vehicles) was substituted for "highway patrol board" and "highway patrol" in accordance with the directive of Section 1, Chapter 272, Laws of 1971. Such substitution was not entirely appropriate in this section, and this amendment cleans up the awkward language that resulted.

Section 54. 61-5-103. The technical wording of this section required all new residents to be licensed to operate a motor vehicle whether they wished to drive or not. This amendment clarifies that they must be licensed before operating a vehicle.

Section 55. 61-5-111. This section presently does not indicate what the collecting agent is to do with the driver's license fees, except to retain 5% for the county general fund. Subsection (7) implies the money goes to the state treasurer, and this amendment clarifies that.

Section 56. 61-5-112. Subsection (2) conflicts with 61-5-105(2) which prohibits a minor from being licensed as a chauffeur. The division of motor vehicles indicates that it does not issue such licenses to minors, and that this subsection is read as a requirement for all passenger bus drivers, and is not restricted to minors. The amendment reflects this current practice.

Section 57. 61-5-208. Corrects an erroneous reference. 61-6-123 is the statute dealing with the period of the suspension resulting from 61-6-122.

Section 58. 61-5-302. Subsection (7) repeats 61-5-307(1) and is deleted as redundant.

Section 59. 61-5-303. The offense defined constitutes false swearing under the 1973 Criminal Code, rather than perjury. The section is amended accordingly.

Section 60. 61-6-102. Deletes the dollar limits of financial responsibility from the definition section. These dollar limits are specified in 61-6-103. The result of having the limits specified in two places in the statutes is that 61-6-103 was amended in 1975 with regard to dollar amounts, but this section was overlooked, and the two sections presently conflict.

Section 61. 61-6-105. Subsection (2) is deleted in accordance with Section 1, Chapter 272, Laws of 1971, which transfers all these functions to the division.

Section 62. 61-6-124. The dollar amounts in this section originally corresponded with 61-6-103, but were overlooked when that section was changed. This amendment brings the requirements of the two sections back into conformance.

Section 63. 61-6-137. Changes "code of civil procedure" to "Montana Rules of Civil Procedure" for clarification. "Code of civil procedure" is ambiguous, formerly referring both to Title 93, R.C.M. 1947, generally and more specifically to the Montana Rules of Civil Procedure, which was only a part of Title 93. The reference here apparently is to the rules of civil procedure.

Section 64. 61-7-109. Corrects inaccurate reference to the division.

Section 65. 61-8-101. 61-8-401 was amended by Section 1, Chapter 194, Laws of 1957 to limit the offense of operating a vehicle while under the influence of alcohol to operation on a highway only. Operating under the influence of a drug was not so limited. The amendment in subsection (1)(b) reflects that 1957 statute. The amendment in subsection (2) is for grammatical clarification.

Section 66. 61-8-304. The conservation speed limit of 55 miles per hour is an exception to the basic rule speed limit of 61-8-303 and also is an exception to the truck speed limit of 61-8-312. This amendment clarifies that.

Section 67. 61-8-322. Makes grammatical change.

Section 68. 61-8-339. It is unclear what "article" refers to, as there were no "articles" in the R.C.M. 1947, or in the session laws which enacted this section. "Chapter" is now the appropriate term, denoting chapter 8 - Traffic Regulation.

Section 69. 61-8-401. Chapter 430, Laws of 1977, combined former subsections (a) (alcohol intoxication) and (c) (drug influence) into a single subsection (1). Formerly the offense of driving under the influence of alcohol was limited to driving on a highway. Commission of the offense was not possible on a private driveway or place other than a highway. The offense of driving under the influence of drugs, on the other hand, was committable anywhere. Also, being under the influence "to a degree which renders him incapable of safely driving a motor vehicle" was not applicable to alcohol intoxication, only drugs, and presumably

only non-narcotic drugs. The different requirements were inadvertently combined in Chapter 430, Laws of 1977, giving rise subsequently to a certain amount of confusion. The Attorney General in 37 A.G. Opinions 120 has declared that because the title of the bill did not so reflect, Chapter 430 did not change the proof required to convict of alcohol intoxication, i.e., did not add "to a degree which renders him incapable of safely driving a motor vehicle" to the alcohol provision. The opinion does not discuss the change from "on a highway" to "within the state" but the same reasoning would apply. This amendment is designed to clear the confusion arising from Chapter 430, and return the statute to its pre-1977 status in this regard.

It was unclear before 1977 whether the language "to a degree which renders him incapable of safely driving a motor vehicle" applied to all drugs, or "all other drugs" (other than narcotic). This amendment adopts the latter interpretation. If it is desired to make that language applicable to narcotic drugs as well, thus increasing the burden of proof required of a prosecutor, then the language should be added to subsection (1)(b) as well.

Section 70. 61-8-711. "This act" was the original traffic regulation act, enacted in 1955. The words could have been changed to "this chapter" in recodification, except that a provision from another title was brought into this chapter, i.e., that in certain cases a driver must stop at a railroad crossing, which was formerly part of 72-164, R.C.M. 1947. This is a regulation clearly related to this chapter, and it is appropriate that 61-8-711 be amended accordingly to apply uniformly throughout the chapter.

Section 71. 61-8-718. Subsection (2) raises a problem as to disposition of the \$5 conservation speed limit fine, in that \$4 (or 80%) is allocated to the court, 20% is allocated by 20-7-504 to traffic education, and 6% by 53-9-109 to crime victims, for a total of 106%. Impossible? See 37 A.G. Opinions #64. This amendment is intended to alleviate the difficulty without the need for strained statutory construction.

Section 72. 61-9-315. Section 32-21-143, R.C.M. 1947, was repealed by Chapter 263, Laws of 1955, and replaced by 32-21-143.1, 32-21-143.2, 32-21-143.3, and 32-21-143.4, which have been recodified in "this part" of the MCA. This amendment changes the reference accordingly.

Section 73. 61-9-503. See 36 above.

Section 74. 61-10-102. Grammatical change in subsection (1). Subsection (3) is derived from 32-21-122(g)(5), R.C.M. 1947, and it was overlooked when the width provision of 102 inches was enacted by Chapter 316, Laws of 1974, and when 32-1127 was repealed by that act. The provision is completely superseded by subsection (1) and 61-10-121 and is therefore deleted.

Section 75. 61-10-109. This section, which indicates only the department of highways can issue special overweight or over-width permits, seems to duplicate and conflict with 61-10-121, which says local authorities can also issue such permits. The department of highways, gross vehicle weight division, indicated that this section is addressing only permits issued under 61-10-107 and suggested the proposed amendment to clarify this.

Section 76. 61-10-121. Many licenses are provided for in this title, and it is unclear which "license period" is referred to here. The context indicates "vehicle registration period" is what was intended.

Section 77. 61-10-124. Same change as 76. Also the first clause of subsection (3) is stricken because it repeats subsection (1).

Section 78. 61-10-145. Subsection (3) of 61-10-102 is deleted in this bill (see 74). Therefore the reference to it here is deleted.

Section 79. 61-10-146. Makes grammatical clarification.

Section 80. 61-10-148. "This act" is Chapter 72, Laws of 1913, reenacted as Chapter 10, Laws of 1915. There is nothing left in current law of that act to which any penalty could apply, and therefore this penalty section is meaningless. It has been erroneously interpreted at various times to apply to parts of former Chapter 11, Title 32, R.C.M. 1947. See 35 A.G. Opinions 14 and Department of Highways Memorandum dated March 24, 1977, reference Distribution of Fines and Forfeitures. The department of highways suggests that the section be amended to refer to 61-10-146 and 61-10-147, fines for which no other disposition is prescribed, and the section is amended accordingly. This is an affirmative change in the statute requested by the department, whereas normally as a matter of recodification, the section being meaningless, it would have been recommended for repeal. Other exceptions to the directive of this statute are also indicated, namely the exceptions of 61-12-701 and the deductions for traffic education and crime victims. The language concerning the latter deductions was left general, so that if additional deductions are made in the future, they will automatically be covered.

Section 81. 61-10-201. "Motortruck" is an antiquated term synonymous with "truck". The schedule as drafted provided no fee for GVW of exactly 8,000, 10,000, 12,000 lbs., etc. The amendment clarifies that a GVW license application for 8,000 lbs. is included in the 6,000 to 8,000 lb. category.

Section 82. 61-10-202. See 81.

Section 83. 61-10-209. "License fee" is used in this section to denote both the "vehicle registration fee" and the "GVW license fee". This amendment clarifies that "basic license fee" means "vehicle registration fee".

Section 84. 61-10-214. Changes an inaccurate reference to 61-4-102 to 61-4-103.

Section 85. 61-10-222. Clarifies which license is referred to.

Section 86. 61-10-223. The first sentence means absolutely nothing, and in fact appears to conflict with the intent of staggered registration. Amendment of the second sentence again is to clarify which license is being referred to.

Section 87. 61-10-224. Clarifies which license is referred to.

Section 88. 61-10-226. Clarifies which license fees are referred to.

Section 89. 61-10-227. Clarifies which license is referred to.

Section 90. 61-10-233. There have never been any penalties stated in "this section", i.e., 61-10-233, and the reference in subsection (1) is amended to reflect the general penalty section 61-10-232.

In subsection (2) "thereafter" refers to a portion of the section which has been deleted by amendment (see Chapter 37, Laws of 1971) and is therefore deleted. "In addition" is added for grammatical clarification.

Section 91. 61-11-211. Changes an inaccurate reference to division. See 36.

Section 92. 61-12-208. Under 3-10-207 all justices of the peace are salaried and do not now collect personal fees, therefore subsection (2) appears to be superseded. However, because it says "no additional fee shall be paid. . . where salaries are fixed by law" it could be argued that this "additional fee" relates to the personal fee, and the first-mentioned "fees of the justices of the peace" are really

court costs, collected as an exception to the costs specified in 3-10-603. This argument is strengthened in that this subsection was amended in 1974, after the 1973 law establishing salaries (3-10-207) was enacted, indicating the legislature was on notice of the 1973 law and retained this subsection (2) anyway; hence the two should be read together.

At any rate, the subsection appears to be of dubious value because there appear to be no relevant offenses for which the statutory fine is \$5 or less. Hence, the subsection is recommended for deletion.

Section 93. 61-12-401. Chapter 288, Laws of 1967 (HB 195) as originally introduced prohibited leaving vehicles on private as well as public property. But during deliberation on the bill the prohibition as to private property was amended out. The reference to private property in subsection (1)(b) of this section was overlooked, as was the catchline of section 1 of the bill (53-901, R.C.M. 1947) which was corrected as a matter of recodification.

Section 94. 61-12-502. Makes grammatical clarification.

Section 95. 61-12-701. "Fees" is deleted because there are no fees which can be collected upon arrest of a person by a patrolman which are not otherwise disposed of, namely GWV fees under 61-10-209 or 61-10-233.

The specific reference to the traffic education deduction of 20-7-504 is replaced with a general reference to all statutory deductions, to include the crime victims deduction of 53-9-109 as well as any other deductions enacted in future law.

Section 96. 61-12-703. See 95, second paragraph.

Section 97. 20-7-504. The general reference to statutes relating to the operation and use of motor vehicles is vague. Does such a reference include violations of motor carrier law, fuel tax law, motor service club law, or other peripheral areas? The reference is tied by this amendment essentially to only violations of Title 61, i.e., vehicle registration, driver's licensing, financial responsibility, accident reporting, traffic regulation, vehicle equipment, and size, weight, and load requirements. If violations of motor carrier law or other statutes are intended to be included they can be amended into the section as well.

Section 98. 53-9-109. See 97.

Section 99. Repealed section:

61-8-721 is derived from 75-7007, R.C.M. 1947, which was duplicated entirely by 32-2193, 32-2197, and 32-2198, R.C.M. 1947, (presently 61-8-349, 61-8-351, and 61-8-352, MCA). The latter sections were covered by the general penalty provision of 61-8-711, whereas 61-8-721 provides the penalty for 75-7007, R.C.M. The two penalties differ, and it is recommended that this one be stricken and that the general penalty provision of 61-8-711 govern.

Section 100. Repealed sections:

31-167 is duplicated by 61-11-101, MCA.

31-186 is duplicated by 61-11-213, MCA.

32-1116 has no current application, since the sections it refers to have all been repealed.

32-1119 is obsolete and superseded generally by Chapter 10, Title 61, MCA.

32-2101 is duplicated by 61-1-101.

32-2124.2, which precludes fuel taxation, licensing, and regulation of vehicles used off public highways, has been superseded by or is in contravention of many other statutes, i.e., 60-3-201 which involves taxation of fuel used in snowmobiles and motorboats, 61-8-101 which makes certain regulations applicable off as well as on the highway, 61-8-401 which makes driving under the influence of certain drugs anywhere in the state an offense, and parts 5 and 6 of Chapter 2, Title 23 which regulate and require licensure of boats and snowmobiles, although arguably boats and snowmobiles are not motor vehicles subject to 32-2124.2.

32-21-154 is duplicated by 61-9-109(1).

53-134 has been superseded by 61-4-104 and 61-4-111. The requirement of 53-134 that dealers must have a certificate of title (ownership) for each car in their possession has not been enforced for years, and is specifically not required by 61-4-111.

53-135 is superseded by 61-3-204 and 61-3-341.

53-140 is superseded by 61-4-111.

53-141 through 53-143 are obsolete, as there is no "auto theft fund" nor has there been one in remembered history.

LC 0045

53-144 refers to this act (Chapter 113, Laws of 1925) of which only 61-3-603 and 61-3-106 remain. Inasmuch as those sections have no provision for making sworn statements, 53-144 cannot apply to them. Hence the section has no current application and is recommended for repeal.