

HOUSE BILL 262

IN THE HOUSE

January 19, 1979

Introduced and referred to  
Committee on Highways and  
Transportation.

1 HOUSE BILL NO. 262  
 2 INTRODUCED BY Jessie Blaylock Harvill  
 3 Bangton,

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING MOTOR VEHICLE  
 5 LIABILITY PROTECTION ON MOTOR VEHICLES AS A CONDITION OF  
 6 OPERATION OF THOSE VEHICLES UPON THE HIGHWAYS OR OTHER  
 7 PREMISES OPEN TO USE BY THE PUBLIC; AMENDING SECTIONS  
 8 61-6-123, 61-6-142, AND 61-6-151, MCA; AND PROVIDING AN  
 9 EFFECTIVE DATE."

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

12 NEW SECTION. Section 1. Mandatory insurance. Except  
 13 as provided in [sections 1 through 10]:

14 (1) an owner may not permit the operation of an  
 15 uninsured motor vehicle upon a highway or upon property open  
 16 to use by the public; and

17 (2) a person may not knowingly drive an uninsured  
 18 vehicle upon a highway or upon property open to use by the  
 19 public.

20 NEW SECTION. Section 2. Registration without  
 21 insurance prohibited -- revocation required. (1) Except as  
 22 provided by [this act], no person may register or reregister  
 23 a motor vehicle unless that vehicle is covered by a motor  
 24 vehicle liability insurance policy defined in 61-6-103. The  
 25 motor vehicle liability insurance policy shall be maintained

1 continuously throughout the registration period.

2 (2) Upon a showing by its records or other sufficient  
 3 evidence that the required insurance has not been provided  
 4 or maintained for a motor vehicle, the division shall revoke  
 5 the registration of that vehicle.

6 (3) The division shall notify the owner upon  
 7 revocation of a vehicle's registration. A highway patrolman  
 8 or peace officer may confiscate and forward to the division  
 9 the registration and number plate of a vehicle whose  
 10 registration has been revoked under this section.

11 NEW SECTION. Section 3. Exempt vehicles. The  
 12 following vehicles and their drivers are exempt from the  
 13 provisions of [sections 1 through 10]:

14 (1) a vehicle owned by the United States government or  
 15 any state or political subdivision;

16 (2) a vehicle for which cash, securities, or a bond  
 17 has been deposited or filed with the division upon such  
 18 terms and conditions providing the same benefits available  
 19 under a required motor vehicle liability insurance policy;

20 (3) a vehicle owned by a self-insurer certified as  
 21 provided in [section 7];

22 (4) an implement of husbandry or special mobile  
 23 equipment that is only incidentally operated on a highway or  
 24 property open to use by the public;

25 (5) a vehicle operated upon a highway only for the

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 INTRODUCED BILL

1 purpose of crossing such highway from one property to  
2 another;

3 (6) a commercial vehicle registered or proportionally  
4 registered in this and any other jurisdiction provided that  
5 vehicle is covered by a motor vehicle liability insurance  
6 policy complying with the laws of another jurisdiction in  
7 which it is registered;

8 (7) a vehicle moved solely by human or animal power.

9 NEW SECTION. Section 4. Vehicles owned by  
10 nonresidents. (1) A vehicle owned by a nonresident and  
11 registered in a state requiring motor vehicle liability  
12 insurance may not be operated upon a highway or upon  
13 property open to use by the public in this state unless a  
14 motor vehicle liability insurance policy meeting the  
15 requirements of the laws and regulations of that state is in  
16 effect or unless it otherwise complies with the laws of that  
17 state concerning compulsory financial responsibility. The  
18 division shall report a violation of this section to the  
19 motor vehicle administrator in the state where the vehicle  
20 is registered.

21 (2) A vehicle owned by a nonresident and registered in  
22 a state not requiring insurance is exempt from [sections 1  
23 through 10].

24 NEW SECTION. Section 5. Certification of insurance.

25 (1) The division may require the owner of a vehicle to

1 provide certification of the existence of a vehicle  
2 insurance policy on a form it prescribes.

3 (2) Upon request of an insured person or upon request  
4 of the division, an insurer shall verify the existence of a  
5 motor vehicle liability insurance policy on a form  
6 prescribed by the division.

7 NEW SECTION. Section 6. Termination of insurance. (1)  
8 Within 20 days after the cancellation, nonrenewal, or other  
9 termination of a motor vehicle liability insurance policy,  
10 the owner shall return the registration and number plate for  
11 any uninsured vehicle to the department.

12 (2) If, within 20 days after the termination of a  
13 motor vehicle liability insurance policy, the owner insures  
14 the vehicle under another policy, he shall certify the  
15 existence of that insurance on a form prescribed by the  
16 division.

17 (3) An insurance carrier shall notify the division, on  
18 a form approved by it, of the cancellation, nonrenewal, or  
19 other termination of a motor vehicle liability insurance  
20 policy within 15 days after the cancellation, nonrenewal, or  
21 other termination of that policy.

22 NEW SECTION. Section 7. Self-insurers. (1) Upon  
23 condition of providing the same benefits available under a  
24 required motor vehicle liability insurance policy, a person  
25 in whose name more than 25 motor vehicles are registered may

1 qualify as a self-insurer by obtaining a certificate of  
2 self-insurance issued by the division as provided in  
3 subsection (2) of this section.

4 (2) The division may, in its discretion, upon an  
5 application for a certificate of self-insurance, issue such  
6 certificate when it is satisfied that the applicant is able  
7 and will continue to be able to pay the same benefits  
8 available under a required motor vehicle insurance policy. A  
9 certificate may be issued authorizing a person to act as a  
10 self-insurer for either property damage or bodily injury, or  
11 both.

12 (3) Upon not less than 5 days' notice and a hearing  
13 pursuant to that notice, the division may upon reasonable  
14 grounds cancel a certificate of self-insurance. Failure to  
15 pay a valid claim within 90 days of its submission or a  
16 judgment within 30 days after it has become final is a  
17 reasonable ground for the cancellation of a certificate of  
18 self-insurance.

19 NEW SECTION. Section 8. Assigned risk and claims  
20 plans. (1) After consultation with insurance companies  
21 authorized to issue motor vehicle liability insurance  
22 policies in this state, the commissioner of insurance shall  
23 approve reasonable assigned risk and claims plans as  
24 described in this section. Insofar as practicable, the plans  
25 shall be fair to the insurers and equitable to their

1 policyholders.

2 (2) The commissioner of insurance shall approve a plan  
3 for the apportionment among the insurance companies of  
4 applicants for motor vehicle liability insurance policies  
5 who are unable to procure those policies through ordinary  
6 methods.

7 (3) The commissioner of insurance shall approve a plan  
8 for the apportionment among the insurance companies of  
9 claims by residents not covered by a motor vehicle liability  
10 insurance policy for damages arising out of the ownership,  
11 maintenance, or use of a vehicle upon the highways or upon  
12 property open to use by the public in this or another state.  
13 Claims by persons who, at the time the claim originated,  
14 were in violation of [section 1] are not eligible for  
15 payment under this subsection, and payment of an assigned  
16 claim shall not exceed the limits in a required insurance  
17 policy.

18 (4) When a plan has been approved, all insurance  
19 companies authorized to issue motor vehicle liability  
20 insurance policies in this state must subscribe to and  
21 participate in that plan.

22 (5) A person aggrieved by any order or act of the  
23 commissioner of insurance pursuant to this section may seek  
24 judicial review in accordance with the Montana  
25 Administrative Procedure Act.

1 ~~NEW SECTION.~~ Section 9. Penalty. (1) A person  
2 convicted of violating [section 1] or of purposely failing  
3 to return a registration as required under [section 6] shall  
4 be fined no more than \$500 or be imprisoned not to exceed 6  
5 months, or both.

6 (2) An insurance carrier convicted of purposely  
7 failing to notify the division of termination of a motor  
8 vehicle liability insurance policy as required under  
9 [section 6(3)] shall be fined no more than \$500.

10 Section 10. Saving clause. [Sections 1 through 9] do  
11 not affect rights and duties that matured or penalties that  
12 were incurred before January 1, 1980.

13 Section 11. Section 61-6-123, MCA, is amended to read:

14 "61-6-123. Suspension to continue until judgments paid  
15 and proof given -- maximum period of suspension. Such  
16 license~~-registration~~ and nonresident's operating privilege  
17 shall remain so suspended and shall not be renewed, nor  
18 shall any such license ~~or-registration~~ be thereafter issued  
19 in the name of such person, including any such person not  
20 previously licensed, unless and until every such judgment is  
21 stayed, satisfied in full or to the extent hereinafter  
22 provided, and until the person gives proof of financial  
23 responsibility subject to the exemptions stated in 61-6-122  
24 and 61-6-125 or 6 years have passed from date judgment was  
25 first entered as provided in 25-9-301, ~~and the person has~~

1 ~~complied with [sections 1 through 10]."~~

2 Section 12. Section 61-6-142, MCA, is amended to read:

3 "61-6-142. Duration of proof -- when proof ~~bonds~~  
4 ~~money, or securities~~ may be canceled or returned. (1) The  
5 division shall upon request consent to the immediate  
6 cancellation of any bond ~~or--certificate--of--insurance~~  
7 ~~required under this part~~, the division shall direct and the  
8 state treasurer shall return to the person entitled thereto  
9 any money or securities deposited pursuant to this part as  
10 proof of financial responsibility, or the division shall  
11 waive the requirement of filing proof ~~under this part~~, in  
12 any of the following events:

13 (a) at any time after 3 years from the date such proof  
14 was required when during the 3-year period preceding the  
15 request the division has not received record of a conviction  
16 or a forfeiture of bail which would require or permit the  
17 suspension or revocation of the license, registration, or  
18 nonresident's operating privilege of the person by or for  
19 whom such proof was furnished;

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

23 (c) in the event the person who has given proof  
24 surrenders his license and registration to the division.

25 (2) However, the division shall not consent to the

1 cancellation of any bond or the return of any money or  
 2 securities in the event any action for damages upon a  
 3 liability covered by such proof is then pending or any  
 4 judgment upon any such liability is then unsatisfied, or in  
 5 the event the person who has filed such bond or deposited  
 6 such money or securities has, within 1 year immediately  
 7 preceding such request been involved as an operator or owner  
 8 in any motor vehicle accident resulting in injury or damage  
 9 to the person or property of others. An affidavit of the  
 10 applicant as to the nonexistence of such facts, or that he  
 11 has been released from all of his liability, or has been  
 12 finally adjudicated not to be liable for such injury or  
 13 damage, shall be sufficient evidence thereof in the absence  
 14 of evidence to the contrary in the records of the division.

15 (3) Whenever any person whose proof has been canceled  
 16 or returned under subsection (1)(c) of this section applies  
 17 for a license or registration within a period of 3 years  
 18 from the date proof was originally required, any such  
 19 application shall be refused unless the applicant ~~shall~~  
 20 ~~reestablish such proof for the remainder of such 3-year~~  
 21 ~~period~~ complies with the mandatory insurance requirements  
 22 under [sections 1 through 10]."

23 Section 13. Section 61-6-151, MCA, is amended to read:  
 24 "61-6-151. Violations — penalties. (1) Any person who  
 25 shall forge or, without authority, sign any evidence of

1 proof of financial responsibility or who files or offers for  
 2 filing any such evidence of proof knowing or having reason  
 3 to believe that it is forged or signed without authority  
 4 shall be fined not more than \$1,000 or imprisoned for not  
 5 more than 1 year or both.

6 (2) Any person whose license or registration or  
 7 nonresident's operating privilege has been suspended or  
 8 revoked under this part and who, during such suspension or  
 9 revocation drives any motor vehicle upon any highway or  
 10 knowingly permits any motor vehicle owned by such person to  
 11 be operated by another upon any highway, except as permitted  
 12 under this part, shall be fined not more than \$500 or  
 13 imprisoned not exceeding 6 months or both.

14 (3) Any person willfully failing to return license or  
 15 registration as required in 61-6-112 shall be fined not more  
 16 than \$500 or imprisoned not to exceed 30 days or both.

17 (4) Any person who shall violate any provision of this  
 18 part for which no penalty is otherwise provided shall be  
 19 fined not more than \$500 or imprisoned not more than ~~90-days~~  
 20 6 months or both."

21 Section 14. Codification. Sections 1 through 10 are  
 22 intended to be codified as an integral part of Title 61, and  
 23 the provisions of Title 61 apply to sections 1 through 10.

24 Section 15. Effective date. This act is effective  
 25 January 1, 1980.

## STATE OF MONTANA

Request No. 139-79

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 26, 1979, there is hereby submitted a Fiscal Note for House Bill 262 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 262 is an act requiring motor vehicle liability protection on motor vehicles as a condition of operation; providing the commissioner of insurance shall approve reasonable assigned risk and claims plans; amending section 61-6-123, 61-6-142, and 61-6-151, and providing an effective date.

## ASSUMPTIONS:

## State Auditor's Office

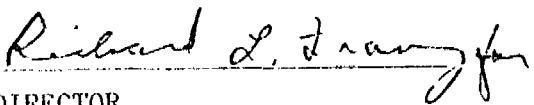
1. The Commissioner of Insurance would be required to review all claims involving uninsured motorists, possibly determine amount of claims, and apportion such claims to the insurers authorized to do business in the state and see that claims are paid.
2. Costs are based on an estimate of 19 employees to handle approximately 6,561 claim units per year. (Each employee would average 29 units per month.) Number of claim units based on registered vehicles of 1,080,000; reported accidents, with damages of over \$250, of 21,705, in 1977; anticipated another 1% damages less than \$250, not reported; 2.7 claim units involved in each accident; total 87,480. 15% of all accidents involve uninsured motorists. Assumption that one person in each accident would be insured,  $7\frac{1}{2} \times 87,480$ , or a total of 6,561.

## Department of Justice

Assuming the Motor Vehicle Division will be responsible for:

1. Record keeping (Section 2 and 5),
2. Administration of self-insurers (Section 1),
3. Enforcement notice of revocation (Section 2 and 6),
4. Reciprocity reporting to other states (Section 4).

There will be 800,000 initial filings of insurance.  
There will be 350,000 title actions per year.  
There will be 100,000 changes in insurance per year.

  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: 1/27/79

FISCAL IMPACT:

	<u>FY 80</u>	<u>FY 81</u>
Additional expenditures due to proposed legislation		
<u>State Auditor</u>		
Personal services	\$158,650	\$349,939
Operating expenses	24,700	54,300
Equipment	30,732	0
	<u>214,082</u>	<u>404,239</u>
<u>Department of Justice</u>		
Personal services	152,050	155,623
Operating expenses*	270,000	250,000
Equipment	30,000	0
	<u>452,050</u>	<u>405,623</u>
Total additional cost of proposed legislation	<u>\$666,132</u>	<u>\$809,862</u>

\*No enforcement costs are included since insufficient data are available to provide an estimate.

FUNDING INFORMATION

General Fund	\$214,082	\$404,239
Other funds	<u>452,050</u>	<u>405,623</u>
	<u>\$666,132</u>	<u>\$809,862</u>

It is assumed that the cost to the Department of Justice will be funded from the Motor Vehicle Earmarked Revenue Account. If such is the case, motor vehicle fees must be increased.