

HOUSE BILL NO. 157

1/12 Introduced
1/12 Referred to Judiciary
1/15 Fiscal Note Requested
1/17 Hearing
1/22 Fiscal Note Received
Died in Committee

1 HOUSE BILL NO. 157
2 INTRODUCED BY Waldron

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE MOTOR
5 VEHICLE MANDATORY LIABILITY PROTECTION LAW BY INCREASING THE
6 PENALTIES AND MAKING THEM MANDATORY; PROVIDING FOR
7 SUSPENSION OF A VIOLATOR'S DRIVER'S LICENSE; AMENDING
8 SECTIONS 46-18-201, 46-18-231, 61-6-302, AND 61-6-304, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 46-18-201, MCA, is amended to read:

12 "46-18-201. Sentences that may be imposed. (1)
13 Whenever a person has been found guilty of an offense upon a
14 verdict or a plea of guilty, the court may:

15 (a) defer imposition of sentence, excepting fin
16 imposed under 61-6-304 and sentences for driving under the
17 influence of alcohol or drugs, for a period, except as
18 otherwise provided, not exceeding 1 year for any misdemeanor
19 or for a period not exceeding 3 years for any felony. The
20 sentencing judge may impose upon the defendant any
21 reasonable restrictions or conditions during the period of
22 the deferred imposition. Such reasonable restrictions or
23 conditions may include:

- 24 (i) jail base release;
- 25 (ii) jail time not exceeding 180 days;

- 1 (iii) conditions for probation;
- 2 (iv) restitution, as provided in subsection (2);
- 3 (v) payment of the costs of confinement;
- 4 (vi) payment of a fine as provided in 46-18-231;
- 5 (vii) payment of costs as provided in 46-18-232 and
- 6 46-18-233;
- 7 (viii) payment of costs of court appointed counsel as
- 8 provided in 46-8-113;
- 9 (ix) community service;
- 10 (x) any other reasonable conditions considered
- 11 necessary for rehabilitation or for the protection of
- 12 society; or
- 13 (xi) any combination of the above.
- 14 (b) suspend execution of sentence up to the maximum
- 15 sentence allowed for each particular offense. The sentencing
- 16 judge may impose on the defendant any reasonable
- 17 restrictions or conditions during the period of suspended
- 18 sentence. Such reasonable restrictions or conditions may
- 19 include any of those listed in subsections (1)(a)(i) through
- 20 (1)(a)(xi).
- 21 (c) impose a fine as provided by law for the offense;
- 22 (d) require payment of costs as provided in 46-18-232
- 23 or payment of costs of court-appointed counsel as provided
- 24 in 46-8-113;
- 25 (e) commit the defendant to a correctional institution



1 with or without a fine as provided by law for the offense;

2 (f) impose any combination of subsections (1)(b)
3 through (1)(e).

4 (2) If restitution is imposed as a condition under
5 subsection (1)(a) or (1)(b), sentence may be deferred for a
6 period not exceeding 2 years for any misdemeanor or for a
7 period not exceeding 6 years for any felony, regardless of
8 whether any other conditions are imposed.

9 (3) If any restrictions or conditions imposed under
10 subsection (1)(a) or (1)(b) are violated, any elapsed time,
11 except jail time, is not a credit against the sentence
12 unless the court orders otherwise.

13 (4) Except as provided in 46-18-222, the imposition or
14 execution of the first 2 years of a sentence of imprisonment
15 imposed under the following sections may not be deferred or
16 suspended: 45-5-103(2), 45-5-202(2), 45-5-302(2),
17 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2)
18 and (3), 45-9-102(3), and 45-9-103(2).

19 (5) Except as provided in 46-18-222, the imposition or
20 execution of the first 10 years of a sentence of
21 imprisonment imposed under 45-5-102(2) may not be deferred
22 or suspended.

23 (6) Except as provided in 46-18-222, imposition of
24 sentence in a felony case may not be deferred in the case of
25 a defendant who has been convicted of a felony on a prior

1 occasion whether or not the sentence was imposed, imposition
2 of the sentence was deferred, or execution of the sentence
3 was suspended."

4 Section 2. Section 46-18-231, MCA, is amended to read:

5 "46-18-231. Fines in felony and misdemeanor cases. (1)
6 Whenever, upon a verdict or a plea of guilty, a person has
7 been found guilty of an offense for which a felony penalty
8 of imprisonment could be imposed, the court may impose a
9 fine, only in accordance with subsection (3), and in lieu of
10 or in addition to a sentence of imprisonment. For those
11 crimes for which penalties are provided in 45-5-103(2),
12 45-5-202(2), 45-5-302(2), 45-5-303(2), 45-5-401(2),
13 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2) and (3),
14 45-9-102(3), and 45-9-103(2), a fine may be imposed in
15 accordance with subsection (3) in addition to a sentence of
16 imprisonment.

17 (2) Whenever, upon a verdict or plea of guilty, a
18 person has been found guilty of an offense for which a
19 misdemeanor penalty of a fine could be imposed, the court
20 may impose a fine only in accordance with subsection (3).

21 (3) Except as provided in 61-6-304, the court may
22 not sentence a defendant to pay a fine unless the defendant
23 is or will be able to pay the fine. In determining the
24 amount and method of payment, the court shall take into
25 account the nature of the crime committed, the financial

1 resources of the defendant, and the nature of the burden
2 that payment of the fine will impose.

3 (4) Any fine levied under this section in a felony
4 case shall be in an amount fixed by the court not to exceed
5 \$50,000."

6 Section 3. Section 61-6-302, MCA, is amended to read:

7 "61-6-302. Proof of compliance. (1) Except as provided
8 in subsection (2), before any applicant required to register
9 his motor vehicle may do so, the applicant must certify to
10 the county treasurer that he possesses an automobile
11 liability insurance policy, a certificate of self-insurance,
12 or a posted indemnity bond or that he is eligible for an
13 exemption under 61-6-303 covering the motor vehicle. The
14 certification shall be on a form prescribed by the division
15 of motor vehicles. The division may immediately cancel the
16 registration and license plates of the vehicle upon
17 notification that the insurance certification was not
18 correctly represented. Any person who intentionally provides
19 false information on an insurance certification is guilty of
20 unsworn falsification to authorities, punishable as provided
21 in 45-7-203.

22 (2) An applicant for registration of an automobile or
23 a truck having a rated capacity of three-quarters of a ton
24 or less, who wishes to register the vehicle by mail must
25 sign a statement on the application stating that the

1 applicant is in compliance with the financial liability
2 requirements of 61-6-301.

3 (3) An owner of a motor vehicle who ceases to maintain
4 the insurance or bond required or whose certificate of
5 self-insurance is canceled or whose vehicle ceases to be
6 exempt shall immediately surrender the registration and
7 license plates for the vehicle to the county treasurer for
8 delivery to the division and may not operate or permit
9 operation of the vehicle in Montana until insurance has
10 again been furnished as required and the vehicle is again
11 registered and licensed.

12 (4) Every person shall carry in a motor vehicle being
13 operated by him an insurance card approved by the division
14 but issued by the insurance carrier to the motor vehicle
15 owner as proof of compliance with 61-6-301. A motor vehicle
16 operator shall exhibit the insurance card upon demand of a
17 justice of the peace, a peace officer, a highway patrolman,
18 or a field deputy or inspector of the division. ~~However, no~~
19 ~~person---charged---with---violating---this---subsection---may---be~~
20 ~~convicted-if-he-produces-in-court-or-the-office-of-the~~
21 ~~arresting-officer--proof--of--insurance--valid--at--the--time--of~~
22 ~~his-arrest."~~

23 Section 4. Section 61-6-304, MCA, is amended to read:

24 "61-6-304. Penalties -- mandatory fines -- suspension
25 of driver's license. It is unlawful for any person to fail

1 to carry in a motor vehicle being operated by him proof of
 2 insurance as required by 61-6-302 or to operate a motor
 3 vehicle upon highways, streets, or roadways of this state
 4 without a valid policy of liability insurance in effect in
 5 an amount not less than that provided in 61-6-301 or unless
 6 such person has been issued a certificate of self-insurance
 7 pursuant to 61-6-143 or has previously posted an indemnity
 8 bond with the division of motor vehicles as provided by
 9 61-6-301 or is operating a vehicle exempt under 61-6-303. A
 10 violation of 61-6-301 through 61-6-304 is a misdemeanor
 11 punishable-by-a-fine-not-to-exceed-\$250. The court shall
 12 impose a fine of \$300 for a violation of 61-6-301 and \$25
 13 for a violation of 61-6-302. The court may not defer
 14 imposition of a fine provided by this section, and the
 15 provisions of 46-18-231(3) do not apply to this section.
 16 The court shall immediately forward to the division of motor
 17 vehicles a certified copy of each judgment of violation of
 18 61-6-301. The division, upon receipt of a certified copy of
 19 judgment, shall suspend the driver's license of a person
 20 against whom the judgment was rendered for 30 days with no
 21 provision for a restricted probationary license."

22 NEW SECTION. Section 5. Severability. If a part of
 23 this act is invalid, all valid parts that are severable from
 24 the invalid part remain in effect. If a part of this act is
 25 invalid in one or more of its applications, the part remains

1 in effect in all valid applications that are severable from
 2 the invalid applications.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 098-85

Form BD-15

In compliance with a written request received January 16, 19 85, there is hereby submitted a Fiscal Note for House Bill 157 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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:

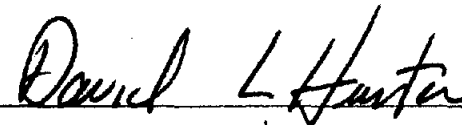
House Bill 157 revises the penalties for mandatory motor vehicle liability protection and requires the Department of Justice, Motor Vehicle Division, to suspend the driver's license for 30 days, of any driver convicted of not having motor vehicle liability insurance.

ASSUMPTIONS:

1. There were approximately 4,000 convictions under section 61-6-301, MCA and 2,500 convictions under section 61-6-302, MCA during 1984. It is assumed that the number of convictions per year will remain constant.
2. No administrative hearings will be required.
3. The first year will require 2.0 positions but only 1.50 FTE cost as bill effective date is October 1, 1985. Successive year will require 2.0 FTE, full-time.

FISCAL IMPACT:

| <u>Expenditures:</u> | <u>FY 1986</u> | <u>FY 1987</u> | <u>Biennium</u> |
|----------------------|----------------|-------------------|-----------------|
| Personal Services | \$ 21,153 | \$ 28,226 | \$ 49,379 |
| Operating Expense | 2,909 | 3,868 | 6,777 |
| Equipment | <u>5,350</u> | <u> </u> | <u>5,350</u> |
| Total | \$ 29,412 | \$ 32,094 | \$ 61,506 |



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 21, 1985

FISCAL IMPACT: (continued)

Revenue Impact:

| | <u>FY 1986</u> | <u>FY 1987</u> |
|---------------------------------|----------------|----------------|
| General Fund: | | |
| Under Current Law | \$125,044 | \$125,044 |
| Under Proposed Law | <u>345,919</u> | <u>345,919</u> |
| Estimated Increase | \$220,875 | \$220,875 |
| | | |
| Earmarked Special Revenue Fund: | | |
| Under Current Law | \$ 94,331 | \$ 94,331 |
| Under Proposed Law | <u>260,956</u> | <u>260,956</u> |
| Estimated Increase | \$166,625 | \$166,625 |

LOCAL IMPACT:

County and local governments will realize an estimated additional income of \$387,500 per year from this proposed legislation.