

SENATE BILL NO. 459

2/20 Introduced
2/21 Referred to Judiciary
2/21 Fiscal Note Requested
2/24 Fiscal Note Received
2/25 Hearing
2/25 Tabled in Committee

1 Senate BILL NO. 459
2 INTRODUCED BY Fuller

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING UNINSURED
5 MOTORIST COVERAGE IN AUTOMOBILE LIABILITY INSURANCE
6 POLICIES; ESTABLISHING AN UNINSURED MOTOR VEHICLE INSURANCE
7 ACCOUNT AND PROVIDING FOR DEPOSITS TO THE ACCOUNT; PROVIDING
8 COVERAGE FOR UNINSURED MOTORISTS' CLAIMS; INCREASING THE
9 PENALTY FOR FAILURE TO MAINTAIN LIABILITY PROTECTION;
10 REQUIRING PROOF OF COMPLIANCE; AMENDING SECTIONS 33-23-201,
11 61-6-301, 61-6-302, AND 61-6-304, MCA; AND PROVIDING
12 APPLICABILITY AND TERMINATION DATES."
13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15 Section 1. Section 33-23-201, MCA, is amended to read:
16 "33-23-201. Motor vehicle liability policies to
17 include uninsured motorist coverage ~~---rejection-by-insured.~~
18 ~~{1}~~ No automobile liability or motor vehicle liability
19 policy insuring against loss resulting from liability
20 imposed by law for bodily injury or death suffered by any
21 person arising out of the ownership, maintenance, or use of
22 a motor vehicle shall be delivered or issued for delivery in
23 this state, with respect to any motor vehicle registered or
24 principally garaged in this state, unless coverage is
25 provided therein or supplemental thereto, in limits for

1 bodily injury, or death, and destruction of property set
2 forth in 61-6-103, under provisions filed with and approved
3 by the commissioner, for the protection of persons insured
4 thereunder who are legally entitled to recover damages from
5 owners or operators of uninsured motor vehicles because of
6 bodily injury, sickness, or disease, including death,
7 resulting therefrom.

8 ~~{2}--The--named--insured--shall--have--the--right--to--reject~~
9 ~~such--coverage.---Unless--the--named--insured--requests--such~~
10 ~~coverage--in--writing,--such--coverage--need--not--be--provided--in~~
11 ~~or--supplemental--to--a--renewal--policy--where--the--named--insured~~
12 ~~had--rejected--the--coverage--in--connection--with--the--policy~~
13 ~~previously--issued--to--him--by--the--same--insurer--"~~

14 Section 2. Section 61-6-301, MCA, is amended to read:
15 "61-6-301. Required motor vehicle insurance. (1) Every
16 owner of a motor vehicle which is registered and operated in
17 Montana by the owner or with his permission shall
18 continuously provide insurance of the kinds described in
19 33-23-201 and 61-6-103 against loss resulting from liability
20 imposed by law for bodily injury or death or damage to
21 property suffered by any person caused by maintenance or use
22 of a motor vehicle, as defined in 61-1-102, in an ~~amount~~
23 amounts not less than that those required by 33-23-201 and
24 61-6-103, or a certificate of self-insurance issued in
25 accordance with 61-6-143.



1 (2) A motor vehicle owner who prefers to post an
 2 indemnity bond with the division of motor vehicles in lieu
 3 of obtaining a policy of liability insurance may do so. The
 4 bond shall guarantee that any loss resulting from liability
 5 imposed by law for bodily injury, death, or damage to
 6 property suffered by any person caused by accident and
 7 arising out of the operation, maintenance, and use of the
 8 motor vehicle sought to be registered shall be paid within
 9 30 days after final judgment is entered establishing such
 10 liability. The indemnity bond shall guarantee payment in the
 11 amount provided for insurance under subsection (1).

12 (3) Any bond given in connection with this section is
 13 a continuing instrument and shall cover the period for which
 14 the motor vehicle is to be registered and operated. Such
 15 bond shall be on a form approved by the commissioner of
 16 insurance with a surety company authorized to do business in
 17 the state."

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

19 "61-6-302. Proof of compliance -- notification to
 20 division of lapse -- penalty. (1) Except as provided in
 21 subsection (2), before any applicant required to register
 22 his motor vehicle may do so, the applicant must certify
 23 furnish to the county treasurer evidence from an insurer
 24 that he possesses an automobile liability insurance policy,
 25 a certificate of self-insurance, or a posted indemnity bond

1 or that he is eligible for an exemption under 61-6-303
 2 covering the motor vehicle. The certification shall be on a
 3 form prescribed by the division of motor vehicles. The
 4 division may immediately cancel the registration and license
 5 plates of the vehicle upon notification that the insurance
 6 certification was not correctly represented. Any person who
 7 intentionally provides false information on an insurance
 8 certification is guilty of unsworn falsification to
 9 authorities, punishable as provided in 45-7-203.

10 (2) An applicant for registration of an automobile or
 11 a truck having a rated capacity of three-quarters of a ton
 12 or less, who wishes to register the vehicle by mail must
 13 sign a statement on the application stating that the
 14 applicant is in compliance with the financial liability
 15 requirements of 61-6-301.

16 (3) An owner of a motor vehicle who ceases to maintain
 17 the insurance or bond required or whose certificate of
 18 self-insurance is canceled or whose vehicle ceases to be
 19 exempt shall immediately surrender the registration and
 20 license plates for the vehicle to the county treasurer for
 21 delivery to the division and may not operate or permit
 22 operation of the vehicle in Montana until insurance has
 23 again been furnished as required and the vehicle is again
 24 registered and licensed.

25 (4) Every person shall carry in a motor vehicle being

1 operated by him an insurance card approved by the division
 2 but issued by the insurance carrier to the motor vehicle
 3 owner as proof of compliance with 61-6-301. A motor vehicle
 4 operator shall exhibit the insurance card upon demand of a
 5 justice of the peace, a peace officer, a highway patrolman,
 6 or a field deputy or inspector of the division. However, no
 7 person charged with violating this subsection may be
 8 convicted if he produces in court or the office of the
 9 arresting officer proof of insurance valid at the time of
 10 his arrest.

11 (5) After July 1, 1986, each insurer or provider of a
 12 bond in accordance with 61-6-301 shall immediately notify
 13 the division of terminations or other lapses of insurance or
 14 bond required by 61-6-301 that are final and occur within
 15 the first 6 months of coverage by such insurance or bond.

16 (6) On receipt of a notice under subsection (5), the
 17 division shall make a reasonable effort to notify the owner
 18 of the vehicle that his registration has been suspended.

19 (7) (a) Within 48 hours after an owner is notified by
 20 the division of the suspension of registration, the owner
 21 shall surrender all evidences of that registration to the
 22 division.

23 (b) If the owner fails to surrender the evidences of
 24 registration within the 48-hour period, the division:

25 (i) shall attempt to recover from the owner the

1 evidences of registration; and

2 (ii) may suspend his license to drive until he returns
 3 to the division the evidences of registration.

4 (8) (a) In addition to any other penalty provided for
 5 in Title 61, if the insurance or bond required by 61-6-301
 6 for a vehicle terminates or otherwise lapses during its
 7 registration year, the division may assess the owner of the
 8 vehicle a penalty of \$100 for each vehicle that is without
 9 the required insurance or bond for a period of 1 to 30 days.
 10 If a fine is assessed, beginning on the 31st consecutive day
 11 that lack of insurance or bond continues, the fine increases
 12 by \$1 for each day until the division receives proof of
 13 insurance or bond. However, at no time may this penalty
 14 exceed the maximum fine allowable under 61-6-304.

15 (b) A penalty assessed under subsection (8)(a) is paid
 16 into the uninsured motor vehicle insurance account provided
 17 for in [section 4], except that the division may deduct 10%
 18 of the amount collected in any year under subsection (8)(a)
 19 to cover its costs before remitting the balance. Any amount
 20 collected under subsection (8)(a) over the initial \$100 must
 21 be divided equally between the uninsured motor vehicle
 22 insurance account and the division.

23 (c) If the division assesses a vehicle owner with a
 24 penalty under subsection (8)(a), the county may not
 25 reinstate a registration suspended under this section until

1 the penalty is paid and proof of insurance or bond is
2 furnished.

3 (9) A person who has knowledge that a motor vehicle is
4 not covered by insurance or bond required by 61-6-301 may
5 not:

6 (a) drive the vehicle; or

7 (b) if he is an owner of the vehicle, knowingly permit
8 another person to drive it."

9 NEW SECTION. Section 4. Uninsured motor vehicle
10 insurance account. There is in the state special revenue
11 fund an uninsured motor vehicle insurance account that
12 consists of:

13 (1) penalties and fines collected under 61-6-302(8);

14 (2) fines collected under 61-6-304;

15 (3) interest earned on any money in the account;

16 (4) insurance proceeds payable in accordance with
17 [section 5];

18 (5) securities acquired through the use of money
19 belonging to the fund; and

20 (6) all earnings of such securities.

21 NEW SECTION. Section 5. Coverage for uninsured
22 motorist claims. (1) Except as provided by subsections (2)
23 and (3), the division shall contract with a private insurer
24 or consortium of private insurers to provide coverage for
25 lawful claims to the extent they are not made under a

1 liability insurance policy or bond required in accordance
2 with 61-6-301 or under a policy issued supplementary to or
3 in excess of such policy or bond for death or personal
4 injury or for damage to property in excess of \$100 arising
5 out of the ownership, maintenance, or use of a motor vehicle
6 in the state and caused by an uninsured operator or owner.
7 Premiums for the coverage described in this section are
8 payable from the uninsured motor vehicle insurance account.

9 (2) If the division is unable to obtain coverage
10 described in subsection (1) at a reasonable cost as
11 determined by the division, it shall pay claims from the
12 uninsured motor vehicle insurance account.

13 (3) No claim made under subsection (2) may exceed the
14 minimum amounts available under motor vehicle liability
15 policies as defined in 61-6-103.

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

17 "61-6-304. Penalties. It is unlawful for any person to
18 operate a motor vehicle upon highways, streets, or roadways
19 of this state without a valid policy of liability insurance
20 in effect in an amount not less than that provided in
21 61-6-301 or unless such person has been issued a certificate
22 of self-insurance pursuant to 61-6-143 or has previously
23 posted an indemnity bond with the division of motor vehicles
24 as provided by 61-6-301 or is operating a vehicle exempt
25 under 61-6-303. A violation of 61-6-301 through 61-6-304 is

1 a misdemeanor punishable by a fine not to exceed ~~\$250~~ \$450."

2 NEW SECTION. Section 7. Extension of authority. Any
3 existing authority of the department of justice, division of
4 motor vehicles, to make rules on the subject of the
5 provisions of this act is extended to the provisions of this
6 act.

7 NEW SECTION. Section 8. Codification instruction.
8 Sections 4 and 5 are intended to be codified as an integral
9 part of Title 33, chapter 23, part 2, and the provisions of
10 Title 33, chapter 23, part 2, apply to sections 4 and 5.

11 NEW SECTION. Section 9. Applicability -- termination.
12 (1) Section 5 is effective on and applicable to claims
13 arising after June 30, 1987.

14 (2) Section 5 terminates April 30, 1987, unless
15 reenacted by the 50th legislature.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 495-85

Form BD-15

In compliance with a written request received February 21, 19 85, there is hereby submitted a Fiscal Note for Senate Bill 459 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:

An act requiring uninsured motorist coverage in automobile liability insurance policies; establishing an uninsured motor vehicle insurance account and providing for deposits to the account; providing coverage for uninsured motorists' claims; increasing the penalty for failure to maintain liability protection, and requiring proof of compliance.

ASSUMPTIONS:

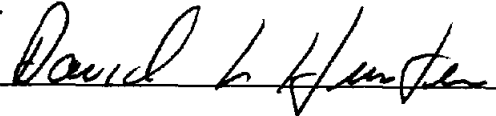
1. It is assumed that the number of convictions of 61-6-304 in 1984 (5,900) will remain constant in the 1986-87 biennium, and that the average fine remitted to the State Treasury will be \$75.
2. Approximately 50% of the fines are currently assessed and retained locally.
3. Local revenues will now go to a state special revenue account.
4. State revenues distributed under 61-12-701 will now go to a state special revenue account.

FISCAL IMPACT:

	<u>FY 1986</u>	<u>FY 1987</u>
Decreased Revenue to the General Fund	\$(126,112)	\$(126,112)
Increase to the state special revenue account to pay uninsured claims in FY1988	347,362	707,362
Funds available to pay expenses of Uninsured Program		<u>40,000</u>
Net Increase	<u>221,250</u>	<u>621,250</u>
Projected Expenditures of Uninsured Program		275,460

LOCAL IMPACT:

This legislation requires revenues which are currently general fund revenues to cities and counties to be remitted to the state. It will reduce local revenues by \$200,000 per year, but will require local governments to continue to pay law enforcement and court costs which generate the revenues.


BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 27, 1985