

IN THE SENATE

APRIL 2, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 3, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 *Senate* BILL NO. *212*
 2 INTRODUCED BY *Farrell Campbell Sewage*
 3 *O'Connell*
 4 *Holly* *John* *Willard* *Tracy* *Thom* *McEwan* HARP
 5 A BILL FOR AN ACT ENTITLED: *AN ACT TO PROVIDE FOR A*

6 CLASSIFIED COMMERCIAL VEHICLE OPERATOR'S LICENSING PROGRAM;
 7 REVISING THE MOTOR VEHICLE LAWS TO REMOVE REFERENCES TO
 8 CHAUFFEURS; AMENDING SECTIONS 20-10-103, 61-5-102, 61-5-104
 9 THROUGH 61-5-108, 61-5-110 THROUGH 61-5-116, 61-5-121,
 10 61-5-201, 61-5-203 THROUGH 61-5-212, 61-5-301, 61-5-302,
 11 61-5-305, 61-5-306, 61-7-105, 61-7-107, 61-11-101, AND
 12 72-17-204, MCA; REPEALING SECTION 61-1-312, MCA; AND
 13 PROVIDING A DELAYED EFFECTIVE DATE."

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

15 NEW SECTION. Section 1. Commercial motor vehicle
 16 defined -- exceptions. (1) "Commercial motor vehicle" means
 17 a motor vehicle used to transport passengers or property if
 18 the vehicle:

- 19 (a) has a gross vehicle weight of 26,001 pounds or
- 20 more;
- 21 (b) is designed to transport more than 15 passengers,
- 22 including the driver; or
- 23 (c) is used to transport hazardous material.
- 24 (2) Vehicles operated within the state of Montana
- 25 which are registered as paying the 16% gross weight fee are

1 not commercial motor vehicles under this act.

2 NEW SECTION. Section 2. Commercial vehicle operator's
 3 endorsement. "Commercial vehicle operator's endorsement"
 4 means an endorsement to a Montana driver's license that
 5 authorizes the licensee to operate a class of commercial
 6 motor vehicle.

7 NEW SECTION. Section 3. Driver's license. "Driver's
 8 license" means any license or permit to operate a motor
 9 vehicle issued under, or granted by, the laws of this state
 10 including:

- 11 (1) any temporary license or instruction permit;
- 12 (2) the privilege of any person to drive a motor
- 13 vehicle whether or not such person holds a valid license;
- 14 (3) any nonresident's driving privilege;
- 15 (4) a motorcycle endorsement; and
- 16 (5) a commercial vehicle operator's endorsement.

17 NEW SECTION. Section 4. Hazardous material.
 18 "Hazardous material" means a substance or material in a
 19 quantity and form that may pose an unreasonable risk to
 20 health and safety or property when transported.

21 Section 5. Section 61-5-102, MCA, is amended to read:
 22 "61-5-102. ~~Operators--and--chauffeurs~~ Drivers to be
 23 licensed. (1) No person, except those hereinafter expressly
 24 exempted under 61-5-104, shall drive any motor vehicle upon
 25 a highway in this state unless such person has a valid

1 Montana driver's license ~~as an operator or chauffeur~~ under
 2 ~~the provisions of this chapter~~. No person shall receive an
 3 ~~operator's or chauffeur's~~ a Montana driver's license unless
 4 and until he surrenders to the department all valid
 5 ~~operators' and chauffeurs'~~ driver's licenses in his
 6 possession issued to him by any other jurisdiction. All
 7 surrendered licenses shall be returned by the department to
 8 the issuing department together with information that the
 9 licensee is now licensed in this state. No person shall be
 10 permitted to have more than one valid ~~operator's or~~
 11 ~~chauffeur's~~ driver's license at any time.

12 ~~{2}--No person shall drive a motor vehicle as a~~
 13 ~~chauffeur unless he holds a valid chauffeur's license. No~~
 14 ~~person shall receive a chauffeur's license unless and until~~
 15 ~~he surrenders to the department any operator's license~~
 16 ~~issued to him or an affidavit that he does not possess an~~
 17 ~~operator's license. Any person holding a valid chauffeur's~~
 18 ~~license hereunder need not procure an operator's license.~~

19 ~~{3}{2}~~ Whenever a city or town requires ~~an operator or~~
 20 ~~chauffeur~~ a licensed driver to obtain a local driving
 21 license or permit, such a license or permit shall not be
 22 issued unless the applicant therefor presents a state
 23 driver's license valid under the provisions of this chapter.

24 ~~{4}{3}~~ A person operating a bicycle defined in
 25 61-1-123(2) shall have in his possession at all times when

1 operating the bicycle a valid Montana driver's license."

2 Section 6. Section 61-5-104, MCA, is amended to read:
 3 "61-5-104. Exemptions. (1) The following persons are
 4 exempt from license hereunder:

5 (a) any person who is a member of the armed forces of
 6 the United States while operating a motor vehicle owned by
 7 or leased to the United States government and being operated
 8 on official business;

9 (b) any person who is a member of the armed forces of
 10 the United States on active duty in Montana who holds a
 11 valid license issued by another state and the spouse of such
 12 a person who holds a valid license issued by another state
 13 and who is not employed in Montana except as a member of the
 14 armed forces; if a spouse of a member of the armed forces
 15 becomes gainfully employed in Montana, such spouse must be
 16 licensed as required by 61-5-102 within 90 days of becoming
 17 so employed;

18 (c) any person on active duty in the armed forces of
 19 the United States who has in his immediate possession a
 20 valid license issued in a foreign country by the armed
 21 forces of the United States, for a period of 45 days from
 22 the date of his return to the United States;

23 (d) any person while driving or operating any road
 24 machine, farm tractor, or implement of husbandry temporarily
 25 operated or moved on a highway.

1 (2) A nonresident who is at least 15 years of age and
2 who has in his immediate possession a valid operator's
3 license issued to him in his home state or country may
4 operate a motor vehicle in this state only as an operator.

5 (3) A nonresident who is at least 18 years of age and
6 who has in his immediate possession a valid ~~chauffeur's~~
7 commercial operator's license issued to him in his home
8 state or country may operate a motor vehicle or commercial
9 motor vehicle in this state ~~either--as--an--operator--or~~
10 ~~chauffeur~~ subject to the age limits applicable to ~~chauffeurs~~
11 commercial vehicle operators in this state.

12 (4) Any nonresident who is at least 18 years of age,
13 whose home state or country does not require the licensing
14 of operators, may operate a motor vehicle as an operator
15 only, for a period of not more than 90 days in any calendar
16 year, if the motor vehicle so operated is duly registered in
17 the home state or country of such nonresident.

18 (5) A driver's license issued hereunder to any person
19 who enters the United States armed forces, if valid and in
20 force and effect at the time such person enters the service,
21 shall continue in full force and effect so long as such
22 service shall continue unless such license is sooner
23 suspended, revoked, or canceled for a cause as provided by
24 law, and for not to exceed 30 days following the date on
25 which holder of such driver's license is honorably separated

1 from such service. During said 30-day period, such license
2 shall be valid only when in the immediate possession of the
3 licensee while driving and the licensee has his discharge,
4 separation, leave, or furlough papers in his immediate
5 possession."

6 Section 7. Section 61-5-105, MCA, is amended to read:
7 "61-5-105. Who may not be licensed. The department
8 shall not issue any license hereunder to any person:

9 (1) as an operator, who is under the age of 16 years,
10 with these exceptions:

11 (a) The department may issue ~~an-operator's~~ a driver's
12 license to a person who is 15 years of age if he has passed
13 a driver's education course approved by the department and
14 the superintendent of public instruction.

15 (b) The department may issue a restricted license ~~as~~
16 ~~hereinafter-provided~~ to any person who is at least 13 years
17 of age;

18 ~~(2)--as--a--chauffeur;--employed--by--another--for--the~~
19 ~~principal-purpose-of-driving-a-motor--vehicle--when--in--use~~
20 ~~exclusively---for---the---transportation---of---property--for~~
21 ~~compensation;--who-is-under-the-age-of-18-years;--or--to--any~~
22 ~~person;--as--a--chauffeur;--who-is-employed-by-another-for-the~~
23 ~~principal-purpose-of-driving-a--motor--vehicle--transporting~~
24 ~~passengers--for-hire-or-transporting-school-children;--who-is~~
25 ~~under-the-age-of-18-years;~~

1 †3†(2) ~~as-an-operator-or-chauffeur~~, whose license has
2 been suspended during the suspension, or to any person whose
3 license has been revoked, except as provided in 61-5-208;

4 †4†(3) ~~as-an-operator-or-chauffeur~~, who is an habitual
5 drunkard, or is addicted to the use of narcotic drugs;

6 †5†(4) ~~as-an-operator-or-chauffeur~~, who has previously
7 been adjudged to be afflicted with or suffering from any
8 mental disability or disease and who has not at the time of
9 application been restored to competency by the methods
10 provided by law;

11 †6†(5) ~~as-an-operator-or-chauffeur~~, who is required by
12 this chapter to take an examination, unless the person shall
13 have successfully passed such examination;

14 †7†(6) who is required under the provisions of the
15 motor vehicle financial responsibility laws of this state to
16 deposit proof of financial responsibility and who has not
17 deposited such proof;

18 †8†(7) ~~as-an-operator-or-chauffeur~~, who is suffering
19 from any form of epileptic type seizures or similar
20 disorders characterized by lapse of consciousness or
21 control, either temporary or prolonged, which is or may
22 become chronic; provided that the department may in its
23 discretion issue a license to a person suffering from
24 epileptic type seizures or similar disorder characterized by
25 lapse of consciousness or control, if otherwise qualified to

1 be licensed to drive a motor vehicle, when the afflicted
2 person can show through a written report from his attending
3 physician that he has not experienced an epileptic type
4 seizure or similar disorder characterized by lapse of
5 consciousness or control for a sufficient period and that
6 the condition is stabilized as attested to by said
7 physician."

8 Section 8. Section 61-5-106, MCA, is amended to read:
9 "61-5-106. Instruction and traffic education permits
10 and temporary licenses. (1) Any person satisfying the age
11 requirements specified in 61-5-105(1) may apply to the
12 department for an instruction permit. The department may in
13 its discretion, after the applicant has successfully passed
14 all parts of the examination other than the driving test,
15 issue to the applicant an instruction permit which shall
16 entitle the applicant, while having such permit in his
17 immediate possession, to drive a motor vehicle upon the
18 public highways for a period of 6 months when accompanied by
19 a licensed ~~operator-or-chauffeur~~ driver who is occupying a
20 seat beside the driver. In addition, the department may
21 issue such an instruction permit to any person who is at
22 least 14 1/2 years of age and who has successfully completed
23 or is successfully participating in a traffic education
24 course approved by the department and the superintendent of
25 public instruction. Any instruction permit so issued shall

1 be restricted to the operation of a motor vehicle only when
2 accompanied by an approved instructor or licensed parent or
3 guardian and may be further restricted to specific times
4 and/or areas.

5 (2) The department upon receiving proper application
6 may in its discretion issue a traffic education permit
7 effective for a school year or more restricted period to an
8 applicant who is enrolled in a traffic education program
9 approved by the department even though the applicant has not
10 reached the legal age to be eligible for an-operator's a
11 driver's license. Such permit shall entitle the permittee
12 when he has such a permit in his immediate possession to
13 operate only on a designated highway or within a designated
14 area a motor vehicle only when an approved instructor is
15 occupying a seat beside the permittee or a motorcycle or
16 quadricycle only when under the immediate and proximate
17 supervision of an approved instructor.

18 (3) The department may in its discretion issue a
19 temporary driver's permit to an applicant for an-operator's
20 a driver's license permitting him to operate a motor vehicle
21 while the department is completing its investigation and
22 determination of all facts relative to such applicant's
23 right to receive an--operator's a driver's license. Such
24 permit must be in his immediate possession while operating a
25 motor vehicle, and it shall be invalid when the applicant's

1 license has been issued or for good cause has been refused.

2 (4) The department may in its discretion issue a
3 temporary commercial vehicle operator's endorsement to an
4 applicant for such an endorsement permitting him to operate
5 a commercial motor vehicle while the department is
6 completing its investigation and determination of all facts
7 relative to the applicant's right to receive a commercial
8 vehicle operator's endorsement. Such endorsement must be in
9 his immediate possession while operating a commercial motor
10 vehicle and is invalid when the applicant's endorsement has
11 been issued or for good cause has been refused."

12 Section 9. Section 61-5-107, MCA, is amended to read:
13 "61-5-107. Application for license, instruction
14 permit, commercial vehicle operator's endorsement, or
15 motorcycle endorsement. (1) Every application for an
16 instruction permit, operator's--or--chauffeur's driver's
17 license, commercial vehicle operator's endorsement, or
18 motorcycle endorsement shall be made upon a form furnished
19 by the department. A motorcycle endorsement is required for
20 the operation of a quadricycle. Every application shall be
21 accompanied by the proper fee, and payment of such fee shall
22 entitle the applicant to not more than three attempts to
23 pass the examination within a period of 6 months from the
24 date of application.

25 (2) Every such application shall state the full name,

1 date of birth, sex, and residence address of the applicant,
 2 and briefly describe the applicant, and shall state whether
 3 the applicant has theretofore previously been licensed as an
 4 ~~operator--or--chauffeur,~~ a driver or commercial vehicle
 5 operator, and, if so, when and by what state or country, and
 6 whether any such license has ever been suspended or revoked,
 7 or whether an application has ever been refused, and, if so,
 8 the date of and reason for such suspension, revocation, or
 9 refusal.

10 (3) Whenever application is received from an applicant
 11 previously licensed by any other jurisdiction, the
 12 department shall request a copy of such applicant's driving
 13 record from such previous licensing jurisdiction. When
 14 received, such driving records shall become a part of the
 15 driver's record in this state with the same force and effect
 16 as though entered on the driver's record in this state in
 17 the original instance."

18 Section 10. Section 61-5-108, MCA, is amended to read:

19 "61-5-108. Application of minors. (1) The application
 20 of any person under the age of 18 years for an instruction
 21 permit or operator's driver's license shall be signed and
 22 verified before a person authorized to administer oaths by
 23 both the father and mother of the applicant, if both are
 24 living and have custody of him, or by the surviving parent,
 25 or in the event neither parent is living or has custody,

1 then by the person or guardian having such custody or by an
 2 employer of such minor, or in the event there is no guardian
 3 or employer then by some other responsible person who is
 4 willing to assume the obligation imposed under this chapter
 5 upon a person signing the application of a minor.

6 (2) Any negligence or willful misconduct of a minor
 7 under the age of 18 years when driving a motor vehicle upon
 8 a highway shall be imputed to a person who has signed the
 9 application of such minor for a permit or license, which
 10 person shall be jointly and severally liable with such minor
 11 for any damages caused by such negligence or willful
 12 misconduct, except as otherwise provided in subsection (3)
 13 of this section.

14 (3) In the event a minor deposits or there is
 15 deposited upon his behalf proof of financial responsibility
 16 in respect to the operation of a motor vehicle owned by him,
 17 or if not the owner of a motor vehicle, then with respect to
 18 the operation of any motor vehicle, in form and in amounts
 19 as required under the motor vehicle financial responsibility
 20 laws of this state, then the department may accept the
 21 application of such minor when signed by one parent or the
 22 guardian of such minor, and while such proof is maintained
 23 such parent or guardian shall not be subject to the
 24 liability imposed under subsection (2) of this section."

25 Section 11. Section 61-5-110, MCA, is amended to read:

1 "61-5-110. Examination of applicants. The department
 2 shall examine every applicant for ~~an---operator's---or~~
 3 ~~chauffeur's~~ a driver's license, commercial vehicle
 4 operator's endorsement, or motorcycle endorsement, except as
 5 otherwise provided in this section. Such examination shall
 6 include a test of the applicant's eyesight, his ability to
 7 read and understand highway signs regulating, warning, and
 8 directing traffic, his knowledge of the traffic laws of this
 9 state, and shall include an actual demonstration of ability
 10 to exercise ordinary and reasonable control in the operation
 11 of a motor vehicle, quadricycle, or motorcycle. ~~The~~
 12 ~~department--shall--make--provision--for--giving--an--examination~~
 13 ~~either--in--the--county--where--the--applicant--resides--or--at--a~~
 14 ~~place---adjacent---thereto---reasonably---convenient---to---the~~
 15 ~~applicant--within--not--more--than--30--days--from--the--date--the~~
 16 ~~application--is--received.~~ The examination for the commercial
 17 vehicle operator's endorsement may include additional
 18 items."

19 Section 12. Section 61-5-111, MCA, is amended to read:
 20 "61-5-111. ~~licenses-issued-to-operators-and-chauffeurs~~
 21 ~~---renewals--and--expiration---fees.~~ Renewals, expirations,
 22 and fees for licenses, permits, and endorsements. (1) The
 23 department shall have authority to appoint county treasurers
 24 and other qualified officers to act as its agents for the
 25 sale of driver's licenses receipts and shall make necessary

1 rules governing such sales. In those areas where the
 2 department provides driver licensing services 3 days or more
 3 a week the department is responsible for sale of receipts
 4 and may not appoint an agent. The department, upon receipt
 5 of payment of the fees specified in this section, shall
 6 issue to every applicant qualifying therefor ~~an-operator's~~
 7 ~~or-chauffeur's~~ a driver's license as applied for. Such
 8 ~~licenses~~ The license shall contain a full-face photograph of
 9 the licensee in the size and form as prescribed by the
 10 department, except as provided in subsection (4); a
 11 distinguishing number issued to the licensee; the full name,
 12 date of birth, residence address, and a brief description of
 13 the licensee; and either a facsimile of the signature of the
 14 licensee or a space upon which he shall write his signature
 15 in pen and ink immediately upon receipt of the license. No
 16 license shall be valid until it has been so signed by the
 17 licensee.

18 (2) The department shall, when any person applies for
 19 renewal of ~~an-operator's-or-chauffeur's~~ a driver's license,
 20 test the applicant's eyesight and may also in the
 21 department's discretion have the applicant demonstrate his
 22 physical ability to operate and to exercise ordinary and
 23 reasonable care in the operation of a motor vehicle. A
 24 person shall be considered to have applied for renewal of a
 25 Montana ~~operator's--or--chauffeur's~~ driver's license if the

1 application is made within 3 months of the expiration of his
2 license.

3 (3) Licenses shall expire on the anniversary of the
4 date of birth of the licensee 4 years or less after the date
5 of issue.

6 (4) A license issued to a person under the age of 19
7 years must contain a photograph of the licensee's profile.

8 (5) Whenever the department issues an original license
9 to a person under the age of 18 years, the license shall be
10 designated and clearly marked as a "provisional license".
11 Any license so designated and marked may be suspended by the
12 department for a period of not more than 12 months, when its
13 records disclose that the licensee, subsequent to the
14 issuance of such license, has been guilty of careless or
15 negligent driving. Upon renewal ~~as applicable to operator's~~
16 ~~licenses~~, the department may, for any reasonable cause as
17 shown by its records, designate the renewal of the license
18 as provisional; otherwise, a license in usual form shall be
19 issued subject to other provisions of the laws of Montana.

20 (6) It shall be unlawful for any person to have in his
21 possession or under his control more than one Montana
22 ~~operator's--or-chauffeur's~~ driver's license at any one time.
23 A license is not valid for the operation of a motorcycle or
24 quadricycle until the holder thereof has completed the
25 requirements of 61-5-110 and the license has been clearly

1 marked with the words "motorcycle endorsement". A license
2 is not valid for the operation of a commercial vehicle until
3 the holder thereof has completed the requirements of
4 61-5-110 and the license has been clearly marked with the
5 words "commercial vehicle operator's endorsement".

6 (7) Fees for driver's licenses shall be as follows:

7 (a) driver's license -- \$3 per year or fraction
8 thereof;

9 (b) motorcycle endorsement -- 50 cents per year or
10 fraction thereof;

11 (c) commercial vehicle operator's endorsement:

12 (i) Class I -- \$3 per year or fraction thereof;

13 (ii) Class II -- \$1.50 per year or fraction thereof.

14 (8) A license designated as chauffeur as of January 1,
15 1988, is valid as commercial vehicle operator's endorsements
16 until the expiration of the license.

17 (9) On or after January 1, 1988, if the holder of a
18 chauffeur's license wishes to convert his chauffeur's
19 license to a commercial vehicle operator's endorsement, he
20 may do so by paying the appropriate fee covering the
21 remainder of the life of his license and complying with the
22 requirements established by the department.

23 (10) After January 1, 1988, the holder of a valid
24 chauffeur's license who is renewing and wishes to obtain a
25 commercial vehicle operator's endorsement may do so upon

1 paying the appropriate fees and complying with the
2 requirements established by the department."

3 Section 13. Section 61-5-112, MCA, is amended to read:

4 "61-5-112. Classification of chauffeurs commercial
5 vehicle operator's endorsements -- special restrictions. (1)
6 The department upon issuing a chauffeur's license with a
7 commercial vehicle operator's endorsement shall indicate
8 thereon the class of license so issued and shall
9 appropriately examine each applicant according to the class
10 of license endorsement applied for and may impose such rules
11 for the exercise classification, examination, and use
12 thereof as it considers necessary for the safety and welfare
13 of the traveling public.

14 ~~(2) No person may drive any school bus transporting~~
15 ~~school children or any motor vehicle when in use for the~~
16 ~~transportation of persons for compensation until he has been~~
17 ~~licensed as a chauffeur for either such purpose and the~~
18 ~~license so indicates. The department may not issue a~~
19 ~~chauffeur's license for either purpose unless the applicant~~
20 ~~has had at least 1 year of driving experience prior thereto~~
21 ~~and the department is fully satisfied as to the applicant's~~
22 ~~competency and fitness to be employed."~~

23 Section 14. Section 61-5-113, MCA, is amended to read:

24 "61-5-113. Restricted licenses. (1) The department
25 upon issuing an operator's or chauffeur's a driver's license

1 shall have authority whenever good cause appears to impose
2 restrictions suitable to the licensee's driving ability with
3 respect to the type of or special mechanical control devices
4 required on a motor vehicle which the licensee may operate
5 or such other restrictions applicable to the licensee as the
6 department may determine to be appropriate to assure the
7 safe operation of a motor vehicle by the licensee.

8 (2) The department may either issue a special
9 restricted license or may set forth such restrictions upon
10 the usual license form.

11 (3) The department may upon receiving satisfactory
12 evidence of any violation of the restrictions of such
13 license or endorsement suspend or revoke the same but the
14 licensee shall be entitled to a hearing as upon suspension
15 or revocation under this chapter.

16 (4) It is a misdemeanor for any person to operate a
17 motor vehicle in any manner in violation of the restrictions
18 imposed in a restricted license issued to him."

19 Section 15. Section 61-5-114, MCA, is amended to read:

20 "61-5-114. Duplicate licenses. In the event that an
21 instruction permit or operator's or chauffeur's driver's
22 license issued under the provisions of this chapter is lost
23 or destroyed, the person to whom the same was issued may
24 upon the payment of a fee of \$5 obtain a duplicate or
25 substitute thereof, upon furnishing proof satisfactory to

1 the department that such permit or license has been lost or
2 destroyed."

3 Section 16. Section 61-5-115, MCA, is amended to read:

4 "61-5-115. Notice of change of address or name.
5 Whenever any person after applying for or receiving an
6 ~~operator's-or-chauffeur's~~ a driver's license shall move from
7 the address named in such application or in the license
8 issued to him or when the name of a licensee is changed by
9 marriage or otherwise such person shall within 10 days
10 thereafter notify the department in writing of his old and
11 new addresses or of such former and new names and of the
12 number of any license then held by him."

13 Section 17. Section 61-5-116, MCA, is amended to read:

14 "61-5-116. License to be carried and exhibited on
15 demand. Every licensee shall have his ~~operator's--or~~
16 ~~chauffeur's~~ driver's license in his immediate possession at
17 all times when operating a motor vehicle and shall display
18 the same upon demand of a justice of the peace, a city or
19 municipal judge, a peace officer, a highway patrolman, or a
20 field deputy or inspector of the department. However, no
21 person charged with violating this section shall be
22 convicted if he produces in court or the office of the
23 arresting officer ~~an-operator's-or--chauffeur's~~ a driver's
24 license theretofore issued to him and valid at the time of
25 his arrest."

1 Section 18. Section 61-5-121, MCA, is amended to read:

2 "61-5-121. Disposition of fees. (1) The disposition of
3 the fees from driver's licenses provided for in
4 ~~61-5-111(6)(a)~~ 61-5-111(7)(a), motorcycle endorsements
5 provided for in ~~61-5-111(6)(b)~~ 61-5-111(7)(b), commercial
6 vehicle operator's endorsements provided for in
7 61-5-111(7)(c), and duplicate driver's licenses provided for
8 in 61-5-114 is as follows:

9 (a) The amount of 3 1/3% of each driver's license fee
10 and of each duplicate driver's license fee must be deposited
11 into the Montana highway patrolmen's retirement pension
12 trust fund.

13 (b) (i) If the fees are collected by a county
14 treasurer or other agent of the department, the amount of
15 3 1/3% of each driver's license fee and of each duplicate
16 driver's license fee must be deposited into the county
17 general fund.

18 (ii) If the fees are collected by the department, the
19 amount provided for in subsection (1)(b)(i) must be
20 deposited into the state special revenue fund for use by the
21 department to defray the costs of issuing licenses or
22 duplicate licenses.

23 (c) (i) If the fee is collected by a county treasurer
24 or other agent of the department, the amount of 5% of each
25 motorcycle endorsement must be deposited into the county

1 general fund.

2 (ii) If the fee is collected by the department, the
3 amount provided for in subsection (1)(c)(i) must be
4 deposited into the state special revenue fund for use by the
5 department to defray the costs of issuing motorcycle
6 endorsements.

7 (d) The amount of 23 1/3% of each driver's license fee
8 and of each duplicate driver's license fee and the amount of
9 35% of each motorcycle endorsement fee must be deposited
10 into the state traffic education account.

11 (e) The amount of 40% of each driver's license fee and
12 of each duplicate driver's license fee and the amount of 60%
13 of each motorcycle endorsement fee must be deposited into
14 the state general fund.

15 (f) The entire amount of each commercial vehicle
16 operator's endorsement fee must be deposited into the motor
17 vehicle recording account established in 61-3-108.

18 (2) (a) If fees from driver's licenses, commercial
19 vehicle operator's endorsements, motorcycle endorsements,
20 and duplicate driver's licenses are collected by a county
21 treasurer or other agent of the department, he shall deposit
22 the amounts provided for in subsections (1)(b)(i) and
23 (1)(c)(i) into the county general fund. He shall then remit
24 to the state treasurer all remaining fees, together with a
25 statement indicating what portion of each fee is to be

1 deposited into the Montana highway patrolmen's retirement
2 pension trust fund, the state traffic education account, and
3 the state general fund. The state treasurer, upon receipt of
4 the fees and statement, shall deposit the fees as provided
5 in subsections (1)(a), (1)(d), and (1)(e), and (1)(f).

6 (b) If fees from driver's licenses, commercial vehicle
7 operator's endorsements, motorcycle endorsements, and
8 duplicate driver's licenses are collected by the department,
9 it shall remit all fees to the state treasurer, together
10 with a statement indicating what portion of each fee is to
11 be deposited into the Montana highway patrolmen's retirement
12 pension trust fund, the state special revenue fund, the
13 state traffic education account, and the state general fund.
14 The state treasurer, upon receipt of the fees and statement,
15 shall deposit the fees as provided in subsections (1)(a),
16 (1)(b)(ii), (1)(c)(ii), (1)(d), and (1)(e), and (1)(f)."

17 Section 19. Section 61-5-201, MCA, is amended to read:

18 "61-5-201. Authority of department to cancel ~~licenses~~
19 license and endorsement. (1) The department is hereby
20 authorized to cancel ~~any--operator's--or--chauffeur's~~ a
21 driver's license and commercial vehicle operator's
22 endorsement, or just the commercial vehicle operator's
23 endorsement, upon determining that the licensee was not
24 entitled to the issuance ~~thereof-hereunder~~ or that since the
25 issuance ~~thereof~~ said licensee has become ineligible (such

1 ineligibility shall be determined pursuant to the provisions
2 of 61-5-105) or that said licensee failed to give the
3 required or correct information in his application or
4 committed any fraud in making such application.

5 (2) Upon such cancellation, the licensee must
6 surrender the license so canceled to the department."

7 Section 20. Section 61-5-203, MCA, is amended to read:

8 "61-5-203. Suspending privileges of nonresidents. The
9 privilege of driving a motor vehicle on the highways of this
10 state given to a nonresident hereunder shall be subject to
11 suspension or revocation by the department in like manner
12 and for like causes as ~~an--operator's--or--chauffeur's a~~
13 driver's license and commercial vehicle operator's
14 endorsement, or just an endorsement issued hereunder may be
15 suspended or revoked."

16 Section 21. Section 61-5-204, MCA, is amended to read:

17 "61-5-204. Suspending resident's license upon
18 conviction in another state. The department is authorized to
19 suspend or revoke the driver's license and commercial
20 vehicle operator's endorsement, or just the commercial
21 vehicle operator's endorsement of any resident of this state
22 or the privilege of a nonresident to drive a motor vehicle
23 in this state upon receiving notice of the conviction of
24 such person in another state of an offense therein which, if
25 committed in this state, would be grounds for the suspension

1 or revocation of the driver's license of-an-operator-or
2 chauffeur or commercial vehicle operator's endorsement."

3 Section 22. Section 61-5-205, MCA, is amended to read:

4 "61-5-205. Mandatory revocation of license upon proper
5 authority. The department upon proper authority shall revoke
6 the driver's license, including the commercial vehicle
7 operator's endorsement, or the operating privilege of any
8 operator-or-chauffeur driver upon receiving a record of such
9 operator's--or--chauffeur's the driver's conviction or
10 forfeiture of bail not vacated of any of the following
11 offenses, when such conviction or forfeiture has become
12 final:

13 (1) negligent homicide resulting from the operation of
14 a motor vehicle;

15 (2) driving a motor vehicle while under the influence
16 of alcohol or narcotic drug, or willfully or knowingly under
17 the influence of any other drug to a degree which renders
18 him incapable of safely driving a motor vehicle, or a
19 combination thereof except as provided in 61-5-208, or
20 operation of a motor vehicle by a person with a blood
21 alcohol concentration of 0.10 or more;

22 (3) any felony in the commission of which a motor
23 vehicle is used;

24 (4) failure to stop and render aid as required under
25 the laws of this state in the event of a motor vehicle

1 accident resulting in the death or personal injury of
2 another;

3 (5) perjury or the making of a false affidavit or
4 statement under oath to the department under this chapter or
5 under any other law relating to the ownership or operation
6 of motor vehicles;

7 (6) conviction or forfeiture of bail not vacated upon
8 three charges of reckless driving committed within a period
9 of 12 months."

10 Section 23. Section 61-5-206, MCA, is amended to read:

11 "61-5-206. Authority of department to suspend license
12 or driving privilege or issue probationary license. (1) The
13 department is hereby authorized to suspend the driver's
14 license, including the commercial vehicle operator's
15 endorsement, or driving privilege of ~~an---operator---or~~
16 ~~chauffeur~~ a driver without preliminary hearing upon a
17 showing by its records or other sufficient evidence that the
18 licensee:

19 (a) has been involved as a driver in any accident
20 resulting in the death or personal injury of another or
21 serious property damage;

22 (b) has been convicted with such frequency of serious
23 offenses against traffic regulations governing the movement
24 of vehicles as to indicate a disrespect for traffic laws and
25 a disregard for the safety of other persons on the highways;

1 (c) is an habitually reckless or negligent driver of a
2 motor vehicle;

3 (d) is incompetent to drive a motor vehicle;

4 (e) has permitted an unlawful or fraudulent use of
5 such license as specified in 61-5-302;

6 (f) has committed an offense in another state which if
7 committed in this state would be grounds for suspension or
8 revocation; or

9 (g) has falsified his date of birth on his application
10 for a driver's license.

11 (2) However, the department may, in its discretion and
12 in lieu of such suspension of license or driving privilege,
13 issue a probationary license to ~~an-operator-or-chauffeur~~ a
14 driver, without preliminary hearing, upon a showing by its
15 records or other sufficient evidence that the licensee's
16 driving record is such as would authorize suspension as
17 provided in subsection (1) hereof. Upon issuance of a
18 probationary license the licensee shall be subject to the
19 restrictions set forth thereon. The licensee's driving
20 privilege may be suspended upon conviction or forfeiture of
21 bail not vacated of any traffic violation during the period
22 of such probation. The licensee shall surrender to the
23 department all driver licenses theretofore issued to him
24 before such probationary license shall be issued. His
25 refusal or neglect to surrender such licenses upon demand

1 shall be ground for suspending all such licenses.
 2 Probationary licenses may be issued for a period not to
 3 exceed 12 months.

4 (3) Upon suspending the license of any person or upon
 5 placing such person on probation, as hereinbefore in this
 6 section authorized, the department shall immediately notify
 7 the licensee in writing and upon his request shall afford
 8 him an opportunity for a hearing as early as practical
 9 within not to exceed 20 days after receipt of such request
 10 in the county wherein the licensee resides unless the
 11 department and the licensee agree that such hearing may be
 12 held in some other county. Upon such hearing the department
 13 through its duly authorized agent may administer oaths and
 14 may issue subpoenas for the attendance of witnesses and the
 15 production of relevant books and papers and may require a
 16 reexamination of the licensee. Upon such hearing the
 17 department shall either rescind its order of suspension or
 18 probation, or, good cause appearing therefor, may affirm,
 19 reduce, or extend the period of probation or suspension of
 20 such license."

21 Section 24. Section 61-5-207, MCA, is amended to read:

22 "61-5-207. Reexamination -- when required. The
 23 department having good cause to believe that a licensed
 24 operator-or-chauffeur driver is incompetent or otherwise not
 25 qualified to be licensed or to have a commercial vehicle

1 operator's endorsement, may upon written notice of at least
 2 5 days to the licensee require him to submit to an
 3 examination. Upon the conclusion of such examination the
 4 department shall take action as may be appropriate and may
 5 suspend or revoke the license and commercial vehicle
 6 operator's endorsement, or just the commercial vehicle
 7 operator's endorsement of such person or permit him to
 8 retain such license, or may issue a license subject to
 9 restrictions as permitted under 61-5-113. Refusal or neglect
 10 of the licensee to submit to such examination shall be
 11 ground for suspension or revocation of his license."

12 Section 25. Section 61-5-208, MCA, is amended to read:

13 "61-5-208. Period of suspension or revocation. (1) The
 14 department may not suspend or revoke a driver's license,
 15 commercial vehicle operator's endorsement, or privilege to
 16 drive a motor vehicle on the public highways for a period of
 17 more than 1 year, except as permitted under 61-5-207,
 18 61-5-212, 61-6-123, and 61-11-211.

19 (2) Any person whose license, commercial vehicle
 20 operator's endorsement, or privilege to drive a motor
 21 vehicle on the public highways has been suspended or revoked
 22 is not entitled to have such license, endorsement, or
 23 privilege renewed or restored unless the revocation was for
 24 a cause which has been removed, except that after the
 25 expiration of the period of such revocation or suspension,

1 the person may make application for a new license or
 2 endorsement as provided by law but the department may not
 3 then issue a new license or endorsement unless and until it
 4 is satisfied, after investigation of the driving ability of
 5 the person and upon a showing by its records or other
 6 sufficient evidence, that the person is eligible to be
 7 licensed to drive in this state. When any person is
 8 convicted or forfeits bail or collateral not vacated for the
 9 offense of operating or being in actual physical control of
 10 a motor vehicle while under the influence of alcohol or a
 11 narcotic drug or knowingly or willingly under the influence
 12 of any other drug to a degree which renders him incapable of
 13 safely driving a motor vehicle, or a combination thereof, or
 14 for the offense of operation of a motor vehicle by a person
 15 with alcohol concentration of 0.10 or more, the department
 16 shall, upon receiving a report of such conviction or
 17 forfeiture of bail or collateral not vacated, suspend the
 18 license, including any commercial vehicle operator's
 19 endorsement, or driving privilege of the person for a period
 20 of 6 months. Upon receiving a report of a conviction or
 21 forfeiture of bail or collateral for a second, third, or
 22 subsequent offense within 5 years of the first offense, the
 23 department shall revoke the license, including any
 24 commercial vehicle operator's endorsement, or driving
 25 privilege of the person for a period of 1 year.

1 (3) The period for all revocations made mandatory by
 2 61-5-205 shall be 1 year except as provided in subsection
 3 (2) of this section.

4 (4) The period of revocation for any person convicted
 5 of any offense which makes mandatory the revocation of the
 6 operator's-or-chauffeur's driver's license commences from
 7 date of conviction or forfeiture of bail."

8 Section 26. Section 61-5-209, MCA, is amended to read:

9 "61-5-209. Surrender and return of license or
 10 endorsement. The department upon suspending or revoking a
 11 license or commercial vehicle operator's endorsement shall
 12 require that such license shall be surrendered to and be
 13 retained by the department except that at the end of the
 14 period of suspension such license so surrendered shall be
 15 returned to the licensee."

16 Section 27. Section 61-5-210, MCA, is amended to read:

17 "61-5-210. No operation under foreign license during
 18 suspension or revocation in this state. Any resident or
 19 nonresident whose operator's-or-chauffeur's license or right
 20 or privilege to operate a motor vehicle or commercial motor
 21 vehicle in this state has been suspended or revoked as
 22 provided in this chapter shall not operate a motor vehicle
 23 or commercial motor vehicle in this state under a license,
 24 permit, or registration certificate issued by any other
 25 jurisdiction or otherwise during such suspension or after

1 such revocation until a new license or commercial vehicle
 2 operator's endorsement is obtained when and as permitted
 3 under this chapter."

4 Section 28. Section 61-5-211, MCA, is amended to read:

5 "61-5-211. Right of appeal to court. Any person denied
 6 a driver's license, commercial motor vehicle operator's
 7 endorsement, or whose license had or endorsement has been
 8 canceled, suspended, or revoked by the department except
 9 where such cancellation or revocation is mandatory under the
 10 provisions of this chapter shall have the right to file a
 11 petition within 30 days thereafter for a hearing in the
 12 matter in the district court in the county wherein such
 13 person shall reside. Such court is hereby vested with
 14 jurisdiction and it shall be its duty to set the matter for
 15 hearing upon 30 days' written notice to the department, and
 16 thereupon to take testimony and examine into the facts of
 17 the case and to determine whether the petitioner is entitled
 18 to a license or commercial vehicle operator's endorsement or
 19 is subject to suspension, cancellation, or revocation of the
 20 license or endorsement under the provisions of this
 21 chapter."

22 Section 29. Section 61-5-212, MCA, is amended to read:

23 "61-5-212. Driving while license suspended or revoked
 24 -- penalty. (1) Any person who drives a motor vehicle or
 25 commercial motor vehicle on any public highway of this state

1 at a time when his privilege so to do is suspended or
 2 revoked shall be guilty of a misdemeanor and upon conviction
 3 shall be punished by imprisonment for not less than 2 days
 4 or more than 6 months and there may be imposed in addition
 5 thereto a fine of not more than \$500.

6 (2) The department upon receiving a record of the
 7 conviction of any person under this section upon a charge of
 8 driving a vehicle while the license or commercial vehicle
 9 operator's endorsement of such person was suspended or
 10 revoked shall extend the period of such suspension or
 11 revocation for an additional like period."

12 Section 30. Section 61-5-301, MCA, is amended to read:

13 "61-5-301. Indication on driver's license of intent to
 14 make anatomical gift. (1) The department of justice shall
 15 provide on each ~~operator's or chauffeur's~~ driver's license a
 16 space for indicating when the licensee has executed a
 17 document under 72-17-204 of intent to make a gift of all or
 18 part of his body under the Uniform Anatomical Gift Act.

19 (2) The department shall provide each applicant, at
 20 the time of application, printed information calling the
 21 applicant's attention to the provisions of this section, and
 22 each applicant must be given an opportunity to indicate in
 23 the space provided under subsection (1) his intent to make
 24 an anatomical gift.

25 (3) The department shall issue to every applicant who

1 indicates such an intent a statement which, when signed by
 2 the licensee in the manner prescribed in 72-17-204,
 3 constitutes a document of anatomical gift. This statement
 4 must be printed on a sticker that the donor may attach
 5 permanently to the back of his driver's license.

6 (4) The department shall also furnish the licensee a
 7 means of revoking the document of gift upon the license."

8 Section 31. Section 61-5-302, MCA, is amended to read:

9 "61-5-302. Unlawful use of license. It is a
 10 misdemeanor for any person to:

11 (1) display or cause or permit to be displayed or have
 12 in his possession any canceled, revoked, suspended,
 13 fictitious, or altered ~~operator's--or--chauffeur's~~ driver's
 14 license;

15 (2) lend his ~~operator's--or--chauffeur's~~ driver's
 16 license to any other person or knowingly permit its use by
 17 another;

18 (3) display or represent as one's own any ~~operator's~~
 19 ~~or-chauffeur's~~ driver's license not issued to him;

20 (4) fail or refuse to surrender to the department upon
 21 its lawful demand any ~~operator's--or--chauffeur's~~ driver's
 22 license which has been suspended, revoked, or canceled;

23 (5) use a false or fictitious name in any application
 24 for ~~an-operator's--or--chauffeur's~~ a driver's license or
 25 commercial vehicle operator's endorsement or knowingly make

1 a false statement or knowingly conceal a material fact or
 2 otherwise commit a fraud in any such application; or

3 (6) permit any unlawful use of ~~an-operator's--or~~
 4 ~~chauffeur's~~ a driver's license issued to him."

5 Section 32. Section 61-5-305, MCA, is amended to read:

6 "61-5-305. Employing ~~unlicensed---chauffeur~~ driver
 7 without endorsement. No person shall employ as a ~~chauffeur~~
 8 ~~of-a-motor-vehicle~~ commercial vehicle operator any person
 9 not then licensed and endorsed as provided by this chapter."

10 Section 33. Section 61-5-306, MCA, is amended to read:

11 "61-5-306. Renting motor vehicle to another. (1) No
 12 person shall rent a motor vehicle to any other person unless
 13 the latter person is then duly licensed hereunder or, in the
 14 case of a nonresident, then duly licensed under the laws of
 15 the state or country of his residence except a nonresident
 16 whose home state or country does not require that an
 17 operator be licensed.

18 (2) No person shall rent a motor vehicle to another
 19 until he has inspected the ~~operator's--or--chauffeur's~~
 20 driver's license of the person to whom the vehicle is to be
 21 rented and compared and verified the signature thereon with
 22 the signature of such person written in his presence.

23 (3) No person may rent a motor vehicle which is
 24 defined as a commercial motor vehicle under this title to
 25 another until he has inspected the driver's license of that

1 person and determined that the person has a commercial
 2 vehicle operator's endorsement.

3 ~~(3)~~(4) Every person renting a motor vehicle to another
 4 shall keep a record of the registration number of the motor
 5 vehicle so rented, the name and address of the person to
 6 whom the vehicle is rented, and the number and expiration
 7 date of the license of said latter person~~7--and--the--date--and~~
 8 ~~place--when--and--where--said--license--was--issued.~~ Such The
 9 record shall be open to inspection by any police officer or
 10 officer or employee of the department."

11 Section 34. Section 61-7-105, MCA, is amended to read:

12 "61-7-105. Duty to give information and render aid.
 13 The driver of any vehicle involved in an accident resulting
 14 in injury to or death of any person or damage to any vehicle
 15 which is driven or attended by any person shall give his
 16 name, address, and the registration number of the vehicle he
 17 is driving and shall upon request and if available exhibit
 18 his ~~operator's-or-chauffeur's~~ driver's license to the person
 19 struck or the driver or occupant of or person attending any
 20 vehicle collided with and shall render to any person injured
 21 in such accident reasonable assistance, including the
 22 carrying, or the making of arrangements for the carrying, of
 23 such person to a physician, surgeon, or hospital for medical
 24 or surgical treatment if it is apparent that such treatment
 25 is necessary or if such carrying is requested by the injured

1 person."

2 Section 35. Section 61-7-107, MCA, is amended to read:

3 "61-7-107. Duty upon striking fixtures or other
 4 property upon a highway. The driver of any vehicle involved
 5 in an accident resulting only in damage to fixtures or other
 6 property legally upon or adjacent to a highway shall take
 7 reasonable steps to locate and notify the owner or person in
 8 charge of such property of such fact and of his name and
 9 address and of the registration number of the vehicle he is
 10 driving and shall upon request and if available exhibit his
 11 ~~operator's-or-chauffeur's~~ driver's license and shall make
 12 report of such accident when and as required in 61-7-109."

13 Section 36. Section 61-11-101, MCA, is amended to
 14 read:

15 "61-11-101. Report of convictions and suspension or
 16 revocation of driver's licenses -- surrender of licenses.
 17 (1) Whenever any person is convicted of any offense for
 18 which chapter 5 makes mandatory the suspension or revocation
 19 of the ~~operator's-or-chauffeur's~~ driver's license of ~~such~~
 20 the person by the department, the court in which such
 21 conviction is had shall require the surrender to it of all
 22 ~~operator's--and--chauffeur's~~ driver's licenses then held by
 23 the person so convicted. The court shall thereupon, within 5
 24 days, forward the license to the department and at the same
 25 time forward a record of such conviction to the department,

1 providing that if such person does not possess a driver's
2 license the court shall so indicate in its report to the
3 department.

4 (2) Every court having jurisdiction over offenses
5 committed under any act of this state or municipal ordinance
6 regulating the operation of motor vehicles on highways shall
7 forward, within 5 days, to the department a record of the
8 conviction or forfeiture of bail, not vacated, of any person
9 in the court for a violation of any such laws, other than
10 regulations governing standing or parking, and may recommend
11 the suspension of the ~~operator's-or-chauffeur's~~ driver's
12 license of the person so convicted. The court may also
13 recommend that the department issue a restricted
14 probationary license in lieu of the suspension required in
15 61-5-208(2) on the condition that the individual attend a
16 driver improvement school or an alcohol treatment program if
17 one is available. The department shall issue a restricted
18 probationary license unless the person otherwise is not
19 entitled to a Montana ~~operator's--or--chauffeur's~~ driver's
20 license. Upon issuance of a probationary license, the
21 licensee is subject to the restrictions set forth thereon
22 and may not operate a vehicle in violation of those
23 restrictions.

24 (3) Any court or other agency of this state, or a
25 subdivision thereof, which has jurisdiction to take any

1 action suspending, revoking, or otherwise limiting a license
2 to drive shall report any such action and the adjudication
3 upon which it is based to the department within 5 days on
4 forms furnished by the department."

5 Section 37. Section 20-10-103, MCA, is amended to
6 read:

7 "20-10-103. School bus driver qualifications. Any
8 driver of a school bus shall be qualified to drive such
9 school bus by compliance with the following requirements:

10 (1) he is not less than 18 years of age;
11 (2) he is of good moral character;
12 (3) he is the holder of a ~~chauffeur's~~ driver's license
13 with a commercial vehicle operator's endorsement;

14 (4) he has filed with the district a satisfactory
15 medical examination report, on a blank provided by the
16 superintendent of public instruction, signed by any
17 physician licensed in the United States or, if acceptable to
18 an insurance carrier, any licensed physician;

19 (5) he has completed a standard first aid course and
20 holds a valid standard first aid certificate from an
21 authorized instructor. The issuance of such certificate
22 shall be governed by rules established by the superintendent
23 of public instruction, provided that such rules may suspend
24 this requirement for a reasonable period of time where there
25 has been an inadequate opportunity for securing the first

1 aid course and certificate.

2 (6) he has complied with any other qualifications
3 established by the board of public education; and

4 (7) he has filed with the county superintendent a
5 certificate from the trustees of the district for which the
6 school bus is to be driven certifying compliance with the
7 several driver qualifications enumerated in this section."

8 Section 38. Section 72-17-204, MCA, is amended to
9 read:

10 "72-17-204. Manner of executing gift -- effectiveness.
11 (1) A gift of all or part of the body under 72-17-201(1) may
12 be made by will. The gift becomes effective upon the death
13 of the testator without waiting for probate. If the will is
14 not probated or if it is declared invalid for testamentary
15 purposes, the gift, to the extent that it has been acted
16 upon in good faith, is nevertheless valid and effective.

17 (2) (a) A gift of all or part of the body under
18 72-17-201(1) may also be made by document other than a will.
19 The gift becomes effective upon the death of the donor.

20 (b) The document may be a card designed to be carried
21 on the person and must be signed by the donor in the
22 presence of two witnesses who must sign the document in his
23 presence. If the donor cannot sign, the document may be
24 signed for him at his direction and in his presence in the
25 presence of two witnesses who must sign the document in his

1 presence. Delivery of the document of gift during the
2 donor's lifetime is not necessary to make the gift valid.

3 (c) The document may be a statement attached to the
4 reverse side of the person's Montana motor vehicle
5 ~~operator's--or--chauffeur's~~ driver's license. The statement
6 must be signed by the owner of the ~~operator's-or-chauffeur's~~
7 driver's license in the presence of two witnesses who must
8 sign the statement in the presence of the donor.

9 (3) Any gift by a person designated in 72-17-201(2)
10 shall be made by a document signed by him or made by his
11 telegraphic, recorded telephonic, or other recorded
12 message."

13 NEW SECTION. Section 39. Repealer. Section 61-1-312,
14 MCA, is repealed.

15 NEW SECTION. Section 40. Rulemaking authority. The
16 department of justice may adopt rules to implement [sections
17 1 through 38].

18 NEW SECTION. Section 41. Codification instruction.
19 Sections 1 through 4 are intended to be codified as an
20 integral part of Title 61, chapter 1, part 1, and the
21 provisions of Title 61, chapter 1, part 1, apply to sections
22 1 through 4.

23 NEW SECTION. Section 42. Effective date. This act is
24 effective January 1, 1988.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB212, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide for a classified commercial vehicle operator's licensing program; revising the motor vehicle laws to remove references to chauffeurs; amending Sections 20-10-103, 61-5-102, 61-5-104 through 61-5-116, 61-5-121, 61-5-201, 61-5-203 through 61-5-212, 61-5-301, 61-5-302, 61-5-305, 61-5-306, 61-7-105, 61-7-107, 61-11-101, and 72-17-204, MCA; repealing Section 61-1-312, MCA; and providing an effective date.

ASSUMPTIONS:

1. 93,000 chauffeur licenses have been issued. 20,000 of 93,000 will require a Class I commercial vehicle operator's endorsement, and 62,000 will require the Class II endorsement.
2. The endorsements will be issued ratably over a 4 year period.
3. Impacts Department of Highways through the Federal Commercial Motor Vehicle Act of 1986, beginning October 1, 1993.

FISCAL IMPACT:Revenues:

State Special Revenue
Fund Licenses
Federal Grant
Total

Increases FY88

\$ 76,500
260,000
\$ 336,500

Increases FY89

\$ 153,000
130,000
\$ 283,000

Expenditures:

Personal Services
Operating Expenses
Equipment
Total
Balance

\$ 88,600
104,300
123,000
\$ 315,900
\$ 20,600

\$ 116,200
69,800
73,800
\$ 259,800
\$ 23,200

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

1. In 1991, the federal implementation funds run out.
2. Highway federal obligation authority will be reduced in FFY94 (October 1, 1993) by 5% and reduced by 10% in FFY95 and all succeeding years if Montana does not have a commercial vehicle operator licensing program.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

David L. Hunter

DATE 1/30/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Farrell

DATE 2/2/87

WILLIAM FARRELL, PRIMARY SPONSOR

Fiscal Note for SB212, as introduced.

SB-212

APPROVED BY COMMITTEE
ON HIGHWAYS & TRANSPORTATION

1 STATEMENT OF INTENT

2 SENATE BILL 212

3 Senate Highways & Transportation Committee
4

5 A statement of intent is required for this bill because
6 [section 40] grants rulemaking authority to the department
7 of justice. The bill gives the department authority to
8 define commercial motor vehicle and to prescribe
9 requirements and procedures for the licensing of commercial
10 motor vehicles and commercial vehicle operators.

11 It is the legislature's intent that the department
12 adopt rules for commercial motor vehicles and operators in
13 order to bring the state into compliance with federal
14 regulations established by Title XII, Commercial Motor
15 Vehicle Safety Act of 1986, effective July 1, 1987.

SENATE BILL NO. 212

INTRODUCED BY FARRELL, CAMPBELL, SWYSGOOD, O'CONNELL,
HALLIGAN, FRITZ, GILBERT, GRADY, THOMAS, GLASER, HARP,
TVEIT, GAGE, WEEDING, B. WILLIAMS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A
CLASSIFIED COMMERCIAL VEHICLE OPERATOR'S LICENSING PROGRAM;
REVISING THE MOTOR VEHICLE LAWS TO REMOVE REFERENCES TO
CHAUFFEURS; AMENDING SECTIONS 20-10-103, 61-5-102, 61-5-104
THROUGH 61-5-108, 61-5-110 THROUGH 61-5-116, 61-5-121,
61-5-201, 61-5-203 THROUGH 61-5-212, 61-5-301, 61-5-302,
61-5-305, 61-5-306, 61-7-105, 61-7-107, 61-11-101, AND
72-17-204, MCA; REPEALING SECTION 61-1-312, MCA; AND
PROVIDING A DELAYED EFFECTIVE DATE."

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

NEW SECTION. Section 1. Commercial motor vehicle
defined -- exceptions. (1) "Commercial motor vehicle" means
a motor vehicle used to transport passengers or property if
the vehicle:

- (a) has a gross vehicle weight of 26,001 pounds or more;
- (b) is designed to transport more than 15 passengers, including the driver; or
- (c) is used to transport hazardous material.

(2) Vehicles operated within the state of Montana which are registered as paying the 16% gross weight fee are not commercial motor vehicles under this act.

NEW SECTION. Section 2. Commercial vehicle operator's endorsement. "Commercial vehicle operator's endorsement" means an endorsement to a Montana driver's license that authorizes the licensee to operate a class of commercial motor vehicle.

NEW SECTION. Section 3. Driver's license. "Driver's license" means any license or permit to operate a motor vehicle issued under, or granted by, the laws of this state including:

- (1) any temporary license or instruction permit;
- (2) the privilege of any person to drive a motor vehicle whether or not such person holds a valid license;
- (3) any nonresident's driving privilege;
- (4) a motorcycle endorsement; and
- (5) a commercial vehicle operator's endorsement.

NEW SECTION. Section 4. Hazardous material. "Hazardous material" means a substance or material in a quantity and form that may pose an unreasonable risk to health and safety or property when transported.

Section 5. Section 61-5-102, MCA, is amended to read:
"61-5-102. ~~Operators--and--chauffeurs~~ Drivers to be licensed. (1) No person, except those hereinafter expressly

1 exempted under 61-5-104, shall drive any motor vehicle upon
 2 a highway in this state unless such person has a valid
 3 Montana driver's license ~~as an operator or chauffeur under~~
 4 ~~the provisions of this chapter~~. No person shall receive an
 5 ~~operator's or chauffeur's~~ a Montana driver's license unless
 6 and until he surrenders to the department all valid
 7 ~~operators' and chauffeurs'~~ driver's licenses in his
 8 possession issued to him by any other jurisdiction. All
 9 surrendered licenses shall be returned by the department to
 10 the issuing department together with information that the
 11 licensee is now licensed in this state. No person shall be
 12 permitted to have more than one valid ~~operator's or~~
 13 ~~chauffeur's~~ driver's license at any time.

14 ~~{2}--No person shall drive a motor vehicle as a~~
 15 ~~chauffeur unless he holds a valid chauffeur's license. No~~
 16 ~~person shall receive a chauffeur's license unless and until~~
 17 ~~he surrenders to the department any operator's license~~
 18 ~~issued to him or an affidavit that he does not possess an~~
 19 ~~operator's license. Any person holding a valid chauffeur's~~
 20 ~~license hereunder need not procure an operator's license.~~

21 ~~{3}{2}~~ Whenever a city or town requires an operator or
 22 ~~chauffeur~~ a licensed driver to obtain a local driving
 23 license or permit, such a license or permit shall not be
 24 issued unless the applicant therefor presents a state
 25 driver's license valid under the provisions of this chapter.

1 ~~{4}{3}~~ A person operating a bicycle defined in
 2 61-1-123(2) shall have in his possession at all times when
 3 operating the bicycle a valid Montana driver's license."

4 Section 6. Section 61-5-104, MCA, is amended to read:
 5 "61-5-104. Exemptions. (1) The following persons are
 6 exempt from license hereunder:

7 (a) any person who is a member of the armed forces of
 8 the United States while operating a motor vehicle owned by
 9 or leased to the United States government and being operated
 10 on official business;

11 (b) any person who is a member of the armed forces of
 12 the United States on active duty in Montana who holds a
 13 valid license issued by another state and the spouse of such
 14 a person who holds a valid license issued by another state
 15 and who is not employed in Montana except as a member of the
 16 armed forces; if a spouse of a member of the armed forces
 17 becomes gainfully employed in Montana, such spouse must be
 18 licensed as required by 61-5-102 within 90 days of becoming
 19 so employed;

20 (c) any person on active duty in the armed forces of
 21 the United States who has in his immediate possession a
 22 valid license issued in a foreign country by the armed
 23 forces of the United States, for a period of 45 days from
 24 the date of his return to the United States;

25 (d) any person while driving or operating any road

1 machine, farm tractor, or implement of husbandry temporarily
2 operated or moved on a highway.

3 (2) A nonresident who is at least 15 years of age and
4 who has in his immediate possession a valid operator's
5 license issued to him in his home state or country may
6 operate a motor vehicle in this state only as an operator.

7 (3) A nonresident who is at least 18 years of age and
8 who has in his immediate possession a valid ~~chauffeur's~~
9 commercial operator's license issued to him in his home
10 state or country may operate a motor vehicle or commercial
11 motor vehicle in this state ~~either--as--an--operator--or~~
12 ~~chauffeur~~ subject to the age limits applicable to ~~chauffeurs~~
13 commercial vehicle operators in this state.

14 (4) Any nonresident who is at least 18 years of age,
15 whose home state or country does not require the licensing
16 of operators, may operate a motor vehicle as an operator
17 only, for a period of not more than 90 days in any calendar
18 year, if the motor vehicle so operated is duly registered in
19 the home state or country of such nonresident.

20 (5) A driver's license issued hereunder to any person
21 who enters the United States armed forces, if valid and in
22 force and effect at the time such person enters the service,
23 shall continue in full force and effect so long as such
24 service shall continue unless such license is sooner
25 suspended, revoked, or canceled for a cause as provided by

1 law, and for not to exceed 30 days following the date on
2 which holder of such driver's license is honorably separated
3 from such service. During said 30-day period, such license
4 shall be valid only when in the immediate possession of the
5 licensee while driving and the licensee has his discharge,
6 separation, leave, or furlough papers in his immediate
7 possession."

8 Section 7. Section 61-5-105, MCA, is amended to read:
9 "61-5-105. Who may not be licensed. The department
10 shall not issue any license hereunder to any person:

11 (1) as an operator, who is under the age of 16 years,
12 with these exceptions:

13 (a) The department may issue ~~an-operator's~~ a driver's
14 license to a person who is 15 years of age if he has passed
15 a driver's education course approved by the department and
16 the superintendent of public instruction.

17 (b) The department may issue a restricted license ~~as~~
18 ~~hereinafter-provided~~ to any person who is at least 13 years
19 of age;

20 ~~(2)--as--a--chauffeur--employed--by--another--for--the~~
21 ~~principal-purpose-of-driving-a-motor-vehicle--when--in--use~~
22 ~~exclusively---for---the---transportation---of---property---for~~
23 ~~compensation--who-is-under-the-age-of-18-years--or--to--any~~
24 ~~person--as--a--chauffeur--who-is-employed-by-another-for-the~~
25 ~~principal-purpose-of-driving-a-motor-vehicle--transporting~~

1 ~~passengers--for-hire-or-transporting-school-children, who is~~
2 ~~under-the-age-of-18-years;~~

3 ~~{3}{2} as-an-operator-or-chauffeur,~~ whose license has
4 been suspended during the suspension, or to any person whose
5 license has been revoked, except as provided in 61-5-208;

6 ~~{4}{3} as-an-operator-or-chauffeur,~~ who is an habitual
7 drunkard, or is addicted to the use of narcotic drugs;

8 ~~{5}{4} as-an-operator-or-chauffeur,~~ who has previously
9 been adjudged to be afflicted with or suffering from any
10 mental disability or disease and who has not at the time of
11 application been restored to competency by the methods
12 provided by law;

13 ~~{6}{5} as-an-operator-or-chauffeur,~~ who is required by
14 this chapter to take an examination, unless the person shall
15 have successfully passed such examination;

16 ~~{7}{6} who is required under the provisions of the~~
17 ~~motor vehicle financial responsibility laws of this state to~~
18 ~~deposit proof of financial responsibility and who has not~~
19 ~~deposited such proof;~~

20 ~~{8}{7} as-an-operator-or-chauffeur,~~ who is suffering
21 from any form of epileptic type seizures or similar
22 disorders characterized by lapse of consciousness or
23 control, either temporary or prolonged, which is or may
24 become chronic; provided that the department may in its
25 discretion issue a license to a person suffering from

1 epileptic type seizures or similar disorder characterized by
2 lapse of consciousness or control, if otherwise qualified to
3 be licensed to drive a motor vehicle, when the afflicted
4 person can show through a written report from his attending
5 physician that he has not experienced an epileptic type
6 seizure or similar disorder characterized by lapse of
7 consciousness or control for a sufficient period and that
8 the condition is stabilized as attested to by said
9 physician."

10 Section 8. Section 61-5-106, MCA, is amended to read:
11 "61-5-106. Instruction and traffic education permits
12 and temporary licenses. (1) Any person satisfying the age
13 requirements specified in 61-5-105(1) may apply to the
14 department for an instruction permit. The department may in
15 its discretion, after the applicant has successfully passed
16 all parts of the examination other than the driving test,
17 issue to the applicant an instruction permit which shall
18 entitle the applicant, while having such permit in his
19 immediate possession, to drive a motor vehicle upon the
20 public highways for a period of 6 months when accompanied by
21 a licensed ~~operator-or-chauffeur~~ driver who is occupying a
22 seat beside the driver. In addition, the department may
23 issue such an instruction permit to any person who is at
24 least 14 1/2 years of age and who has successfully completed
25 or is successfully participating in a traffic education

1 course approved by the department and the superintendent of
 2 public instruction. Any instruction permit so issued shall
 3 be restricted to the operation of a motor vehicle only when
 4 accompanied by an approved instructor or licensed parent or
 5 guardian and may be further restricted to specific times
 6 and/or areas.

7 (2) The department upon receiving proper application
 8 may in its discretion issue a traffic education permit
 9 effective for a school year or more restricted period to an
 10 applicant who is enrolled in a traffic education program
 11 approved by the department even though the applicant has not
 12 reached the legal age to be eligible for an-operator's a
 13 driver's license. Such permit shall entitle the permittee
 14 when he has such a permit in his immediate possession to
 15 operate only on a designated highway or within a designated
 16 area a motor vehicle only when an approved instructor is
 17 occupying a seat beside the permittee or a motorcycle or
 18 quadricycle only when under the immediate and proximate
 19 supervision of an approved instructor.

20 (3) The department may in its discretion issue a
 21 temporary driver's permit to an applicant for an-operator's
 22 a driver's license permitting him to operate a motor vehicle
 23 while the department is completing its investigation and
 24 determination of all facts relative to such applicant's
 25 right to receive an--operator's a driver's license. Such

1 permit must be in his immediate possession while operating a
 2 motor vehicle, and it shall be invalid when the applicant's
 3 license has been issued or for good cause has been refused.

4 (4) The department may in its discretion issue a
 5 temporary commercial vehicle operator's endorsement to an
 6 applicant for such an endorsement permitting him to operate
 7 a commercial motor vehicle while the department is
 8 completing its investigation and determination of all facts
 9 relative to the applicant's right to receive a commercial
 10 vehicle operator's endorsement. Such endorsement must be in
 11 his immediate possession while operating a commercial motor
 12 vehicle and is invalid when the applicant's endorsement has
 13 been issued or for good cause has been refused."

14 Section 9. Section 61-5-107, MCA, is amended to read:
 15 "61-5-107. Application for license, instruction
 16 permit, commercial vehicle operator's endorsement, or
 17 motorcycle endorsement. (1) Every application for an
 18 instruction permit, operator's--or--chauffeur's driver's
 19 license, commercial vehicle operator's endorsement, or
 20 motorcycle endorsement shall be made upon a form furnished
 21 by the department. A motorcycle endorsement is required for
 22 the operation of a quadricycle. Every application shall be
 23 accompanied by the proper fee, and payment of such fee shall
 24 entitle the applicant to not more than three attempts to
 25 pass the examination within a period of 6 months from the

1 date of application.

2 (2) Every such application shall state the full name,
3 date of birth, sex, and residence address of the applicant,
4 and briefly describe the applicant, and shall state whether
5 the applicant has ~~theretofore~~ previously been licensed as an
6 ~~operator--or--chauffeur, a driver or commercial vehicle~~
7 operator, and, if so, when and by what state or country, and
8 whether any such license has ever been suspended or revoked,
9 or whether an application has ever been refused, and, if so,
10 the date of and reason for such suspension, revocation, or
11 refusal.

12 (3) Whenever application is received from an applicant
13 previously licensed by any other jurisdiction, the
14 department shall request a copy of such applicant's driving
15 record from such previous licensing jurisdiction. When
16 received, such driving records shall become a part of the
17 driver's record in this state with the same force and effect
18 as though entered on the driver's record in this state in
19 the original instance."

20 Section 10. Section 61-5-108, MCA, is amended to read:

21 "61-5-108. Application of minors. (1) The application
22 of any person under the age of 18 years for an instruction
23 permit or ~~operator's~~ driver's license shall be signed and
24 verified before a person authorized to administer oaths by
25 both the father and mother of the applicant, if both are

1 living and have custody of him, or by the surviving parent,
2 or in the event neither parent is living or has custody,
3 then by the person or guardian having such custody or by an
4 employer of such minor, or in the event there is no guardian
5 or employer then by some other responsible person who is
6 willing to assume the obligation imposed under this chapter
7 upon a person signing the application of a minor.

8 (2) Any negligence or willful misconduct of a minor
9 under the age of 18 years when driving a motor vehicle upon
10 a highway shall be imputed to a person who has signed the
11 application of such minor for a permit or license, which
12 person shall be jointly and severally liable with such minor
13 for any damages caused by such negligence or willful
14 misconduct, except as otherwise provided in subsection (3)
15 of this section.

16 (3) In the event a minor deposits or there is
17 deposited upon his behalf proof of financial responsibility
18 in respect to the operation of a motor vehicle owned by him,
19 or if not the owner of a motor vehicle, then with respect to
20 the operation of any motor vehicle, in form and in amounts
21 as required under the motor vehicle financial responsibility
22 laws of this state, then the department may accept the
23 application of such minor when signed by one parent or the
24 guardian of such minor, and while such proof is maintained
25 such parent or guardian shall not be subject to the

1 liability imposed under subsection (2) of this section."

2 Section 11. Section 61-5-110, MCA, is amended to read:

3 "61-5-110. Examination of applicants. The department
4 shall examine every applicant for ~~an--operator's--or~~
5 ~~chauffeur's~~ a driver's license, commercial vehicle
6 operator's endorsement, or motorcycle endorsement, except as
7 otherwise provided in this section. Such examination shall
8 include a test of the applicant's eyesight, his ability to
9 read and understand highway signs regulating, warning, and
10 directing traffic, his knowledge of the traffic laws of this
11 state, and shall include an actual demonstration of ability
12 to exercise ordinary and reasonable control in the operation
13 of a motor vehicle, quadricycle, or motorcycle. ~~The~~
14 ~~department--shall--make--provision--for--giving--an--examination~~
15 ~~either--in--the--county--where--the--applicant--resides--or--at--a~~
16 ~~place--adjacent--thereto--reasonably--convenient--to--the~~
17 ~~applicant--within--not--more--than--30--days--from--the--date--the~~
18 ~~application--is--received.~~ The examination for the commercial
19 vehicle operator's endorsement may include additional
20 items."

21 Section 12. Section 61-5-111, MCA, is amended to read:

22 "61-5-111. ~~Licenses--issued--to--operators--and--chauffeurs~~
23 ~~---renewals--and--expiration---fees.~~ Renewals, expirations,
24 and fees for licenses, permits, and endorsements. (1) The
25 department shall have authority to appoint county treasurers

1 and other qualified officers to act as its agents for the
2 sale of driver's licenses receipts and shall make necessary
3 rules governing such sales. In those areas where the
4 department provides driver licensing services 3 days or more
5 a week the department is responsible for sale of receipts
6 and may not appoint an agent. The department, upon receipt
7 of payment of the fees specified in this section, shall
8 issue to every applicant qualifying therefor ~~an--operator's~~
9 ~~or--chauffeur's~~ a driver's license as applied for. Such
10 licenses The license shall contain a full-face photograph of
11 the licensee in the size and form as prescribed by the
12 department, except as provided in subsection (4); a
13 distinguishing number issued to the licensee; the full name,
14 date of birth, residence address, and a brief description of
15 the licensee; and either a facsimile of the signature of the
16 licensee or a space upon which he shall write his signature
17 in pen and ink immediately upon receipt of the license. No
18 license shall be valid until it has been so signed by the
19 licensee.

20 (2) The department shall, when any person applies for
21 renewal of ~~an--operator's--or--chauffeur's~~ a driver's license,
22 test the applicant's eyesight and may also in the
23 department's discretion have the applicant demonstrate his
24 physical ability to operate and to exercise ordinary and
25 reasonable care in the operation of a motor vehicle. A

1 person shall be considered to have applied for renewal of a
 2 ~~Montana operator's--or--chauffeur's~~ driver's license if the
 3 application is made within 3 months of the expiration of his
 4 license.

5 (3) Licenses shall expire on the anniversary of the
 6 date of birth of the licensee 4 years or less after the date
 7 of issue.

8 (4) A license issued to a person under the age of 19
 9 years must contain a photograph of the licensee's profile.

10 (5) Whenever the department issues an original license
 11 to a person under the age of 18 years, the license shall be
 12 designated and clearly marked as a "provisional license".
 13 Any license so designated and marked may be suspended by the
 14 department for a period of not more than 12 months, when its
 15 records disclose that the licensee, subsequent to the
 16 issuance of such license, has been guilty of careless or
 17 negligent driving. Upon renewal ~~as-applicable-to-operator's~~
 18 ~~licenses;~~ the department may, for any reasonable cause as
 19 shown by its records, designate the renewal of the license
 20 as provisional; otherwise, a license in usual form shall be
 21 issued subject to other provisions of the laws of Montana.

22 (6) It shall be unlawful for any person to have in his
 23 possession or under his control more than one Montana
 24 ~~operator's--or--chauffeur's~~ driver's license at any one time.
 25 A license is not valid for the operation of a motorcycle or

1 quadricycle until the holder thereof has completed the
 2 requirements of 61-5-110 and the license has been clearly
 3 marked with the words "motorcycle endorsement". A license
 4 is not valid for the operation of a commercial vehicle until
 5 the holder thereof has completed the requirements of
 6 61-5-110 and the license has been clearly marked with the
 7 words "commercial vehicle operator's endorsement".

8 (7) Fees for driver's licenses shall be as follows:

9 (a) driver's license -- \$3 per year or fraction
 10 thereof;

11 (b) motorcycle endorsement -- 50 cents per year or
 12 fraction thereof;

13 (c) commercial vehicle operator's endorsement:

14 (i) Class I A -- \$3 per year or fraction thereof;

15 (ii) Class II B -- \$1.50 per year or fraction thereof.

16 (8) A license designated as chauffeur as of January 1,
 17 1988, is valid as commercial vehicle operator's endorsements
 18 until the expiration of the license.

19 (9) On or after January 1, 1988, if the holder of a
 20 chauffeur's license wishes to convert his chauffeur's
 21 license to a commercial vehicle operator's endorsement, he
 22 may do so by paying the appropriate fee covering the
 23 remainder of the life of his license and complying with the
 24 requirements established by the department.

25 (10) After January 1, 1988, the holder of a valid

1 chauffeur's license who is renewing and wishes to obtain a
 2 commercial vehicle operator's endorsement may do so upon
 3 paying the appropriate fees and complying with the
 4 requirements established by the department."

5 Section 13. Section 61-5-112, MCA, is amended to read:

6 "61-5-112. Classification of chauffeurs commercial
 7 vehicle operator's endorsements -- special restrictions. {1}
 8 The department upon issuing a chauffeur's license with a
 9 commercial vehicle operator's endorsement shall indicate
 10 thereon the class of license so issued and shall
 11 appropriately examine each applicant according to the class
 12 of license endorsement applied for and may impose such rules
 13 for the exercise classification, examination, and use
 14 thereof as it considers necessary for the safety and welfare
 15 of the traveling public.

16 ~~{2}--No person may drive any--school--bus--transporting~~
 17 ~~school--children--or--any--motor-vehicle-when-in-use-for-the~~
 18 ~~transportation-of-persons-for-compensation-until-he-has-been~~
 19 ~~licensed-as-a-chauffeur-for--either--such--purpose--and--the~~
 20 ~~license--so--indicates--The--department--may--not--issue--a~~
 21 ~~chauffeur's-license-for-either-purpose-unless-the--applicant~~
 22 ~~has--had-at-least-i-year-of-driving-experience-prior-thereto~~
 23 ~~and-the-department-is-fully-satisfied-as-to-the--applicant's~~
 24 ~~competency-and-fitness-to-be-employed."~~

25 Section 14. Section 61-5-113, MCA, is amended to read:

1 "61-5-113. Restricted licenses. (1) The department
 2 upon issuing an-operator's-or-chauffeur's a driver's license
 3 shall have authority whenever good cause appears to impose
 4 restrictions suitable to the licensee's driving ability with
 5 respect to the type of or special mechanical control devices
 6 required on a motor vehicle which the licensee may operate
 7 or such other restrictions applicable to the licensee as the
 8 department may determine to be appropriate to assure the
 9 safe operation of a motor vehicle by the licensee.

10 (2) The department may either issue a special
 11 restricted license or may set forth such restrictions upon
 12 the usual license form.

13 (3) The department may upon receiving satisfactory
 14 evidence of any violation of the restrictions of such
 15 license or endorsement suspend or revoke the same but the
 16 licensee shall be entitled to a hearing as upon suspension
 17 or revocation under this chapter.

18 (4) It is a misdemeanor for any person to operate a
 19 motor vehicle in any manner in violation of the restrictions
 20 imposed in a restricted license issued to him."

21 Section 15. Section 61-5-114, MCA, is amended to read:

22 "61-5-114. Duplicate licenses. In the event that an
 23 instruction permit or operator's-or-chauffeur's driver's
 24 license issued under the provisions of this chapter is lost
 25 or destroyed, the person to whom the same was issued may

1 upon the payment of a fee of \$5 obtain a duplicate or
 2 substitute thereof, upon furnishing proof satisfactory to
 3 the department that such permit or license has been lost or
 4 destroyed."

5 Section 16. Section 61-5-115, MCA, is amended to read:

6 "61-5-115. Notice of change of address or name.
 7 Whenever any person after applying for or receiving an
 8 ~~operator's-or-chauffeur's~~ a driver's license shall move from
 9 the address named in such application or in the license
 10 issued to him or when the name of a licensee is changed by
 11 marriage or otherwise such person shall within 10 days
 12 thereafter notify the department in writing of his old and
 13 new addresses or of such former and new names and of the
 14 number of any license then held by him."

15 Section 17. Section 61-5-116, MCA, is amended to read:

16 "61-5-116. License to be carried and exhibited on
 17 demand. Every licensee shall have his ~~operator's--or~~
 18 ~~chauffeur's~~ driver's license in his immediate possession at
 19 all times when operating a motor vehicle and shall display
 20 the same upon demand of a justice of the peace, a city or
 21 municipal judge, a peace officer, a highway patrolman, or a
 22 field deputy or inspector of the department. However, no
 23 person charged with violating this section shall be
 24 convicted if he produces in court or the office of the
 25 arresting officer ~~an--operator's-or-chauffeur's~~ a driver's

1 license theretofore issued to him and valid at the time of
 2 his arrest."

3 Section 18. Section 61-5-121, MCA, is amended to read:

4 "61-5-121. Disposition of fees. (1) The disposition of
 5 the fees from driver's licenses provided for in
 6 ~~61-5-111(6)(a)~~ 61-5-111(7)(a), motorcycle endorsements
 7 provided for in ~~61-5-111(6)(b)~~ 61-5-111(7)(b), commercial
 8 vehicle operator's endorsements provided for in
 9 61-5-111(7)(c), and duplicate driver's licenses provided for
 10 in 61-5-114 is as follows:

11 (a) The amount of 33 1/3% of each driver's license fee
 12 and of each duplicate driver's license fee must be deposited
 13 into the Montana highway patrolmen's retirement pension
 14 trust fund.

15 (b) (i) If the fees are collected by a county
 16 treasurer or other agent of the department, the amount of
 17 3 1/3% of each driver's license fee and of each duplicate
 18 driver's license fee must be deposited into the county
 19 general fund.

20 (ii) If the fees are collected by the department, the
 21 amount provided for in subsection (1)(b)(i) must be
 22 deposited into the state special revenue fund for use by the
 23 department to defray the costs of issuing licenses or
 24 duplicate licenses.

25 (c) (i) If the fee is collected by a county treasurer

1 or other agent of the department, the amount of 5% of each
2 motorcycle endorsement must be deposited into the county
3 general fund.

4 (ii) If the fee is collected by the department, the
5 amount provided for in subsection (1)(c)(i) must be
6 deposited into the state special revenue fund for use by the
7 department to defray the costs of issuing motorcycle
8 endorsements.

9 (d) The amount of 23 1/3% of each driver's license fee
10 and of each duplicate driver's license fee and the amount of
11 35% of each motorcycle endorsement fee must be deposited
12 into the state traffic education account.

13 (e) The amount of 40% of each driver's license fee and
14 of each duplicate driver's license fee and the amount of 60%
15 of each motorcycle endorsement fee must be deposited into
16 the state general fund.

17 (f) The entire amount of each commercial vehicle
18 operator's endorsement fee must be deposited into the motor
19 vehicle recording account established in 61-3-108.

20 (2) (a) If fees from driver's licenses, commercial
21 vehicle operator's endorsements, motorcycle endorsements,
22 and duplicate driver's licenses are collected by a county
23 treasurer or other agent of the department, he shall deposit
24 the amounts provided for in subsections (1)(b)(i) and
25 (1)(c)(i) into the county general fund. He shall then remit

1 to the state treasurer all remaining fees, together with a
2 statement indicating what portion of each fee is to be
3 deposited into the Montana highway patrolmen's retirement
4 pension trust fund, the state traffic education account, and
5 the state general fund. The state treasurer, upon receipt of
6 the fees and statement, shall deposit the fees as provided
7 in subsections (1)(a), (1)(d), and (1)(e), and (1)(f).

8 (b) If fees from driver's licenses, commercial vehicle
9 operator's endorsements, motorcycle endorsements, and
10 duplicate driver's licenses are collected by the department,
11 it shall remit all fees to the state treasurer, together
12 with a statement indicating what portion of each fee is to
13 be deposited into the Montana highway patrolmen's retirement
14 pension trust fund, the state special revenue fund, the
15 state traffic education account, and the state general fund.
16 The state treasurer, upon receipt of the fees and statement,
17 shall deposit the fees as provided in subsections (1)(a),
18 (1)(b)(ii), (1)(c)(ii), (1)(d), and (1)(e), and (1)(f)."

19 Section 19. Section 61-5-201, MCA, is amended to read:

20 "61-5-201. Authority of department to cancel licenses
21 license and endorsement. (1) The department is hereby
22 authorized to cancel any--operator's--or--chauffeur's a
23 driver's license and commercial vehicle operator's
24 endorsement, or just the commercial vehicle operator's
25 endorsement, upon determining that the licensee was not

1 entitled to the issuance ~~thereof-hereunder~~ or that since the
2 issuance ~~thereof~~ said licensee has become ineligible (such
3 ineligibility shall be determined pursuant to the provisions
4 of 61-5-105) or that said licensee failed to give the
5 required or correct information in his application or
6 committed any fraud in making such application.

7 (2) Upon such cancellation, the licensee must
8 surrender the license so canceled to the department."

9 Section 20. Section 61-5-203, MCA, is amended to read:

10 "61-5-203. Suspending privileges of nonresidents. The
11 privilege of driving a motor vehicle on the highways of this
12 state given to a nonresident ~~hereunder~~ shall be subject to
13 suspension or revocation by the department in like manner
14 and for like causes as ~~an-operator's-or-chauffeur's a~~
15 driver's license and commercial vehicle operator's
16 endorsement, or just an endorsement issued hereunder may be
17 suspended or revoked."

18 Section 21. Section 61-5-204, MCA, is amended to read:

19 "61-5-204. Suspending resident's license upon
20 conviction in another state. The department is authorized to
21 suspend or revoke the driver's license and commercial
22 vehicle operator's endorsement, or just the commercial
23 vehicle operator's endorsement of any resident of this state
24 or the privilege of a nonresident to drive a motor vehicle
25 in this state upon receiving notice of the conviction of

1 such person in another state of an offense therein which, if
2 committed in this state, would be grounds for the suspension
3 or revocation of the driver's license of--an-operator--or
4 chauffeur or commercial vehicle operator's endorsement."

5 Section 22. Section 61-5-205, MCA, is amended to read:

6 "61-5-205. Mandatory revocation of license upon proper
7 authority. The department upon proper authority shall revoke
8 the driver's license, including the commercial vehicle
9 operator's endorsement, or the operating privilege of any
10 operator-or-chauffeur driver upon receiving a record of ~~such~~
11 ~~operator's---or---chauffeur's~~ the driver's conviction or
12 forfeiture of bail not vacated of any of the following
13 offenses, when such conviction or forfeiture has become
14 final:

15 (1) negligent homicide resulting from the operation of
16 a motor vehicle;

17 (2) driving a motor vehicle while under the influence
18 of alcohol or narcotic drug, or willfully or knowingly under
19 the influence of any other drug to a degree which renders
20 him incapable of safely driving a motor vehicle, or a
21 combination thereof except as provided in 61-5-208, or
22 operation of a motor vehicle by a person with a blood
23 alcohol concentration of 0.10 or more;

24 (3) any felony in the commission of which a motor
25 vehicle is used;

1 (4) failure to stop and render aid as required under
2 the laws of this state in the event of a motor vehicle
3 accident resulting in the death or personal injury of
4 another;

5 (5) perjury or the making of a false affidavit or
6 statement under oath to the department under this chapter or
7 under any other law relating to the ownership or operation
8 of motor vehicles;

9 (6) conviction or forfeiture of bail not vacated upon
10 three charges of reckless driving committed within a period
11 of 12 months."

12 Section 23. Section 61-5-206, MCA, is amended to read:

13 "61-5-206. Authority of department to suspend license
14 or driving privilege or issue probationary license. (1) The
15 department is hereby authorized to suspend the driver's
16 license, including the commercial vehicle operator's
17 endorsement, or driving privilege of ~~an--operator--or~~
18 ~~chauffeur a driver~~ a driver without preliminary hearing upon a
19 showing by its records or other sufficient evidence that the
20 licensee:

21 (a) has been involved as a driver in any accident
22 resulting in the death or personal injury of another or
23 serious property damage;

24 (b) has been convicted with such frequency of serious
25 offenses against traffic regulations governing the movement

1 of vehicles as to indicate a disrespect for traffic laws and
2 a disregard for the safety of other persons on the highways;

3 (c) is an habitually reckless or negligent driver of a
4 motor vehicle;

5 (d) is incompetent to drive a motor vehicle;

6 (e) has permitted an unlawful or fraudulent use of
7 such license as specified in 61-5-302;

8 (f) has committed an offense in another state which if
9 committed in this state would be grounds for suspension or
10 revocation; or

11 (g) has falsified his date of birth on his application
12 for a driver's license.

13 (2) However, the department may, in its discretion and
14 in lieu of such suspension of license or driving privilege,
15 issue a probationary license to ~~an operator or~~ a
16 driver, without preliminary hearing, upon a showing by its
17 records or other sufficient evidence that the licensee's
18 driving record is such as would authorize suspension as
19 provided in subsection (1) hereof. Upon issuance of a
20 probationary license the licensee shall be subject to the
21 restrictions set forth thereon. The licensee's driving
22 privilege may be suspended upon conviction or forfeiture of
23 bail not vacated of any traffic violation during the period
24 of such probation. The licensee shall surrender to the
25 department all driver licenses theretofore issued to him

1 before such probationary license shall be issued. His
 2 refusal or neglect to surrender such licenses upon demand
 3 shall be ground for suspending all such licenses.
 4 Probationary licenses may be issued for a period not to
 5 exceed 12 months.

6 (3) Upon suspending the license of any person or upon
 7 placing such person on probation, as hereinbefore in this
 8 section authorized, the department shall immediately notify
 9 the licensee in writing and upon his request shall afford
 10 him an opportunity for a hearing as early as practical
 11 within not to exceed 20 days after receipt of such request
 12 in the county wherein the licensee resides unless the
 13 department and the licensee agree that such hearing may be
 14 held in some other county. Upon such hearing the department
 15 through its duly authorized agent may administer oaths and
 16 may issue subpoenas for the attendance of witnesses and the
 17 production of relevant books and papers and may require a
 18 reexamination of the licensee. Upon such hearing the
 19 department shall either rescind its order of suspension or
 20 probation, or, good cause appearing therefor, may affirm,
 21 reduce, or extend the period of probation or suspension of
 22 such license."

23 Section 24. Section 61-5-207, MCA, is amended to read:
 24 "61-5-207. Reexamination -- when required. The
 25 department having good cause to believe that a licensed

1 ~~operator-or-chauffeur driver~~ is incompetent or otherwise not
 2 qualified to be licensed or to have a commercial vehicle
 3 operator's endorsement, may upon written notice of at least
 4 5 days to the licensee require him to submit to an
 5 examination. Upon the conclusion of such examination the
 6 department shall take action as may be appropriate and may
 7 suspend or revoke the license and commercial vehicle
 8 operator's endorsement, or just the commercial vehicle
 9 operator's endorsement of such person or permit him to
 10 retain such license, or may issue a license subject to
 11 restrictions as permitted under 61-5-113. Refusal or neglect
 12 of the licensee to submit to such examination shall be
 13 ground for suspension or revocation of his license."

14 Section 25. Section 61-5-208, MCA, is amended to read:
 15 "61-5-208. Period of suspension or revocation. (1) The
 16 department may not suspend or revoke a driver's license,
 17 commercial vehicle operator's endorsement, or privilege to
 18 drive a motor vehicle on the public highways for a period of
 19 more than 1 year, except as permitted under 61-5-207,
 20 61-5-212, 61-6-123, and 61-11-211.

21 (2) Any person whose license, commercial vehicle
 22 operator's endorsement, or privilege to drive a motor
 23 vehicle on the public highways has been suspended or revoked
 24 is not entitled to have such license, endorsement, or
 25 privilege renewed or restored unless the revocation was for

1 a cause which has been removed, except that after the
 2 expiration of the period of such revocation or suspension,
 3 the person may make application for a new license or
 4 endorsement as provided by law but the department may not
 5 then issue a new license or endorsement unless and until it
 6 is satisfied, after investigation of the driving ability of
 7 the person and upon a showing by its records or other
 8 sufficient evidence, that the person is eligible to be
 9 licensed to drive in this state. When any person is
 10 convicted or forfeits bail or collateral not vacated for the
 11 offense of operating or being in actual physical control of
 12 a motor vehicle while under the influence of alcohol or a
 13 narcotic drug or knowingly or willingly under the influence
 14 of any other drug to a degree which renders him incapable of
 15 safely driving a motor vehicle, or a combination thereof, or
 16 for the offense of operation of a motor vehicle by a person
 17 with alcohol concentration of 0.10 or more, the department
 18 shall, upon receiving a report of such conviction or
 19 forfeiture of bail or collateral not vacated, suspend the
 20 license, including any commercial vehicle operator's
 21 endorsement, or driving privilege of the person for a period
 22 of 6 months. Upon receiving a report of a conviction or
 23 forfeiture of bail or collateral for a second, third, or
 24 subsequent offense within 5 years of the first offense, the
 25 department shall revoke the license, including any

1 commercial vehicle operator's endorsement, or driving
 2 privilege of the person for a period of 1 year.

3 (3) The period for all revocations made mandatory by
 4 61-5-205 shall be 1 year except as provided in subsection
 5 (2) of this section.

6 (4) The period of revocation for any person convicted
 7 of any offense which makes mandatory the revocation of the
 8 ~~operator's--or--chauffeur's~~ driver's license commences from
 9 date of conviction or forfeiture of bail."

10 Section 26. Section 61-5-209, MCA, is amended to read:

11 "61-5-209. Surrender and return of license or
 12 endorsement. The department upon suspending or revoking a
 13 license or commercial vehicle operator's endorsement shall
 14 require that such license shall be surrendered to and be
 15 retained by the department except that at the end of the
 16 period of suspension such license so surrendered shall be
 17 returned to the licensee."

18 Section 27. Section 61-5-210, MCA, is amended to read:

19 "61-5-210. No operation under foreign license during
 20 suspension or revocation in this state. Any resident or
 21 nonresident whose ~~operator's-or--chauffeur's~~ license or right
 22 or privilege to operate a motor vehicle or commercial motor
 23 vehicle in this state has been suspended or revoked as
 24 provided in this chapter shall not operate a motor vehicle
 25 or commercial motor vehicle in this state under a license,

1 permit, or registration certificate issued by any other
 2 jurisdiction or otherwise during such suspension or after
 3 such revocation until a new license or commercial vehicle
 4 operator's endorsement is obtained when and as permitted
 5 under this chapter."

6 Section 28. Section 61-5-211, MCA, is amended to read:
 7 "61-5-211. Right of appeal to court. Any person denied
 8 a driver's license, commercial motor vehicle operator's
 9 endorsement, or whose license had or endorsement has been
 10 canceled, suspended, or revoked by the department except
 11 where such cancellation or revocation is mandatory under the
 12 provisions of this chapter shall have the right to file a
 13 petition within 30 days thereafter for a hearing in the
 14 matter in the district court in the county wherein such
 15 person shall reside. Such court is hereby vested with
 16 jurisdiction and it shall be its duty to set the matter for
 17 hearing upon 30 days' written notice to the department, and
 18 thereupon to take testimony and examine into the facts of
 19 the case and to determine whether the petitioner is entitled
 20 to a license or commercial vehicle operator's endorsement or
 21 is subject to suspension, cancellation, or revocation of the
 22 license or endorsement under the provisions of this
 23 chapter."

24 Section 29. Section 61-5-212, MCA, is amended to read:
 25 "61-5-212. Driving while license suspended or revoked

1 -- penalty. (1) Any person who drives a motor vehicle or
 2 commercial motor vehicle on any public highway of this state
 3 at a time when his privilege so to do is suspended or
 4 revoked shall be guilty of a misdemeanor and upon conviction
 5 shall be punished by imprisonment for not less than 2 days
 6 or more than 6 months and there may be imposed in addition
 7 thereto a fine of not more than \$500.

8 (2) The department upon receiving a record of the
 9 conviction of any person under this section upon a charge of
 10 driving a vehicle while the license or commercial vehicle
 11 operator's endorsement of such person was suspended or
 12 revoked shall extend the period of such suspension or
 13 revocation for an additional like period."

14 Section 30. Section 61-5-301, MCA, is amended to read:
 15 "61-5-301. Indication on driver's license of intent to
 16 make anatomical gift. (1) The department of justice shall
 17 provide on each ~~operator's or chauffeur's~~ driver's license a
 18 space for indicating when the licensee has executed a
 19 document under 72-17-204 of intent to make a gift of all or
 20 part of his body under the Uniform Anatomical Gift Act.

21 (2) The department shall provide each applicant, at
 22 the time of application, printed information calling the
 23 applicant's attention to the provisions of this section, and
 24 each applicant must be given an opportunity to indicate in
 25 the space provided under subsection (1) his intent to make

1 an anatomical gift.

2 (3) The department shall issue to every applicant who
3 indicates such an intent a statement which, when signed by
4 the licensee in the manner prescribed in 72-17-204,
5 constitutes a document of anatomical gift. This statement
6 must be printed on a sticker that the donor may attach
7 permanently to the back of his driver's license.

8 (4) The department shall also furnish the licensee a
9 means of revoking the document of gift upon the license."

10 Section 31. Section 61-5-302, MCA, is amended to read:

11 "61-5-302. Unlawful use of license. It is a
12 misdemeanor for any person to:

13 (1) display or cause or permit to be displayed or have
14 in his possession any canceled, revoked, suspended,
15 fictitious, or altered operator's-or-chauffeur's driver's
16 license;

17 (2) lend his operator's--or---chauffeur's driver's
18 license to any other person or knowingly permit its use by
19 another;

20 (3) display or represent as one's own any operator's
21 or-chauffeur's driver's license not issued to him;

22 (4) fail or refuse to surrender to the department upon
23 its lawful demand any operator's-or-chauffeur's driver's
24 license which has been suspended, revoked, or canceled;

25 (5) use a false or fictitious name in any application

1 for an--operator's--or---chauffeur's a driver's license or
2 commercial vehicle operator's endorsement or knowingly make
3 a false statement or knowingly conceal a material fact or
4 otherwise commit a fraud in any such application; or

5 (6) permit any unlawful use of an--operator's--or
6 chauffeur's a driver's license issued to him."

7 Section 32. Section 61-5-305, MCA, is amended to read:

8 "61-5-305. Employing unlicensed---chauffeur driver
9 without endorsement. No person shall employ as a chauffeur
10 of--a--motor--vehicle commercial vehicle operator any person
11 not then licensed and endorsed as provided by this chapter."

12 Section 33. Section 61-5-306, MCA, is amended to read:

13 "61-5-306. Renting motor vehicle to another. (1) No
14 person shall rent a motor vehicle to any other person unless
15 the latter person is then duly licensed hereunder or, in the
16 case of a nonresident, then duly licensed under the laws of
17 the state or country of his residence except a nonresident
18 whose home state or country does not require that an
19 operator be licensed.

20 (2) No person shall rent a motor vehicle to another
21 until he has inspected the operator's--or---chauffeur's
22 driver's license of the person to whom the vehicle is to be
23 rented and compared and verified the signature thereon with
24 the signature of such person written in his presence.

25 (3) No person may rent a motor vehicle which is

1 defined as a commercial motor vehicle under this title to
 2 another until he has inspected the driver's license of that
 3 person and determined that the person has a commercial
 4 vehicle operator's endorsement.

5 ~~(3)~~(4) Every person renting a motor vehicle to another
 6 shall keep a record of the registration number of the motor
 7 vehicle so rented, the name and address of the person to
 8 whom the vehicle is rented, and the number and expiration
 9 date of the license of said latter person, ~~and the date and~~
 10 ~~place when and where said license was issued.~~ Such The
 11 record shall be open to inspection by any police officer or
 12 officer or employee of the department."

13 Section 34. Section 61-7-105, MCA, is amended to read:

14 "61-7-105. Duty to give information and render aid.

15 The driver of any vehicle involved in an accident resulting
 16 in injury to or death of any person or damage to any vehicle
 17 which is driven or attended by any person shall give his
 18 name, address, and the registration number of the vehicle he
 19 is driving and shall upon request and if available exhibit
 20 his ~~operator's--or--chauffeur's~~ driver's license to the person
 21 struck or the driver or occupant of or person attending any
 22 vehicle collided with and shall render to any person injured
 23 in such accident reasonable assistance, including the
 24 carrying, or the making of arrangements for the carrying, of
 25 such person to a physician, surgeon, or hospital for medical

1 or surgical treatment if it is apparent that such treatment
 2 is necessary or if such carrying is requested by the injured
 3 person."

4 Section 35. Section 61-7-107, MCA, is amended to read:

5 "61-7-107. Duty upon striking fixtures or other
 6 property upon a highway. The driver of any vehicle involved
 7 in an accident resulting only in damage to fixtures or other
 8 property legally upon or adjacent to a highway shall take
 9 reasonable steps to locate and notify the owner or person in
 10 charge of such property of such fact and of his name and
 11 address and of the registration number of the vehicle he is
 12 driving and shall upon request and if available exhibit his
 13 ~~operator's--or--chauffeur's~~ driver's license and shall make
 14 report of such accident when and as required in 61-7-109."

15 Section 36. Section 61-11-101, MCA, is amended to
 16 read:

17 "61-11-101. Report of convictions and suspension or
 18 revocation of driver's licenses -- surrender of licenses.
 19 (1) Whenever any person is convicted of any offense for
 20 which chapter 5 makes mandatory the suspension or revocation
 21 of the ~~operator's--or--chauffeur's~~ driver's license of such
 22 the person by the department, the court in which such
 23 conviction is had shall require the surrender to it of all
 24 ~~operator's--and--chauffeur's~~ driver's licenses then held by
 25 the person so convicted. The court shall thereupon, within 5

1 days, forward the license to the department and at the same
 2 time forward a record of such conviction to the department,
 3 providing that if such person does not possess a driver's
 4 license the court shall so indicate in its report to the
 5 department.

6 (2) Every court having jurisdiction over offenses
 7 committed under any act of this state or municipal ordinance
 8 regulating the operation of motor vehicles on highways shall
 9 forward, within 5 days, to the department a record of the
 10 conviction or forfeiture of bail, not vacated, of any person
 11 in the court for a violation of any such laws, other than
 12 regulations governing standing or parking, and may recommend
 13 the suspension of the ~~operator's--or--chauffeur's~~ driver's
 14 license of the person so convicted. The court may also
 15 recommend that the department issue a restricted
 16 probationary license in lieu of the suspension required in
 17 61-5-208(2) on the condition that the individual attend a
 18 driver improvement school or an alcohol treatment program if
 19 one is available. The department shall issue a restricted
 20 probationary license unless the person otherwise is not
 21 entitled to a Montana ~~operator's--or--chauffeur's~~ driver's
 22 license. Upon issuance of a probationary license, the
 23 licensee is subject to the restrictions set forth thereon
 24 and may not operate a vehicle in violation of those
 25 restrictions.

1 (3) Any court or other agency of this state, or a
 2 subdivision thereof, which has jurisdiction to take any
 3 action suspending, revoking, or otherwise limiting a license
 4 to drive shall report any such action and the adjudication
 5 upon which it is based to the department within 5 days on
 6 forms furnished by the department."

7 Section 37. Section 20-10-103, MCA, is amended to
 8 read:

9 "20-10-103. School bus driver qualifications. Any
 10 driver of a school bus shall be qualified to drive such
 11 school bus by compliance with the following requirements:

- 12 (1) he is not less than 18 years of age;
- 13 (2) he is of good moral character;
- 14 (3) he is the holder of a ~~chauffeur's~~ driver's license
 15 with a commercial vehicle operator's endorsement;
- 16 (4) he has filed with the district a satisfactory
 17 medical examination report, on a blank provided by the
 18 superintendent of public instruction, signed by any
 19 physician licensed in the United States or, if acceptable to
 20 an insurance carrier, any licensed physician;
- 21 (5) he has completed a standard first aid course and
 22 holds a valid standard first aid certificate from an
 23 authorized instructor. The issuance of such certificate
 24 shall be governed by rules established by the superintendent
 25 of public instruction, provided that such rules may suspend

1 this requirement for a reasonable period of time where there
2 has been an inadequate opportunity for securing the first
3 aid course and certificate.

4 (6) he has complied with any other qualifications
5 established by the board of public education; and

6 (7) he has filed with the county superintendent a
7 certificate from the trustees of the district for which the
8 school bus is to be driven certifying compliance with the
9 several driver qualifications enumerated in this section."

10 Section 38. Section 72-17-204, MCA, is amended to
11 read:

12 "72-17-204. Manner of executing gift -- effectiveness.

13 (1) A gift of all or part of the body under 72-17-201(1) may
14 be made by will. The gift becomes effective upon the death
15 of the testator without waiting for probate. If the will is
16 not probated or if it is declared invalid for testamentary
17 purposes, the gift, to the extent that it has been acted
18 upon in good faith, is nevertheless valid and effective.

19 (2) (a) A gift of all or part of the body under
20 72-17-201(1) may also be made by document other than a will.
21 The gift becomes effective upon the death of the donor.

22 (b) The document may be a card designed to be carried
23 on the person and must be signed by the donor in the
24 presence of two witnesses who must sign the document in his
25 presence. If the donor cannot sign, the document may be

1 signed for him at his direction and in his presence in the
2 presence of two witnesses who must sign the document in his
3 presence. Delivery of the document of gift during the
4 donor's lifetime is not necessary to make the gift valid.

5 (c) The document may be a statement attached to the
6 reverse side of the person's Montana motor vehicle
7 ~~operator's-or-chauffeur's~~ driver's license. The statement
8 must be signed by the owner of the ~~operator's-or-chauffeur's~~
9 driver's license in the presence of two witnesses who must
10 sign the statement in the presence of the donor.

11 (3) Any gift by a person designated in 72-17-201(2)
12 shall be made by a document signed by him or made by his
13 telegraphic, recorded telephonic, or other recorded
14 message."

15 NEW SECTION. Section 39. Repealer. Section 61-1-312,
16 MCA, is repealed.

17 NEW SECTION. Section 40. Rulemaking authority. The
18 department of justice may adopt rules to implement [sections
19 1 through 38].

20 NEW SECTION. Section 41. Codification instruction.
21 Sections 1 through 4 are intended to be codified as an
22 integral part of Title 61, chapter 1, part 1, and the
23 provisions of Title 61, chapter 1, part 1, apply to sections
24 1 through 4.

25 NEW SECTION. Section 42. Effective date. This act is

SB 0212/02

1 effective January 1, 1988.

-End-

SENATE BILL NO. 212

INTRODUCED BY FARRELL, CAMPBELL, SWISGOOD, O'CONNELL,
HALLIGAN, FRITZ, GILBERT, GRADY, THOMAS, GLASER, HARP,
TVEIT, GAGE, WEEDING, B. WILLIAMS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A
CLASSIFIED COMMERCIAL VEHICLE OPERATOR'S LICENSING PROGRAM;
REVISING THE MOTOR VEHICLE LAWS TO REMOVE REFERENCES TO
CHAUFFEURS; AMENDING SECTIONS 20-10-103, 61-5-102, 61-5-104
THROUGH 61-5-108, 61-5-110 THROUGH 61-5-116, 61-5-121,
61-5-201, 61-5-203 THROUGH 61-5-212, 61-5-301, 61-5-302,
61-5-305, 61-5-306, 61-7-105, 61-7-107, 61-11-101, AND
72-17-204, MCA; REPEALING SECTION 61-1-312, MCA; AND
PROVIDING A DELAYED EFFECTIVE DATE."

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

NEW SECTION. Section 1. Commercial motor vehicle
defined -- exceptions. (1) "Commercial motor vehicle" means
a motor vehicle used to transport passengers or property if
the vehicle:

(a) has a gross vehicle weight of 26,001 pounds or
more;

(b) is designed to transport more than 15 passengers,
including the driver; or

(c) is used to transport hazardous material.

THERE ARE NO CHANGES IN SB 212 AND DUE
TO LENGTH WILL NOT BE RE-PRINTED ON
THIRD READING. PLEASE REFER TO SECOND
READING (YELLOW) COPY FOR COMPLETE TEXT.



1 STATEMENT OF INTENT

2 SENATE BILL 212

3 Senate Highways & Transportation Committee

4
5 A statement of intent is required for this bill because
6 [section 40] grants rulemaking authority to the department
7 of justice. The bill gives the department authority to
8 define commercial motor vehicle and to prescribe
9 requirements and procedures for the licensing of commercial
10 motor vehicles and commercial vehicle operators.

11 It is the legislature's intent that the department
12 adopt rules for commercial motor vehicles and operators in
13 order to bring the state into compliance with federal
14 regulations established by Title XII, Commercial Motor
15 Vehicle Safety Act of 1986, effective July 1, 1987.

REFERENCE BILL

SB 212



1 SENATE BILL NO. 212

2 INTRODUCED BY FARRELL, CAMPBELL, SWYSGOOD, O'CONNELL,
3 HALLIGAN, FRITZ, GILBERT, GRADY, THOMAS, GLASER, HARP,
4 TVEIT, GAGE, WEEDING, B. WILLIAMS

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A
7 CLASSIFIED COMMERCIAL VEHICLE OPERATOR'S LICENSING PROGRAM;
8 REVISING THE MOTOR VEHICLE LAWS TO REMOVE REFERENCES TO
9 CHAUFFEURS; AMENDING SECTIONS 20-10-103, 61-5-102, 61-5-104
10 THROUGH 61-5-108, 61-5-110 THROUGH 61-5-116, 61-5-121,
11 61-5-201, 61-5-203 THROUGH 61-5-212, 61-5-301, 61-5-302,
12 61-5-305, 61-5-306, 61-7-105, 61-7-107, 61-11-101, AND
13 72-17-204, MCA; REPEALING SECTION 61-1-312, MCA; AND
14 PROVIDING A DELAYED EFFECTIVE DATE."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 NEW SECTION. Section 1. Commercial motor vehicle
18 defined -- exceptions. (1) "Commercial motor vehicle" means
19 a motor vehicle used to transport passengers or property if
20 the vehicle:

21 (a) has a gross vehicle weight of 26,001 pounds or
22 more;

23 (b) is designed to transport more than 15 passengers,
24 including the driver; or

25 (c) is used to transport hazardous material.

1 (2) Vehicles operated within the state of Montana
2 which are registered as paying the 16% gross weight fee are
3 not commercial motor vehicles under this act.

4 NEW SECTION. Section 2. Commercial vehicle operator's
5 endorsement. "Commercial vehicle operator's endorsement"
6 means an endorsement to a Montana driver's license that
7 authorizes the licensee to operate a class of commercial
8 motor vehicle. HOWEVER, IF THE APPLICANT'S VEHICLE DOES NOT
9 OTHERWISE REQUIRE A COMMERCIAL VEHICLE OPERATOR'S
10 ENDORSEMENT, A HAZARDOUS MATERIAL ENDORSEMENT MAY BE
11 SUBSTITUTED FOR THE COMMERCIAL VEHICLE OPERATOR'S
12 ENDORSEMENT.

13 NEW SECTION. Section 3. Driver's license. "Driver's
14 license" means any license or permit to operate a motor
15 vehicle issued under, or granted by, the laws of this state
16 including:

17 (1) any temporary license or instruction permit;

18 (2) the privilege of any person to drive a motor
19 vehicle whether or not such person holds a valid license;

20 (3) any nonresident's driving privilege;

21 (4) a motorcycle endorsement; and

22 (5) a commercial vehicle operator's endorsement.

23 NEW SECTION. Section 4. Hazardous material.
24 "Hazardous material" means a substance or material, DEFINED
25 OR LISTED AS A HAZARDOUS MATERIAL IN TITLE 49, CODE OF

1 FEDERAL REGULATIONS, in a quantity and form that may pose an
 2 unreasonable risk to health and safety or property when
 3 transported.

4 Section 5. Section 61-5-102, MCA, is amended to read:

5 "61-5-102. ~~Operators--and--chauffeurs~~ Drivers to be
 6 licensed. (1) No person, except those hereinafter expressly
 7 exempted under 61-5-104, shall drive any motor vehicle upon
 8 a highway in this state unless such person has a valid
 9 Montana driver's license ~~as an operator or--chauffeur--under~~
 10 ~~the--provisions--of--this--chapter~~. No person shall receive an
 11 ~~operator's or--chauffeur's~~ a Montana driver's license unless
 12 and until he surrenders to the department all valid
 13 ~~operators'--and--chauffeurs'~~ driver's licenses in his
 14 possession issued to him by any other jurisdiction. All
 15 surrendered licenses shall be returned by the department to
 16 the issuing department together with information that the
 17 licensee is now licensed in this state. No person shall be
 18 permitted to have more than one valid ~~operator's--or~~
 19 ~~chauffeur's~~ driver's license at any time.

20 ~~(2)--No--person--shall--drive--a--motor--vehicle--as--a~~
 21 ~~chauffeur--unless--he--holds--a--valid--chauffeur's--license--No~~
 22 ~~person--shall--receive--a--chauffeur's--license--unless--and--until~~
 23 ~~he--surrenders--to--the--department--any--operator's--license~~
 24 ~~issued--to--him--or--an--affidavit--that--he--does--not--possess--an~~
 25 ~~operator's--license--Any--person--holding--a--valid--chauffeur's~~

1 ~~license hereunder need not procure an operator's license.~~

2 ~~(3)(2)~~ Whenever a city or town requires ~~an operator or~~
 3 ~~chauffeur~~ a licensed driver to obtain a local driving
 4 license or permit, such a license or permit shall not be
 5 issued unless the applicant therefor presents a state
 6 driver's license valid under the provisions of this chapter.

7 ~~(4)(3)~~ A person operating a bicycle defined in
 8 61-1-123(2) shall have in his possession at all times when
 9 operating the bicycle a valid Montana driver's license."

10 Section 6. Section 61-5-104, MCA, is amended to read:

11 "61-5-104. Exemptions. (1) The following persons are
 12 exempt from license hereunder:

13 (a) any person who is a member of the armed forces of
 14 the United States while operating a motor vehicle owned by
 15 or leased to the United States government and being operated
 16 on official business;

17 (b) any person who is a member of the armed forces of
 18 the United States on active duty in Montana who holds a
 19 valid license issued by another state and the spouse of such
 20 a person who holds a valid license issued by another state
 21 and who is not employed in Montana except as a member of the
 22 armed forces; if a spouse of a member of the armed forces
 23 becomes gainfully employed in Montana, such spouse must be
 24 licensed as required by 61-5-102 within 90 days of becoming
 25 so employed;

1 (c) any person on active duty in the armed forces of
 2 the United States who has in his immediate possession a
 3 valid license issued in a foreign country by the armed
 4 forces of the United States, for a period of 45 days from
 5 the date of his return to the United States;

6 (d) any person while driving or operating any road
 7 machine, farm tractor, or implement of husbandry temporarily
 8 operated or moved on a highway.

9 (2) A nonresident who is at least 15 years of age and
 10 who has in his immediate possession a valid operator's
 11 license issued to him in his home state or country may
 12 operate a motor vehicle in this state only as an operator.

13 (3) A nonresident who is at least 18 years of age and
 14 who has in his immediate possession a valid chauffeur's
 15 commercial operator's license issued to him in his home
 16 state or country may operate a motor vehicle or commercial
 17 motor vehicle in this state ~~either--as--an--operator--or~~
 18 chauffeur subject to the age limits applicable to chauffeurs
 19 commercial vehicle operators in this state.

20 (4) Any nonresident who is at least 18 years of age,
 21 whose home state or country does not require the licensing
 22 of operators, may operate a motor vehicle as an operator
 23 only, for a period of not more than 90 days in any calendar
 24 year, if the motor vehicle so operated is duly registered in
 25 the home state or country of such nonresident.

1 (5) A driver's license issued hereunder to any person
 2 who enters the United States armed forces, if valid and in
 3 force and effect at the time such person enters the service,
 4 shall continue in full force and effect so long as such
 5 service shall continue unless such license is sooner
 6 suspended, revoked, or canceled for a cause as provided by
 7 law, and for not to exceed 30 days following the date on
 8 which holder of such driver's license is honorably separated
 9 from such service. During said 30-day period, such license
 10 shall be valid only when in the immediate possession of the
 11 licensee while driving and the licensee has his discharge,
 12 separation, leave, or furlough papers in his immediate
 13 possession."

14 Section 7. Section 61-5-105, MCA, is amended to read:
 15 "61-5-105. Who may not be licensed. The department
 16 shall not issue any license hereunder to any person:

17 (1) ~~as--an--operator,~~ who is under the age of 16 years,
 18 with these exceptions:

19 (a) The department may issue ~~an-operator's~~ a driver's
 20 license to a person who is 15 years of age if he has passed
 21 a driver's education course approved by the department and
 22 the superintendent of public instruction.

23 (b) The department may issue a restricted license ~~as~~
 24 ~~hereinafter-provided~~ to any person who is at least 13 years
 25 of age;

1 †2) ~~as a chauffeur, employed by another for the~~
 2 ~~principal purpose of driving a motor vehicle when in use~~
 3 ~~exclusively for the transportation of property for~~
 4 ~~compensation, who is under the age of 18 years, or to any~~
 5 ~~person, as a chauffeur, who is employed by another for the~~
 6 ~~principal purpose of driving a motor vehicle transporting~~
 7 ~~passengers for hire or transporting school children, who is~~
 8 ~~under the age of 18 years;~~

9 †3) (2) as an operator or chauffeur, whose license has
 10 been suspended during the suspension, or to any person whose
 11 license has been revoked, except as provided in 61-5-208;

12 †4) (3) as an operator or chauffeur, who is an habitual
 13 drunkard, or is addicted to the use of narcotic drugs;

14 †5) (4) as an operator or chauffeur, who has previously
 15 been adjudged to be afflicted with or suffering from any
 16 mental disability or disease and who has not at the time of
 17 application been restored to competency by the methods
 18 provided by law;

19 †6) (5) as an operator or chauffeur, who is required by
 20 this chapter to take an examination, unless the person shall
 21 have successfully passed such examination;

22 †7) (6) who is required under the provisions of the
 23 motor vehicle financial responsibility laws of this state to
 24 deposit proof of financial responsibility and who has not
 25 deposited such proof;

1 †8) (7) as an operator or chauffeur, who is suffering
 2 from any form of epileptic type seizures or similar
 3 disorders characterized by lapse of consciousness or
 4 control, either temporary or prolonged, which is or may
 5 become chronic; provided that the department may in its
 6 discretion issue a license to a person suffering from
 7 epileptic type seizures or similar disorder characterized by
 8 lapse of consciousness or control, if otherwise qualified to
 9 be licensed to drive a motor vehicle, when the afflicted
 10 person can show through a written report from his attending
 11 physician that he has not experienced an epileptic type
 12 seizure or similar disorder characterized by lapse of
 13 consciousness or control for a sufficient period and that
 14 the condition is stabilized as attested to by said
 15 physician."

16 Section 8. Section 61-5-106, MCA, is amended to read:
 17 "61-5-106. Instruction and traffic education permits
 18 and temporary licenses. (1) Any person satisfying the age
 19 requirements specified in 61-5-105(1) may apply to the
 20 department for an instruction permit. The department may in
 21 its discretion, after the applicant has successfully passed
 22 all parts of the examination other than the driving test,
 23 issue to the applicant an instruction permit which shall
 24 entitle the applicant, while having such permit in his
 25 immediate possession, to drive a motor vehicle upon the

1 public highways for a period of 6 months when accompanied by
 2 a licensed operator-or-chauffeur driver who is occupying a
 3 seat beside the driver. In addition, the department may
 4 issue such an instruction permit to any person who is at
 5 least 14 1/2 years of age and who has successfully completed
 6 or is successfully participating in a traffic education
 7 course approved by the department and the superintendent of
 8 public instruction. Any instruction permit so issued shall
 9 be restricted to the operation of a motor vehicle only when
 10 accompanied by an approved instructor or licensed parent or
 11 guardian and may be further restricted to specific times
 12 and/or areas.

13 (2) The department upon receiving proper application
 14 may in its discretion issue a traffic education permit
 15 effective for a school year or more restricted period to an
 16 applicant who is enrolled in a traffic education program
 17 approved by the department even though the applicant has not
 18 reached the legal age to be eligible for an-operator's a
 19 driver's license. Such permit shall entitle the permittee
 20 when he has such a permit in his immediate possession to
 21 operate only on a designated highway or within a designated
 22 area a motor vehicle only when an approved instructor is
 23 occupying a seat beside the permittee or a motorcycle or
 24 quadricycle only when under the immediate and proximate
 25 supervision of an approved instructor.

1 (3) The department may in its discretion issue a
 2 temporary driver's permit to an applicant for an-operator's
 3 a driver's license permitting him to operate a motor vehicle
 4 while the department is completing its investigation and
 5 determination of all facts relative to such applicant's
 6 right to receive an--operator's a driver's license. Such
 7 permit must be in his immediate possession while operating a
 8 motor vehicle, and it shall be invalid when the applicant's
 9 license has been issued or for good cause has been refused.

10 (4) The department may in its discretion issue a
 11 temporary commercial vehicle operator's endorsement to an
 12 applicant for such an endorsement permitting him to operate
 13 a commercial motor vehicle while the department is
 14 completing its investigation and determination of all facts
 15 relative to the applicant's right to receive a commercial
 16 vehicle operator's endorsement. Such endorsement must be in
 17 his immediate possession while operating a commercial motor
 18 vehicle and is invalid when the applicant's endorsement has
 19 been issued or for good cause has been refused."

20 Section 9. Section 61-5-107, MCA, is amended to read:
 21 "61-5-107. Application for license, instruction
 22 permit, commercial vehicle operator's endorsement, or
 23 motorcycle endorsement. (1) Every application for an
 24 instruction permit, operator's--or--chauffeur's driver's
 25 license, commercial vehicle operator's endorsement, or

1 motorcycle endorsement shall be made upon a form furnished
 2 by the department. A motorcycle endorsement is required for
 3 the operation of a quadricycle. Every application shall be
 4 accompanied by the proper fee, and payment of such fee shall
 5 entitle the applicant to not more than three attempts to
 6 pass the examination within a period of 6 months from the
 7 date of application.

8 (2) Every such application shall state the full name,
 9 date of birth, sex, and residence address of the applicant,
 10 and briefly describe the applicant, and shall state whether
 11 the applicant has ~~theretofore~~ previously been licensed as an
 12 ~~operator--or--chauffeur, a driver or commercial vehicle~~
 13 operator, and, if so, when and by what state or country, and
 14 whether any such license has ever been suspended or revoked,
 15 or whether an application has ever been refused, and, if so,
 16 the date of and reason for such suspension, revocation, or
 17 refusal.

18 (3) Whenever application is received from an applicant
 19 previously licensed by any other jurisdiction, the
 20 department shall request a copy of such applicant's driving
 21 record from such previous licensing jurisdiction. When
 22 received, such driving records shall become a part of the
 23 driver's record in this state with the same force and effect
 24 as though entered on the driver's record in this state in
 25 the original instance."

1 Section 10. Section 61-5-108, MCA, is amended to read:
 2 "61-5-108. Application of minors. (1) The application
 3 of any person under the age of 18 years for an instruction
 4 permit or ~~operator's~~ driver's license shall be signed and
 5 verified before a person authorized to administer oaths by
 6 both the father and mother of the applicant, if both are
 7 living and have custody of him, or by the surviving parent,
 8 or in the event neither parent is living or has custody,
 9 then by the person or guardian having such custody or by an
 10 employer of such minor, or in the event there is no guardian
 11 or employer then by some other responsible person who is
 12 willing to assume the obligation imposed under this chapter
 13 upon a person signing the application of a minor.

14 (2) Any negligence or willful misconduct of a minor
 15 under the age of 18 years when driving a motor vehicle upon
 16 a highway shall be imputed to a person who has signed the
 17 application of such minor for a permit or license, which
 18 person shall be jointly and severally liable with such minor
 19 for any damages caused by such negligence or willful
 20 misconduct, except as otherwise provided in subsection (3)
 21 of this section.

22 (3) In the event a minor deposits or there is
 23 deposited upon his behalf proof of financial responsibility
 24 in respect to the operation of a motor vehicle owned by him,
 25 or if not the owner of a motor vehicle, then with respect to

1 the operation of any motor vehicle, in form and in amounts
2 as required under the motor vehicle financial responsibility
3 laws of this state, then the department may accept the
4 application of such minor when signed by one parent or the
5 guardian of such minor, and while such proof is maintained
6 such parent or guardian shall not be subject to the
7 liability imposed under subsection (2) of this section."

8 Section 11. Section 61-5-110, MCA, is amended to read:

9 "61-5-110. Examination of applicants. (1) The
10 department shall examine every applicant for ~~an operator's~~
11 ~~or chauffeur's~~ a driver's license, commercial vehicle
12 operator's endorsement, or motorcycle endorsement, except as
13 otherwise provided in this section. Such examination shall
14 include a test of the applicant's eyesight, his ability to
15 read and understand highway signs regulating, warning, and
16 directing traffic, his knowledge of the traffic laws of this
17 state, and shall include an actual demonstration of ability
18 to exercise ordinary and reasonable control in the operation
19 of a motor vehicle, quadricycle, or motorcycle. ~~The~~
20 ~~department shall make provision for giving an examination~~
21 ~~either in the county where the applicant resides or at a~~
22 ~~place adjacent thereto reasonably convenient to the~~
23 ~~applicant within not more than 30 days from the date the~~
24 ~~application is received.~~ The examination for the commercial
25 vehicle operator's endorsement may include additional items.

1 (2) WITHIN 90 DAYS OF RECEIPT OF AN APPLICATION FOR A
2 COMMERCIAL VEHICLE OPERATOR'S ENDORSEMENT, THE DEPARTMENT
3 SHALL GIVE AN EXAMINATION FOR ENDORSEMENT TO THE APPLICANT
4 IN THE COUNTY WHERE THE APPLICANT RESIDES."

5 Section 12. Section 61-5-111, MCA, is amended to read:

6 "~~61-5-111. Licenses-issued-to-operators-and-chauffeurs~~
7 ~~---renewals--and-expiration---fees~~ Renewals, expirations,
8 and fees for licenses, permits, and endorsements. (1) The
9 department shall have authority to appoint county treasurers
10 and other qualified officers to act as its agents for the
11 sale of driver's licenses receipts and shall make necessary
12 rules governing such sales. In those areas where the
13 department provides driver licensing services 3 days or more
14 a week the department is responsible for sale of receipts
15 and may not appoint an agent. The department, upon receipt
16 of payment of the fees specified in this section, shall
17 issue to every applicant qualifying therefor ~~an operator's~~
18 ~~or chauffeur's~~ a driver's license as applied for. ~~Such~~
19 ~~licenses~~ The license shall contain a full-face photograph of
20 the licensee in the size and form as prescribed by the
21 department, except as provided in subsection (4); a
22 distinguishing number issued to the licensee; the full name,
23 date of birth, residence address, and a brief description of
24 the licensee; and either a facsimile of the signature of the
25 licensee or a space upon which he shall write his signature

1 in pen and ink immediately upon receipt of the license. No
2 license shall be valid until it has been so signed by the
3 licensee.

4 (2) The department shall, when any person applies for
5 renewal of ~~an operator's or chauffeur's~~ a driver's license,
6 test the applicant's eyesight and may also in the
7 department's discretion have the applicant demonstrate his
8 physical ability to operate and to exercise ordinary and
9 reasonable care in the operation of a motor vehicle. A
10 person shall be considered to have applied for renewal of a
11 Montana ~~operator's or chauffeur's~~ driver's license if the
12 application is made within 3 months of the expiration of his
13 license.

14 (3) Licenses shall expire on the anniversary of the
15 date of birth of the licensee 4 years or less after the date
16 of issue.

17 (4) A license issued to a person under the age of 19
18 years must contain a photograph of the licensee's profile.

19 (5) Whenever the department issues an original license
20 to a person under the age of 18 years, the license shall be
21 designated and clearly marked as a "provisional license".
22 Any license so designated and marked may be suspended by the
23 department for a period of not more than 12 months, when its
24 records disclose that the licensee, subsequent to the
25 issuance of such license, has been guilty of careless or

1 negligent driving. Upon renewal ~~as applicable to operator's~~
2 ~~licenses~~, the department may, for any reasonable cause as
3 shown by its records, designate the renewal of the license
4 as provisional; otherwise, a license in usual form shall be
5 issued subject to other provisions of the laws of Montana.

6 (6) It shall be unlawful for any person to have in his
7 possession or under his control more than one Montana
8 ~~operator's or chauffeur's~~ driver's license at any one time.
9 A license is not valid for the operation of a motorcycle or
10 quadricycle until the holder thereof has completed the
11 requirements of 61-5-110 and the license has been clearly
12 marked with the words "motorcycle endorsement". A license
13 is not valid for the operation of a commercial vehicle until
14 the holder thereof has completed the requirements of
15 61-5-110 and the license has been clearly marked with the
16 words "commercial vehicle operator's endorsement".

17 (7) Fees for driver's licenses shall be as follows:

18 (a) driver's license -- \$3 per year or fraction
19 thereof;

20 (b) motorcycle endorsement -- 50 cents per year or
21 fraction thereof;

22 (c) commercial vehicle operator's endorsement;

23 (i) Class I A INTERSTATE -- \$3 per year or fraction
24 thereof;

25 (ii) Class II B INTRASTATE -- \$1.50 per year or

1 SENATE BILL NO. 212
 2 INTRODUCED BY FARRELL, CAMPBELL, SWYSGOOD, O'CONNELL,
 3 HALLIGAN, FRITZ, GILBERT, GRADY, THOMAS, GLASER, HARP,
 4 TVEIT, GAGE, WEEDING, B. WILLIAMS

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A
 7 CLASSIFIED COMMERCIAL VEHICLE OPERATOR'S LICENSING PROGRAM;
 8 REVISING THE MOTOR VEHICLE LAWS TO REMOVE REFERENCES TO
 9 CHAUFFEURS; AMENDING SECTIONS 20-10-103, 61-5-102, 61-5-104
 10 THROUGH 61-5-108, 61-5-110 THROUGH 61-5-116, 61-5-121,
 11 61-5-201, 61-5-203 THROUGH 61-5-212, 61-5-301, 61-5-302,
 12 61-5-305, 61-5-306, 61-7-105, 61-7-107, 61-11-101, AND
 13 72-17-204, MCA; REPEALING SECTION 61-1-312, MCA; AND
 14 PROVIDING A DELAYED EFFECTIVE DATE."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 17 NEW SECTION. Section 1. Commercial motor vehicle
 18 defined -- exceptions. (1) "Commercial motor vehicle" means
 19 a motor vehicle used to transport passengers or property if
 20 the vehicle:
 21 (a) has a gross vehicle weight of 26,001 pounds or
 22 more;
 23 (b) is designed to transport more than 15 passengers,
 24 including the driver; or
 25 (c) is used to transport hazardous material.

THERE IS A CLERICAL CORRECTION ON PAGE 17, LINE 3.
 DUE TO LENGTH SB 212 WILL NOT BE RE-PRINTED.



1 fraction thereof.

2 (8) A license designated as chauffeur as of January 1,
3 1988, is valid as a commercial vehicle operator's
4 endorsements ENDORSEMENT until the expiration of the
5 license.

6 (9) On or after January 1, 1988, if the holder of a
7 chauffeur's license wishes to convert his chauffeur's
8 license to a commercial vehicle operator's endorsement, he
9 may do so by paying the appropriate fee covering the
10 remainder of the life of his license and complying with the
11 requirements established by the department.

12 (10) After January 1, 1988, the holder of a valid
13 chauffeur's license who is renewing and wishes to obtain a
14 commercial vehicle operator's endorsement may do so upon
15 paying the appropriate fees and complying with the
16 requirements established by the department.

17 (11) AFTER JANUARY 1, 1988, THE HOLDER OF A VALID
18 OPERATOR'S, CHAUFFEUR'S, OR DRIVER'S LICENSE MAY OBTAIN A
19 HAZARDOUS MATERIAL ENDORSEMENT BY SUCCESSFULLY COMPLETING A
20 WRITTEN EXAMINATION."

21 Section 13. Section 61-5-112, MCA, is amended to read:

22 "61-5-112. Classification of chauffeurs commercial
23 vehicle operator's endorsements -- special restrictions. (1)
24 The department upon issuing a chauffeur's license with a
25 commercial vehicle operator's endorsement shall indicate

1 thereon the class of license so issued and shall
2 appropriately examine each applicant according to the class
3 of license endorsement applied for and may impose such rules
4 for the exercise classification, examination, and use
5 thereof as it considers necessary for the safety and welfare
6 of the traveling public.

7 ~~(2) --No person may drive any school bus transporting~~
8 ~~school children or any motor vehicle when in use for the~~
9 ~~transportation of persons for compensation until he has been~~
10 ~~licensed as a chauffeur for either such purpose and the~~
11 ~~license so indicates. The department may not issue a~~
12 ~~chauffeur's license for either purpose unless the applicant~~
13 ~~has had at least 1 year of driving experience prior thereto~~
14 ~~and the department is fully satisfied as to the applicant's~~
15 ~~competency and fitness to be employed."~~

16 Section 14. Section 61-5-113, MCA, is amended to read:

17 "61-5-113. Restricted licenses. (1) The department
18 upon issuing an operator's or chauffeur's a driver's license
19 shall have authority whenever good cause appears to impose
20 restrictions suitable to the licensee's driving ability with
21 respect to the type of or special mechanical control devices
22 required on a motor vehicle which the licensee may operate
23 or such other restrictions applicable to the licensee as the
24 department may determine to be appropriate to assure the
25 safe operation of a motor vehicle by the licensee.

1 fraction thereof.

2 (8) A license designated as chauffeur as of January 1,
3 1988, is valid as commercial vehicle operator's endorsements
4 until the expiration of the license.

5 (9) On or after January 1, 1988, if the holder of a
6 chauffeur's license wishes to convert his chauffeur's
7 license to a commercial vehicle operator's endorsement, he
8 may do so by paying the appropriate fee covering the
9 remainder of the life of his license and complying with the
10 requirements established by the department.

11 (10) After January 1, 1988, the holder of a valid
12 chauffeur's license who is renewing and wishes to obtain a
13 commercial vehicle operator's endorsement may do so upon
14 paying the appropriate fees and complying with the
15 requirements established by the department.

16 (11) AFTER JANUARY 1, 1988, THE HOLDER OF A VALID
17 OPERATOR'S, CHAUFFEUR'S, OR DRIVER'S LICENSE MAY OBTAIN A
18 HAZARDOUS MATERIAL ENDORSEMENT BY SUCCESSFULLY COMPLETING A
19 WRITTEN EXAMINATION."

20 Section 13. Section 61-5-112, MCA, is amended to read:

21 "61-5-112. Classification of chauffeurs commercial
22 vehicle operator's endorsements -- special restrictions. {1}
23 The department upon issuing a chauffeur's license with a
24 commercial vehicle operator's endorsement shall indicate
25 thereon the class of license so issued and shall

1 appropriately examine each applicant according to the class
2 of license endorsement applied for and may impose such rules
3 for the exercise classification, examination, and use
4 thereof as it considers necessary for the safety and welfare
5 of the traveling public.

6 ~~{2}--No person may drive any school bus transporting~~
7 ~~school children or any motor vehicle when in use for the~~
8 ~~transportation of persons for compensation until he has been~~
9 ~~licensed as a chauffeur for either such purpose and the~~
10 ~~license so indicates. The department may not issue a~~
11 ~~chauffeur's license for either purpose unless the applicant~~
12 ~~has had at least 1 year of driving experience prior thereto~~
13 ~~and the department is fully satisfied as to the applicant's~~
14 ~~competency and fitness to be employed."~~

15 Section 14. Section 61-5-113, MCA, is amended to read:

16 "61-5-113. Restricted licenses. (1) The department
17 upon issuing ~~an operator's or chauffeur's~~ a driver's license
18 shall have authority whenever good cause appears to impose
19 restrictions suitable to the licensee's driving ability with
20 respect to the type of or special mechanical control devices
21 required on a motor vehicle which the licensee may operate
22 or such other restrictions applicable to the licensee as the
23 department may determine to be appropriate to assure the
24 safe operation of a motor vehicle by the licensee.

25 (2) The department may either issue a special

1 restricted license or may set forth such restrictions upon
2 the usual license form.

3 (3) The department may upon receiving satisfactory
4 evidence of any violation of the restrictions of such
5 license or endorsement suspend or revoke the same but the
6 licensee shall be entitled to a hearing as upon suspension
7 or revocation under this chapter.

8 (4) It is a misdemeanor for any person to operate a
9 motor vehicle in any manner in violation of the restrictions
10 imposed in a restricted license issued to him."

11 Section 15. Section 61-5-114, MCA, is amended to read:

12 "61-5-114. Duplicate licenses. In the event that an
13 instruction permit or ~~operator's--or-chauffeur's~~ driver's
14 license issued under the provisions of this chapter is lost
15 or destroyed, the person to whom the same was issued may
16 upon the payment of a fee of \$5 obtain a duplicate or
17 substitute thereof, upon furnishing proof satisfactory to
18 the department that such permit or license has been lost or
19 destroyed."

20 Section 16. Section 61-5-115, MCA, is amended to read:

21 "61-5-115. Notice of change of address or name.
22 Whenever any person after applying for or receiving an
23 ~~operator's-or-chauffeur's~~ a driver's license shall move from
24 the address named in such application or in the license
25 issued to him or when the name of a licensee is changed by

1 marriage or otherwise such person shall within 10 days
2 thereafter notify the department in writing of his old and
3 new addresses or of such former and new names and of the
4 number of any license then held by him."

5 Section 17. Section 61-5-116, MCA, is amended to read:

6 "61-5-116. License to be carried and exhibited on
7 demand. Every licensee shall have his ~~operator's--or~~
8 ~~chauffeur's~~ driver's license in his immediate possession at
9 all times when operating a motor vehicle and shall display
10 the same upon demand of a justice of the peace, a city or
11 municipal judge, a peace officer, a highway patrolman, or a
12 field deputy or inspector of the department. However, no
13 person charged with violating this section shall be
14 convicted if he produces in court or the office of the
15 arresting officer ~~an--operator's-or-chauffeur's~~ a driver's
16 license theretofore issued to him and valid at the time of
17 his arrest."

18 Section 18. Section 61-5-121, MCA, is amended to read:

19 "61-5-121. Disposition of fees. (1) The disposition of
20 the fees from driver's licenses provided for in
21 ~~61-5-111(6)(a)~~ 61-5-111(7)(a), motorcycle endorsements
22 provided for in ~~61-5-111(6)(b)~~ 61-5-111(7)(b), commercial
23 vehicle operator's endorsements provided for in
24 61-5-111(7)(c), and duplicate driver's licenses provided for
25 in 61-5-114 is as follows:

1 (a) The amount of 33 1/3% of each driver's license fee
2 and of each duplicate driver's license fee must be deposited
3 into the Montana highway patrolmen's retirement pension
4 trust fund.

5 (b) (i) If the fees are collected by a county
6 treasurer or other agent of the department, the amount of
7 3 1/3% of each driver's license fee and of each duplicate
8 driver's license fee must be deposited into the county
9 general fund.

10 (ii) If the fees are collected by the department, the
11 amount provided for in subsection (1)(b)(i) must be
12 deposited into the state special revenue fund for use by the
13 department to defray the costs of issuing licenses or
14 duplicate licenses.

15 (c) (i) If the fee is collected by a county treasurer
16 or other agent of the department, the amount of 5% of each
17 motorcycle endorsement must be deposited into the county
18 general fund.

19 (ii) If the fee is collected by the department, the
20 amount provided for in subsection (1)(c)(i) must be
21 deposited into the state special revenue fund for use by the
22 department to defray the costs of issuing motorcycle
23 endorsements.

24 (d) The amount of 23 1/3% of each driver's license fee
25 and of each duplicate driver's license fee and the amount of

1 35% of each motorcycle endorsement fee must be deposited
2 into the state traffic education account.

3 (e) The amount of 40% of each driver's license fee and
4 of each duplicate driver's license fee and the amount of 60%
5 of each motorcycle endorsement fee must be deposited into
6 the state general fund.

7 (f) The entire amount of each commercial vehicle
8 operator's endorsement fee must be deposited into the motor
9 vehicle recording account established in 61-3-108.

10 (2) (a) If fees from driver's licenses, commercial
11 vehicle operator's endorsements, motorcycle endorsements,
12 and duplicate driver's licenses are collected by a county
13 treasurer or other agent of the department, he shall deposit
14 the amounts provided for in subsections (1)(b)(i) and
15 (1)(c)(i) into the county general fund. He shall then remit
16 to the state treasurer all remaining fees, together with a
17 statement indicating what portion of each fee is to be
18 deposited into the Montana highway patrolmen's retirement
19 pension trust fund, the state traffic education account, and
20 the state general fund. The state treasurer, upon receipt of
21 the fees and statement, shall deposit the fees as provided
22 in subsections (1)(a), (1)(d), and (1)(e), and (1)(f).

23 (b) If fees from driver's licenses, commercial vehicle
24 operator's endorsements, motorcycle endorsements, and
25 duplicate driver's licenses are collected by the department,

1 it shall remit all fees to the state treasurer, together
 2 with a statement indicating what portion of each fee is to
 3 be deposited into the Montana highway patrolmen's retirement
 4 pension trust fund, the state special revenue fund, the
 5 state traffic education account, and the state general fund.
 6 The state treasurer, upon receipt of the fees and statement,
 7 shall deposit the fees as provided in subsections (1)(a),
 8 (1)(b)(ii), (1)(c)(ii), (1)(d), ~~and (1)(e), and (1)(f).~~"

9 Section 19. Section 61-5-201, MCA, is amended to read:

10 "61-5-201. Authority of department to cancel ~~licenses~~
 11 license and endorsement. (1) The department is hereby
 12 authorized to cancel ~~any--operator's--or--chauffeur's a~~
 13 driver's license and commercial vehicle operator's
 14 endorsement, or just the commercial vehicle operator's
 15 endorsement, upon determining that the licensee was not
 16 entitled to the issuance thereof hereunder or that since the
 17 issuance thereof said licensee has become ineligible (such
 18 ineligibility shall be determined pursuant to the provisions
 19 of 61-5-105) or that said licensee failed to give the
 20 required or correct information in his application or
 21 committed any fraud in making such application.

22 (2) Upon such cancellation, the licensee must
 23 surrender the license so canceled to the department."

24 Section 20. Section 61-5-203, MCA, is amended to read:

25 "61-5-203. Suspending privileges of nonresidents. The

1 privilege of driving a motor vehicle on the highways of this
 2 state given to a nonresident hereunder shall be subject to
 3 suspension or revocation by the department in like manner
 4 and for like causes as ~~an--operator's--or--chauffeur's a~~
 5 driver's license and commercial vehicle operator's
 6 endorsement, or just an endorsement issued hereunder may be
 7 suspended or revoked."

8 Section 21. Section 61-5-204, MCA, is amended to read:

9 "61-5-204. Suspending resident's license upon
 10 conviction in another state. The department is authorized to
 11 suspend or revoke the driver's license and commercial
 12 vehicle operator's endorsement, or just the commercial
 13 vehicle operator's endorsement of any resident of this state
 14 or the privilege of a nonresident to drive a motor vehicle
 15 in this state upon receiving notice of the conviction of
 16 such person in another state of an offense therein which, if
 17 committed in this state, would be grounds for the suspension
 18 or revocation of the driver's license of--an--operator--or
 19 chauffeur or commercial vehicle operator's endorsement."

20 Section 22. Section 61-5-205, MCA, is amended to read:

21 "61-5-205. Mandatory revocation of license upon proper
 22 authority. The department upon proper authority shall revoke
 23 the driver's license, including the commercial vehicle
 24 operator's endorsement, or the operating privilege of any
 25 operator-or-chauffeur driver upon receiving a record of such

1 operator's---or---chauffeur's the driver's conviction or
 2 forfeiture of bail not vacated of any of the following
 3 offenses, when such conviction or forfeiture has become
 4 final:

5 (1) negligent homicide resulting from the operation of
 6 a motor vehicle;

7 (2) driving a motor vehicle while under the influence
 8 of alcohol or narcotic drug, or willfully or knowingly under
 9 the influence of any other drug to a degree which renders
 10 him incapable of safely driving a motor vehicle, or a
 11 combination thereof except as provided in 61-5-208, or
 12 operation of a motor vehicle by a person with a blood
 13 alcohol concentration of 0.10 or more;

14 (3) any felony in the commission of which a motor
 15 vehicle is used;

16 (4) failure to stop and render aid as required under
 17 the laws of this state in the event of a motor vehicle
 18 accident resulting in the death or personal injury of
 19 another;

20 (5) perjury or the making of a false affidavit or
 21 statement under oath to the department under this chapter or
 22 under any other law relating to the ownership or operation
 23 of motor vehicles;

24 (6) conviction or forfeiture of bail not vacated upon
 25 three charges of reckless driving committed within a period

1 of 12 months."

2 Section 23. Section 61-5-206, MCA, is amended to read:

3 "61-5-206. Authority of department to suspend license
 4 or driving privilege or issue probationary license. (1) The
 5 department is hereby authorized to suspend the driver's
 6 license, including the commercial vehicle operator's
 7 endorsement, or driving privilege of an--operator--or
 8 chauffeur a driver without preliminary hearing upon a
 9 showing by its records or other sufficient evidence that the
 10 licensee:

11 (a) has been involved as a driver in any accident
 12 resulting in the death or personal injury of another or
 13 serious property damage;

14 (b) has been convicted with such frequency of serious
 15 offenses against traffic regulations governing the movement
 16 of vehicles as to indicate a disrespect for traffic laws and
 17 a disregard for the safety of other persons on the highways;

18 (c) is an habitually reckless or negligent driver of a
 19 motor vehicle;

20 (d) is incompetent to drive a motor vehicle;

21 (e) has permitted an unlawful or fraudulent use of
 22 such license as specified in 61-5-302;

23 (f) has committed an offense in another state which if
 24 committed in this state would be grounds for suspension or
 25 revocation; or

1 (g) has falsified his date of birth on his application
 2 for a driver's license.

3 (2) However, the department may, in its discretion and
 4 in lieu of such suspension of license or driving privilege,
 5 issue a probationary license to ~~an operator or chauffeur~~ a
 6 driver, without preliminary hearing, upon a showing by its
 7 records or other sufficient evidence that the licensee's
 8 driving record is such as would authorize suspension as
 9 provided in subsection (1) hereof. Upon issuance of a
 10 probationary license the licensee shall be subject to the
 11 restrictions set forth thereon. The licensee's driving
 12 privilege may be suspended upon conviction or forfeiture of
 13 bail not vacated of any traffic violation during the period
 14 of such probation. The licensee shall surrender to the
 15 department all driver licenses theretofore issued to him
 16 before such probationary license shall be issued. His
 17 refusal or neglect to surrender such licenses upon demand
 18 shall be ground for suspending all such licenses.
 19 Probationary licenses may be issued for a period not to
 20 exceed 12 months.

21 (3) Upon suspending the license of any person or upon
 22 placing such person on probation, as hereinbefore in this
 23 section authorized, the department shall immediately notify
 24 the licensee in writing and upon his request shall afford
 25 him an opportunity for a hearing as early as practical

1 within not to exceed 20 days after receipt of such request
 2 in the county wherein the licensee resides unless the
 3 department and the licensee agree that such hearing may be
 4 held in some other county. Upon such hearing the department
 5 through its duly authorized agent may administer oaths and
 6 may issue subpoenas for the attendance of witnesses and the
 7 production of relevant books and papers and may require a
 8 reexamination of the licensee. Upon such hearing the
 9 department shall either rescind its order of suspension or
 10 probation, or, good cause appearing therefor, may affirm,
 11 reduce, or extend the period of probation or suspension of
 12 such license."

13 Section 24. Section 61-5-207, MCA, is amended to read:

14 "61-5-207. Reexamination -- when required. The
 15 department having good cause to believe that a licensed
 16 ~~operator or chauffeur driver~~ is incompetent or otherwise not
 17 qualified to be licensed or to have a commercial vehicle
 18 operator's endorsement, may upon written notice of at least
 19 5 days to the licensee require him to submit to an
 20 examination. Upon the conclusion of such examination the
 21 department shall take action as may be appropriate and may
 22 suspend or revoke the license and commercial vehicle
 23 operator's endorsement, or just the commercial vehicle
 24 operator's endorsement of such person or permit him to
 25 retain such license, or may issue a license subject to

1 restrictions as permitted under 61-5-113. Refusal or neglect
2 of the licensee to submit to such examination shall be
3 ground for suspension or revocation of his license."

4 Section 25. Section 61-5-208, MCA, is amended to read:

5 "61-5-208. Period of suspension or revocation. (1) The
6 department may not suspend or revoke a driver's license,
7 commercial vehicle operator's endorsement, or privilege to
8 drive a motor vehicle on the public highways for a period of
9 more than 1 year, except as permitted under 61-5-207,
10 61-5-212, 61-5-123, and 61-11-211.

11 (2) Any person whose license, commercial vehicle
12 operator's endorsement, or privilege to drive a motor
13 vehicle on the public highways has been suspended or revoked
14 is not entitled to have such license, endorsement, or
15 privilege renewed or restored unless the revocation was for
16 a cause which has been removed, except that after the
17 expiration of the period of such revocation or suspension,
18 the person may make application for a new license or
19 endorsement as provided by law but the department may not
20 then issue a new license or endorsement unless and until it
21 is satisfied, after investigation of the driving ability of
22 the person and upon a showing by its records or other
23 sufficient evidence, that the person is eligible to be
24 licensed to drive in this state. When any person is
25 convicted or forfeits bail or collateral not vacated for the

1 offense of operating or being in actual physical control of
2 a motor vehicle while under the influence of alcohol or a
3 narcotic drug or knowingly or willingly under the influence
4 of any other drug to a degree which renders him incapable of
5 safely driving a motor vehicle, or a combination thereof, or
6 for the offense of operation of a motor vehicle by a person
7 with alcohol concentration of 0.10 or more, the department
8 shall, upon receiving a report of such conviction or
9 forfeiture of bail or collateral not vacated, suspend the
10 license, including any commercial vehicle operator's
11 endorsement, or driving privilege of the person for a period
12 of 6 months. Upon receiving a report of a conviction or
13 forfeiture of bail or collateral for a second, third, or
14 subsequent offense within 5 years of the first offense, the
15 department shall revoke the license, including any
16 commercial vehicle operator's endorsement, or driving
17 privilege of the person for a period of 1 year.

18 (3) The period for all revocations made mandatory by
19 61-5-205 shall be 1 year except as provided in subsection
20 (2) of this section.

21 (4) The period of revocation for any person convicted
22 of any offense which makes mandatory the revocation of the
23 ~~operator's--or--chauffeur's~~ driver's license commences from
24 date of conviction or forfeiture of bail."

25 Section 26. Section 61-5-209, MCA, is amended to read:

1 "61-5-209. Surrender and return of license or
 2 endorsement. The department upon suspending or revoking a
 3 license or commercial vehicle operator's endorsement shall
 4 require that such license shall be surrendered to and be
 5 retained by the department except that at the end of the
 6 period of suspension such license so surrendered shall be
 7 returned to the licensee."

8 Section 27. Section 61-5-210, MCA, is amended to read:

9 "61-5-210. No operation under foreign license during
 10 suspension or revocation in this state. Any resident or
 11 nonresident whose ~~operator's or chauffeur's~~ license or right
 12 or privilege to operate a motor vehicle or commercial motor
 13 vehicle in this state has been suspended or revoked as
 14 provided in this chapter shall not operate a motor vehicle
 15 or commercial motor vehicle in this state under a license,
 16 permit, or registration certificate issued by any other
 17 jurisdiction or otherwise during such suspension or after
 18 such revocation until a new license or commercial vehicle
 19 operator's endorsement is obtained when and as permitted
 20 under this chapter."

21 Section 28. Section 61-5-211, MCA, is amended to read:

22 "61-5-211. Right of appeal to court. Any person denied
 23 a driver's license, commercial motor vehicle operator's
 24 endorsement, or whose license had or endorsement has been
 25 canceled, suspended, or revoked by the department except

1 where such cancellation or revocation is mandatory under the
 2 provisions of this chapter shall have the right to file a
 3 petition within 30 days thereafter for a hearing in the
 4 matter in the district court in the county wherein such
 5 person shall reside. Such court is hereby vested with
 6 jurisdiction and it shall be its duty to set the matter for
 7 hearing upon 30 days' written notice to the department, and
 8 thereupon to take testimony and examine into the facts of
 9 the case and to determine whether the petitioner is entitled
 10 to a license or commercial vehicle operator's endorsement or
 11 is subject to suspension, cancellation, or revocation of the
 12 license or endorsement under the provisions of this
 13 chapter."

14 Section 29. Section 61-5-212, MCA, is amended to read:

15 "61-5-212. Driving while license suspended or revoked
 16 -- penalty. (1) Any person who drives a motor vehicle or
 17 commercial motor vehicle on any public highway of this state
 18 at a time when his privilege so to do is suspended or
 19 revoked shall be guilty of a misdemeanor and upon conviction
 20 shall be punished by imprisonment for not less than 2 days
 21 or more than 6 months and there may be imposed in addition
 22 thereto a fine of not more than \$500.

23 (2) The department upon receiving a record of the
 24 conviction of any person under this section upon a charge of
 25 driving a vehicle while the license or commercial vehicle

1 operator's endorsement of such person was suspended or
 2 revoked shall extend the period of such suspension or
 3 revocation for an additional like period."

4 Section 30. Section 61-5-301, MCA, is amended to read:

5 "61-5-301. Indication on driver's license of intent to
 6 make anatomical gift. (1) The department of justice shall
 7 provide on each ~~operator's-or-chauffeur's~~ driver's license a
 8 space for indicating when the licensee has executed a
 9 document under 72-17-204 of intent to make a gift of all or
 10 part of his body under the Uniform Anatomical Gift Act.

11 (2) The department shall provide each applicant, at
 12 the time of application, printed information calling the
 13 applicant's attention to the provisions of this section, and
 14 each applicant must be given an opportunity to indicate in
 15 the space provided under subsection (1) his intent to make
 16 an anatomical gift.

17 (3) The department shall issue to every applicant who
 18 indicates such an intent a statement which, when signed by
 19 the licensee in the manner prescribed in 72-17-204,
 20 constitutes a document of anatomical gift. This statement
 21 must be printed on a sticker that the donor may attach
 22 permanently to the back of his driver's license.

23 (4) The department shall also furnish the licensee a
 24 means of revoking the document of gift upon the license."

25 Section 31. Section 61-5-302, MCA, is amended to read:

1 "61-5-302. Unlawful use of license. It is a
 2 misdemeanor for any person to:

3 (1) display or cause or permit to be displayed or have
 4 in his possession any canceled, revoked, suspended,
 5 fictitious, or altered ~~operator's-or-chauffeur's~~ driver's
 6 license;

7 (2) lend his ~~operator's--or---chauffeur's~~ driver's
 8 license to any other person or knowingly permit its use by
 9 another;

10 (3) display or represent as one's own any ~~operator's~~
 11 ~~or-chauffeur's~~ driver's license not issued to him;

12 (4) fail or refuse to surrender to the department upon
 13 its lawful demand any ~~operator's-or-chauffeur's~~ driver's
 14 license which has been suspended, revoked, or canceled;

15 (5) use a false or fictitious name in any application
 16 for ~~an--operator's--or--chauffeur's~~ a driver's license or
 17 commercial vehicle operator's endorsement or knowingly make
 18 a false statement or knowingly conceal a material fact or
 19 otherwise commit a fraud in any such application; or

20 (6) permit any unlawful use of ~~an--operator's--or~~
 21 ~~chauffeur's~~ a driver's license issued to him."

22 Section 32. Section 61-5-305, MCA, is amended to read:

23 "61-5-305. Employing ~~unlicensed---chauffeur~~ driver
 24 without endorsement. No person shall employ as a ~~chauffeur~~
 25 ~~of--a-motor--vehicle~~ commercial vehicle operator any person

1 not then licensed and endorsed as provided by this chapter."

2 Section 33. Section 61-5-306, MCA, is amended to read:

3 "61-5-306. Renting motor vehicle to another. (1) No
4 person shall rent a motor vehicle to any other person unless
5 the latter person is then duly licensed hereunder or, in the
6 case of a nonresident, then duly licensed under the laws of
7 the state or country of his residence except a nonresident
8 whose home state or country does not require that an
9 operator be licensed.

10 (2) No person shall rent a motor vehicle to another
11 until he has inspected the ~~operator's--or--chauffeur's~~
12 driver's license of the person to whom the vehicle is to be
13 rented and compared and verified the signature thereon with
14 the signature of such person written in his presence.

15 (3) No person may rent a motor vehicle which is
16 defined as a commercial motor vehicle under this title to
17 another until he has inspected the driver's license of that
18 person and determined that the person has a commercial
19 vehicle operator's endorsement.

20 ~~(3)(4)~~ Every person renting a motor vehicle to another
21 shall keep a record of the registration number of the motor
22 vehicle so rented, the name and address of the person to
23 whom the vehicle is rented, and the number and expiration
24 date of the license of said latter person, ~~and the date and~~
25 ~~place when and where said license was issued.~~ Such The

1 record shall be open to inspection by any police officer or
2 officer or employee of the department."

3 Section 34. Section 61-7-105, MCA, is amended to read:

4 "61-7-105. Duty to give information and render aid.
5 The driver of any vehicle involved in an accident resulting
6 in injury to or death of any person or damage to any vehicle
7 which is driven or attended by any person shall give his
8 name, address, and the registration number of the vehicle he
9 is driving and shall upon request and if available exhibit
10 his ~~operator's-or-chauffeur's~~ driver's license to the person
11 struck or the driver or occupant of or person attending any
12 vehicle collided with and shall render to any person injured
13 in such accident reasonable assistance, including the
14 carrying, or the making of arrangements for the carrying, of
15 such person to a physician, surgeon, or hospital for medical
16 or surgical treatment if it is apparent that such treatment
17 is necessary or if such carrying is requested by the injured
18 person."

19 Section 35. Section 61-7-107, MCA, is amended to read:

20 "61-7-107. Duty upon striking fixtures or other
21 property upon a highway. The driver of any vehicle involved
22 in an accident resulting only in damage to fixtures or other
23 property legally upon or adjacent to a highway shall take
24 reasonable steps to locate and notify the owner or person in
25 charge of such property of such fact and of his name and

1 address and of the registration number of the vehicle he is
 2 driving and shall upon request and if available exhibit his
 3 operator's--or--chauffeur's driver's license and shall make
 4 report of such accident when and as required in 61-7-109."

5 Section 36. Section 61-11-101, MCA, is amended to
 6 read:

7 "61-11-101. Report of convictions and suspension or
 8 revocation of driver's licenses -- surrender of licenses.

9 (1) Whenever any person is convicted of any offense for
 10 which chapter 5 makes mandatory the suspension or revocation
 11 of the operator's--or--chauffeur's driver's license of such
 12 the person by the department, the court in which such
 13 conviction is had shall require the surrender to it of all
 14 operator's--and--chauffeur's driver's licenses then held by
 15 the person so convicted. The court shall thereupon, within 5
 16 days, forward the license to the department and at the same
 17 time forward a record of such conviction to the department,
 18 providing that if such person does not possess a driver's
 19 license the court shall so indicate in its report to the
 20 department.

21 (2) Every court having jurisdiction over offenses
 22 committed under any act of this state or municipal ordinance
 23 regulating the operation of motor vehicles on highways shall
 24 forward, within 5 days, to the department a record of the
 25 conviction or forfeiture of bail, not vacated, of any person

1 in the court for a violation of any such laws, other than
 2 regulations governing standing or parking, and may recommend
 3 the suspension of the operator's--or--chauffeur's driver's
 4 license of the person so convicted. The court may also
 5 recommend that the department issue a restricted
 6 probationary license in lieu of the suspension required in
 7 61-5-208(2) on the condition that the individual attend a
 8 driver improvement school or an alcohol treatment program if
 9 one is available. The department shall issue a restricted
 10 probationary license unless the person otherwise is not
 11 entitled to a Montana operator's--or--chauffeur's driver's
 12 license. Upon issuance of a probationary license, the
 13 licensee is subject to the restrictions set forth thereon
 14 and may not operate a vehicle in violation of those
 15 restrictions.

16 (3) Any court or other agency of this state, or a
 17 subdivision thereof, which has jurisdiction to take any
 18 action suspending, revoking, or otherwise limiting a license
 19 to drive shall report any such action and the adjudication
 20 upon which it is based to the department within 5 days on
 21 forms furnished by the department."

22 Section 37. Section 20-10-103, MCA, is amended to
 23 read:

24 "20-10-103. School bus driver qualifications. Any
 25 driver of a school bus shall be qualified to drive such

1 school bus by compliance with the following requirements:

2 (1) he is not less than 18 years of age;

3 (2) he is of good moral character;

4 (3) he is the holder of a chauffeur's driver's license
5 with a commercial vehicle operator's endorsement;

6 (4) he has filed with the district a satisfactory
7 medical examination report, on a blank provided by the
8 superintendent of public instruction, signed by any
9 physician licensed in the United States or, if acceptable to
10 an insurance carrier, any licensed physician;

11 (5) he has completed a standard first aid course and
12 holds a valid standard first aid certificate from an
13 authorized instructor. The issuance of such certificate
14 shall be governed by rules established by the superintendent
15 of public instruction, provided that such rules may suspend
16 this requirement for a reasonable period of time where there
17 has been an inadequate opportunity for securing the first
18 aid course and certificate.

19 (6) he has complied with any other qualifications
20 established by the board of public education; and

21 (7) he has filed with the county superintendent a
22 certificate from the trustees of the district for which the
23 school bus is to be driven certifying compliance with the
24 several driver qualifications enumerated in this section."

25 Section 38. Section 72-17-204, MCA, is amended to

1 read:

2 "72-17-204. Manner of executing gift -- effectiveness.

3 (1) A gift of all or part of the body under 72-17-201(1) may
4 be made by will. The gift becomes effective upon the death
5 of the testator without waiting for probate. If the will is
6 not probated or if it is declared invalid for testamentary
7 purposes, the gift, to the extent that it has been acted
8 upon in good faith, is nevertheless valid and effective.

9 (2) (a) A gift of all or part of the body under
10 72-17-201(1) may also be made by document other than a will.
11 The gift becomes effective upon the death of the donor.

12 (b) The document may be a card designed to be carried
13 on the person and must be signed by the donor in the
14 presence of two witnesses who must sign the document in his
15 presence. If the donor cannot sign, the document may be
16 signed for him at his direction and in his presence in the
17 presence of two witnesses who must sign the document in his
18 presence. Delivery of the document of gift during the
19 donor's lifetime is not necessary to make the gift valid.

20 (c) The document may be a statement attached to the
21 reverse side of the person's Montana motor vehicle
22 operator's-or-chauffeur's driver's license. The statement
23 must be signed by the owner of the operator's-or-chauffeur's
24 driver's license in the presence of two witnesses who must
25 sign the statement in the presence of the donor.

1 (3) Any gift by a person designated in 72-17-201(2)
2 shall be made by a document signed by him or made by his
3 telegraphic, recorded telephonic, or other recorded
4 message."

5 NEW SECTION. Section 39. Repealer. Section 61-1-312,
6 MCA, is repealed.

7 NEW SECTION. Section 40. Rulemaking authority. The
8 department of justice may adopt rules to implement [sections
9 1 through 38].

10 NEW SECTION. Section 41. Codification instruction.
11 Sections 1 through 4 are intended to be codified as an
12 integral part of Title 61, chapter 1, part 1, and the
13 provisions of Title 61, chapter 1, part 1, apply to sections
14 1 through 4.

15 NEW SECTION. Section 42. Effective date. This act is
16 effective January 1, 1988.

-End-

STANDING COMMITTEE REPORT

SB 212

Page 2

HOUSE

March 26 19 87

Mr. Speaker: We, the committee on HIGHWAYS & TRANSPORTATION

report SENATE BILL 212

- do pass
- do not pass
- be concurred in
- be not concurred in
- as amended
- statement of intent attached

PROVIDE COMMERCIAL VEHICLE OPERATOR'S LICENSING PROGRAM

REP. JOHN HARP Chairman

Be Amended As Follows:

1. Page 2, line 8.
Following: "vehicle."
Insert: "However, if the applicant's vehicle does not otherwise require a commercial vehicle operator's endorsement, a hazardous material endorsement may be substituted for the commercial vehicle operator's endorsement."
2. Page 2, line 20.
Following: "or material"
Insert: ", defined or listed as a hazardous material in Title 49, Code of Federal Regulations,"
3. Page 6, line 11.
Strike: "as an operator,"
4. Page 13, line 3.
Following: "applicants."
Insert: "(1)"
5. Page 13, following line 20.
Insert: "(2) Within 90 days of receipt of an application for a commercial vehicle operator's endorsement, the department shall give an examination for endorsement to the applicant in the county where the applicant resides."
6. Page 16, line 14.
Following: "(i)"
Strike: "Class ~~F~~ A"
Insert: "interstate"
7. Page 16, line 15.
Following: "(ii)"
Strike: "Class ~~F~~ B"
Insert: "intrastate"

8. Page 17, following line 4.
Insert: "(11) After January 1, 1988, the holder of a valid operator's, chauffeur's, or driver's license may obtain a hazardous material endorsement by successfully completing a written examination."

~~Amended by SB 212~~
~~SENATE BILL 212~~

(Continued)

Rep. Swysgood will carry on the House floor.

Rep. Swysgood will carry on the House floor.

Third reading copy (Blue color)

REP. JOHN HARP, CHAIRMAN

March 26 19 87

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 40] grants rulemaking authority to the department of justice. The bill gives the department authority to define commercial motor vehicle and to prescribe requirements and procedures for the licensing of commercial motor vehicles and commercial vehicle operators.

It is the legislature's intent that the department adopt rules for commercial motor vehicles and operators in order to bring the state into compliance with federal regulations established by Title XII, Commercial Motor Vehicle Safety Act of 1986, effective July 1, 1987.


REP. JOHN HARP Chairman.

JMS