

HOUSE BILL 497

Introduced by Darko, et al.

1/30	Introduced
1/31	Referred to Judiciary
2/07	Hearing
2/13	Tabled in Committee

1 *Hansa* BILL NO. *497*
2 INTRODUCED BY *Markus Drake & Abby Vignani*
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING SUSPENSION OF
5 THE DRIVER'S LICENSE OF A MINOR GUILTY OF THE POSSESSION OF
6 INTOXICATING SUBSTANCES; AND AMENDING SECTIONS 61-5-206,
7 61-5-208, AND 61-11-203, MCA."
8

9 WHEREAS, many persons under 18 years of age unlawfully
10 use intoxicating liquor and controlled substances, which can
11 cause serious damage to their physical, mental, and
12 emotional well-being and in some instances cause lifelong
13 disabilities; and

14 WHEREAS, juveniles who use alcohol or controlled
15 substances often unlawfully operate motor vehicles while
16 under the influence of and while impaired by alcohol or
17 drugs, and juveniles who use these substances frequently
18 have seriously impaired judgment and motor skills and pose
19 an unduly high risk of causing injury or death to themselves
20 or to other persons; and

21 WHEREAS, juveniles will be deterred from the unlawful
22 use of alcohol and controlled substances if their driving
23 privileges are suspended or revoked for possession of these
24 substances.
25

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

2 **Section 1.** 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~~ may suspend the driver's
6 license, including the commercial vehicle operator's
7 endorsement, or driving privilege of a driver without
8 preliminary hearing upon a showing by its records or other
9 sufficient evidence that the licensee:

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

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

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

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

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

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

25 (g) has falsified his date of birth on his application

1 for a driver's license; or

2 (h) is guilty of a violation of 45-5-624.

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

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

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

14 **Section 2.** 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 the 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 the~~ revocation or
 3 suspension, the person may make application for a new
 4 license or endorsement as provided by law ~~but-the~~. The
 5 department may not then issue a new license or endorsement
 6 unless ~~and-until~~ it is satisfied, after investigation of the
 7 driving ability of the person and upon a showing by its
 8 records or other sufficient evidence, that the person is
 9 eligible to be licensed to drive in this state. When any
 10 person is convicted or forfeits bail or collateral not
 11 vacated for the offense of operating or being in actual
 12 physical control of a motor vehicle while under the
 13 influence of alcohol or any drug 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 the~~ 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~~ is 1 year except as provided in subsection
 3 (2) ~~of-this-section~~.

4 (4) A mandatory suspension under 61-5-206(1)(h):

5 (a) must be for a period of:

6 (i) 90 days for a first offense;

7 (ii) 1 year for a second or subsequent offense; and

8 (b) may not be charged against the driving record of
 9 the person violating 45-5-624.

10 (5) An insurance company may not hold a violation of
 11 45-5-624 against the insured and may not increase a premium
 12 because of a violation of 45-5-624 unless the person whose
 13 license is being suspended was driving or in actual physical
 14 control of a motor vehicle when the offense under 45-5-624
 15 was committed.

16 ~~†††~~(6) The period of revocation for any person
 17 convicted of any offense which makes mandatory the
 18 revocation of the driver's license commences from date of
 19 conviction or forfeiture of bail."

20 **Section 3.** Section 61-11-203, MCA, is amended to read:
 21 "61-11-203. Definitions. As used in this part, the
 22 following definitions apply:

23 (1) "Conviction" means a finding of guilt by duly
 24 constituted judicial authority, a plea of guilty, or a
 25 forfeiture of bail, bond, or other security deposited to

secure appearance by a person charged with having committed any offense relating to the use or operation of a motor vehicle which is prohibited by law, ordinance, or administrative order.

(2) "Habitual traffic offender" means any person who within a 3-year period accumulates 30 or more conviction points according to the schedule specified in this subsection:

(a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;

(b) mitigated deliberate homicide or negligent homicide resulting from operation of a motor vehicle, 12 points;

(c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in the commission of which a motor vehicle is used, 12 points;

(d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind or operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, 10 points;

(e) operating a motor vehicle while his license to do so has been suspended or revoked, 6 points;

(f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required

information and assistance, as defined in 61-7-105, 8 points;

(g) willful failure of the driver involved in an accident resulting in property damage of \$250 to stop at the scene of the accident and give the required information or to otherwise fail to report an accident in violation of the law, 4 points;

(h) reckless driving, 5 points;

(i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;

(j) operating a motor vehicle without a license to do so, 2 points (this subsection (j) does not apply to operating a motor vehicle within a period of 180 days from the date the license expired);

(k) speeding, 3 points;

(l) all other moving violations, 2 points.

(3) There ~~shall~~ may not be no multiple application of cumulative points when two or more charges are filed involving a single occurrence. If there are two or more convictions involving a single occurrence, only the number of points for the specific conviction carrying the highest points ~~shall be~~ are chargeable against that defendant.

(4) Points may not be applied as a result of a suspension imposed under the provisions of 61-5-206(1)(h) unless the offense under 45-5-624 for which the suspension

1 is imposed occurred while the person whose license is being
2 suspended was driving or in actual physical control of a
3 motor vehicle.

4 ~~††~~(5) "License" means any type of license or permit
5 to operate a motor vehicle."

6 NEW SECTION. **Section 4.** Extension of authority. Any
7 existing authority to make rules on the subject of the
8 provisions of [this act] is extended to the provisions of
9 [this act].

-End-