

SENATE BILL NO. 153

INTRODUCED BY DOHERTY, J. RICE
BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

JANUARY 14, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 6, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 8, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 9, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 40; NOES, 10.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 10, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 25, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 30, 1993	SECOND READING, CONCURRED IN.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 85; NOES, 14.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 3, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 5, 1993	THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 153
2 INTRODUCED BY Donnelly
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MANDATORY
6 MOTOR VEHICLE REGISTRATION AND LIABILITY PROTECTION LAWS;
7 PROVIDING THAT THE SENTENCE FOR DRIVING WITHOUT INSURANCE
8 MAY NOT BE DEFERRED; ABOLISHING THE REQUIREMENT THAT A MOTOR
9 VEHICLE REGISTRATION RECEIPT AND PROOF OF INSURANCE
10 CERTIFICATE BE SIGNED BY THE OWNER; REVISING THE PROOF OF
11 INSURANCE REQUIREMENTS; INCREASING THE PENALTY FOR DRIVING
12 WITHOUT INSURANCE; ADDING ADDITIONAL PENALTIES; AND AMENDING
13 SECTIONS 46-18-201, 61-3-322, 61-3-535, 61-6-302, 61-6-304,
14 61-11-203, AND 61-13-104, MCA."
15

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

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

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

21 (a) defer imposition of sentence, except as provided in
22 61-8-714 and 61-8-722 for sentences for driving under the
23 influence of alcohol or drugs or as provided in 61-6-304,
24 for a period, except as otherwise provided, not exceeding 1
25 year for any misdemeanor or for a period not exceeding 3

1 years for any felony. The sentencing judge may impose upon
2 the defendant any reasonable restrictions or conditions
3 during the period of the deferred imposition. Reasonable
4 restrictions or conditions may include:

- 5 (i) jail base release;
- 6 (ii) jail time not exceeding 180 days;
- 7 (iii) conditions for probation;
- 8 (iv) restitution;
- 9 (v) payment of the costs of confinement;
- 10 (vi) payment of a fine as provided in 46-18-231;
- 11 (vii) payment of costs as provided in 46-18-232 and
12 46-18-233;
- 13 (viii) payment of costs of court-appointed counsel as
14 provided in 46-8-113;
- 15 (ix) with the approval of the facility or program, order
16 the offender to be placed in a community corrections
17 facility or program as provided in 53-30-321;
- 18 (x) community service;
- 19 (xi) home arrest as provided in Title 46, chapter 18,
20 part 10;
- 21 (xii) any other reasonable conditions considered
22 necessary for rehabilitation or for the protection of
23 society; or
- 24 (xiii) any combination of the above.
- 25 (b) suspend execution of sentence up to the maximum

1 sentence allowed for each particular offense. The sentencing
2 judge may impose on the defendant any reasonable
3 restrictions or conditions during the period of suspended
4 sentence. Reasonable restrictions or conditions may include
5 any of those listed in subsection (1)(a).

6 (c) impose a fine as provided by law for the offense;

7 (d) require payment of costs as provided in 46-18-232
8 or payment of costs of court-appointed counsel as provided
9 in 46-8-113;

10 (e) commit the defendant to a correctional institution,
11 with or without a fine as provided by law for the offense;

12 (f) with the approval of the facility or program, order
13 the offender to be placed in a community corrections
14 facility or program as provided in 53-30-321;

15 (g) impose any combination of subsections (1)(b)
16 through (1)(f).

17 (2) If a financial obligation is imposed as a condition
18 under subsection (1)(a), sentence may be deferred for a
19 period not exceeding 2 years for a misdemeanor or for a
20 period not exceeding 6 years for a felony, regardless of
21 whether any other conditions are imposed.

22 (3) If any restrictions or conditions imposed under
23 subsection (1)(a) or (1)(b) are violated, the court shall
24 consider any elapsed time and either expressly allow part or
25 all of it as a credit against the sentence or reject all or

1 part as a credit and state its reasons in the order. Credit,
2 however, must be allowed for jail or home arrest time
3 already served.

4 (4) Except as provided in 45-9-202 and 46-18-222, the
5 imposition or execution of the first 2 years of a sentence
6 of imprisonment imposed under the following sections may not
7 be deferred or suspended: 45-5-103, 45-5-202(3) relating to
8 aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2),
9 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and
10 (5)(d), 45-9-102(4), and 45-9-103(2).

11 (5) Except as provided in 46-18-222, the imposition or
12 execution of the first 10 years of a sentence of
13 imprisonment imposed under 45-5-102 may not be deferred or
14 suspended.

15 (6) Except as provided in 46-18-222, imposition of
16 sentence in a felony case may not be deferred in the case of
17 a defendant who has been convicted of a felony on a prior
18 occasion, whether or not the sentence was imposed,
19 imposition of the sentence was deferred, or execution of the
20 sentence was suspended.

21 (7) If the victim was less than 16 years old, the
22 imposition or execution of the first 30 days of a sentence
23 of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505,
24 or 45-5-507 may not be deferred or suspended. Section
25 46-18-222 does not apply to the first 30 days of the

1 imprisonment.

2 (8) In imposing a sentence on a defendant convicted of
3 a sexual offense as defined in 46-23-502, the court may not
4 waive the registration requirement provided in 46-18-254,
5 46-18-255, and Title 46, chapter 23, part 5.

6 (9) A person convicted of a sexual offense, as defined
7 in 46-23-502, and sentenced to imprisonment in the state
8 prison shall enroll in the educational phase of the prison's
9 sexual offender program.

10 (10) In sentencing a nonviolent felony offender, the
11 court shall first consider alternatives to imprisonment of
12 the offender in the state prison, including placement of the
13 offender in a community corrections facility or program. In
14 considering alternatives to imprisonment, the court shall
15 examine the sentencing criteria contained in 46-18-225. If
16 the offender is subsequently sentenced to the state prison
17 or a women's correctional facility, the court shall state
18 its reasons why alternatives to imprisonment were not
19 selected, based on the criteria contained in 46-18-225."

20 **Section 2.** Section 61-3-322, MCA, is amended to read:

21 "61-3-322. Certificates of registration -- issuance.

22 (1) Upon completion of the application for registration on
23 forms furnished by the department, the county treasurer
24 shall file one copy in ~~his~~ the treasurer's office and issue
25 to the applicant two copies of the application marked

1 "Owner's Certificate of Registration and Payment Receipt",
2 one of which ~~shall~~ must be marked "file copy".

3 (2) The certificate of registration ~~shall~~ must contain
4 upon the face thereof of the certificate the information
5 described in 61-3-202(2).

6 (3) ~~Every owner, upon receiving a registration receipt,~~
7 ~~shall write his signature on the receipt with pen and ink in~~
8 ~~the space provided.~~ The registration receipt, a photostatic
9 copy of the receipt acknowledged by the county treasurer or
10 a deputy county treasurer, a notarized photostatic copy, or
11 a duplicate furnished by the department ~~shall~~ must at all
12 times be carried in the vehicle to which it refers or ~~shall~~
13 must be carried by the person driving or in control of the
14 vehicle, who shall display it upon demand of a police
15 officer or any officer or employee of the department or the
16 transportation department.

17 (4) The county treasurer shall daily forward to the
18 department one copy of all applications for registration
19 received that day.

20 (5) It is not necessary for the county treasurer to
21 segregate the amount of taxes or fees for state, county,
22 school district, and municipal purposes in the receipt."

23 **Section 3.** Section 61-3-535, MCA, is amended to read:

24 "61-3-535. Vehicle reregistration by mail -- renewal
25 cards and reregistration notice by mail. (1) Except as

provided in subsection (2), an owner of the following types of motor vehicles may reregister by mail:

(a) light vehicles, motorcycles, quadricycles, and other vehicles subject to tax under 61-3-504(2); and

(b) travel trailers, campers, and motor homes subject to a fee in lieu of tax under 61-3-521.

(2) The option to reregister by mail need only be made available for vehicles, motor homes, and travel trailers registered at the close of the expiring registration period in the name of the applicant for reregistration and only if the value, age, length, or other criteria used to determine the tax or fee is available to the department.

(3) The department shall develop a procedure to facilitate the reregistration by mail of the vehicles listed in subsection (1). The mail reregistration procedure developed by the department must include a procedure to facilitate automated handling of mail reregistration or recertification.

~~{4}--In the case of light vehicles, the form to be returned to the county treasurer by the applicant, with the appropriate tax and fees, is to contain a statement that the applicant is in compliance with the financial liability requirements of 61-6-301.~~

~~{5}{4}~~ The procedure implemented by the department to permit reregistration or camper decal application by mail

~~shall~~ must provide for a written reminder notice by mail to a vehicle owner of the requirement to reregister his the owner's vehicle with the county treasurer or to apply for the annual camper decal.

~~{6}{5}~~ The department shall adopt rules to implement the mail reregistration and decal application procedure."

Section 4. Section 61-6-302, MCA, is amended to read:

"61-6-302. Proof of compliance. (1) ~~Except as provided in subsection {2}, before any applicant required to register his motor vehicle may do so, the applicant must certify to the county treasurer that he possesses an automobile liability insurance policy, a certificate of self insurance, or a posted indemnity bond or that he is eligible for an exemption under 61-6-303 covering the motor vehicle. The certification shall be on a form prescribed by the department. The department may immediately cancel the registration and license plates of the vehicle upon notification that the insurance certification was not correctly represented. Any person who intentionally provides false information on an insurance certification is guilty of unsworn falsification to authorities, punishable as provided in 45-7-203. The registration receipt required by 61-3-322 must contain a statement that unless the vehicle is eligible for an exemption under 61-6-303 it is unlawful to operate the vehicle without a valid motor vehicle liability~~

1 insurance policy, a certificate of self-insurance, or a
2 posted indemnity bond, as required in 61-6-301.

3 ~~{2}~~--An applicant for registration of a motor vehicle
4 who wishes to register the vehicle by mail must sign a
5 statement on the application stating that the applicant is
6 in compliance with the financial stability requirements of
7 61-6-301.

8 {3}{2} An owner of a motor vehicle who ceases to
9 maintain the insurance or bond required or whose certificate
10 of self-insurance is canceled or whose vehicle ceases to be
11 exempt shall immediately surrender the registration and
12 license plates for the vehicle to the county treasurer for
13 delivery to the department and may not operate or permit
14 operation of the vehicle in Montana until insurance has
15 again been furnished as required and the vehicle is again
16 registered and licensed.

17 {4}{3} Every person shall carry in a motor vehicle
18 being operated by him the person an insurance card approved
19 by the department but issued by the insurance carrier to the
20 motor vehicle owner as proof of compliance with 61-6-301. A
21 motor vehicle operator shall exhibit the insurance card upon
22 demand of a justice of the peace, a city or municipal judge,
23 a peace officer, a highway patrol officer, or a field deputy
24 or inspector of the department. However, no a person charged
25 with violating this subsection may not be convicted if he

1 the person produces in court or the office of the arresting
2 officer proof of insurance valid at the time of his arrest."

3 **Section 5.** Section 61-6-304, MCA, is amended to read:

4 "61-6-304. **Penalties.** (1) It is unlawful for any person
5 to operate a motor vehicle upon ways of this state open to
6 the public without a valid policy of liability insurance in
7 effect in an amount not less than that provided in 61-6-301
8 or unless such the person has been issued a certificate of
9 self-insurance pursuant to 61-6-143 or has previously posted
10 an indemnity bond with the department as provided by
11 61-6-301 or is operating a vehicle exempt under 61-6-303.

12 (2) A violation of Conviction of a first offense under
13 61-6-301 through 61-6-304 is a misdemeanor punishable by a
14 fine of not less than \$250 and not to exceed \$500 or by
15 imprisonment in the county jail for not more than 10 days,
16 or both. A second conviction is punishable by a fine of \$350
17 or by imprisonment in the county jail for not more than 10
18 days, or both. A third or subsequent conviction is
19 punishable by a fine of \$500 or by imprisonment in the
20 county jail for not more than 10 days, or both.

21 (3) Upon a second or subsequent conviction, the
22 sentencing court shall order the surrender of the vehicle
23 registration certificate, registration receipt, and license
24 plates for the vehicle operated at the time of the offense
25 unless the vehicle was not registered to the offender and

1 the offender was using it without permission of the person
 2 to whom it was registered. The court shall send the
 3 certificate, receipt, and plates, along with a copy of the
 4 complaint and dispositional order, to the department, which
 5 shall immediately suspend the certificate, receipt, and
 6 plates for a period of 90 days from the date of a second
 7 conviction or 180 days from the date of a third or
 8 subsequent conviction. The certificate, receipt, and plates
 9 may not be reinstated until the expiration of that period,
 10 but if the vehicle is transferred to a new owner, the new
 11 owner is entitled to register the vehicle.

12 (4) Upon a second or subsequent conviction, the
 13 offender is ineligible to register and obtain license plates
 14 for any motor vehicle during the period of suspension under
 15 subsection (3).

16 (5) The court may suspend a required fine only upon a
 17 determination that the offender is or will be unable to pay
 18 the fine.

19 (6) A court may not defer imposition of penalties
 20 provided by this section."

21 **Section 6.** Section 61-11-203, MCA, is amended to read:

22 **"61-11-203. Definitions.** As used in this part, the
 23 following definitions apply:

24 (1) "Conviction" means a finding of guilt by duly
 25 constituted judicial authority, a plea of guilty, or a

1 forfeiture of bail, bond, or other security deposited to
 2 secure appearance by a person charged with having committed
 3 any offense relating to the use or operation of a motor
 4 vehicle which is prohibited by law, ordinance, or
 5 administrative order.

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

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

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

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

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

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

24 (f) failure of the driver of a motor vehicle involved
 25 in an accident resulting in death or injury to any person to

1 stop at the scene of the accident and give the required
2 information and assistance, as defined in 61-7-105, 8
3 points;

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

9 (h) reckless driving, 5 points;

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

12 (j) a mandatory motor vehicle liability protection
13 offense under 61-6-304, 5 points;

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

18 †††(l) speeding, 3 points;

19 †††(m) all other moving violations, 2 points.

20 (3) There shall be no multiple application of
21 cumulative points when two or more charges are filed
22 involving a single occurrence. If there are two or more
23 convictions involving a single occurrence, only the number
24 of points for the specific conviction carrying the highest
25 points shall be chargeable against that defendant.

1 (4) "License" means any type of license or permit to
2 operate a motor vehicle."

3 **Section 7.** Section 61-13-104, MCA, is amended to read:

4 "61-13-104. Penalty -- no record permitted. (1) A
5 driver who violates 61-13-103 must be fined \$20, but the
6 violation is not a misdemeanor pursuant to 45-2-101,
7 46-18-236, 61-8-104, or 61-8-711. A violation of 61-13-103
8 may not be counted as a moving violation for purposes of
9 suspending a driver's license under 61-11-203~~†††(1)~~(2)(m).
10 Bond for this offense is \$20, and no jail sentence may be
11 imposed.

12 (2) No violation of 61-13-103 may be recorded or
13 charged against the driver's record of a person violating
14 61-13-103, and no insurance company shall hold a violation
15 of 61-13-103 against the insured, and there may be no
16 increase in premiums due to a violation of 61-13-103."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0153, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the mandatory motor vehicle registration and liability protection laws; providing that the sentence for driving without insurance may not be deferred.

ASSUMPTIONS:


1. In calendar year 1992, there were 9,300 first offense violations issued for driving without insurance, plus 1,000 violations for 2nd offense and 200 for third offense. If that same volume of violations were issued in FY94 and FY95, total revenue of \$2,775,000 would be generated under the proposed law. However, current revenue statistics are unavailable on a statewide basis. Current law provides a range of fines for the offense from \$250 to \$500, but the fine can be deferred at the option of the judge. Data is not available on the current "average" fine collected, so the fiscal impact cannot be reasonably estimated.
2. As a result of making the no-insurance violation worth five points in the "habitual traffic offender" system, a significant increase in counseling sessions will be experienced if this bill is passed. Counseling sessions take about an hour and are performed by Motor Vehicle Division staff on an overtime basis. The Motor Vehicle Division charges a fee of \$50/session. It is assumed that the increased fee revenue will approximately offset the costs of the counseling sessions.

FISCAL IMPACT:

Not subject to reasonable estimate.

EFFECT ON COUNTY OR OTHER LOCAL GOVERNMENT REVENUES AND EXPENDITURES:

Counties retain 50% of fine revenue from these offenses. Therefore, any revenue impact from this bill would affect county revenue.

 1-23-93
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/23/93
STEVE DOHERTY, PRIMARY SPONSOR DATE

Fiscal Note for SB0153, as introduced

SB 153

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 153

INTRODUCED BY DOHERTY, J. RICE

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MANDATORY MOTOR VEHICLE REGISTRATION AND LIABILITY PROTECTION LAWS; PROVIDING THAT THE SENTENCE FOR DRIVING WITHOUT INSURANCE MAY NOT BE DEFERRED; ABOLISHING THE REQUIREMENT THAT A MOTOR VEHICLE REGISTRATION RECEIPT AND PROOF OF INSURANCE CERTIFICATE BE SIGNED BY THE OWNER; REVISING THE PROOF OF INSURANCE REQUIREMENTS; INCREASING THE PENALTY FOR DRIVING WITHOUT INSURANCE; ADDING ADDITIONAL PENALTIES; AND AMENDING SECTIONS 46-18-201, 61-3-322, 61-3-535, 61-6-302, 61-6-304, 61-11-203, AND 61-13-104, MCA."

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

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(a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3

years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Reasonable restrictions or conditions may include:

- (i) jail base release;
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- (ix) with the approval of the facility or program, order the offender to be placed in a community corrections facility or program as provided in 53-30-321;
- (x) community service;
- (xi) home arrest as provided in Title 46, chapter 18, part 10;
- (xii) any other reasonable conditions considered necessary for rehabilitation or for the protection of society; or
- (xiii) any combination of the above.
- (b) suspend execution of sentence up to the maximum

1 sentence allowed for each particular offense. The sentencing
 2 judge may impose on the defendant any reasonable
 3 restrictions or conditions during the period of suspended
 4 sentence. Reasonable restrictions or conditions may include
 5 any of those listed in subsection (1)(a).

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 13 the offender to be placed in a community corrections
 14 facility or program as provided in 53-30-321;

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 16 through (1)(f).

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 19 period not exceeding 2 years for a misdemeanor or for a
 20 period not exceeding 6 years for a felony, regardless of
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 23 subsection (1)(a) or (1)(b) are violated, the court shall
 24 consider any elapsed time and either expressly allow part or
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 12 execution of the first 10 years of a sentence of
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8 prison shall enroll in the educational phase of the prison's
9 sexual offender program.

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11 court shall first consider alternatives to imprisonment of
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16 the offender is subsequently sentenced to the state prison
17 or a women's correctional facility, the court shall state
18 its reasons why alternatives to imprisonment were not
19 selected, based on the criteria contained in 46-18-225."

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(2) The option to reregister by mail need only be made available for vehicles, motor homes, and travel trailers registered at the close of the expiring registration period in the name of the applicant for reregistration and only if the value, age, length, or other criteria used to determine the tax or fee is available to the department.

(3) The department shall develop a procedure to facilitate the reregistration by mail of the vehicles listed in subsection (1). The mail reregistration procedure developed by the department must include a procedure to facilitate automated handling of mail reregistration or recertification.

~~(4) In the case of light vehicles, the form to be returned to the county treasurer by the applicant, with the appropriate tax and fees, is to contain a statement that the applicant is in compliance with the financial liability requirements of 61-6-301.~~

(5)(4) The procedure implemented by the department to permit reregistration or camper decal application by mail

~~shall~~ must provide for a written reminder notice by mail to a vehicle owner of the requirement to reregister his the owner's vehicle with the county treasurer or to apply for the annual camper decal.

~~(6)~~(5) The department shall adopt rules to implement the mail reregistration and decal application procedure."

Section 4. Section 61-6-302, MCA, is amended to read:

"61-6-302. Proof of compliance. (1) ~~Except as provided in subsection (2), before any applicant required to register his motor vehicle may do so, the applicant must certify to the county treasurer that he possesses an automobile liability insurance policy, a certificate of self insurance, or a posted indemnity bond or that he is eligible for an exemption under 61-6-303 covering the motor vehicle. The certification shall be on a form prescribed by the department. The department may immediately cancel the registration and license plates of the vehicle upon notification that the insurance certification was not correctly represented. Any person who intentionally provides false information on an insurance certification is guilty of unsworn falsification to authorities, punishable as provided in 45-7-203. The registration receipt required by 61-3-322 must contain a statement that unless the vehicle is eligible for an exemption under 61-6-303 it is unlawful to operate the vehicle without a valid motor vehicle liability~~

1 insurance policy, a certificate of self-insurance, or a
 2 posted indemnity bond, as required in 61-6-301.

3 ~~{2}--An applicant for registration of a motor vehicle~~
 4 ~~who wishes to register the vehicle by mail must sign a~~
 5 ~~statement on the application stating that the applicant is~~
 6 ~~in compliance with the financial liability requirements of~~
 7 ~~61-6-301.~~

8 {3}{2} An owner of a motor vehicle who ceases to
 9 maintain the insurance or bond required or whose certificate
 10 of self-insurance is canceled or whose vehicle ceases to be
 11 exempt shall immediately surrender the registration and
 12 license plates for the vehicle to the county treasurer for
 13 delivery to the department and may not operate or permit
 14 operation of the vehicle in Montana until insurance has
 15 again been furnished as required and the vehicle is again
 16 registered and licensed.

17 {4}{3} Every person shall carry in a motor vehicle
 18 being operated by him the person an insurance card approved
 19 by the department but issued by the insurance carrier to the
 20 motor vehicle owner as proof of compliance with 61-6-301. A
 21 motor vehicle operator shall exhibit the insurance card upon
 22 demand of a justice of the peace, a city or municipal judge,
 23 a peace officer, a highway patrol officer, or a field deputy
 24 or inspector of the department. However, no a person charged
 25 with violating this subsection may not be convicted if he

1 the person produces in court or the office of the arresting
 2 officer proof of insurance valid at the time of his arrest."

3 **Section 5.** Section 61-6-304, MCA, is amended to read:

4 "61-6-304. Penalties. (1) It is unlawful for any person
 5 to operate a motor vehicle upon ways of this state open to
 6 the public without a valid policy of liability insurance in
 7 effect in an amount not less than that provided in 61-6-301
 8 or unless such the person has been issued a certificate of
 9 self-insurance pursuant to 61-6-143 or has previously posted
 10 an indemnity bond with the department as provided by
 11 61-6-301 or is operating a vehicle exempt under 61-6-303.

12 (2) A violation of Conviction of a first offense under
 13 61-6-301 through 61-6-304 is a misdemeanor punishable by a
 14 fine of not less than \$250 \$500 and not to exceed \$500 or by
 15 imprisonment in the county jail for not more than 10 days,
 16 or both. A second conviction is punishable by a fine of \$350
 17 \$750 or by imprisonment in the county jail for not more than
 18 10 days, or both. A third or subsequent conviction is
 19 punishable by a fine of \$500 \$1,000 or by imprisonment in
 20 the county jail for not more than 10 30 days, or both.

21 (3) Upon a second or subsequent conviction, the
 22 sentencing court shall order the surrender of the vehicle
 23 registration--certificate, registration receipt, and license
 24 plates for the vehicle operated at the time of the offense
 25 unless--the--vehicle--was--not--registered--to--the--offender--and

~~the offender was using it without permission of the person to whom it was registered~~ IF THAT VEHICLE WAS OPERATED BY THE REGISTERED OWNER OR A MEMBER OF THE REGISTERED OWNER'S IMMEDIATE FAMILY. The court shall send the certificate, receipt, and plates, along with a copy of the complaint and dispositional order, to the department, which shall immediately suspend the certificate, receipt, and plates for a period of 90 days from the date of a second conviction or 180 days from the date of a third or subsequent conviction. The certificate, receipt, and plates may not be reinstated until the expiration of that period, but if the vehicle is transferred to a new owner, the new owner is entitled to register the vehicle.

~~(4) Upon a second or subsequent conviction, the offender is ineligible to register and obtain license plates for any motor vehicle during the period of suspension under subsection (3).~~

~~(5)(4) The court may suspend a required fine only upon a determination that the offender is or will be unable to pay the fine.~~

~~(6)(5) A court may not defer imposition of penalties provided by this section.~~

Section 6. Section 61-11-203, MCA, is amended to read:

"61-11-203. Definitions. As used in this part, the following definitions apply:

(1) "Conviction" means a finding of guilt by duly constituted judicial authority, a plea of guilty, or a 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, negligent homicide resulting from operation of a motor vehicle, or negligent vehicular assault, 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;

1 (f) failure of the driver of a motor vehicle involved
2 in an accident resulting in death or injury to any person to
3 stop at the scene of the accident and give the required
4 information and assistance, as defined in 61-7-105, 8
5 points;

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

11 (h) reckless driving, 5 points;

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

14 (j) a mandatory motor vehicle liability protection
15 offense under 61-6-304, 5 points;

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

20 †k†(l) speeding, 3 points;

21 †††(m) all other moving violations, 2 points.

22 (3) There shall be no multiple application of
23 cumulative points when two or more charges are filed
24 involving a single occurrence. If there are two or more
25 convictions involving a single occurrence, only the number

1 of points for the specific conviction carrying the highest
2 points shall be chargeable against that defendant.

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

5 **Section 7.** Section 61-13-104, MCA, is amended to read:

6 "61-13-104. **Penalty -- no record permitted.** (1) A
7 driver who violates 61-13-103 must be fined \$20, but the
8 violation is not a misdemeanor pursuant to 45-2-101,
9 46-18-236, 61-8-104, or 61-8-711. A violation of 61-13-103
10 may not be counted as a moving violation for purposes of
11 suspending a driver's license under 61-11-203~~†2†~~†††(2)(m).
12 Bond for this offense is \$20, and no jail sentence may be
13 imposed.

14 (2) No violation of 61-13-103 may be recorded or
15 charged against the driver's record of a person violating
16 61-13-103, and no insurance company shall hold a violation
17 of 61-13-103 against the insured, and there may be no
18 increase in premiums due to a violation of 61-13-103."

-End-

1 SENATE BILL NO. 153

2 INTRODUCED BY DOHERTY, J. RICE

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MANDATORY
6 MOTOR VEHICLE REGISTRATION AND LIABILITY PROTECTION LAWS;
7 PROVIDING THAT THE SENTENCE FOR DRIVING WITHOUT INSURANCE
8 MAY NOT BE DEFERRED; ABOLISHING THE REQUIREMENT THAT A MOTOR
9 VEHICLE REGISTRATION RECEIPT AND PROOF OF INSURANCE
10 CERTIFICATE BE SIGNED BY THE OWNER; REVISING THE PROOF OF
11 INSURANCE REQUIREMENTS; INCREASING THE PENALTY FOR DRIVING
12 WITHOUT INSURANCE; ADDING ADDITIONAL PENALTIES; AND AMENDING
13 SECTIONS 46-18-201, 61-3-322, 61-3-535, 61-6-302, 61-6-304,
14 61-11-203, AND 61-13-104, MCA."

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

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

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

21 (a) defer imposition of sentence, except as provided in
22 61-8-714 and 61-8-722 for sentences for driving under the
23 influence of alcohol or drugs or as provided in 61-6-304,
24 for a period, except as otherwise provided, not exceeding 1
25 year for any misdemeanor or for a period not exceeding 3

1 years for any felony. The sentencing judge may impose upon
2 the defendant any reasonable restrictions or conditions
3 during the period of the deferred imposition. Reasonable
4 restrictions or conditions may include:

- 5 (i) jail base release;
6 (ii) jail time not exceeding 180 days;
7 (iii) conditions for probation;
8 (iv) restitution;
9 (v) payment of the costs of confinement;
10 (vi) payment of a fine as provided in 46-18-231;
11 (vii) payment of costs as provided in 46-18-232 and
12 46-18-233;
13 (viii) payment of costs of court-appointed counsel as
14 provided in 46-8-113;
15 (ix) with the approval of the facility or program, order
16 the offender to be placed in a community corrections
17 facility or program as provided in 53-30-321;
18 (x) community service;
19 (xi) home arrest as provided in Title 46, chapter 18,
20 part 10;
21 (xii) any other reasonable conditions considered
22 necessary for rehabilitation or for the protection of
23 society; or
24 (xiii) any combination of the above.
25 (b) suspend execution of sentence up to the maximum

1 sentence allowed for each particular offense. The sentencing
2 judge may impose on the defendant any reasonable
3 restrictions or conditions during the period of suspended
4 sentence. Reasonable restrictions or conditions may include
5 any of those listed in subsection (1)(a).

6 (c) impose a fine as provided by law for the offense;

7 (d) require payment of costs as provided in 46-18-232
8 or payment of costs of court-appointed counsel as provided
9 in 46-8-113;

10 (e) commit the defendant to a correctional institution,
11 with or without a fine as provided by law for the offense;

12 (f) with the approval of the facility or program, order
13 the offender to be placed in a community corrections
14 facility or program as provided in 53-30-321;

15 (g) impose any combination of subsections (1)(b)
16 through (1)(f).

17 (2) If a financial obligation is imposed as a condition
18 under subsection (1)(a), sentence may be deferred for a
19 period not exceeding 2 years for a misdemeanor or for a
20 period not exceeding 6 years for a felony, regardless of
21 whether any other conditions are imposed.

22 (3) If any restrictions or conditions imposed under
23 subsection (1)(a) or (1)(b) are violated, the court shall
24 consider any elapsed time and either expressly allow part or
25 all of it as a credit against the sentence or reject all or

1 part as a credit and state its reasons in the order. Credit,
2 however, must be allowed for jail or home arrest time
3 already served.

4 (4) Except as provided in 45-9-202 and 46-18-222, the
5 imposition or execution of the first 2 years of a sentence
6 of imprisonment imposed under the following sections may not
7 be deferred or suspended: 45-5-103, 45-5-202(3) relating to
8 aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2),
9 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and
10 (5)(d), 45-9-102(4), and 45-9-103(2).

11 (5) Except as provided in 46-18-222, the imposition or
12 execution of the first 10 years of a sentence of
13 imprisonment imposed under 45-5-102 may not be deferred or
14 suspended.

15 (6) Except as provided in 46-18-222, imposition of
16 sentence in a felony case may not be deferred in the case of
17 a defendant who has been convicted of a felony on a prior
18 occasion, whether or not the sentence was imposed,
19 imposition of the sentence was deferred, or execution of the
20 sentence was suspended.

21 (7) If the victim was less than 16 years old, the
22 imposition or execution of the first 30 days of a sentence
23 of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505,
24 or 45-5-507 may not be deferred or suspended. Section
25 46-18-222 does not apply to the first 30 days of the

1 imprisonment.

2 (8) In imposing a sentence on a defendant convicted of
3 a sexual offense as defined in 46-23-502, the court may not
4 waive the registration requirement provided in 46-18-254,
5 46-18-255, and Title 46, chapter 23, part 5.

6 (9) A person convicted of a sexual offense, as defined
7 in 46-23-502, and sentenced to imprisonment in the state
8 prison shall enroll in the educational phase of the prison's
9 sexual offender program.

10 (10) In sentencing a nonviolent felony offender, the
11 court shall first consider alternatives to imprisonment of
12 the offender in the state prison, including placement of the
13 offender in a community corrections facility or program. In
14 considering alternatives to imprisonment, the court shall
15 examine the sentencing criteria contained in 46-18-225. If
16 the offender is subsequently sentenced to the state prison
17 or a women's correctional facility, the court shall state
18 its reasons why alternatives to imprisonment were not
19 selected, based on the criteria contained in 46-18-225."

20 **Section 2.** Section 61-3-322, MCA, is amended to read:

21 "61-3-322. Certificates of registration -- issuance.

22 (1) Upon completion of the application for registration on
23 forms furnished by the department, the county treasurer
24 shall file one copy in his the treasurer's office and issue
25 to the applicant two copies of the application marked

1 "Owner's Certificate of Registration and Payment Receipt",
2 one of which shall must be marked "file copy".

3 (2) The certificate of registration shall must contain
4 upon the face thereof of the certificate the information
5 described in 61-3-202(2).

6 (3) ~~Every owner, upon receiving a registration receipt,~~
7 ~~shall write his signature on the receipt with pen and ink in~~
8 ~~the space provided.~~ The registration receipt, a photostatic
9 copy of the receipt acknowledged by the county treasurer or
10 a deputy county treasurer, a notarized photostatic copy, or
11 a duplicate furnished by the department shall must at all
12 times be carried in the vehicle to which it refers or shall
13 must be carried by the person driving or in control of the
14 vehicle, who shall display it upon demand of a police
15 officer or any officer or employee of the department or the
16 transportation department.

17 (4) The county treasurer shall daily forward to the
18 department one copy of all applications for registration
19 received that day.

20 (5) It is not necessary for the county treasurer to
21 segregate the amount of taxes or fees for state, county,
22 school district, and municipal purposes in the receipt."

23 **Section 3.** Section 61-3-535, MCA, is amended to read:

24 "61-3-535. Vehicle reregistration by mail -- renewal
25 cards and reregistration notice by mail. (1) Except as

1 provided in subsection (2), an owner of the following types
2 of motor vehicles may reregister by mail:

3 (a) light vehicles, motorcycles, quadricycles, and
4 other vehicles subject to tax under 61-3-504(2); and

5 (b) travel trailers, campers, and motor homes subject
6 to a fee in lieu of tax under 61-3-521.

7 (2) The option to reregister by mail need only be made
8 available for vehicles, motor homes, and travel trailers
9 registered at the close of the expiring registration period
10 in the name of the applicant for reregistration and only if
11 the value, age, length, or other criteria used to determine
12 the tax or fee is available to the department.

13 (3) The department shall develop a procedure to
14 facilitate the reregistration by mail of the vehicles listed
15 in subsection (1). The mail reregistration procedure
16 developed by the department must include a procedure to
17 facilitate automated handling of mail reregistration or
18 recertification.

19 ~~{4}--In the case of light vehicles, the form to be~~
20 ~~returned to the county treasurer by the applicant, with the~~
21 ~~appropriate tax and fees, is to contain a statement that the~~
22 ~~applicant is in compliance with the financial liability~~
23 ~~requirements of 61-6-381.~~

24 {5}{4} The procedure implemented by the department to
25 permit reregistration or camper decal application by mail

1 shall must provide for a written reminder notice by mail to
2 a vehicle owner of the requirement to reregister his the
3 owner's vehicle with the county treasurer or to apply for
4 the annual camper decal.

5 {6}{5} The department shall adopt rules to implement
6 the mail reregistration and decal application procedure."

7 **Section 4.** Section 61-6-302, MCA, is amended to read:

8 "61-6-302. Proof of compliance. (1) Except as provided
9 in subsection (2) before any applicant required to register
10 his motor vehicle may do so, the applicant must certify to
11 the county treasurer that he possesses an automobile
12 liability insurance policy, a certificate of self insurance,
13 or a posted indemnity bond or that he is eligible for an
14 exemption under 61-6-303 covering the motor vehicle. The
15 certification shall be on a form prescribed by the
16 department. The department may immediately cancel the
17 registration and license plates of the vehicle upon
18 notification that the insurance certification was not
19 correctly represented. Any person who intentionally provides
20 false information on an insurance certification is guilty of
21 unsworn falsification to authorities, punishable as provided
22 in 45-7-203. The registration receipt required by 61-3-322
23 must contain a statement that unless the vehicle is eligible
24 for an exemption under 61-6-303 it is unlawful to operate
25 the vehicle without a valid motor vehicle liability

insurance policy, a certificate of self-insurance, or a posted indemnity bond, as required in 61-6-301.

~~{2}--An applicant for registration of a motor vehicle who wishes to register the vehicle by mail must sign a statement on the application stating that the applicant is in compliance with the financial liability requirements of 61-6-301.~~

~~{3}~~{2} An owner of a motor vehicle who ceases to maintain the insurance or bond required or whose certificate of self-insurance is canceled or whose vehicle ceases to be exempt shall immediately surrender the registration and license plates for the vehicle to the county treasurer for delivery to the department and may not operate or permit operation of the vehicle in Montana until insurance has again been furnished as required and the vehicle is again registered and licensed.

~~{4}~~{3} Every person shall carry in a motor vehicle being operated by him the person an insurance card approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of compliance with 61-6-301. A motor vehicle operator shall exhibit the insurance card upon demand of a justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy or inspector of the department. However, no a person charged with violating this subsection may not be convicted if he

the person produces in court or the office of the arresting officer proof of insurance valid at the time of his arrest."

Section 5. Section 61-6-304, MCA, is amended to read:

"61-6-304. Penalties. (1) It is unlawful for any person to operate a motor vehicle upon ways of this state open to the public without a valid policy of liability insurance in effect in an amount not less than that provided in 61-6-301 or unless such the person has been issued a certificate of self-insurance pursuant to 61-6-143 or has previously posted an indemnity bond with the department as provided by 61-6-301 or is operating a vehicle exempt under 61-6-303.

(2) A violation of Conviction of a first offense under 61-6-301 through 61-6-304 is a misdemeanor punishable by a fine of not less than \$250 \$500 and not to exceed \$500 or by imprisonment in the county jail for not more than 10 days, or both. A second conviction is punishable by a fine of \$350 \$750 or by imprisonment in the county jail for not more than 10 days, or both. A third or subsequent conviction is punishable by a fine of \$500 \$1,000 or by imprisonment in the county jail for not more than 30 days, or both.

(3) Upon a second or subsequent conviction, the sentencing court shall order the surrender of the vehicle registration--certificate, registration receipt, and license plates for the vehicle operated at the time of the offense unless the vehicle was not registered to the offender and

~~the offender was using it without permission of the person to whom it was registered~~ IF THAT VEHICLE WAS OPERATED BY THE REGISTERED OWNER OR A MEMBER OF THE REGISTERED OWNER'S IMMEDIATE FAMILY. The court shall send the certificate, receipt, and plates, along with a copy of the complaint and dispositional order, to the department, which shall immediately suspend the certificate, receipt, and plates for a period of 90 days from the date of a second conviction or 180 days from the date of a third or subsequent conviction. The certificate, receipt, and plates may not be reinstated until the expiration of that period, but if the vehicle is transferred to a new owner, the new owner is entitled to register the vehicle.

~~{4}--Upon a second or subsequent conviction, the offender is ineligible to register and obtain license plates for any motor vehicle during the period of suspension under subsection {3}.~~

~~{5}(4) The court may suspend a required fine only upon a determination that the offender is or will be unable to pay the fine.~~

~~{5}(5) A court may not defer imposition of penalties provided by this section."~~

Section 6. Section 61-11-203, MCA, is amended to read:

"61-11-203. Definitions. As used in this part, the following definitions apply:

(1) "Conviction" means a finding of guilt by duly constituted judicial authority, a plea of guilty, or a 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, negligent homicide resulting from operation of a motor vehicle, or negligent vehicular assault, 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) a mandatory motor vehicle liability protection offense under 61-6-304, 5 points;

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

††(l) speeding, 3 points;

††(m) all other moving violations, 2 points.

(3) There shall 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 chargeable against that defendant.

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

Section 7. Section 61-13-104, MCA, is amended to read:

"61-13-104. Penalty -- no record permitted. (1) A driver who violates 61-13-103 must be fined \$20, but the violation is not a misdemeanor pursuant to 45-2-101, 46-18-236, 61-8-104, or 61-8-711. A violation of 61-13-103 may not be counted as a moving violation for purposes of suspending a driver's license under 61-11-203~~††~~††(2)(m). Bond for this offense is \$20, and no jail sentence may be imposed.

(2) No violation of 61-13-103 may be recorded or charged against the driver's record of a person violating 61-13-103, and no insurance company shall hold a violation of 61-13-103 against the insured, and there may be no increase in premiums due to a violation of 61-13-103."

-End-

HOUSE STANDING COMMITTEE REPORT

March 25, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 153 (third reading copy -- blue) be concurred in as
amended .

Signed: 
Russ Fagg, ~~Chair~~

And, that such amendments read:

Carried by: Rep. J. Rice

1. Page 10, line 14.

Following: "~~\$250~~"

Insert: "not less than \$250 or more than"

2. Page 10, line 17.

Strike: "\$750"

Insert: "\$350"

3. Page 10, line 19.

Strike: "\$1,000"

Insert: "\$500"

4. Page 10, line 20.

Strike: "30"

Insert: "10"

5. Page 11, line 4.

Following: "FAMILY"

Insert: "or by a person whose operation of that vehicle was
authorized by the registered owner"

-END-

Committee Vote:
Yes 10, No 2.

HOUSE
SB 153

671447SC.Hss