

SENATE BILL NO. 315

INTRODUCED BY SWYSGOOD
BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

FEBRUARY 4, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
FEBRUARY 10, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 11, 1993	PRINTING REPORT.
FEBRUARY 12, 1993	SECOND READING, DO PASS AS AMENDED.
	ON MOTION, SEGREGATED FROM COMMITTEE OF WHOLE REPORT.
FEBRUARY 13, 1993	SECOND READING, DO PASS.
FEBRUARY 15, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 48; NOES, 1.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
MARCH 9, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
	POSTED ON CONSENT CALENDAR.
MARCH 10, 1993	CONSENT CALENDAR, QUESTIONS AND ANSWERS.
MARCH 11, 1993	THIRD READING, CONCURRED IN. AYES, 95; NOES, 5.
MARCH 12, 1993	RETURNED TO SENATE.

MARCH 13, 1993

IN THE SENATE

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *315*
2 INTRODUCED BY *Sen. J. G. ...*
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS
6 RELATING TO COMMERCIAL MOTOR VEHICLES AND COMMERCIAL MOTOR
7 VEHICLE OPERATORS; PROVIDING FOR SUSPENSION OF A COMMERCIAL
8 DRIVER'S LICENSE FOR INDIVIDUALS CONVICTED OF VIOLATING
9 OUT-OF-SERVICE ORDERS; ADDING SCHOOL BUSES TO THE DEFINITION
10 OF COMMERCIAL MOTOR VEHICLES; CHANGING REFERENCES IN MONTANA
11 STATUTES FROM "COMMERCIAL VEHICLE OPERATOR'S ENDORSEMENT" TO
12 "COMMERCIAL DRIVER'S LICENSE"; AND AMENDING SECTIONS
13 20-10-103, 61-1-134, 61-1-135, 61-1-136, 61-5-106, 61-5-107,
14 61-5-110, 61-5-111, 61-5-112, 61-5-117, 61-5-121, 61-5-201,
15 61-5-203, 61-5-204, 61-5-205, 61-5-206, 61-5-207, 61-5-208,
16 61-5-209, 61-5-210, 61-5-211, 61-5-212, 61-5-302, 61-5-306,
17 61-8-802, 61-8-803, 61-8-804, 61-8-805, 61-8-806, 61-8-808,
18 61-8-810, AND 61-8-811, MCA."

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 NEW SECTION. Section 1. Suspension of commercial
22 driver's license -- operation of out-of-service vehicle. (1)
23 Upon receipt of information that a commercial motor vehicle
24 operator has been convicted of a violation of operating a
25 commercial motor vehicle that has been placed out of

1 service, the department shall suspend the operator's
2 commercial driver's license for 6 months for a first
3 conviction and for 1 year for a second or subsequent
4 conviction.

5 (2) A temporary or probationary commercial driver's
6 license may not be issued while a commercial driver's
7 license is suspended under subsection (1).

8 **Section 2.** Section 20-10-103, MCA, is amended to read:

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

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 commercial 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 form approved by the United
18 States department of transportation or by the superintendent
19 of public instruction, signed by any physician licensed in
20 the United States or, if acceptable to an insurance carrier,
21 any licensed physician;

22 (5) he has completed a basic first aid course and holds
23 a valid basic first aid certificate from an authorized
24 instructor. The issuance of the certificate is governed by
25 rules established by the superintendent of public

instruction, provided that the rules may suspend this requirement for a reasonable period of time if there has been an inadequate opportunity for securing the basic first aid course and certificate.

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

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

Section 3. Section 61-1-134, MCA, is amended to read:

"61-1-134. 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 a school bus as defined in 20-10-101; or

~~(e)~~ (d) is used to transport hazardous material.

(2) Commercial motor vehicles under this section do not include vehicles operated within the state of Montana that are:

(a) registered as paying the 16¢ gross weight fee under

61-10-206;

(b) used for firefighting and that are bearing Montana tax-exempt plates; or

(c) police emergency response and safety education units.

(3) Vehicles that are operated within the state of Montana by farmers or persons employed by farmers who are transporting farm products or farm supplies and that are operated within 150 miles of the farm headquarters are not considered commercial motor vehicles under this section."

Section 4. Section 61-1-135, MCA, is amended to read:

"61-1-135. Commercial vehicle--operator's--endorsement driver's license. "Commercial vehicle-operator's-endorsement driver's license" means an endorsement to a Montana driver's license that authorizes the licensee to operate a class of commercial motor vehicle."

Section 5. Section 61-1-136, MCA, is amended to read:

"61-1-136. 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 the person holds a valid license;

(3) any nonresident's driving privilege;

(4) a motorcycle endorsement; and

(5) a commercial vehicle---operator's---endorsement driver's license."

Section 6. Section 61-5-106, MCA, is amended to read:

"61-5-106. Instruction and traffic education permits and temporary licenses. (1) Any A person satisfying the age requirements specified in 61-5-105(1) may apply to the department for an instruction permit. The department may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit which that entitles shall-entitle the applicant, while having such the permit in his the applicant's immediate possession, to drive a motor vehicle upon the public highways for a period of 6 months when accompanied by a licensed driver who is occupying a seat beside the driver. In addition, the department may issue such an instruction permit to any person who is at least 14 1/2 years of age and who has successfully completed or is successfully participating in a traffic education course approved by the department and the superintendent of public instruction. Any An instruction permit so--issued-shall must be restricted to the operation of a motor vehicle only when accompanied by an approved instructor or licensed parent or guardian and may be further restricted to specific times and/or or areas.

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

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

(4) The department may in its discretion issue a

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

12 **Section 7.** Section 61-5-107, MCA, is amended to read:

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

1 attached to each driver's license application. If the
 2 applicant wishes to register to vote, the department shall
 3 accept the registration and forward the form to the election
 4 administrator.

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

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

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

24 "61-5-110. Examination of applicants. (1) The
 25 department shall examine every applicant for a driver's

1 license, ~~---commercial---vehicle---operator's---endorsement~~, or
 2 motorcycle endorsement, except as otherwise provided in this
 3 section. ~~Such~~ The examination ~~shall~~ must include a test of
 4 the applicant's eyesight, his the applicant's ability to
 5 read and understand highway signs regulating, warning, and
 6 directing traffic, ~~his~~ the applicant's knowledge of the
 7 traffic laws of this state, and ~~shall~~ must include an actual
 8 demonstration of ability to exercise ordinary and reasonable
 9 control in the operation of a motor vehicle, quadricycle, or
 10 motorcycle. The examination for the commercial vehicle
 11 ~~operator's---endorsement~~ driver's license may include
 12 additional items.

13 (2) Within 90 days of receipt of an application for a
 14 commercial vehicle-operator's-endorsement driver's license,
 15 the department shall give an examination ~~for-endorsement~~ to
 16 the applicant in the county where the applicant resides.

17 (3) Except as otherwise provided by law, a resident who
 18 has a valid driver's license issued by another state may
 19 surrender that license for a Montana license of the same
 20 class, type, and endorsement upon payment of the required
 21 fees. A resident who obtains a Montana driver's license in
 22 this manner is exempt from the written examination and
 23 actual demonstration of the operation of a motor vehicle
 24 provided for in subsection (1) but is not exempt from the
 25 eyesight test or, in the case of commercial drivers, any

1 examination required by federal regulations."

2 **Section 9.** Section 61-5-111, MCA, is amended to read:

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

24 (2) (a) The department shall, when any person applies
 25 for renewal of a driver's license, test the applicant's

1 eyesight and may also in the department's discretion have
2 the applicant demonstrate his the applicant's physical
3 ability to operate and to exercise ordinary and reasonable
4 care in the operation of a motor vehicle.

5 (b) In the case of a commercial vehicle-operator's
6 endorsements driver's license, the department may also
7 require that the applicant successfully complete a written
8 examination as required by federal regulations.

9 (c) A person is considered to have applied for renewal
10 of a Montana driver's license if the application is made
11 within 3 months of the expiration of his the person's
12 license.

13 (3) A license expires on the anniversary of the date of
14 birth of the licensee 4 years or less after the date of
15 issue.

16 (4) A license issued to a person under the age of 21
17 years must contain a photograph of the licensee's profile.

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

1 department may, for any reasonable cause as shown by its
2 records, designate the renewal of the license as
3 provisional; otherwise, a license in usual form must be
4 issued subject to other provisions of the laws of Montana.

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

17 (7) Fees for driver's licenses are:

18 (a) driver's license, except a commercial driver's
19 license -- \$4 per year or fraction thereof of a year;

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

22 (c) commercial vehicle-operator's-endorsement driver's
23 license:

24 (i) interstate -- \$5 per year or fraction thereof of a
25 year;

1 (ii) intrastate -- \$3.50 per year or fraction thereof of
2 a year.

3 (8) A license designated as a chauffeur's license as of
4 January 1, 1988, is valid as a commercial ~~vehicle-operator's~~
5 endorsement driver's license until the expiration of the
6 license.

7 (9) The holder of a chauffeur's license may convert his
8 the chauffeur's license to a commercial ~~vehicle-operator's~~
9 endorsement driver's license by paying the appropriate fee
10 covering the remainder of the life of his the license and
11 complying with the requirements established by the
12 department.

13 (10) The holder of a valid chauffeur's license who is
14 renewing and wishes to obtain a commercial ~~vehicle~~
15 ~~operator's--endorsement~~ driver's license may do so upon
16 paying the appropriate fees and complying with the
17 requirements established by the department."

18 **Section 10.** Section 61-5-112, MCA, is amended to read:

19 "61-5-112. Classification of commercial ~~vehicle~~
20 ~~operator's-endorsements~~ driver's license. The department
21 upon issuing a ~~license-with-a~~ commercial ~~vehicle-operator's~~
22 endorsement driver's license shall indicate thereon on the
23 license the class of license so issued and shall
24 appropriately examine each applicant according to the class
25 of endorsement applied for and may impose such rules for the

1 classification, examination, and use thereof as that it
2 considers necessary for the safety and welfare of the
3 traveling public."

4 **Section 11.** Section 61-5-117, MCA, is amended to read:

5 "61-5-117. Rulemaking authority. The department of
6 justice may adopt rules to implement the issuance and
7 enforcement of classified commercial ~~vehicle--operator's~~
8 endorsements driver's licenses and hazardous materials
9 endorsements."

10 **Section 12.** Section 61-5-121, MCA, is amended to read:

11 "61-5-121. (Temporary) Disposition of fees. (1) The
12 disposition of the fees from driver's licenses provided for
13 in 61-5-111(7)(a), motorcycle endorsements provided for in
14 61-5-111(7)(b), commercial ~~vehicle-operator's-endorsements~~
15 driver's licenses provided for in 61-5-111(7)(c), and
16 duplicate driver's licenses provided for in 61-5-114 is as
17 follows:

18 (a) The amount of 25% of each driver's license fee and
19 of each duplicate driver's license fee must be deposited
20 into an account in the state special revenue fund. The
21 department shall transfer the funds from this account to the
22 Montana highway patrol officers' retirement pension trust
23 fund as provided in 19-6-404. ~~Funds--transferred--from--the~~
24 ~~account---are---statutorily---appropriated,--as--provided--in~~
25 ~~17-7-502,--to--the--pension-trust-fund.~~

1 (b) (i) If the fees are collected by a county treasurer
2 or other agent of the department, the amount of 3.75% of
3 each driver's license fee and of each duplicate driver's
4 license fee must be deposited into the county general fund.

5 (ii) Except as provided in subsection (3), if the fees
6 are collected by the department, the amount provided for in
7 subsection (1)(b)(i) must be deposited into the state
8 special revenue fund for use by the department to defray the
9 costs of issuing licenses or duplicate licenses.

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

14 (ii) Except as provided in subsection (3), if the fee is
15 collected by the department, the amount provided for in
16 subsection (1)(c)(i) must be deposited into the state
17 special revenue fund for use by the department to defray the
18 costs of issuing motorcycle endorsements.

19 (d) The amount of 17.5% of each driver's license fee
20 and of each duplicate driver's license fee must be deposited
21 into the state traffic education account.

22 (e) The amount of 53.75% of each driver's license fee
23 and of each duplicate driver's license fee must be deposited
24 into the state general fund.

25 (f) If the fee is collected by the county treasurer or

1 other agent of the department, the amount of 3.75% of each
2 commercial ~~vehicle-operator's-endorsement~~ driver's license
3 fee must be deposited into the county general fund,
4 otherwise all of the fee must be deposited in the state
5 general fund.

6 (g) The amount of 95% of each motorcycle endorsement
7 fee must be deposited into the state traffic education
8 account in the state special revenue fund.

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

24 (b) If fees from driver's licenses, commercial ~~vehicle~~
25 ~~operator's---endorsements~~ driver's licenses, motorcycle

1 endorsements, and duplicate driver's licenses are collected
 2 by the department, it shall remit all fees to the state
 3 treasurer, together with a statement indicating what portion
 4 of each fee is to be deposited into the account in the state
 5 special revenue fund as provided in subsection (1)(a), the
 6 state special revenue fund, the state traffic education
 7 account, and the state general fund. The state treasurer,
 8 upon receipt of the fees and statement, shall deposit the
 9 fees as provided in subsections (1)(a), (1)(b)(ii),
 10 (1)(c)(ii), and (1)(d) through (1)(g).

11 (3) On or before June 30, 1993, the balance in the
 12 driver's license collections account in the state special
 13 revenue fund collected pursuant to subsections (1)(b)(ii)
 14 and (1)(c)(ii) must be transferred to the general fund.
 15 (Terminates July 1, 1993--sec. 7(1), Ch. 5, Sp. L. January
 16 1992.)

17 61-5-121. (Effective July 1, 1993) Disposition of fees.

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

24 (a) The amount of 25% of each driver's license fee and
 25 of each duplicate driver's license fee must be deposited

1 into an account in the state special revenue fund. The
 2 department shall transfer the funds from this account to the
 3 Montana highway patrol officers' retirement pension trust
 4 fund as provided in 19-6-404. ~~Funds--transferred--from--the~~
 5 ~~account---are---statutorily---appropriated,--as--provided--in~~
 6 ~~17-7-502,--to--the--pension--trust--fund.~~

7 (b) (i) If the fees are collected by a county treasurer
 8 or other agent of the department, the amount of 3.75% of
 9 each driver's license fee and of each duplicate driver's
 10 license fee must be deposited into the county general fund.

11 (ii) If the fees are collected by the department, the
 12 amount provided for in subsection (1)(b)(i) must be
 13 deposited into the general fund.

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

18 (ii) If the fee is collected by the department, the
 19 amount provided for in subsection (1)(c)(i) must be
 20 deposited into the general fund.

21 (d) The amount of 17.5% of each driver's license fee
 22 and of each duplicate driver's license fee must be deposited
 23 into the state traffic education account.

24 (e) In addition to the amounts deposited pursuant to
 25 subsections (1)(b)(ii) and (1)(c)(ii), the amount of 53.75%

of each driver's license fee and of each duplicate driver's license fee must be deposited into the state general fund.

(f) If the fee is collected by the county treasurer or other agent of the department, the amount of 3.75% of each commercial ~~vehicle--operator's-endorsement~~ driver's license fee must be deposited into the county general fund, otherwise all of the fee must be deposited in the state general fund.

(g) The amount of 95% of each motorcycle endorsement fee must be deposited into the state traffic education account in the state special revenue fund.

(2) (a) If fees from driver's licenses, commercial ~~vehicle---operator's---endorsements~~ driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, ~~he the county treasurer or agent~~ shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. ~~He~~ The county treasurer or agent shall then remit to the state treasurer all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state traffic education account, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in

subsections (1)(a) and (1)(d) through (1)(g).

(b) If fees from driver's licenses, commercial ~~vehicle operator's--endorsements~~ driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall remit all fees to the state treasurer, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state special revenue fund, the state traffic education account, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g)."

Section 13. Section 61-5-201, MCA, is amended to read:

"61-5-201. Authority of department to cancel license ~~and--endorsement.~~ (1) The department ~~is-hereby-authorized-to~~ may cancel a driver's license ~~and--commercial---vehicle operator's---endorsement--or--just--the--commercial--vehicle operator's-endorsement~~ upon determining that the licensee was not entitled to the issuance or that since the issuance, ~~said the~~ licensee has become ineligible ~~{such-ineligibility shall--be~~ as determined pursuant to the provisions of 61-5-105} or that ~~said the~~ licensee failed to give the required or correct information in ~~his the licensee's~~ application or committed any fraud in making ~~such the~~

1 application.

2 (2) Upon such cancellation, the licensee must shall
3 surrender the canceled license ~~so--canceled~~ to the
4 department."

5 **Section 14.** Section 61-5-203, MCA, is amended to read:

6 "61-5-203. Suspending privileges of nonresidents. The
7 privilege of driving a motor vehicle on the highways of this
8 state given to a nonresident ~~shall--be~~ is subject to
9 suspension or revocation by the department in like manner
10 and for like causes as a driver's license ~~and--commercial~~
11 ~~vehicle-operator's-endorsement-or-just-an-endorsement~~ issued
12 hereunder under this chapter may be suspended or revoked."

13 **Section 15.** Section 61-5-204, MCA, is amended to read:

14 "61-5-204. Suspending resident's license upon
15 conviction in another state. The department ~~is-authorized-to~~
16 may suspend or revoke the driver's license ~~and--commercial~~
17 ~~vehicle---operator's--endorsement--or--just--the--commercial~~
18 ~~vehicle-operator's-endorsement~~ of any resident of this state
19 or the privilege of a nonresident to drive a motor vehicle
20 in this state upon receiving notice of the conviction of the
21 person in another jurisdiction of an offense in that
22 jurisdiction which, if committed in this state, would be
23 grounds for the suspension or revocation of the driver's
24 license ~~or-commercial-vehicle-operator's-endorsement.~~"

25 **Section 16.** Section 61-5-205, MCA, is amended to read:

1 "61-5-205. **Mandatory revocation of license upon proper**
2 **authority.** The department upon proper authority shall revoke
3 the driver's license, ~~including--the--commercial--vehicle~~
4 ~~operator's-endorsement~~, or the operating privilege of any
5 driver upon receiving a record of the driver's conviction or
6 forfeiture of bail not vacated of any of the following
7 offenses, when the conviction or forfeiture has become
8 final:

9 (1) negligent homicide resulting from the operation of
10 a motor vehicle;

11 (2) driving a motor vehicle while under the influence
12 of alcohol or any drug or a combination thereof of alcohol
13 or drugs, except as provided in 61-5-208, or operation of a
14 motor vehicle by a person with a blood alcohol concentration
15 of 0.10 or more;

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

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

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

(6) conviction or forfeiture of bail not vacated upon three charges of reckless driving committed within a period of 12 months; or

(7) negligent vehicular assault as defined in 45-5-205."

Section 17. Section 61-5-206, MCA, is amended to read:

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

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

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

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

(d) is incompetent to drive a motor vehicle;

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

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

(g) has falsified his the licensee's date of birth on his the application for a driver's license;

(h) is under 21 years of age and has altered his the licensee's or another's driver's license or identification card to obtain alcohol; or

(i) has authorized another to use his the licensee's driver's license or identification card to obtain alcohol.

(2) However, the department may, in its discretion and in lieu of ~~such suspension of~~ suspending the license or driving privilege, issue a probationary license to a driver, without preliminary hearing, upon a showing by its records or other sufficient evidence that the licensee's driving record is such as would authorize suspension as provided in subsection (1) hereof. Upon issuance of a probationary license, the licensee ~~shall be~~ is subject to the restrictions set forth ~~thereon in the~~ probationary license. The licensee's driving privilege may be suspended upon conviction or forfeiture of bail not vacated of any traffic violation during the period of ~~such~~ probation. The licensee shall surrender to the department all driver licenses ~~theretofore that have been~~ issued to him the licensee before ~~such the~~ probationary license shall may be issued. ~~His The~~

1 licensee's refusal or neglect to surrender such the licenses
 2 upon demand ~~shall-be-ground~~ is grounds for suspending all
 3 such licenses. Probationary licenses may be issued for a
 4 period not to exceed 12 months.

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

23 **Section 18.** Section 61-5-207, MCA, is amended to read:

24 "61-5-207. Reexamination or investigation -- when
 25 required. The department, having good cause to believe that

1 a licensed driver is incompetent or otherwise not qualified
 2 to be licensed ~~or-to-have-a-commercial-vehicle-operator's~~
 3 ~~endorsement~~, may, based on information received, investigate
 4 the licensee's record, physical or mental condition, or need
 5 for a license or, upon written notice of at least 5 days to
 6 the licensee, require him the licensee to submit to an
 7 examination. Upon the conclusion of the investigation or
 8 examination the department shall take action as may be
 9 appropriate considering the facts reported or discovered and
 10 may suspend or revoke the driver's license ~~and--commercial~~
 11 ~~vehicle---operator's--endorsement--or--just--the--commercial~~
 12 ~~vehicle-operator's-endorsement~~ of such the person or permit
 13 him the person to retain such the license or may issue a
 14 license subject to restrictions as permitted under 61-5-113.
 15 Refusal or neglect of the licensee to submit to such the
 16 investigation or examination ~~shall-be-ground~~ is grounds for
 17 suspension or revocation of his the person's license."

18 **Section 19.** Section 61-5-208, MCA, is amended to read:

19 "61-5-208. Period of suspension or revocation. (1) The
 20 department may not suspend or revoke a driver's license,
 21 ~~commercial-vehicle-operator's-endorsement~~, or privilege to
 22 drive a motor vehicle on the public highways for a period of
 23 more than 1 year, except as otherwise permitted by law.

24 (2) A person whose license, ~~---commercial--vehicle~~
 25 ~~operator's--endorsement~~, or privilege to drive a motor

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

1 the license, ~~commercial-vehicle-operator's-endorsement,~~ or
 2 driving privilege of the person for a period of 1 year,
 3 except that if the 1-year period passes and the person has
 4 not completed an alcohol information course, treatment, or
 5 both, as ordered by the sentencing court, the license
 6 revocation remains in effect until the course, treatment, or
 7 both are completed.

8 (3) The period for all revocations made mandatory by
 9 61-5-205 is 1 year except as provided in subsection (2).

10 (4) The period of revocation for any person convicted
 11 of any offense which makes mandatory the revocation of the
 12 driver's license commences from date of conviction or
 13 forfeiture of bail.

14 (5) If a person is convicted of a violation of 61-8-401
 15 or 61-8-406 while operating a commercial motor vehicle, the
 16 department shall suspend the person's driver's license as
 17 provided in 61-8-811 and subsection (2) of this section. ~~In~~
 18 ~~addition,--the--department--shall--suspend--the--person's~~
 19 ~~commercial-vehicle-operator's-endorsement-in-accordance-with~~
 20 ~~the-provisions-of-this-title."~~

21 **Section 20.** Section 61-5-209, MCA, is amended to read:

22 "61-5-209. Surrender and return of license or
 23 endorsement upon suspension or revocation. The ~~When the~~
 24 department ~~upon-suspending-or-revoking~~ suspends or revokes a
 25 license, ~~or-commercial-vehicle-operator's-endorsement~~ it

shall require that such the license ~~shall~~ be surrendered to and be retained by the department except that at the end of the period of suspension, such the surrendered license ~~so surrendered-shall~~ must be returned to the licensee."

Section 21. Section 61-5-210, MCA, is amended to read:

"61-5-210. No operation under foreign license during suspension or revocation in this state. Any A resident or nonresident whose license or right or privilege to operate a motor vehicle or commercial motor vehicle in this state has been suspended or revoked as provided in this chapter ~~shall~~ may not operate a motor vehicle or commercial motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during such the suspension or after such the revocation until a new license ~~or--commercial--vehicle---operator's~~ endorsement is obtained ~~when--and-as-permitted~~ under this chapter."

Section 22. Section 61-5-211, MCA, is amended to read:

"61-5-211. Right of appeal to court. Any A person denied a driver's license ~~or--commercial--motor--vehicle~~ operator's--endorsement or whose license ~~or-endorsement~~ has been canceled, suspended, or revoked by the department except ~~where--such~~ when the cancellation or revocation is mandatory under the provisions of this chapter ~~shall--have~~ the--right--to may file a petition within 30 days thereafter

after the denial, cancellation, suspension, or revocation for a hearing in the matter in the district court in the county ~~wherein--such~~ in which the person ~~shall--reside~~ resides. Such The court ~~is--hereby--vested---with~~ has jurisdiction and it shall ~~be-its-duty-to~~ set the matter for hearing upon 30 days' written notice to the department, and ~~thereupon-to~~ shall take testimony and examine into the facts of the case and to determine whether the petitioner is entitled to a driver's license ~~or--commercial--vehicle~~ operator's---endorsement or is subject to suspension, cancellation, or revocation of the license ~~or--endorsement~~ under the provisions of this chapter."

Section 23. Section 61-5-212, MCA, is amended to read:

"61-5-212. Driving while license suspended or revoked -- penalty. (1) Any A person who drives a motor vehicle or commercial motor vehicle on any public highway of this state at a time when his the person's privilege to do so is suspended or revoked in this state or any other state is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not less than 2 days or more than 6 months and may be fined not more than \$500.

(2) The department upon receiving a record of the conviction of any person under this section upon a charge of driving a vehicle while the person's driver's license ~~or commercial-vehicle-operator's-endorsement~~ was suspended or

1 revoked shall extend the period of suspension or revocation
2 for an additional like period."

3 **Section 24.** Section 61-5-302, MCA, is amended to read:

4 "61-5-302. Unlawful use of license or identification
5 card. It is a misdemeanor for any a person to:

6 (1) display or cause or permit to be displayed or have
7 in his the person's possession any a canceled, revoked,
8 suspended, fictitious, or altered driver's license or
9 identification card;

10 (2) lend his the person's driver's license or
11 identification card to any other person or knowingly permit
12 its use by another;

13 (3) display or represent as one's own any driver's
14 license or identification card not issued to him the person;

15 (4) fail or refuse to surrender to the department upon
16 its lawful demand any a driver's license or identification
17 card which that has been suspended, revoked, or canceled;

18 (5) use a false or fictitious name in any an
19 application for a driver's license, ~~commercial vehicle~~
20 ~~operator's endorsement~~, or identification card or knowingly
21 make a false statement or knowingly conceal a material fact
22 or otherwise commit a fraud in any-such an application; or

23 (6) permit any unlawful use of a driver's license or
24 identification card issued to him the person."

25 **Section 25.** Section 61-5-306, MCA, is amended to read:

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

9 (2) No A person shall may not rent a motor vehicle to
10 another until he the person has inspected the driver's
11 license of the person-to-whom-the-vehicle-is--to--be--rented
12 proposed renter and compared and verified the signature
13 thereon on the license with the signature of such-person the
14 proposed renter written in his the person's presence.

15 (3) No A person may not rent a commercial motor vehicle
16 which-is-defined-as-a-commercial-motor--vehicle--under--this
17 title to another until he the person has inspected the
18 driver's license of that--person the proposed renter and
19 determined that the person proposed renter has a commercial
20 vehicle-operator's-endorsement driver's license.

21 (4) Every person renting a motor vehicle to another
22 shall keep a record of the registration number of the motor
23 vehicle so rented, the name and address of the person to
24 whom the vehicle is rented, and the number and expiration
25 date of the license of said-latter-person the renter. The

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

Section 26. Section 61-8-802, MCA, is amended to read:

"61-8-802. Suspension of ~~commercial vehicle--operator's~~ endorsement driver's license -- disqualification. (1) The department shall suspend the commercial ~~vehicle--operator's~~ endorsement driver's license of any commercial operator if the department's records or information received from federal authorities shows that the person is disqualified under federal law.

(2) A commercial ~~vehicle--operator's--endorsement~~ driver's license suspended pursuant to this section remains suspended for the duration of the period of disqualification under federal regulations.

(3) A person whose commercial ~~vehicle--operator's~~ endorsement driver's license is suspended under this section due to disqualification:

(a) may appeal the suspension as provided in 61-5-211; and

(b) may not operate a commercial vehicle until the suspension is lifted and ~~his~~ the person's commercial ~~vehicle~~ operator's-endorsement driver's license is restored."

Section 27. Section 61-8-803, MCA, is amended to read:

"61-8-803. Suspension of ~~commercial vehicle--operator's~~ endorsement driver's license -- serious traffic violations.

If a commercial motor vehicle operator's record shows that ~~he~~ the operator has been convicted of a serious traffic violation as defined in federal regulations, the department shall suspend the commercial ~~vehicle-operator's-endorsement~~ driver's license:

(1) for 60 days if the operator was convicted of two hazardous moving violations within 3 years; or

(2) for 120 days if the operator was convicted of three hazardous moving violations within 3 years."

Section 28. Section 61-8-804, MCA, is amended to read:

"61-8-804. Suspension of ~~commercial vehicle-operator's~~ endorsement driver's license -- felony involving a controlled substance while driving a commercial vehicle. If the department receives information that a commercial motor vehicle operator has been convicted of using a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by federal regulations, or a felony involving possession with intent to manufacture, distribute, or dispense a controlled substance, the department shall suspend ~~his~~ the operator's commercial ~~vehicle--operator's~~ endorsement driver's license for life."

Section 29. Section 61-8-805, MCA, is amended to read:

"61-8-805. Suspension for operating a commercial vehicle with alcohol concentration of 0.04 or more --

1 hearing. (1) A person whose alcohol concentration is 0.04 or
 2 more while he the person drives or is in actual physical
 3 control of a commercial motor vehicle is subject to the
 4 suspension of his the person's commercial vehicle-operator's
 5 endorsement driver's license. If the department receives a
 6 sworn report from a peace officer that the person was
 7 operating a commercial motor vehicle while his the person's
 8 alcohol concentration was 0.04 or more, the department shall
 9 suspend the person's commercial driver's commercial--vehicle
 10 operator's-endorsement license:

11 (a) for 1 year, with no provision for a restricted
 12 probationary license or endorsement, upon receipt of the
 13 first report, except that if the offense occurred in a
 14 commercial motor vehicle transporting hazardous materials,
 15 the suspension must be for 3 years; and

16 (b) for life, with no provision for a restricted
 17 probationary license or endorsement, upon receipt of a
 18 second or subsequent report at any time as determined from
 19 the records of the department, unless a restricted license
 20 or endorsement is allowed by federal rules governing
 21 commercial drivers.

22 (2) A peace officer who determines that a commercial
 23 motor vehicle operator has any measured amount or detected
 24 presence of alcohol in his the operator's body while
 25 operating a commercial motor vehicle shall place the

1 commercial motor vehicle operator out of service as mandated
 2 by federal regulations for 24 hours.

3 (3) The fact that any person charged with a violation
 4 of the provisions of subsection (1) is entitled to use
 5 alcohol under the laws of Montana is not a defense against
 6 any charge of violating the provisions of subsection (1).

7 (4) The department shall immediately notify in writing
 8 any person whose commercial ~~vehicle--operator's--endorsement~~
 9 driver's license is suspended under this section. The person
 10 ~~has--the--right--to~~ may file a petition within 30 days after
 11 the notice is given for a hearing in the matter in the
 12 district court in the county in which the finding of alcohol
 13 concentration was made. The court has jurisdiction and shall
 14 set the matter for hearing upon 10 days' written notice to
 15 the county attorney of the county in which the appeal is
 16 filed. The county attorney shall represent the state. The
 17 court shall take testimony and examine the facts of the
 18 case, except that the issue is limited to whether the person
 19 was driving or had actual physical control of a commercial
 20 motor vehicle while his the person's alcohol concentration
 21 was 0.04 or more. The court shall determine whether the
 22 petitioner is entitled to a commercial ~~vehicle--operator's~~
 23 endorsement driver's license or is subject to suspension as
 24 provided in this section. The provisions of 61-8-404 apply
 25 to any proceedings under this section."

Section 30. Section 61-8-806, MCA, is amended to read:

"61-8-806. Blood, breath, or urine tests of commercial vehicle operators -- procedure -- suspension. (1) A person who operates a commercial motor vehicle upon the ways of this state open to the public is considered to have given consent, subject to the provisions of 61-8-401 and 61-8-805, to a test of his the operator's blood, breath, or urine for the purpose of determining any measured amount of alcohol in his the operator's body if he the operator is requested to submit to the test by a peace officer having reasonable grounds to believe the person to have been driving or in actual physical control of a commercial motor vehicle upon the ways of this state open to the public while his the person's blood alcohol concentration was 0.04 or more. The peace officer may designate a blood, breath, or urine test to be administered.

(2) A person who is unconscious or who is otherwise incapable of refusal is considered not to have withdrawn the consent provided in subsection (1).

(3) If a commercial motor vehicle operator who is a resident of Montana refuses upon the request of a peace officer to submit to a test designated by the officer as provided in subsection (1), the test may not be given. On behalf of the department, the officer shall immediately seize the person's commercial driver's license ~~showing-the~~

~~commercial-vehicle-operator's-endorsement~~ and forward the license to the department, along with a sworn report that he the officer had reasonable grounds to believe that the person had been driving or was in actual physical control of a commercial motor vehicle upon ways of this state open to the public while having an alcohol concentration of 0.04 or more and that the person had refused to submit to the test upon the request of the officer. Upon receipt of the report, the department shall suspend the license for a period provided in subsection (5).

(4) Upon seizure of a resident's commercial driver's license ~~showing-a-commercial-vehicle-operator's-endorsement~~, the peace officer shall issue, on behalf of the department, a temporary noncommercial driving permit ~~without---the commercial--vehicle--operator's--endorsement~~. The temporary driving permit is valid for 72 hours after issuance.

(5) If a commercial motor vehicle operator refuses to submit to a test as provided in subsection (3), the department shall suspend his the operator's commercial vehicle-operator's-endorsement driver's license:

(a) upon first refusal, for 1 year, with no provision for a restricted probationary license or endorsement, except that if the offense occurred in a commercial motor vehicle transporting hazardous materials, the suspension for a first refusal must be for 3 years;

(b) upon a second or subsequent refusal at any time as determined from the records of the department, for life, with no provision for a restricted probationary license or endorsement unless allowed by federal rules governing commercial drivers.

(6) A nonresident commercial motor vehicle operator who refuses to submit to a test as provided in subsection (3) is subject to suspension by the department as provided in subsection (5) and must be given a temporary driving permit as provided in subsection (4)."

Section 31. Section 61-8-808, MCA, is amended to read:

"61-8-808. Right of appeal of court. The department shall immediately notify in writing any person whose commercial vehicle--operator's-endorsement driver's license has been suspended under the provisions of 61-8-806, and the person may, within 30 days after receipt of notification, file a petition for a hearing on the matter in the district court in the county where the person resides or in the district court in the county where the finding of refusal was made. The court has jurisdiction and shall set the matter for hearing upon 10 days' written notice to the county attorney of the county where the appeal is filed. The county attorney shall represent the state. The court shall take testimony and examine the facts of the case, except that the issue is limited to whether a peace officer had

reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle upon ways of this state open to the public while the person had a blood alcohol concentration of 0.04 or more, whether the person was ordered to submit to a test, and whether the person refused to submit to the test. The court shall determine whether the petitioner is entitled to a commercial vehicle---operator's--endorsement driver's license or is subject to suspension as provided in this part."

Section 32. Section 61-8-810, MCA, is amended to read:

"61-8-810. Suspension of commercial vehicle--operator's endorsement driver's license -- felony involving a commercial motor vehicle. Upon receipt of information that a commercial motor vehicle operator has been convicted of using a commercial motor vehicle in the commission of a felony, the department shall suspend the driver's commercial vehicle-operator's-endorsement driver's license as provided in 61-8-811."

Section 33. Section 61-8-811, MCA, is amended to read:

"61-8-811. Suspension of commercial vehicle-operator's endorsement driver's license -- duration -- second or subsequent offense. Upon receiving notice pursuant to 61-5-208, 61-8-809, or 61-8-810, the department shall suspend an operator's commercial vehicle---operator's endorsement driver's license, as follows:

1 (1) upon notice of a first conviction, for 1 year, with
2 no provision for a probationary license, except that if the
3 offense occurred while operating a commercial motor vehicle
4 transporting hazardous material, the suspension must be for
5 3 years;

6 (2) upon notice of a second conviction, as determined
7 from the records of the department, for life, with no
8 provision for a restricted license or--endorsement unless
9 allowed by federal rules governing commercial drivers; and

10 (3) upon notice of a third conviction, an operator's
11 commercial vehicle--endorsement driver's license must be
12 suspended for life and the operator is ineligible for
13 reinstatement."

14 NEW SECTION. **Section 34.** Codification instruction.
15 [Section 1] is intended to be codified as an integral part
16 of Title 61, chapter 8, part 8, and the provisions of Title
17 61, chapter 8, part 8, apply to [section 1].

-End-

APPROVED BY COMMITTEE
ON HIGHWAYS & TRANSPORTATION

SENATE BILL NO. 315

INTRODUCED BY SWYSGOOD

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO COMMERCIAL MOTOR VEHICLES AND COMMERCIAL MOTOR VEHICLE OPERATORS; PROVIDING FOR SUSPENSION OF A COMMERCIAL DRIVER'S LICENSE FOR INDIVIDUALS CONVICTED OF VIOLATING OUT-OF-SERVICE ORDERS; ADDING SCHOOL BUSES TO THE DEFINITION OF COMMERCIAL MOTOR VEHICLES; CHANGING REFERENCES IN MONTANA STATUTES FROM "COMMERCIAL VEHICLE OPERATOR'S ENDORSEMENT" TO "COMMERCIAL DRIVER'S LICENSE"; AND AMENDING SECTIONS 17-7-502, 20-10-103, 61-1-134, 61-1-135, 61-1-136, 61-5-106, 61-5-107, 61-5-110, 61-5-111, 61-5-112, 61-5-117, 61-5-121, 61-5-201, 61-5-203, 61-5-204, 61-5-205, 61-5-206, 61-5-207, 61-5-208, 61-5-209, 61-5-210, 61-5-211, 61-5-212, 61-5-302, 61-5-306, 61-8-802, 61-8-803, 61-8-804, 61-8-805, 61-8-806, 61-8-808, 61-8-810, AND 61-8-811, MCA."

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

NEW SECTION. Section 1. Suspension of commercial driver's license -- operation of out-of-service vehicle. (1) Upon receipt of information that a commercial motor vehicle operator has been convicted of a violation of operating a commercial motor vehicle that has been placed out of

service, the department shall suspend the operator's commercial driver's license for 6 months for a first conviction and for 1 year for a second or subsequent conviction.

(2) A temporary or probationary commercial driver's license may not be issued while a commercial driver's license is suspended under subsection (1).

SECTION 2. SECTION 17-7-502, MCA, IS AMENDED TO READ:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117;

1 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;
 2 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409;
 3 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007;
 4 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
 5 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109;
 6 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811;
 7 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631;
 8 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501;
 9 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206;
 10 61-5-1217; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108;
 11 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310;
 12 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215;
 13 90-6-331; 90-7-220; and 90-9-306.

14 (4) There is a statutory appropriation to pay the
 15 principal, interest, premiums, and costs of issuing, paying,
 16 and securing all bonds, notes, or other obligations, as due,
 17 that have been authorized and issued pursuant to the laws of
 18 Montana. Agencies that have entered into agreements
 19 authorized by the laws of Montana to pay the state
 20 treasurer, for deposit in accordance with 17-2-101 through
 21 17-2-107, as determined by the state treasurer, an amount
 22 sufficient to pay the principal and interest as due on the
 23 bonds or notes have statutory appropriation authority for
 24 the payments. (In subsection (3): pursuant to sec. 7, Ch.
 25 567, L. 1991, the inclusion of 19-6-709 terminates upon

1 death of last recipient eligible for supplemental benefit;
 2 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of
 3 22-3-811 terminates June 30, 1993.)"

4 **Section 3.** Section 20-10-103, MCA, is amended to read:

5 "20-10-103. School bus driver qualifications. Any
 6 driver of a school bus is qualified to drive a school bus by
 7 compliance with the following requirements if the driver:

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

9 (2) he is of good moral character;

10 (3) he is the holder of a commercial driver's license
 11 with a commercial vehicle operator's endorsement;

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

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

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

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

Section 4. Section 61-1-134, MCA, is amended to read:

"61-1-134. 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 a school bus as defined in 20-10-101; or

(d) is used to transport hazardous material.

(2) Commercial motor vehicles under this section do not include vehicles operated within the state of Montana that are:

(a) registered as paying the 16% gross weight fee under 61-10-206;

(b) used for firefighting and that are bearing Montana tax-exempt plates; or

(c) police emergency response and safety education

units.

(3) Vehicles that are operated within the state of Montana by farmers or persons employed by farmers who are transporting farm products or farm supplies and that are operated within 150 miles of the farm headquarters are not considered commercial motor vehicles under this section."

Section 5. Section 61-1-135, MCA, is amended to read:

"61-1-135. Commercial vehicle--operator's--endorsement driver's license. "Commercial vehicle--operator's--endorsement driver's license" means an endorsement to a Montana driver's license that authorizes the licensee to operate a class of commercial motor vehicle."

Section 6. Section 61-1-136, MCA, is amended to read:

"61-1-136. 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 the person holds a valid license;

(3) any nonresident's driving privilege;

(4) a motorcycle endorsement; and

(5) a commercial vehicle---operator's---endorsement driver's license."

Section 7. Section 61-5-106, MCA, is amended to read:

1 "61-5-106. Instruction and traffic education permits
 2 and temporary licenses. (1) Any A person satisfying the age
 3 requirements specified in 61-5-105(1) may apply to the
 4 department for an instruction permit. The department may in
 5 its discretion, after the applicant has successfully passed
 6 all parts of the examination other than the driving test,
 7 issue to the applicant an instruction permit which that
 8 entitles ~~shall-entitle~~ the applicant, while having such the
 9 permit in his the applicant's immediate possession, to drive
 10 a motor vehicle upon the public highways for a period of 6
 11 months when accompanied by a licensed driver who is
 12 occupying a seat beside the driver. In addition, the
 13 department may issue such an instruction permit to any
 14 person who is at least 14 1/2 years of age and who has
 15 successfully completed or is successfully participating in a
 16 traffic education course approved by the department and the
 17 superintendent of public instruction. Any An instruction
 18 permit ~~so-issued-shall~~ must be restricted to the operation
 19 of a motor vehicle only when accompanied by an approved
 20 instructor or licensed parent or guardian and may be further
 21 restricted to specific times and/or or areas.

22 (2) The department upon receiving proper application
 23 may in its discretion issue a traffic education permit
 24 effective for a school year or more restricted period to an
 25 applicant who is enrolled in a traffic education program

1 approved by the department even though the applicant has not
 2 reached the legal age to be eligible for a driver's license.
 3 ~~Such~~ The permit ~~shall~~ entitles the permittee, when
 4 he the permittee has such a permit in his the permittee's
 5 immediate possession, to operate only on a designated
 6 highway or within a designated area a motor vehicle only
 7 when an approved instructor is occupying a seat beside the
 8 permittee or a motorcycle or quadricycle only when under the
 9 immediate and proximate supervision of an approved
 10 instructor.

11 (3) The department may in its discretion issue a
 12 temporary driver's permit to an applicant for a driver's
 13 license permitting him the applicant to operate a motor
 14 vehicle while the department is completing its investigation
 15 and determination of all facts relative to such the
 16 applicant's right to receive a driver's license. ~~Such~~ The
 17 permit must be in his the permittee's immediate possession
 18 while operating a motor vehicle, and it ~~shall-be~~ is invalid
 19 when the applicant's license has been issued or for good
 20 cause has been refused.

21 (4) The department may in its discretion issue a
 22 temporary commercial vehicle-operator's-endorsement driver's
 23 license to an applicant for-such-an--endorsement permitting
 24 him the applicant to operate a commercial motor vehicle
 25 while the department is completing its investigation and

determination of all facts relative to the applicant's right to receive a commercial vehicle--operator's--endorsement driver's license. Such The temporary endorsement license must be in his the applicant's immediate possession while operating a commercial motor vehicle and is invalid when the applicant's endorsement license has been issued or for good cause has been refused."

Section 8. Section 61-5-107, MCA, is amended to read:

"61-5-107. Application for license, instruction permit, ~~commercial-vehicle--operator's--endorsement~~, or motorcycle endorsement. (1) Every application for an instruction permit, driver's license, ~~commercial--vehicle--operator's~~ endorsement, or motorcycle endorsement shall must be made upon a form furnished by the department. A motorcycle endorsement is required for the operation of a quadricycle. Every application shall must be accompanied by the proper fee, and payment of such the fee shall-entitle entitles the applicant to not more than three attempts to pass the examination within a period of 6 months from the date of application. A voter registration form for mail registration as prescribed by the secretary of state shall must be attached to each driver's license application. If the applicant wishes to register to vote, the department shall accept the registration and forward the form to the election administrator.

(2) Every such application shall must state the full name, date of birth, sex, and residence address of the applicant, and must briefly describe the applicant, and shall must state whether the applicant has previously been licensed as a driver or commercial vehicle operator, and, if so, when and by what state or country, and whether any such commercial operator license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation, or refusal.

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

Section 9. Section 61-5-110, MCA, is amended to read:

"61-5-110. Examination of applicants. (1) The department shall examine every applicant for a driver's license,--~~commercial--vehicle--operator's--endorsement~~, or motorcycle endorsement, except as otherwise provided in this section. Such The examination shall must include a test of the applicant's eyesight, his the applicant's ability to

1 read and understand highway signs regulating, warning, and
 2 directing traffic, his the applicant's knowledge of the
 3 traffic laws of this state, and shall must include an actual
 4 demonstration of ability to exercise ordinary and reasonable
 5 control in the operation of a motor vehicle, quadricycle, or
 6 motorcycle. The examination for the commercial vehicle
 7 operator's---endorsement driver's license may include
 8 additional items.

9 (2) Within 90 days of receipt of an application for a
 10 commercial vehicle-operator's-endorsement driver's license,
 11 the department shall give an examination for-endorsement to
 12 the applicant in the county where the applicant resides.

13 (3) Except as otherwise provided by law, a resident who
 14 has a valid driver's license issued by another state may
 15 surrender that license for a Montana license of the same
 16 class, type, and endorsement upon payment of the required
 17 fees. A resident who obtains a Montana driver's license in
 18 this manner is exempt from the written examination and
 19 actual demonstration of the operation of a motor vehicle
 20 provided for in subsection (1) but is not exempt from the
 21 eyesight test or, in the case of commercial drivers, any
 22 examination required by federal regulations."

23 **Section 10.** Section 61-5-111, MCA, is amended to read:

24 "61-5-111. Renewals, expirations, and fees for
 25 licenses, permits, and endorsements. (1) The department has

1 authority---to may appoint county treasurers and other
 2 qualified officers to act as its agents for the sale of
 3 driver's licenses receipts and shall make necessary rules
 4 governing sales. In those areas where the department
 5 provides driver licensing services 3 days or more a week,
 6 the department is responsible for sale of receipts and may
 7 not appoint an agent. The department, upon receipt of
 8 payment of the fees specified in this section, shall issue a
 9 driver's license to every qualifying applicant. The license
 10 shall must contain a full-face photograph of the licensee in
 11 the size and form prescribed by the department, except as
 12 provided in subsection (4); a distinguishing number issued
 13 to the licensee; the full name, date of birth, residence
 14 address, and a brief description of the licensee; and either
 15 a facsimile of the signature of the licensee or a space upon
 16 which he the licensee shall write his the licensee's
 17 signature in pen and ink immediately upon receipt of the
 18 license. A license is not valid until it is signed by the
 19 licensee.

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

(b) In the case of a commercial vehicle--operator's endorsements driver's license, the department may also require that the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if the application is made within 3 months of the expiration of his the person's license.

(3) A license expires on the anniversary of the date of birth of the licensee 4 years or less after the date of issue.

(4) A license issued to a person under the age of 21 years must contain a photograph of the licensee's profile.

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

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

(7) Fees for driver's licenses are:

(a) driver's license, except a commercial driver's license -- \$4 per year or fraction thereof of a year;

(b) motorcycle endorsement -- 50 cents per year or fraction thereof of a year;

(c) commercial vehicle-operator's-endorsement driver's license:

(i) interstate -- \$5 per year or fraction thereof of a year;

(ii) intrastate -- \$3.50 per year or fraction thereof of a year.

(8) A license designated as a chauffeur's license as of January 1, 1988, is valid as a commercial vehicle-operator's

1 endorsement driver's license until the expiration of the
2 license.

3 (9) The holder of a chauffeur's license may convert his
4 the chauffeur's license to a commercial vehicle--operator's
5 endorsement driver's license by paying the appropriate fee
6 covering the remainder of the life of his the license and
7 complying with the requirements established by the
8 department.

9 (10) The holder of a valid chauffeur's license who is
10 renewing and wishes to obtain a commercial vehicle
11 operator's--endorsement driver's license may do so upon
12 paying the appropriate fees and complying with the
13 requirements established by the department."

14 **Section 11.** Section 61-5-112, MCA, is amended to read:

15 "61-5-112. Classification of commercial vehicle
16 operator's--endorsements driver's license. The department
17 upon issuing a license-with-a commercial vehicle--operator's
18 endorsement driver's license shall indicate thereon on the
19 license the class of license so issued and shall
20 appropriately examine each applicant according to the class
21 of-endorsement applied for and may impose such rules for the
22 classification, examination, and use thereof as that it
23 considers necessary for the safety and welfare of the
24 traveling public."

25 **Section 12.** Section 61-5-117, MCA, is amended to read:

1 "61-5-117. Rulemaking authority. The department of
2 justice may adopt rules to implement the issuance and
3 enforcement of classified commercial vehicle--operator's
4 endorsements driver's licenses and hazardous materials
5 endorsements."

6 **Section 13.** Section 61-5-121, MCA, is amended to read:

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

14 (a) The amount of 25% of each driver's license fee and
15 of each duplicate driver's license fee must be deposited
16 into an account in the state special revenue fund. The
17 department shall transfer the funds from this account to the
18 Montana highway patrol officers' retirement pension trust
19 fund as provided in 19-6-404. Funds-transferred-from-the
20 account--are--statutorily--appropriated,--as--provided---in
21 17-7-502, to the pension-trust-fund.

22 (b) (i) If the fees are collected by a county treasurer
23 or other agent of the department, the amount of 3.75% of
24 each driver's license fee and of each duplicate driver's
25 license fee must be deposited into the county general fund.

(ii) Except as provided in subsection (3), if the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the state special revenue fund for use by the department to defray the costs of issuing licenses or duplicate licenses.

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

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

(d) The amount of 17.5% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state traffic education account.

(e) The amount of 53.75% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state general fund.

(f) If the fee is collected by the county treasurer or other agent of the department, the amount of 3.75% of each commercial vehicle--operator's-endorsement driver's license fee must be deposited into the county general fund, otherwise all of the fee must be deposited in the state

general fund.

(g) The amount of 95% of each motorcycle endorsement fee must be deposited into the state traffic education account in the state special revenue fund.

(2) (a) If fees from driver's licenses, commercial vehicle--operator's--endorsements driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, he the county treasurer or agent shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. He The county treasurer or agent shall then remit to the state treasurer all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state traffic education account, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through (1)(g).

(b) If fees from driver's licenses, commercial vehicle operator's--endorsements driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall remit all fees to the state treasurer, together with a statement indicating what portion of each fee is to be deposited into the account in the state

special revenue fund as provided in subsection (1)(a), the state special revenue fund, the state traffic education account, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g).

(3) On or before June 30, 1993, the balance in the driver's license collections account in the state special revenue fund collected pursuant to subsections (1)(b)(ii) and (1)(c)(ii) must be transferred to the general fund. (Terminates July 1, 1993--sec. 7(1), Ch. 5, Sp. L. January 1992.)

61-5-121. (Effective July 1, 1993) Disposition of fees.

(1) The disposition of the fees from driver's licenses provided for in 61-5-111(7)(a), motorcycle endorsements provided for in 61-5-111(7)(b), commercial vehicle operator's endorsements driver's licenses provided for in 61-5-111(7)(c), and duplicate driver's licenses provided for in 61-5-114 is as follows:

(a) The amount of 25% of each driver's license fee and of each duplicate driver's license fee must be deposited into an account in the state special revenue fund. The department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404. Funds-transferred-from-the

account--are--statutorily--appropriated,--as---provided---in 17-7-502, to the pension trust fund.

(b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 3.75% of each driver's license fee and of each duplicate driver's license fee must be deposited into the county general fund.

(ii) If the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the general fund.

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

(ii) If the fee is collected by the department, the amount provided for in subsection (1)(c)(i) must be deposited into the general fund.

(d) The amount of 17.5% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state traffic education account.

(e) In addition to the amounts deposited pursuant to subsections (1)(b)(ii) and (1)(c)(ii), the amount of 53.75% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state general fund.

(f) If the fee is collected by the county treasurer or other agent of the department, the amount of 3.75% of each

commercial vehicle-operator's-endorsement driver's license
 fee must be deposited into the county general fund,
 otherwise all of the fee must be deposited in the state
 general fund.

(g) The amount of 95% of each motorcycle endorsement
 fee must be deposited into the state traffic education
 account in the state special revenue fund.

(2) (a) If fees from driver's licenses, commercial
 vehicle---operator's---endorsements driver's licenses,
 motorcycle endorsements, and duplicate driver's licenses are
 collected by a county treasurer or other agent of the
 department, he the county treasurer or agent shall deposit
 the amounts provided for in subsections (1)(b)(i) and
 (1)(c)(i) into the county general fund. He The county
treasurer or agent shall then remit to the state treasurer
 all remaining fees, together with a statement indicating
 what portion of each fee is to be deposited into the account
 in the state special revenue fund as provided in subsection
 (1)(a), the state traffic education account, and the state
 general fund. The state treasurer, upon receipt of the fees
 and statement, shall deposit the fees as provided in
 subsections (1)(a) and (1)(d) through (1)(g).

(b) If fees from driver's licenses, commercial vehicle
 operator's---endorsements driver's licenses, motorcycle
 endorsements, and duplicate driver's licenses are collected

by the department, it shall remit all fees to the state
 treasurer, together with a statement indicating what portion
 of each fee is to be deposited into the account in the state
 special revenue fund as provided in subsection (1)(a), the
 state special revenue fund, the state traffic education
 account, and the state general fund. The state treasurer,
 upon receipt of the fees and statement, shall deposit the
 fees as provided in subsections (1)(a), (1)(b)(ii),
 (1)(c)(ii), and (1)(d) through (1)(g)."

Section 14. Section 61-5-201, MCA, is amended to read:

"61-5-201. Authority of department to cancel license
 and-endorsement. (1) The department is-hereby-authorized--to
~~may~~ cancel a driver's license and--commercial--vehicle
 operator's--endorsement--or--just--the--commercial---vehicle
 operator's--endorsement upon determining that the licensee
 was not entitled to the issuance or that since the issuance,
 said the licensee has become ineligible ~~(such--ineligibility~~
~~shall--be~~ as determined pursuant to the provisions of
 61-5-105} or that said the licensee failed to give the
 required or correct information in his the licensee's
 application or committed any fraud in making such the
 application.

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

Section 15. Section 61-5-203, MCA, is amended to read:

"61-5-203. Suspending privileges of nonresidents. The privilege of driving a motor vehicle on the highways of this state given to a nonresident shall--be is subject to suspension or revocation by the department in like manner and for like causes as a driver's license and-commercial vehicle-operator's-endorsement-or-just-an-endorsement issued hereunder under this chapter may be suspended or revoked."

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

"61-5-204. Suspending resident's license upon conviction in another state. The department ~~is authorized to~~ may suspend or revoke the driver's license and-commercial vehicle--operator's--endorsement--or--just--the---commercial vehicle-operator's-endorsement of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice of the conviction of the person in another jurisdiction of an offense in that jurisdiction which, if committed in this state, would be grounds for the suspension or revocation of the driver's license or-commercial-vehicle-operator's-endorsement."

Section 17. Section 61-5-205, MCA, is amended to read:

"61-5-205. Mandatory revocation of license upon proper authority. The department upon proper authority shall revoke the driver's license--including--the--commercial--vehicle operator's--endorsement, or the operating privilege of any

driver upon receiving a record of the driver's conviction or forfeiture of bail not vacated of any of the following offenses, when the conviction or forfeiture has become final:

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

(2) driving a motor vehicle while under the influence of alcohol or any drug or a combination thereof of alcohol or drugs, except as provided in 61-5-208, or operation of a motor vehicle by a person with a blood alcohol concentration of 0.10 or more;

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

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

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

(6) conviction or forfeiture of bail not vacated upon three charges of reckless driving committed within a period of 12 months; or

(7) negligent vehicular assault as defined in

45-5-205."

Section 18. Section 61-5-206, MCA, is amended to read:

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

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

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

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

(d) is incompetent to drive a motor vehicle;

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

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

(g) has falsified his the licensee's date of birth on

his the application for a driver's license;

(h) is under 21 years of age and has altered his the licensee's or another's driver's license or identification card to obtain alcohol; or

(i) has authorized another to use his the licensee's driver's license or identification card to obtain alcohol.

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

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

19 **Section 19.** Section 61-5-207, MCA, is amended to read:

20 "61-5-207. Reexamination or investigation -- when
 21 required. The department, having good cause to believe that
 22 a licensed driver is incompetent or otherwise not qualified
 23 to be licensed or ~~to have a commercial vehicle operator's~~
 24 ~~endorsement~~, may, based on information received, investigate
 25 the licensee's record, physical or mental condition, or need

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

14 **Section 20.** 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 otherwise permitted by law.

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

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

1 both, as ordered by the sentencing court, the license
 2 revocation remains in effect until the course, treatment, or
 3 both are completed.

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

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

10 (5) If a person is convicted of a violation of 61-8-401
 11 or 61-8-406 while operating a commercial motor vehicle, the
 12 department shall suspend the person's driver's license as
 13 provided in 61-8-811 and subsection (2) of this section. In
 14 addition, ~~the department shall suspend the person's~~
 15 ~~commercial-vehicle-operator's-endorsement in accordance with~~
 16 ~~the provisions of this title."~~

17 **Section 21.** Section 61-5-209, MCA, is amended to read:

18 "61-5-209. Surrender and return of license or
 19 endorsement upon suspension or revocation. ~~The~~ When the
 20 department upon suspending or revoking suspends or revokes a
 21 license, or commercial-vehicle-operator's-endorsement it
 22 shall require that such the license shall be surrendered to
 23 and be retained by the department except that at the end of
 24 the period of suspension, such the surrendered license so
 25 surrendered shall must be returned to the licensee."

Section 22. Section 61-5-210, MCA, is amended to read:

"61-5-210. No operation under foreign license during suspension or revocation in this state. Any A resident or nonresident whose license or right or privilege to operate a motor vehicle or commercial motor vehicle in this state has been suspended or revoked as provided in this chapter ~~shall~~ may not operate a motor vehicle or commercial motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during such the suspension or after such the revocation until a new license or ~~commercial-vehicle-operator's~~ endorsement is obtained when-and-as-permitted under this chapter."

Section 23. Section 61-5-211, MCA, is amended to read:

"61-5-211. Right of appeal to court. Any A person denied a driver's license or ~~commercial-motor-vehicle~~ operator's-endorsement or whose license or ~~endorsement~~ has been canceled, suspended, or revoked by the department except where ~~such~~ when the cancellation or revocation is mandatory under the provisions of this chapter ~~shall have the right to~~ may file a petition within 30 days thereafter after the denial, cancellation, suspension, or revocation for a hearing in the matter in the district court in the county wherein ~~such~~ in which the person ~~shall~~ reside resides. Such The court ~~is hereby vested with~~ has

jurisdiction and it shall ~~be its duty to~~ set the matter for hearing upon 30 days' written notice to the department, and thereupon ~~to~~ shall take testimony and examine ~~into~~ the facts of the case and to determine whether the petitioner is entitled to a driver's license or ~~commercial-vehicle~~ operator's-endorsement or is subject to suspension, cancellation, or revocation of the license or endorsement under the provisions of this chapter."

Section 24. Section 61-5-212, MCA, is amended to read:

"61-5-212. Driving while license suspended or revoked -- penalty. (1) Any A person who drives a motor vehicle or commercial motor vehicle on any public highway of this state at a time when his the person's privilege to do so is suspended or revoked in this state or any other state is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not less than 2 days or more than 6 months and may be fined not more than \$500.

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

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

"61-5-302. Unlawful use of license or identification

card. It is a misdemeanor for any a person to:

(1) display or cause or permit to be displayed or have in his the person's possession any a canceled, revoked, suspended, fictitious, or altered driver's license or identification card;

(2) lend his the person's driver's license or identification card to any other person or knowingly permit its use by another;

(3) display or represent as one's own any driver's license or identification card not issued to him the person;

(4) fail or refuse to surrender to the department upon its lawful demand any a driver's license or identification card which that has been suspended, revoked, or canceled;

(5) use a false or fictitious name in any an application for a driver's license; ~~commercial~~ vehicle operator's ~~endorsement~~ or identification card or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any ~~such~~ an application; or

(6) permit any unlawful use of a driver's license or identification card issued to him the person."

Section 26. Section 61-5-306, MCA, is amended to read:

"61-5-306. Renting motor vehicle to another. (1) No A person shall ~~may not~~ rent a motor vehicle to any other person unless the latter person is then ~~duly~~ licensed hereunder under this chapter or, in the case of a

nonresident, then ~~duly~~ licensed under the laws of the state or country of his the person's residence except a nonresident whose home state or country does not require that an operator be licensed.

(2) No A person shall ~~may not~~ rent a motor vehicle to another until he the person has inspected the driver's license of the ~~person to whom the vehicle is to be rented~~ proposed renter and compared and verified the signature thereon on the license with the signature of ~~such person~~ the proposed renter written in his the person's presence.

(3) No A person may ~~not~~ rent a commercial motor vehicle which ~~is defined as a commercial motor vehicle under this title~~ to another until he the person has inspected the driver's license of that ~~person~~ the proposed renter and determined that the person proposed renter has a commercial vehicle operator's ~~endorsement~~ driver's license.

(4) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, and the number and expiration date of the license of ~~said latter person~~ the renter. The record shall ~~be~~ is open to inspection by any police officer or officer or employee of the department."

Section 27. Section 61-8-802, MCA, is amended to read:

"61-8-802. Suspension of commercial vehicle operator's

endorsement driver's license -- disqualification. (1) The department shall suspend the commercial vehicle-operator's endorsement driver's license of any commercial operator if the department's records or information received from federal authorities shows that the person is disqualified under federal law.

(2) A commercial vehicle---operator's---endorsement driver's license suspended pursuant to this section remains suspended for the duration of the period of disqualification under federal regulations.

(3) A person whose commercial vehicle---operator's endorsement driver's license is suspended under this section due to disqualification:

(a) may appeal the suspension as provided in 61-5-211; and

(b) may not operate a commercial vehicle until the suspension is lifted and his the person's commercial vehicle operator's-endorsement driver's license is restored."

Section 28. Section 61-8-803, MCA, is amended to read:

"61-8-803. Suspension of commercial vehicle-operator's endorsement driver's license -- serious traffic violations. If a commercial motor vehicle operator's record shows that he the operator has been convicted of a serious traffic violation as defined in federal regulations, the department shall suspend the commercial vehicle-operator's-endorsement

driver's license:

(1) for 60 days if the operator was convicted of two hazardous moving violations within 3 years; or

(2) for 120 days if the operator was convicted of three hazardous moving violations within 3 years."

Section 29. Section 61-8-804, MCA, is amended to read:

"61-8-804. Suspension of commercial vehicle---operator's endorsement driver's license -- felony involving a controlled substance while driving a commercial vehicle. If the department receives information that a commercial motor vehicle operator has been convicted of using a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by federal regulations, or a felony involving possession with intent to manufacture, distribute, or dispense a controlled substance, the department shall suspend his the operator's commercial vehicle-operator's endorsement driver's license for life."

Section 30. Section 61-8-805, MCA, is amended to read:

"61-8-805. Suspension for operating a commercial vehicle with alcohol concentration of 0.04 or more -- hearing. (1) A person whose alcohol concentration is 0.04 or more while he the person drives or is in actual physical control of a commercial motor vehicle is subject to the suspension of his the person's commercial vehicle-operator's

endorsement driver's license. If the department receives a sworn report from a peace officer that the person was operating a commercial motor vehicle while his the person's alcohol concentration was 0.04 or more, the department shall suspend the person's commercial driver's commercial-vehicle operator's-endorsement license:

(a) for 1 year, with no provision for a restricted probationary license or endorsement, upon receipt of the first report, except that if the offense occurred in a commercial motor vehicle transporting hazardous materials, the suspension must be for 3 years; and

(b) for life, with no provision for a restricted probationary license or endorsement, upon receipt of a second or subsequent report at any time as determined from the records of the department, unless a restricted license or endorsement is allowed by federal rules governing commercial drivers.

(2) A peace officer who determines that a commercial motor vehicle operator has any measured amount or detected presence of alcohol in his the operator's body while operating a commercial motor vehicle shall place the commercial motor vehicle operator out of service as mandated by federal regulations for 24 hours.

(3) The fact that any person charged with a violation of the provisions of subsection (1) is entitled to use

alcohol under the laws of Montana is not a defense against any charge of violating the provisions of subsection (1).

(4) The department shall immediately notify in writing any person whose commercial vehicle-operator's-endorsement driver's license is suspended under this section. The person ~~has-the-right-to~~ may file a petition within 30 days after the notice is given for a hearing in the matter in the district court in the county in which the finding of alcohol concentration was made. The court has jurisdiction and shall set the matter for hearing upon 10 days' written notice to the county attorney of the county in which the appeal is filed. The county attorney shall represent the state. The court shall take testimony and examine the facts of the case, except that the issue is limited to whether the person was driving or had actual physical control of a commercial motor vehicle while his the person's alcohol concentration was 0.04 or more. The court shall determine whether the petitioner is entitled to a commercial vehicle-operator's endorsement driver's license or is subject to suspension as provided in this section. The provisions of 61-8-404 apply to any proceedings under this section."

Section 31. Section 61-8-806, MCA, is amended to read:

"61-8-806. Blood, breath, or urine tests of commercial vehicle operators -- procedure -- suspension. (1) A person who operates a commercial motor vehicle upon the ways of

1 this state open to the public is considered to have given
 2 consent, subject to the provisions of 61-8-401 and 61-8-805,
 3 to a test of his the operator's blood, breath, or urine for
 4 the purpose of determining any measured amount of alcohol in
 5 his the operator's body if he the operator is requested to
 6 submit to the test by a peace officer having reasonable
 7 grounds to believe the person to have been driving or in
 8 actual physical control of a commercial motor vehicle upon
 9 the ways of this state open to the public while his the
 10 person's blood alcohol concentration was 0.04 or more. The
 11 peace officer may designate a blood, breath, or urine test
 12 to be administered.

13 (2) A person who is unconscious or who is otherwise
 14 incapable of refusal is considered not to have withdrawn the
 15 consent provided in subsection (1).

16 (3) If a commercial motor vehicle operator who is a
 17 resident of Montana refuses upon the request of a peace
 18 officer to submit to a test designated by the officer as
 19 provided in subsection (1), the test may not be given. On
 20 behalf of the department, the officer shall immediately
 21 seize the person's commercial driver's license showing--the
 22 commercial--vehicle--operator's--endorsement and forward the
 23 license to the department, along with a sworn report that he
 24 the officer had reasonable grounds to believe that the
 25 person had been driving or was in actual physical control of

1 a commercial motor vehicle upon ways of this state open to
 2 the public while having an alcohol concentration of 0.04 or
 3 more and that the person had refused to submit to the test
 4 upon the request of the officer. Upon receipt of the report,
 5 the department shall suspend the license for a period
 6 provided in subsection (5).

7 (4) Upon seizure of a resident's commercial driver's
 8 license showing-a-commercial-vehicle-operator's-endorsement,
 9 the peace officer shall issue, on behalf of the department,
 10 a temporary noncommercial driving permit without--the
 11 commercial-vehicle--operator's--endorsement. The temporary
 12 driving permit is valid for 72 hours after issuance.

13 (5) If a commercial motor vehicle operator refuses to
 14 submit to a test as provided in subsection (3), the
 15 department shall suspend his the operator's commercial
 16 vehicle-operator's-endorsement driver's license:

17 (a) upon first refusal, for 1 year, with no provision
 18 for a restricted probationary license or endorsement, except
 19 that if the offense occurred in a commercial motor vehicle
 20 transporting hazardous materials, the suspension for a first
 21 refusal must be for 3 years;

22 (b) upon a second or subsequent refusal at any time as
 23 determined from the records of the department, for life,
 24 with no provision for a restricted probationary license or
 25 endorsement unless allowed by federal rules governing

commercial drivers.

(6) A nonresident commercial motor vehicle operator who refuses to submit to a test as provided in subsection (3) is subject to suspension by the department as provided in subsection (5) and must be given a temporary driving permit as provided in subsection (4)."

Section 32. Section 61-8-808, MCA, is amended to read:

"61-8-808. Right of appeal of court. The department shall immediately notify in writing any person whose commercial vehicle-operator's-endorsement driver's license has been suspended under the provisions of 61-8-806, and the person may, within 30 days after receipt of notification, file a petition for a hearing on the matter in the district court in the county where the person resides or in the district court in the county where the finding of refusal was made. The court has jurisdiction and shall set the matter for hearing upon 10 days' written notice to the county attorney of the county where the appeal is filed. The county attorney shall represent the state. The court shall take testimony and examine the facts of the case, except that the issue is limited to whether a peace officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle upon ways of this state open to the public while the person had a blood alcohol concentration of 0.04 or more, whether

the person was ordered to submit to a test, and whether the person refused to submit to the test. The court shall determine whether the petitioner is entitled to a commercial vehicle--operator's--endorsement driver's license or is subject to suspension as provided in this part."

Section 33. Section 61-8-810, MCA, is amended to read:

"61-8-810. Suspension of commercial vehicle-operator's endorsement driver's license -- felony involving a commercial motor vehicle. Upon receipt of information that a commercial motor vehicle operator has been convicted of using a commercial motor vehicle in the commission of a felony, the department shall suspend the driver's commercial vehicle--operator's-endorsement driver's license as provided in 61-8-811."

Section 34. Section 61-8-811, MCA, is amended to read:

"61-8-811. Suspension of commercial vehicle--operator's endorsement driver's license -- duration -- second or subsequent offense. Upon receiving notice pursuant to 61-5-208, 61-8-809, or 61-8-810, the department shall suspend an operator's commercial vehicle--operator's endorsement driver's license, as follows:

(1) upon notice of a first conviction, for 1 year, with no provision for a probationary license, except that if the offense occurred while operating a commercial motor vehicle transporting hazardous material, the suspension must be for

1 3 years;

2 (2) upon notice of a second conviction, as determined
3 from the records of the department, for life, with no
4 provision for a restricted license or-endorsement unless
5 allowed by federal rules governing commercial drivers; and

6 (3) upon notice of a third conviction, an operator's
7 commercial vehicle--endorsement driver's license must be
8 suspended for life and the operator is ineligible for
9 reinstatement."

10 NEW SECTION. Section 35. Codification instruction.
11 [Section 1] is intended to be codified as an integral part
12 of Title 61, chapter 8, part 8, and the provisions of Title
13 61, chapter 8, part 8, apply to [section 1].

-End-

1 SENATE BILL NO. 315

2 INTRODUCED BY SWYSGOOD

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS
6 RELATING TO COMMERCIAL MOTOR VEHICLES AND COMMERCIAL MOTOR
7 VEHICLE OPERATORS; PROVIDING FOR SUSPENSION OF A COMMERCIAL
8 DRIVER'S LICENSE FOR INDIVIDUALS CONVICTED OF VIOLATING
9 OUT-OF-SERVICE ORDERS; ADDING SCHOOL BUSES TO THE DEFINITION
10 OF COMMERCIAL MOTOR VEHICLES; CHANGING REFERENCES IN MONTANA
11 STATUTES FROM "COMMERCIAL VEHICLE OPERATOR'S ENDORSEMENT" TO
12 "COMMERCIAL DRIVER'S LICENSE"; AND AMENDING SECTIONS
13 17-7-502, 20-10-103, 61-1-134, 61-1-135, 61-1-136, 61-5-106,
14 61-5-107, 61-5-110, 61-5-111, 61-5-112, 61-5-117, 61-5-121,
15 61-5-201, 61-5-203, 61-5-204, 61-5-205, 61-5-206, 61-5-207,
16 61-5-208, 61-5-209, 61-5-210, 61-5-211, 61-5-212, 61-5-302,
17 61-5-306, 61-8-802, 61-8-803, 61-8-804, 61-8-805, 61-8-806,
18 61-8-808, 61-8-810, AND 61-8-811, MCA."

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 NEW SECTION. Section 1. Suspension of commercial
22 driver's license -- operation of out-of-service vehicle. (1)
23 Upon receipt of information that a commercial motor vehicle
24 operator has been convicted of a violation of operating a
25 commercial motor vehicle that has been placed out of

1 service, the department shall suspend the operator's
2 commercial driver's license for 6 months for a first
3 conviction and for 1 year for a second or subsequent
4 conviction.

5 (2) A temporary or probationary commercial driver's
6 license may not be issued while a commercial driver's
7 license is suspended under subsection (1).

8 SECTION 2. SECTION 17-7-502, MCA, IS AMENDED TO READ:

9 "17-7-502. Statutory appropriations -- definition --
10 requisites for validity. (1) A statutory appropriation is an
11 appropriation made by permanent law that authorizes spending
12 by a state agency without the need for a biennial
13 legislative appropriation or budget amendment.

14 (2) Except as provided in subsection (4), to be
15 effective, a statutory appropriation must comply with both
16 of the following provisions:

17 (a) The law containing the statutory authority must be
18 listed in subsection (3).

THERE ARE NO CHANGES IN THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO YELLOW COPY FOR COMPLETE TEXT.

SENATE BILL NO. 315

INTRODUCED BY SWYSGOOD

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO COMMERCIAL MOTOR VEHICLES AND COMMERCIAL MOTOR VEHICLE OPERATORS; PROVIDING FOR SUSPENSION OF A COMMERCIAL DRIVER'S LICENSE FOR INDIVIDUALS CONVICTED OF VIOLATING OUT-OF-SERVICE ORDERS; ADDING SCHOOL BUSES TO THE DEFINITION OF COMMERCIAL MOTOR VEHICLES; CHANGING REFERENCES IN MONTANA STATUTES FROM "COMMERCIAL VEHICLE OPERATOR'S ENDORSEMENT" TO "COMMERCIAL DRIVER'S LICENSE"; AND AMENDING SECTIONS 17-7-502, 20-10-103, 61-1-134, 61-1-135, 61-1-136, 61-5-106, 61-5-107, 61-5-110, 61-5-111, 61-5-112, 61-5-117, 61-5-121, 61-5-201, 61-5-203, 61-5-204, 61-5-205, 61-5-206, 61-5-207, 61-5-208, 61-5-209, 61-5-210, 61-5-211, 61-5-212, 61-5-302, 61-5-306, 61-8-802, 61-8-803, 61-8-804, 61-8-805, 61-8-806, 61-8-808, 61-8-810, AND 61-8-811, MCA."

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

NEW SECTION. Section 1. Suspension of commercial driver's license -- operation of out-of-service vehicle. (1) Upon receipt of information that a commercial motor vehicle operator has been convicted of a violation of operating a commercial motor vehicle that has been placed out of

service, the department shall suspend the operator's commercial driver's license for 6 months for a first conviction and for 1 year for a second or subsequent conviction.

(2) A temporary or probationary commercial driver's license may not be issued while a commercial driver's license is suspended under subsection (1).

SECTION 2. SECTION 17-7-502, MCA, IS AMENDED TO READ:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117;

1 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;
 2 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409;
 3 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007;
 4 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
 5 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109;
 6 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811;
 7 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631;
 8 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501;
 9 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206;
 10 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108;
 11 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310;
 12 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215;
 13 90-6-331; 90-7-220; and 90-9-306.

14 (4) There is a statutory appropriation to pay the
 15 principal, interest, premiums, and costs of issuing, paying,
 16 and securing all bonds, notes, or other obligations, as due,
 17 that have been authorized and issued pursuant to the laws of
 18 Montana. Agencies that have entered into agreements
 19 authorized by the laws of Montana to pay the state
 20 treasurer, for deposit in accordance with 17-2-101 through
 21 17-2-107, as determined by the state treasurer, an amount
 22 sufficient to pay the principal and interest as due on the
 23 bonds or notes have statutory appropriation authority for
 24 the payments. (In subsection (3): pursuant to sec. 7, Ch.
 25 567, L. 1991, the inclusion of 19-6-709 terminates upon

1 death of last recipient eligible for supplemental benefit;
 2 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of
 3 22-3-811 terminates June 30, 1993.)"

4 **Section 3.** Section 20-10-103, MCA, is amended to read:

5 "20-10-103. School bus driver qualifications. Any
 6 driver of a school bus is qualified to drive a school bus by
 7 compliance-with-the-following-requirements if the driver:

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

9 (2) he is of good moral character;

10 (3) he is the holder of a commercial driver's license
 11 with-a-commercial-vehicle-operator's-endorsement;

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

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

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

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

Section 4. Section 61-1-134, MCA, is amended to read:

"61-1-134. 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 a school bus as defined in 20-10-101; or

(d) is used to transport hazardous material.

(2) Commercial motor vehicles under this section do not include vehicles operated within the state of Montana that are:

(a) registered as paying the 16½ gross weight fee under 61-10-206;

(b) used for firefighting and that are bearing Montana tax-exempt plates; or

(c) police emergency response and safety education

units.

(3) Vehicles that are operated within the state of Montana by farmers or persons employed by farmers who are transporting farm products or farm supplies and that are operated within 150 miles of the farm headquarters are not considered commercial motor vehicles under this section."

Section 5. Section 61-1-135, MCA, is amended to read:

"61-1-135. Commercial vehicle--operator's--endorsement driver's license. "Commercial vehicle--operator's--endorsement driver's license" means an endorsement to a Montana driver's license that authorizes the licensee to operate a class of commercial motor vehicle."

Section 6. Section 61-1-136, MCA, is amended to read:

"61-1-136. 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 the person holds a valid license;

(3) any nonresident's driving privilege;

(4) a motorcycle endorsement; and

(5) a commercial vehicle---operator's---endorsement driver's license."

Section 7. Section 61-5-106, MCA, is amended to read:

1 "61-5-106. Instruction and traffic education permits
 2 and temporary licenses. (1) Any A person satisfying the age
 3 requirements specified in 61-5-105(1) may apply to the
 4 department for an instruction permit. The department may in
 5 its discretion, after the applicant has successfully passed
 6 all parts of the examination other than the driving test,
 7 issue to the applicant an instruction permit which that
 8 entitles ~~shall-entitle~~ the applicant, while having such the
 9 permit in his the applicant's immediate possession, to drive
 10 a motor vehicle upon the public highways for a period of 6
 11 months when accompanied by a licensed driver who is
 12 occupying a seat beside the driver. In addition, the
 13 department may issue such an instruction permit to any
 14 person who is at least 14 1/2 years of age and who has
 15 successfully completed or is successfully participating in a
 16 traffic education course approved by the department and the
 17 superintendent of public instruction. Any An instruction
 18 permit ~~so-issued-shall~~ must be restricted to the operation
 19 of a motor vehicle only when accompanied by an approved
 20 instructor or licensed parent or guardian and may be further
 21 restricted to specific times and/or ~~or~~ areas.

22 (2) The department upon receiving proper application
 23 may in its discretion issue a traffic education permit
 24 effective for a school year or more restricted period to an
 25 applicant who is enrolled in a traffic education program

1 approved by the department even though the applicant has not
 2 reached the legal age to be eligible for a driver's license.
 3 ~~Such The~~ permit ~~shall~~ entitles the permittee, when
 4 he the permittee has such a permit in his the permittee's
 5 immediate possession, to operate only on a designated
 6 highway or within a designated area a motor vehicle only
 7 when an approved instructor is occupying a seat beside the
 8 permittee or a motorcycle or quadricycle only when under the
 9 immediate and proximate supervision of an approved
 10 instructor.

11 (3) The department may in its discretion issue a
 12 temporary driver's permit to an applicant for a driver's
 13 license permitting him the applicant to operate a motor
 14 vehicle while the department is completing its investigation
 15 and determination of all facts relative to such the
 16 applicant's right to receive a driver's license. ~~Such The~~
 17 permit ~~must~~ be in his the permittee's immediate possession
 18 while operating a motor vehicle, and it ~~shall-be~~ is invalid
 19 when the applicant's license has been issued or for good
 20 cause has been refused.

21 (4) The department may in its discretion issue a
 22 temporary commercial vehicle-operator's-endorsement driver's
 23 license to an applicant ~~for-such-an--endorsement~~ permitting
 24 him the applicant to operate a commercial motor vehicle
 25 while the department is completing its investigation and

1 determination of all facts relative to the applicant's right
 2 to receive a commercial vehicle--operator's--endorsement
 3 driver's license. Such The temporary endorsement license
 4 must be in his the applicant's immediate possession while
 5 operating a commercial motor vehicle and is invalid when the
 6 applicant's endorsement license has been issued or for good
 7 cause has been refused."

8 **Section 8.** Section 61-5-107, MCA, is amended to read:

9 "61-5-107. Application for license, instruction permit,
 10 ~~commercial-vehicle--operator's--endorsement,~~ or motorcycle
 11 endorsement. (1) Every application for an instruction
 12 permit, driver's license, ~~commercial--vehicle--operator's~~
 13 ~~endorsement,~~ or motorcycle endorsement shall must be made
 14 upon a form furnished by the department. A motorcycle
 15 endorsement is required for the operation of a quadricycle.
 16 Every application shall must be accompanied by the proper
 17 fee, and payment of such the fee shall-entitle entitles the
 18 applicant to not more than three attempts to pass the
 19 examination within a period of 6 months from the date of
 20 application. A voter registration form for mail registration
 21 as prescribed by the secretary of state shall must be
 22 attached to each driver's license application. If the
 23 applicant wishes to register to vote, the department shall
 24 accept the registration and forward the form to the election
 25 administrator.

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

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

19 **Section 9.** Section 61-5-110, MCA, is amended to read:

20 "61-5-110. Examination of applicants. (1) The
 21 department shall examine every applicant for a driver's
 22 license,--~~commercial--vehicle--operator's--endorsement,~~ or
 23 motorcycle endorsement, except as otherwise provided in this
 24 section. Such The examination shall must include a test of
 25 the applicant's eyesight, his the applicant's ability to

1 read and understand highway signs regulating, warning, and
 2 directing traffic, his the applicant's knowledge of the
 3 traffic laws of this state, and ~~shall~~ must include an actual
 4 demonstration of ability to exercise ordinary and reasonable
 5 control in the operation of a motor vehicle, quadricycle, or
 6 motorcycle. The examination for the commercial vehicle
 7 operator's---endorsement driver's license may include
 8 additional items.

9 (2) Within 90 days of receipt of an application for a
 10 commercial vehicle-operator's-endorsement driver's license,
 11 the department shall give an examination for-endorsement to
 12 the applicant in the county where the applicant resides.

13 (3) Except as otherwise provided by law, a resident who
 14 has a valid driver's license issued by another state may
 15 surrender that license for a Montana license of the same
 16 class, type, and endorsement upon payment of the required
 17 fees. A resident who obtains a Montana driver's license in
 18 this manner is exempt from the written examination and
 19 actual demonstration of the operation of a motor vehicle
 20 provided for in subsection (1) but is not exempt from the
 21 eyesight test or, in the case of commercial drivers, any
 22 examination required by federal regulations."

23 **Section 10.** Section 61-5-111, MCA, is amended to read:

24 "61-5-111. Renewals, expirations, and fees for
 25 licenses, permits, and endorsements. (1) The department has

1 authority---to may appoint county treasurers and other
 2 qualified officers to act as its agents for the sale of
 3 driver's licenses receipts and shall make necessary rules
 4 governing sales. In those areas where the department
 5 provides driver licensing services 3 days or more a week,
 6 the department is responsible for sale of receipts and may
 7 not appoint an agent. The department, upon receipt of
 8 payment of the fees specified in this section, shall issue a
 9 driver's license to every qualifying applicant. The license
 10 shall must contain a full-face photograph of the licensee in
 11 the size and form prescribed by the department, except as
 12 provided in subsection (4); a distinguishing number issued
 13 to the licensee; the full name, date of birth, residence
 14 address, and a brief description of the licensee; and either
 15 a facsimile of the signature of the licensee or a space upon
 16 which he the licensee shall write his the licensee's
 17 signature in pen and ink immediately upon receipt of the
 18 license. A license is not valid until it is signed by the
 19 licensee.

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

(b) In the case of a commercial vehicle--operator's endorsements driver's license, the department may also require that the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if the application is made within 3 months of the expiration of his the person's license.

(3) A license expires on the anniversary of the date of birth of the licensee 4 years or less after the date of issue.

(4) A license issued to a person under the age of 21 years must contain a photograph of the licensee's profile.

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

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

(7) Fees for driver's licenses are:

(a) driver's license, except a commercial driver's license -- \$4 per year or fraction thereof of a year;

(b) motorcycle endorsement -- 50 cents per year or fraction thereof of a year;

(c) commercial vehicle-operator's-endorsement driver's license:

(i) interstate -- \$5 per year or fraction thereof of a year;

(ii) intrastate -- \$3.50 per year or fraction thereof of a year.

(8) A license designated as a chauffeur's license as of January 1, 1988, is valid as a commercial vehicle-operator's

endorsement driver's license until the expiration of the license.

(9) The holder of a chauffeur's license may convert his the chauffeur's license to a commercial vehicle--operator's endorsement driver's license by paying the appropriate fee covering the remainder of the life of his the license and complying with the requirements established by the department.

(10) The holder of a valid chauffeur's license who is renewing and wishes to obtain a commercial vehicle operator's-endorsement driver's license may do so upon paying the appropriate fees and complying with the requirements established by the department."

Section 11. Section 61-5-112, MCA, is amended to read:

"61-5-112. Classification of commercial vehicle operator's--endorsements driver's license. The department upon issuing a license-with-a commercial vehicle--operator's endorsement driver's license shall indicate thereon on the license the class of license so issued and shall appropriately examine each applicant according to the class of-endorsement applied for and may impose such rules for the classification, examination, and use thereof as that it considers necessary for the safety and welfare of the traveling public."

Section 12. Section 61-5-117, MCA, is amended to read:

"61-5-117. Rulemaking authority. The department of justice may adopt rules to implement the issuance and enforcement of classified commercial vehicle--operator's endorsements driver's licenses and hazardous materials endorsements."

Section 13. Section 61-5-121, MCA, is amended to read:

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

(a) The amount of 25% of each driver's license fee and of each duplicate driver's license fee must be deposited into an account in the state special revenue fund. The department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404. ~~Funds-transferred-from-the account--are--statutorily--appropriated,--as---provided---in 17-7-502,--to-the-pension-trust-fund.~~

(b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 3.75% of each driver's license fee and of each duplicate driver's license fee must be deposited into the county general fund.

(ii) Except as provided in subsection (3), if the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the state special revenue fund for use by the department to defray the costs of issuing licenses or duplicate licenses.

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

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

(d) The amount of 17.5% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state traffic education account.

(e) The amount of 53.75% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state general fund.

(f) If the fee is collected by the county treasurer or other agent of the department, the amount of 3.75% of each commercial vehicle--operator's-endorsement driver's license fee must be deposited into the county general fund, otherwise all of the fee must be deposited in the state

general fund.

(g) The amount of 95% of each motorcycle endorsement fee must be deposited into the state traffic education account in the state special revenue fund.

(2) (a) If fees from driver's licenses, commercial vehicle--operator's--endorsements driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, he the county treasurer or agent shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. He The county treasurer or agent shall then remit to the state treasurer all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state traffic education account, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through (1)(g).

(b) If fees from driver's licenses, commercial vehicle operator's--endorsements driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall remit all fees to the state treasurer, together with a statement indicating what portion of each fee is to be deposited into the account in the state

special revenue fund as provided in subsection (1)(a), the state special revenue fund, the state traffic education account, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g).

(3) On or before June 30, 1993, the balance in the driver's license collections account in the state special revenue fund collected pursuant to subsections (1)(b)(ii) and (1)(c)(ii) must be transferred to the general fund. (Terminates July 1, 1993--sec. 7(1), Ch. 5, Sp. L. January 1992.)

61-5-121. (Effective July 1, 1993) Disposition of fees.

(1) The disposition of the fees from driver's licenses provided for in 61-5-111(7)(a), motorcycle endorsements provided for in 61-5-111(7)(b), commercial vehicle operator's endorsements driver's licenses provided for in 61-5-111(7)(c), and duplicate driver's licenses provided for in 61-5-114 is as follows:

(a) The amount of 25% of each driver's license fee and of each duplicate driver's license fee must be deposited into an account in the state special revenue fund. The department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404. ~~Funds-transferred-from-the~~

~~account--are--statutorily--appropriated,--as---provided---in 17-7-502,--to--the--pension--trust--fund.~~

(b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 3.75% of each driver's license fee and of each duplicate driver's license fee must be deposited into the county general fund.

(ii) If the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the general fund.

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

(ii) If the fee is collected by the department, the amount provided for in subsection (1)(c)(i) must be deposited into the general fund.

(d) The amount of 17.5% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state traffic education account.

(e) In addition to the amounts deposited pursuant to subsections (1)(b)(ii) and (1)(c)(ii), the amount of 53.75% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state general fund.

(f) If the fee is collected by the county treasurer or other agent of the department, the amount of 3.75% of each

commercial vehicle-operator's-endorsement driver's license fee must be deposited into the county general fund, otherwise all of the fee must be deposited in the state general fund.

(g) The amount of 95% of each motorcycle endorsement fee must be deposited into the state traffic education account in the state special revenue fund.

(2) (a) If fees from driver's licenses, commercial vehicle---operator's---endorsements driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, he the county treasurer or agent shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. He The county treasurer or agent shall then remit to the state treasurer all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state traffic education account, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through (1)(g).

(b) If fees from driver's licenses, commercial vehicle operator's---endorsements driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected

by the department, it shall remit all fees to the state treasurer, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state special revenue fund, the state traffic education account, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g)."

Section 14. Section 61-5-201, MCA, is amended to read:

"61-5-201. Authority of department to cancel license and-endorsement. (1) The department ~~is-hereby-authorized--to~~ may cancel a driver's license and--commercial--vehicle operator's--endorsement--or--just--the--commercial--vehicle operator's--endorsement upon determining that the licensee was not entitled to the issuance or that since the issuance, ~~said the~~ licensee has become ineligible ~~{such--ineligibility~~ shall--be as determined pursuant to the provisions of 61-5-105} or that ~~said the~~ licensee failed to give the required or correct information in ~~his~~ the licensee's application or committed any fraud in making ~~such the~~ application.

(2) Upon such cancellation, the licensee ~~must~~ shall surrender the canceled license ~~so---canceled~~ to the department."

Section 15. Section 61-5-203, MCA, is amended to read:

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

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

"61-5-204. Suspending resident's license upon conviction in another state. The department ~~is-authorized-to~~ may suspend or revoke the driver's license and-commercial vehicle--operator's--endorsement--or--just--the---commercial vehicle-operator's-endorsement of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice of the conviction of the person in another jurisdiction of an offense in that jurisdiction which, if committed in this state, would be grounds for the suspension or revocation of the driver's license or-commercial-vehicle-operator's-endorsement."

Section 17. Section 61-5-205, MCA, is amended to read:

"61-5-205. Mandatory revocation of license upon proper authority. The department upon proper authority shall revoke the driver's license,--including--the--commercial--vehicle operator's--endorsement, or the operating privilege of any

driver upon receiving a record of the driver's conviction or forfeiture of bail not vacated of any of the following offenses, when the conviction or forfeiture has become final:

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

(2) driving a motor vehicle while under the influence of alcohol or any drug or a combination thereof of alcohol or drugs, except as provided in 61-5-208, or operation of a motor vehicle by a person with a blood alcohol concentration of 0.10 or more;

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

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

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

(6) conviction or forfeiture of bail not vacated upon three charges of reckless driving committed within a period of 12 months; or

(7) negligent vehicular assault as defined in

45-5-205."

Section 18. Section 61-5-206, MCA, is amended to read:

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

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

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

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

(d) is incompetent to drive a motor vehicle;

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

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

(g) has falsified his the licensee's date of birth on

his the application for a driver's license;

(h) is under 21 years of age and has altered his the licensee's or another's driver's license or identification card to obtain alcohol; or

(i) has authorized another to use his the licensee's driver's license or identification card to obtain alcohol.

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

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

Section 19. Section 61-5-207, MCA, is amended to read:

"61-5-207. Reexamination or investigation -- when required. The department, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed ~~or-to-have-a--commercial--vehicle--operator's~~ endorsement, may, based on information received, investigate the licensee's record, physical or mental condition, or need

for a license or, upon written notice of at least 5 days to the licensee, require him the licensee to submit to an examination. Upon the conclusion of the investigation or examination the department shall take action as may be appropriate considering the facts reported or discovered and may suspend or revoke the driver's license ~~and-commercial~~ ~~vehicle--operator's--endorsement--or--just--the--commercial~~ ~~vehicle--operator's-endorsement~~ of such the person or permit him the person to retain such the license or may issue a license subject to restrictions as permitted under 61-5-113. Refusal or neglect of the licensee to submit to such the investigation or examination ~~shall-be-ground~~ is grounds for suspension or revocation of his the person's license."

Section 20. Section 61-5-208, MCA, is amended to read:

"61-5-208. Period of suspension or revocation. (1) The department may not suspend or revoke a driver's license, ~~commercial--vehicle--operator's-endorsement~~, or privilege to drive a motor vehicle on the public highways for a period of more than 1 year, except as otherwise permitted by law.

(2) A person whose license, ~~commercial--vehicle~~ ~~operator's--endorsement~~, or privilege to drive a motor vehicle on the public highways has been suspended or revoked ~~is-not-entitled-to~~ may not have the license, endorsement, or privilege renewed or restored unless the revocation was for a cause which has been removed, ~~except-that-after~~ After the

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

1 both, as ordered by the sentencing court, the license
 2 revocation remains in effect until the course, treatment, or
 3 both are completed.

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

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

10 (5) If a person is convicted of a violation of 61-8-401
 11 or 61-8-406 while operating a commercial motor vehicle, the
 12 department shall suspend the person's driver's license as
 13 provided in 61-8-811 and subsection (2) of this section. In
 14 addition, ~~the department shall suspend the person's~~
 15 ~~commercial vehicle operator's endorsement in accordance with~~
 16 ~~the provisions of this title.~~

17 **Section 21.** Section 61-5-209, MCA, is amended to read:

18 "61-5-209. Surrender and return of license or
 19 endorsement upon suspension or revocation. The When the
 20 department upon suspending or revoking suspends or revokes a
 21 license, ~~or commercial vehicle operator's endorsement~~ it
 22 shall require that such the license shall be surrendered to
 23 and be retained by the department except that at the end of
 24 the period of suspension, such the surrendered license so
 25 surrendered shall must be returned to the licensee."

Section 22. Section 61-5-210, MCA, is amended to read:

"61-5-210. No operation under foreign license during suspension or revocation in this state. Any A resident or nonresident whose license or right or privilege to operate a motor vehicle or commercial motor vehicle in this state has been suspended or revoked as provided in this chapter ~~shall~~ may not operate a motor vehicle or commercial motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during such the suspension or after such the revocation until a new license or--commercial--vehicle--operator's endorsement is obtained when-and--as--permitted under this chapter."

Section 23. Section 61-5-211, MCA, is amended to read:

"61-5-211. Right of appeal to court. Any A person denied a driver's license or--commercial--motor--vehicle operator's-endorsement or whose license or--endorsement has been canceled, suspended, or revoked by the department except where-such when the cancellation or revocation is mandatory under the provisions of this chapter ~~shall have~~ the-right-to may file a petition within 30 days thereafter after the denial, cancellation, suspension, or revocation for a hearing in the matter in the district court in the county wherein--such in which the person ~~shall--reside~~ resides. Such The court ~~is--hereby--vested--with~~ has

jurisdiction and it shall ~~be-its-duty-to~~ set the matter for hearing upon 30 days' written notice to the department, and thereupon-to shall take testimony and examine into the facts of the case and to determine whether the petitioner is entitled to a driver's license or--commercial--vehicle operator's--endorsement or is subject to suspension, cancellation, or revocation of the license or-endorsement under the provisions of this chapter."

Section 24. Section 61-5-212, MCA, is amended to read:

"61-5-212. Driving while license suspended or revoked -- penalty. (1) Any A person who drives a motor vehicle or commercial motor vehicle on any public highway of this state at a time when his the person's privilege to do so is suspended or revoked in this state or any other state is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not less than 2 days or more than 6 months and may be fined not more than \$500.

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

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

"61-5-302. Unlawful use of license or identification

1 card. It is a misdemeanor for any a person to:

2 (1) display or cause or permit to be displayed or have
3 in his the person's possession any a canceled, revoked,
4 suspended, fictitious, or altered driver's license or
5 identification card;

6 (2) lend his the person's driver's license or
7 identification card to any other person or knowingly permit
8 its use by another;

9 (3) display or represent as one's own any driver's
10 license or identification card not issued to him the person;

11 (4) fail or refuse to surrender to the department upon
12 its lawful demand any a driver's license or identification
13 card which that has been suspended, revoked, or canceled;

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

19 (6) permit any unlawful use of a driver's license or
20 identification card issued to him the person."

21 **Section 26.** Section 61-5-306, MCA, is amended to read:

22 "61-5-306. Renting motor vehicle to another. (1) No A
23 person shall may not rent a motor vehicle to any other
24 person unless the latter person is then--duly licensed
25 hereunder under this chapter or, in the case of a

1 nonresident, then-duly licensed under the laws of the state
2 or country of his the person's residence except a
3 nonresident whose home state or country does not require
4 that an operator be licensed.

5 (2) No A person shall may not rent a motor vehicle to
6 another until he the person has inspected the driver's
7 license of the ~~person-to-whom-the-vehicle-is-to-be-rented~~
8 proposed renter and compared and verified the signature
9 thereon on the license with the signature of such-person the
10 proposed renter written in his the person's presence.

11 (3) No A person may not rent a commercial motor vehicle
12 ~~which--is--defined--as--a--commercial--motor--vehicle--under--this~~
13 title to another until he the person has inspected the
14 driver's license of that--person the proposed renter and
15 determined that the person proposed renter has a commercial
16 ~~vehicle-operator's endorsement~~ driver's license.

17 (4) Every person renting a motor vehicle to another
18 shall keep a record of the registration number of the motor
19 vehicle so rented, the name and address of the person to
20 whom the vehicle is rented, and the number and expiration
21 date of the license of said-latter-person the renter. The
22 record shall-be is open to inspection by any police officer
23 or officer or employee of the department."

24 **Section 27.** Section 61-8-802, MCA, is amended to read:

25 "61-8-802. Suspension of commercial vehicle-operator's

endorsement driver's license -- disqualification. (1) The department shall suspend the commercial vehicle-operator's endorsement driver's license of any commercial operator if the department's records or information received from federal authorities shows that the person is disqualified under federal law.

(2) A commercial vehicle---operator's---endorsement driver's license suspended pursuant to this section remains suspended for the duration of the period of disqualification under federal regulations.

(3) A person whose commercial vehicle---operator's endorsement driver's license is suspended under this section due to disqualification:

(a) may appeal the suspension as provided in 61-5-211; and

(b) may not operate a commercial vehicle until the suspension is lifted and his the person's commercial vehicle operator's-endorsement driver's license is restored."

Section 28. Section 61-8-803, MCA, is amended to read:

"61-8-803. Suspension of commercial vehicle-operator's endorsement driver's license -- serious traffic violations. If a commercial motor vehicle operator's record shows that he the operator has been convicted of a serious traffic violation as defined in federal regulations, the department shall suspend the commercial vehicle-operator's---endorsement

driver's license:

(1) for 60 days if the operator was convicted of two hazardous moving violations within 3 years; or

(2) for 120 days if the operator was convicted of three hazardous moving violations within 3 years."

Section 29. Section 61-8-804, MCA, is amended to read:

"61-8-804. Suspension of commercial vehicle---operator's endorsement driver's license -- felony involving a controlled substance while driving a commercial vehicle. If the department receives information that a commercial motor vehicle operator has been convicted of using a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by federal regulations, or a felony involving possession with intent to manufacture, distribute, or dispense a controlled substance, the department shall suspend his the operator's commercial vehicle-operator's endorsement driver's license for life."

Section 30. Section 61-8-805, MCA, is amended to read:

"61-8-805. Suspension for operating a commercial vehicle with alcohol concentration of 0.04 or more -- hearing. (1) A person whose alcohol concentration is 0.04 or more while he the person drives or is in actual physical control of a commercial motor vehicle is subject to the suspension of his the person's commercial vehicle-operator's

1 endorsement driver's license. If the department receives a
 2 sworn report from a peace officer that the person was
 3 operating a commercial motor vehicle while his the person's
 4 alcohol concentration was 0.04 or more, the department shall
 5 suspend the person's commercial driver's ~~commercial-vehicle~~
 6 operator's-endorsement license:

7 (a) for 1 year, with no provision for a restricted
 8 probationary license or endorsement, upon receipt of the
 9 first report, except that if the offense occurred in a
 10 commercial motor vehicle transporting hazardous materials,
 11 the suspension must be for 3 years; and

12 (b) for life, with no provision for a restricted
 13 probationary license or endorsement, upon receipt of a
 14 second or subsequent report at any time as determined from
 15 the records of the department, unless a restricted license
 16 or endorsement is allowed by federal rules governing
 17 commercial drivers.

18 (2) A peace officer who determines that a commercial
 19 motor vehicle operator has any measured amount or detected
 20 presence of alcohol in his the operator's body while
 21 operating a commercial motor vehicle shall place the
 22 commercial motor vehicle operator out of service as mandated
 23 by federal regulations for 24 hours.

24 (3) The fact that any person charged with a violation
 25 of the provisions of subsection (1) is entitled to use

1 alcohol under the laws of Montana is not a defense against
 2 any charge of violating the provisions of subsection (1).

3 (4) The department shall immediately notify in writing
 4 any person whose commercial vehicle-operator's-endorsement
 5 driver's license is suspended under this section. The person
 6 has-the-right-to may file a petition within 30 days after
 7 the notice is given for a hearing in the matter in the
 8 district court in the county in which the finding of alcohol
 9 concentration was made. The court has jurisdiction and shall
 10 set the matter for hearing upon 10 days' written notice to
 11 the county attorney of the county in which the appeal is
 12 filed. The county attorney shall represent the state. The
 13 court shall take testimony and examine the facts of the
 14 case, except that the issue is limited to whether the person
 15 was driving or had actual physical control of a commercial
 16 motor vehicle while his the person's alcohol concentration
 17 was 0.04 or more. The court shall determine whether the
 18 petitioner is entitled to a commercial vehicle-operator's
 19 endorsement driver's license or is subject to suspension as
 20 provided in this section. The provisions of 61-8-404 apply
 21 to any proceedings under this section."

22 **Section 31.** Section 61-8-806, MCA, is amended to read:

23 "61-8-806. Blood, breath, or urine tests of commercial
 24 vehicle operators -- procedure -- suspension. (1) A person
 25 who operates a commercial motor vehicle upon the ways of

1 this state open to the public is considered to have given
 2 consent, subject to the provisions of 61-8-401 and 61-8-805,
 3 to a test of his the operator's blood, breath, or urine for
 4 the purpose of determining any measured amount of alcohol in
 5 his the operator's body if he the operator is requested to
 6 submit to the test by a peace officer having reasonable
 7 grounds to believe the person to have been driving or in
 8 actual physical control of a commercial motor vehicle upon
 9 the ways of this state open to the public while his the
 10 person's blood alcohol concentration was 0.04 or more. The
 11 peace officer may designate a blood, breath, or urine test
 12 to be administered.

13 (2) A person who is unconscious or who is otherwise
 14 incapable of refusal is considered not to have withdrawn the
 15 consent provided in subsection (1).

16 (3) If a commercial motor vehicle operator who is a
 17 resident of Montana refuses upon the request of a peace
 18 officer to submit to a test designated by the officer as
 19 provided in subsection (1), the test may not be given. On
 20 behalf of the department, the officer shall immediately
 21 seize the person's commercial driver's license showing--the
 22 commercial--vehicle--operator's--endorsement and forward the
 23 license to the department, along with a sworn report that he
 24 the officer had reasonable grounds to believe that the
 25 person had been driving or was in actual physical control of

1 a commercial motor vehicle upon ways of this state open to
 2 the public while having an alcohol concentration of 0.04 or
 3 more and that the person had refused to submit to the test
 4 upon the request of the officer. Upon receipt of the report,
 5 the department shall suspend the license for a period
 6 provided in subsection (5).

7 (4) Upon seizure of a resident's commercial driver's
 8 license showing-a-commercial-vehicle-operator's-endorsement,
 9 the peace officer shall issue, on behalf of the department,
 10 a temporary noncommercial driving permit without--the
 11 commercial-vehicle--operator's--endorsement. The temporary
 12 driving permit is valid for 72 hours after issuance.

13 (5) If a commercial motor vehicle operator refuses to
 14 submit to a test as provided in subsection (3), the
 15 department shall suspend his the operator's commercial
 16 vehicle-operator's-endorsement driver's license:

17 (a) upon first refusal, for 1 year, with no provision
 18 for a restricted probationary license or endorsement, except
 19 that if the offense occurred in a commercial motor vehicle
 20 transporting hazardous materials, the suspension for a first
 21 refusal must be for 3 years;

22 (b) upon a second or subsequent refusal at any time as
 23 determined from the records of the department, for life,
 24 with no provision for a restricted probationary license or
 25 endorsement unless allowed by federal rules governing

1 commercial drivers.

2 (6) A nonresident commercial motor vehicle operator who
3 refuses to submit to a test as provided in subsection (3) is
4 subject to suspension by the department as provided in
5 subsection (5) and must be given a temporary driving permit
6 as provided in subsection (4)."

7 **Section 32.** Section 61-8-808, MCA, is amended to read:

8 "61-8-808. Right of appeal of court. The department
9 shall immediately notify in writing any person whose
10 commercial vehicle-operator's-endorsement driver's license
11 has been suspended under the provisions of 61-8-806, and the
12 person may, within 30 days after receipt of notification,
13 file a petition for a hearing on the matter in the district
14 court in the county where the person resides or in the
15 district court in the county where the finding of refusal
16 was made. The court has jurisdiction and shall set the
17 matter for hearing upon 10 days' written notice to the
18 county attorney of the county where the appeal is filed. The
19 county attorney shall represent the state. The court shall
20 take testimony and examine the facts of the case, except
21 that the issue is limited to whether a peace officer had
22 reasonable grounds to believe the person had been driving or
23 was in actual physical control of a commercial motor vehicle
24 upon ways of this state open to the public while the person
25 had a blood alcohol concentration of 0.04 or more, whether

1 the person was ordered to submit to a test, and whether the
2 person refused to submit to the test. The court shall
3 determine whether the petitioner is entitled to a commercial
4 vehicle--operator's--endorsement driver's license or is
5 subject to suspension as provided in this part."

6 **Section 33.** Section 61-8-810, MCA, is amended to read:

7 "61-8-810. Suspension of commercial vehicle-operator's
8 endorsement driver's license -- felony involving a
9 commercial motor vehicle. Upon receipt of information that a
10 commercial motor vehicle operator has been convicted of
11 using a commercial motor vehicle in the commission of a
12 felony, the department shall suspend the driver's commercial
13 vehicle--operator's-endorsement driver's license as provided
14 in 61-8-811."

15 **Section 34.** Section 61-8-811, MCA, is amended to read:

16 "61-8-811. Suspension of commercial vehicle--operator's
17 endorsement driver's license -- duration -- second or
18 subsequent offense. Upon receiving notice pursuant to
19 61-5-208, 61-8-809, or 61-8-810, the department shall
20 suspend an operator's commercial vehicle--operator's
21 endorsement driver's license, as follows:

22 (1) upon notice of a first conviction, for 1 year, with
23 no provision for a probationary license, except that if the
24 offense occurred while operating a commercial motor vehicle
25 transporting hazardous material, the suspension must be for

1 3 years;

2 (2) upon notice of a second conviction, as determined
3 from the records of the department, for life, with no
4 provision for a restricted license or endorsement unless
5 allowed by federal rules governing commercial drivers; and

6 (3) upon notice of a third conviction, an operator's
7 commercial vehicle--endorsement driver's license must be
8 suspended for life and the operator is ineligible for
9 reinstatement."

10 NEW SECTION. Section 35. Codification instruction.

11 [Section 1] is intended to be codified as an integral part
12 of Title 61, chapter 8, part 8, and the provisions of Title
13 61, chapter 8, part 8, apply to [section 1].

-End-