

1 SENATE BILL NO. 13

2 INTRODUCED BY HALLIGAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PERSON CITED FOR A MOTOR VEHICLE
5 VIOLATION MAY GIVE UP THE PERSON'S DRIVER'S LICENSE IN LIEU OF BAIL AND DRIVE ON A
6 TEMPORARY PERMIT UNTIL THE DATE OF THE PERSON'S COURT APPEARANCE."7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:9
10 **NEW SECTION.** **Section 1.** **Surrender of driver's license in lieu of bail -- temporary driving permit.**
11 A peace officer authorized to accept bail for the violation involved may, at the request of the person, take
12 in lieu of bail the driver's license of a person to whom the peace officer issues a citation for violation of a
13 provision of Title 61, chapter 3, 7, 8, 9, or 10. The peace officer shall inform each cited person of this
14 option. The officer shall, when the driver's license is taken, note on the back of the copy of the citation
15 given to the cited person, in a form determined by the department of justice, that the cited person's driver's
16 license was taken in lieu of bail for the violation and the date upon which the person shall appear in court.
17 The notice entitles the person to operate a motor vehicle that the person's driver's license entitles the
18 person to operate, with any restrictions and conditions on the driver's license, until the date of the person's
19 appearance in court. If the person fails to appear and the failure is not excused by the court, the court shall
20 send the person's driver's license to the department of justice and notify the department of the failure to
21 appear. The department shall suspend the person's driver's license until the department is notified by the
22 court that the person has appeared.23
24 **NEW SECTION.** **Section 2.** **Codification instruction.** [Section 1] is intended to be codified as an
25 integral part of Title 46, chapter 9, and the provisions of Title 46, chapter 9, apply to [section 1].

26 -END-

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7 MANNER IN WHICH A PERSON IS GIVEN NOTICE THAT THE PERSON'S DRIVER'S LICENSE OR DRIVING
8 PRIVILEGES WILL BE SUSPENDED IF THE PERSON FAILS TO APPEAR IN COURT OR PAY ASSESSED
9 FINES, COSTS, OR RESTITUTION AFTER BEING CITED FOR OR CONVICTED OF A MOTOR VEHICLE
10 VIOLATION; PROHIBITING INSURANCE PREMIUM INCREASES OR SPECIAL RISK CLASSIFICATIONS
11 BASED ON SUSPENSION OF A DRIVER'S LICENSE FOR FAILURE TO APPEAR OR PAY; AND AMENDING
12 SECTION SECTIONS 33-16-201 AND 61-5-214, MCA."

13

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

15 (Refer to Introduced Bill)

16 Strike everything after the enacting clause and insert:

18 Section 1. Section 61-5-214, MCA, is amended to read:

19 "61-5-214. Mandatory suspension for failure to appear or pay fine -- notice. (1) The department
20 shall suspend the license or driving privilege of ~~an operator~~ a person immediately upon receipt of a certified
21 copy of a docket page or other sufficient evidence from the court that the ~~operator~~ person:

22 (1) (a) is charged with or convicted of a violation of ~~61-5-302 through 61-5-306, 61-5-308, or~~
23 chapters ~~3, 6, 7, 8, 9, or~~ through 10 of this title ~~or is guilty of a criminal offense and was driving or was~~
24 ~~in actual physical control of a motor vehicle when the offense occurred; and~~

25 (2) (a) (b) (i) failed to post the set bond amount or appear as ordered by the court or appear upon
26 issued complaint, summons, or court order; or

27 (b) (ii) failed to forfeit the posted bond amount or, when assessed a fine, costs, or restitution of
28 \$100 or more, failed to pay the fine, costs, or restitution; and

29 (3) (c) received prior written notice, evidenced by a signed receipt for a certified letter or by a
30 statement signed before the court of the provisions of this section, including the reinstatement fee that the

1 driver's license or driving privileges of the person will be suspended upon a failure to post bond or appear
2 on an issued complaint, summons, or court order or upon a failure to pay assessed fines, costs, or
3 restitution.

4 (2) The suspension continues in effect until the court notifies the department that the person has
5 paid the reinstatement fee and either appeared in court or paid the assessed fines, costs, or restitution. A
6 SUSPENSION UNDER THIS SECTION MAY NOT BE CONSIDERED FOR INSURANCE PURPOSES AS A
7 SPECIAL RISK CLASSIFICATION UNDER TITLE 33 OR BE USED AS THE BASIS FOR INCREASING A
8 PERSON'S INSURANCE PREMIUMS.

9 (3) The notice required under this section may be included on the summons or complaint and notice
10 to appear form given to the person when charges are initially filed or may be contained in a court order,
11 either hand-delivered to the person while in court or sent by first-class mail, postage prepaid, to the most
12 current address for that person received by or on record with the court. THE INITIAL NOTICE MUST BE
13 FOLLOWED BY A WRITTEN WARNING FROM THE COURT, SENT BY FIRST-CLASS MAIL, ADVISING THE
14 PERSON THAT A LICENSE SUSPENSION IS IMMINENT AND OF THE PROBABLE CONSEQUENCES OF A
15 SUSPENSION UNLESS THE PERSON APPEARS OR PAYS WITHIN A SPECIFIED NUMBER OF DAYS."

16

17 **SECTION 2. SECTION 33-16-201, MCA, IS AMENDED TO READ:**

18 **"33-16-201. Standards applicable to rates.** The following standards shall apply to the making and
19 use of rates pertaining to all classes of insurance to which the provisions of this chapter are applicable:

20 (1) (a) Rates shall may not be excessive or inadequate, as herein defined in this title, nor shall and
21 they may not be unfairly discriminatory.

22 (b) No A rate shall be held to be is not excessive unless such the rate is unreasonably high for the
23 insurance provided and a reasonable degree of competition does not exist in the area with respect to the
24 classification to which such the rate is applicable.

25 (c) No A rate shall be held to be is not inadequate unless such the rate is unreasonably low for the
26 insurance provided and the continued use of such the rate endangers the solvency of the insurer using the
27 same it or unless such the rate is unreasonably low for the insurance provided and the use of such the rate
28 by the insurer using same it has, or if continued will have, the effect of destroying competition or creating
29 a monopoly.

30 (2) (a) Consideration shall must be given, to the extent applicable, to past and prospective loss

1 experience within and outside this state, to ~~revenues~~ revenue and profits from reserves, to conflagration
2 and catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to past
3 and prospective expenses, both countrywide and those specially applicable to this state, and to all other
4 factors, including judgment factors, ~~deemed~~ considered relevant within and outside this state. In the case
5 of fire insurance rates, consideration may be given to the experience of the fire insurance business during
6 the most recent 5-year period for which ~~such~~ the experience is available.

7 (b) Consideration may also be given in the making and use of rates to dividends, savings, or
8 unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or
9 subscribers.

10 (3) The systems of expense provisions included in the rates for use by any insurer or group of
11 insurers may differ from those of other insurers or groups of insurers to reflect the operating methods of
12 ~~any such an~~ insurer or group with respect to any kind of insurance or with respect to any subdivision or
13 combination thereof.

14 (4) Risks may be grouped by classifications for the establishment of rates and minimum premiums.
15 Classification rates may be modified to produce rates for individual risks in accordance with rating plans
16 ~~which~~ that establish standards for measuring variations in hazards or expense provisions, or both. ~~Such~~ The
17 standards may measure any difference among risks that have a probable effect upon losses or expenses.
18 Classifications or modifications of classifications of risks may be established, based upon size, expense,
19 management, individual experience, location or dispersion of hazard, or any other reasonable considerations,
20 except that no special risk classification may be established based on anything adverse to the insured in
21 a driving record ~~which~~ that is 3 years old or older or for any driver's license suspension under 61-5-214.
22 ~~Such~~ The classifications and modifications shall apply to all risks under the same or substantially the same
23 circumstances or conditions."

24

-END-

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

15 (Refer to Introduced Bill)

16 Strike everything after the enacting clause and insert:

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18 Section 1. Section 61-5-214, MCA, is amended to read:

19 "61-5-214. Mandatory suspension for failure to appear or pay fine or notice. (1) The department
20 shall suspend the license or driving privilege of an operator a person immediately upon receipt of a certified
21 copy of a docket page or other sufficient evidence from the court that the operator person:

22 (1) (a) is charged with or convicted of a violation of ~~61-5-302 through 61-5-306, 61-5-309, or~~
23 chapters ~~3, 6, 7, 8, 9, or~~ through 10 of this title ~~or is guilty of a criminal offense and was driving or was~~
24 ~~in actual physical control of a motor vehicle when the offense occurred; and~~

25 (2) (a) (b) (i) failed to post the set bond amount or appear ~~as ordered by the court or appear upon~~
26 issued complaint, summons, or court order; or

27 (b) (ii) failed to forfeit the posted bond amount or, when assessed a fine, costs, or restitution of
28 \$100 or more, failed to pay the fine, costs, or restitution; and

29 (3) (c) received prior written notice, evidenced by a signed receipt for a certified letter or by a
30 ~~statement signed before the court of the provisions of this section, including the reinstatement fee that the~~

1 driver's license or driving privileges of the person will be suspended upon a failure to post bond or appear
2 on an issued complaint, summons, or court order or upon a failure to pay assessed fines, costs, or
3 restitution.

4 (2) The suspension continues in effect until the court notifies the department that the person has
5 paid the reinstatement fee and either appeared in court or paid the assessed fines, costs, or restitution. A
6 SUSPENSION UNDER THIS SECTION MAY NOT BE CONSIDERED FOR INSURANCE PURPOSES AS A
7 SPECIAL RISK CLASSIFICATION UNDER TITLE 33 OR BE USED AS THE BASIS FOR INCREASING A
8 PERSON'S INSURANCE PREMIUMS.

9 (3) The notice required under this section may be included on the summons or complaint and notice
10 to appear form given to the person when charges are initially filed or may be contained in a court order,
11 either hand-delivered to the person while in court or sent by first-class mail, postage prepaid, to the most
12 current address for that person received by or on record with the court. THE INITIAL NOTICE MUST BE
13 FOLLOWED BY A WRITTEN WARNING FROM THE COURT, SENT BY FIRST-CLASS MAIL, ADVISING THE
14 PERSON THAT A LICENSE SUSPENSION IS IMMINENT AND OF THE PROBABLE CONSEQUENCES OF A
15 SUSPENSION UNLESS THE PERSON APPEARS OR PAYS WITHIN A SPECIFIED NUMBER OF DAYS."

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17 **SECTION 2. SECTION 33-16-201, MCA, IS AMENDED TO READ:**

18 **"33-16-201. Standards applicable to rates.** The following standards ~~shall~~ apply to the making and
19 use of rates pertaining to all classes of insurance to which the provisions of this chapter are applicable:

20 (b) ~~(a) Rates shall~~ may not be excessive or inadequate, as herein defined in this title, ~~nor shall~~ and
21 they may not be unfairly discriminatory.

22 (c) ~~No A rate shall be held to be is not~~ excessive unless ~~such the~~ rate is unreasonably high for the
23 insurance provided and a reasonable degree of competition does not exist in the area with respect to the
24 classification to which ~~such the~~ rate is applicable.

25 (d) ~~No A rate shall be held to be is not~~ inadequate unless ~~such the~~ rate is unreasonably low for the
26 insurance provided and the continued use of ~~such the~~ rate endangers the solvency of the insurer using ~~the~~
27 same ~~it~~ or unless ~~such the~~ rate is unreasonably low for the insurance provided and the use of ~~such the~~ rate
28 by the insurer using ~~same it~~ has, or if continued will have, the effect of destroying competition or creating
29 a monopoly.

30 (e) Consideration ~~shall~~ must be given, to the extent applicable, to past and prospective loss

1 experience within and outside this state, to ~~revenues~~ revenue and profits from reserves, to conflagration
2 and catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to past
3 and prospective expenses, both countrywide and those specially applicable to this state, and to all other
4 factors, including judgment factors, ~~deemed~~ considered relevant within and outside this state. In the case
5 of fire insurance rates, consideration may be given to the experience of the fire insurance business during
6 the most recent 5-year period for which ~~such~~ the experience is available.

7 (b) Consideration may also be given in the making and use of rates to dividends, savings, or
8 unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or
9 subscribers.

10 (3) The systems of expense provisions included in the rates for use by any insurer or group of
11 insurers may differ from those of other insurers or groups of insurers to reflect the operating methods of
12 any ~~such~~ an insurer or group with respect to any kind of insurance or with respect to any subdivision or
13 combination thereof.

14 (4) Risks may be grouped by classifications for the establishment of rates and minimum premiums.
15 Classification rates may be modified to produce rates for individual risks in accordance with rating plans
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23 circumstances or conditions."

24

-END-



HOUSE STANDING COMMITTEE REPORT

March 23, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 13 (third reading copy -- blue) be concurred in as amended.

Signed: Bob Clark
Bob Clark, Chair

Carried by: Rep. Anderson

And, that such amendments read:

1. Title, lines 10 and 11.

Strike: "PROHIBITING" on line 10 through "PAY;" ON LINE 11

2. Title, line 12.

Strike: "SECTIONS 33-16-201 AND"

Insert: "SECTION"

3. Page 2, lines 5 through 8.

Strike: "A" on line 5 through end of line 8

4. Page 2, line 17 through line 23 of page 3.

Strike: section 2 in its entirety

-END-

SB 13

Committee Vote:

Yes 12, No 0.

HOUSE

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23 chapters 3, 6, 7, 8, 9, or through 10 of this title or is guilty of a criminal offense and was driving or was
24 in actual physical control of a motor vehicle when the offense occurred; and

25 (2) (a) (b)(i) failed to post the set bond amount or appear as ordered by the court or appear upon
26 issued complaint, summons, or court order; or

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