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SENATE BILL NO. 297

INTRODUCED BY

Sherry W. Ryan Van Valkenburg

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE OFFENSES OF FAILING TO CARRY AN APPROVED INSURANCE CARD IN A MOTOR VEHICLE AND FAILING TO EXHIBIT THE INSURANCE CARD UPON DEMAND; PROVIDING THAT A PERSON CONVICTED OF ONE OF THOSE OFFENSES MUST BE ASSESSED 5 POINTS UNDER THE HABITUAL TRAFFIC OFFENDER LAW; AND AMENDING SECTIONS 61-6-301, 61-6-302, 61-6-304, AND 61-11-203, MCA."

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

Section 1. Section 61-6-301, MCA, is amended to read:

"61-6-301. Required motor vehicle insurance -- family member exclusion. (1) (a) Except as provided in subsection (1)(b), an owner of a motor vehicle ~~which~~ that is registered and operated in Montana by the owner or with ~~his~~ the owner's permission shall continuously provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by maintenance or use of a motor vehicle, as defined in 61-1-102, in an amount not less than that required by 61-6-103, or a certificate of self-insurance issued in accordance with 61-6-143.

(b) Notwithstanding the mandatory motor vehicle liability insurance protection provided for in subsection (1)(a), nothing in this part may be construed to prohibit the exclusion from insurance coverage of a named family member in a motor vehicle liability insurance policy.

(2) A motor vehicle owner who prefers to post an indemnity bond with the department in lieu of obtaining a policy of liability insurance may do so. The bond must guarantee that any loss resulting from liability imposed by law for bodily injury, death, or damage to property suffered by any person caused by accident and arising out of the operation, maintenance, and use of the motor vehicle sought to be registered must be paid within 30 days after final judgment is entered establishing the liability. The indemnity bond must guarantee payment in the amount provided for insurance under subsection (1).

(3) Any bond given in connection with this section is a continuing instrument and must cover the period for which the motor vehicle is to be registered and operated. The bond must be on a form approved by the commissioner of insurance and must be with a surety company authorized to do business in the

1 state.

2 (4) It is unlawful for a person to operate a motor vehicle upon ways of this state open to the public
 3 without a valid policy of liability insurance in effect in an amount not less than that required by 61-6-103,
 4 unless the person has been issued a certificate of self-insurance under 61-6-143, has posted an indemnity
 5 bond with the department as provided in this section, or is operating a vehicle exempt under 61-6-303."

6

7 **Section 2.** Section 61-6-302, MCA, is amended to read:

8 "**61-6-302. Proof of compliance.** (1) The registration receipt required by 61-3-322 must contain
 9 a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate
 10 the vehicle without a valid motor vehicle liability insurance policy, a certificate of self-insurance, or a posted
 11 indemnity bond, as required by 61-6-301.

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

17 ~~(3) Every~~ Each person shall carry in a motor vehicle being operated by the person an insurance card
 18 approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of
 19 compliance with 61-6-301. A motor vehicle operator shall exhibit the insurance card upon demand of a
 20 justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy
 21 or inspector of the department. A person commits an offense under this subsection if the person fails to
 22 carry the insurance card in a motor vehicle or fails to exhibit the insurance card upon demand of a person
 23 specified in this subsection. However, a person charged with violating this subsection may not be
 24 convicted if the person produces in court or the office of the arresting officer proof of insurance valid at
 25 the time of arrest."

26

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

28 "**61-6-304. Penalties.** (1) ~~It is unlawful for any person to operate a motor vehicle upon ways of this~~
 29 ~~state open to the public without a valid policy of liability insurance in effect in an amount not less than that~~
 30 ~~provided in 61-6-301 or unless the person has been issued a certificate of self insurance pursuant to~~

1 ~~61-6-143 or has previously posted an indemnity bond with the department as provided by 61-6-301 or is~~
 2 ~~operating a vehicle exempt under 61-6-303.~~

3 ~~(2)(1)~~ Conviction of a first offense under 61-6-301 ~~through 61-6-304~~ or 61-6-302 is punishable
 4 by a fine of not less than \$250 or more than \$500 or by imprisonment in the county jail for not more than
 5 10 days, or both. A second conviction is punishable by a fine of \$350 or by imprisonment in the county
 6 jail for not more than 10 days, or both. A third or subsequent conviction is punishable by a fine of \$500
 7 or by imprisonment in the county jail for not more than 10 days, or both.

8 ~~(3)(2)~~ Upon a second or subsequent conviction under 61-6-301 or 61-6-302, the sentencing court
 9 shall order the surrender of the vehicle registration receipt and license plates for the vehicle operated at the
 10 time of the offense if that vehicle was operated by the registered owner or a member of the registered
 11 owner's immediate family or by a person whose operation of that vehicle was authorized by the registered
 12 owner. The court shall send the receipt and plates, along with a copy of the complaint and dispositional
 13 order, to the department, which shall immediately suspend the receipt and plates for a period of 90 days
 14 from the date of a second conviction or 180 days from the date of a third or subsequent conviction. The
 15 receipt and plates may not be reinstated until the expiration of that period, but if the vehicle is transferred
 16 to a new owner, the new owner is entitled to register the vehicle.

17 ~~(4)(3)~~ The court may suspend a required fine only upon a determination that the offender is or will
 18 be unable to pay the fine.

19 ~~(5)(4)~~ A court may not defer imposition of penalties provided by this section."
 20

21 **Section 4.** Section 61-11-203, MCA, is amended to read:

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

23 (1) "Conviction" means a finding of guilt by duly constituted judicial authority, a plea of guilty, or
 24 a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having
 25 committed any offense relating to the use or operation of a motor vehicle which is prohibited by law,
 26 ordinance, or administrative order.

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

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

30 (b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle,

- 1 or negligent vehicular assault, 12 points;
- 2 (c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in
3 the commission of which a motor vehicle is used, 12 points;
- 4 (d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind or
5 operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, 10 points;
- 6 (e) operating a motor vehicle while ~~his~~ the license to do so has been suspended or revoked, 6
7 points;
- 8 (f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any
9 person to stop at the scene of the accident and give the required information and assistance, as defined
10 in 61-7-105, 8 points;
- 11 (g) willful failure of the driver involved in an accident resulting in property damage of \$250 to stop
12 at the scene of the accident and give the required information or failure to otherwise ~~fail to~~ report an
13 accident in violation of the law, 4 points;
- 14 (h) reckless driving, 5 points;
- 15 (i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;
- 16 (j) a any of the mandatory motor vehicle liability protection ~~offense~~ offenses under ~~61-6-304~~
17 61-6-301 and 61-6-302, 5 points;
- 18 (k) operating a motor vehicle without a license to do so, 2 points (this subsection (k) does not
19 apply to operating a motor vehicle within a period of 180 days from the date the license expired);
- 20 (l) speeding, 3 points;
- 21 (m) all other moving violations, 2 points.
- 22 (3) There ~~shall~~ may not be ~~no~~ multiple application of cumulative points when two or more charges
23 are filed involving a single occurrence. If there are two or more convictions involving a single occurrence,
24 only the number of points for the specific conviction carrying the highest points ~~shall be~~ is chargeable
25 against that defendant.
- 26 (4) "License" means any type of license or permit to operate a motor vehicle."

27

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0297, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

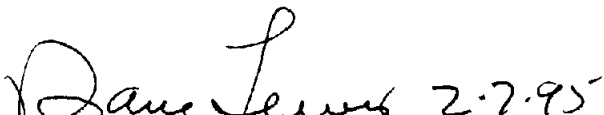
An act which clarifies the offenses of failing to carry an approved insurance card in a motor vehicle and failing to exhibit the insurance card upon demand.


ASSUMPTIONS:

1. Implementation of SB297 will increase the number of driver control actions taken by the Department of Justice, including counseling sessions with licensed drivers and habitual offender revocations. At this time, the increased workload would be handled under the present law base budget.

FISCAL IMPACT:

Passage of SB297 will have immaterial fiscal impact on state government.


DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


STEVE DOHERTY, PRIMARY SPONSOR DATE

Fiscal Note for SB0297, as introduced

SB 297

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SENATE BILL NO. 297

INTRODUCED BY Christy W. Ryan Van Valkenburg

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(b) Notwithstanding the mandatory motor vehicle liability insurance protection provided for in subsection (1)(a), nothing in this part may be construed to prohibit the exclusion from insurance coverage of a named family member in a motor vehicle liability insurance policy.

(2) A motor vehicle owner who prefers to post an indemnity bond with the department in lieu of obtaining a policy of liability insurance may do so. The bond must guarantee that any loss resulting from liability imposed by law for bodily injury, death, or damage to property suffered by any person caused by accident and arising out of the operation, maintenance, and use of the motor vehicle sought to be registered must be paid within 30 days after final judgment is entered establishing the liability. The indemnity bond must guarantee payment in the amount provided for insurance under subsection (1).

(3) Any bond given in connection with this section is a continuing instrument and must cover the period for which the motor vehicle is to be registered and operated. The bond must be on a form approved by the commissioner of insurance and must be with a surety company authorized to do business in the

1 state.

2 (4) It is unlawful for a person to operate a motor vehicle upon ways of this state open to the public
 3 without a valid policy of liability insurance in effect in an amount not less than that required by 61-6-103,
 4 unless the person has been issued a certificate of self-insurance under 61-6-143, has posted an indemnity
 5 bond with the department as provided in this section, or is operating a vehicle exempt under 61-6-303."

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7 **Section 2.** Section 61-6-302, MCA, is amended to read:

8 **"61-6-302. Proof of compliance.** (1) The registration receipt required by 61-3-322 must contain
 9 a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate
 10 the vehicle without a valid motor vehicle liability insurance policy, a certificate of self-insurance, or a posted
 11 indemnity bond, as required by 61-6-301.

12 (2) ~~An owner of a motor vehicle who ceases to maintain the insurance or bond required or whose~~
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 21 or inspector of the department. A person commits an offense under this subsection if the person fails to
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 24 convicted if the person produces in court or the office of the arresting officer proof of insurance valid at
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27 **Section 3.** Section 61-6-304, MCA, is amended to read:

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2 operating a vehicle exempt under ~~61-6-303~~.

3 ~~(2)~~(1) Conviction of a first offense under 61-6-301 through ~~61-6-304~~ or 61-6-302 is punishable
4 by a fine of not less than \$250 or more than \$500 or by imprisonment in the county jail for not more than
5 10 days, or both. A second conviction is punishable by a fine of \$350 or by imprisonment in the county
6 jail for not more than 10 days, or both. A third or subsequent conviction is punishable by a fine of \$500
7 or by imprisonment in the county jail for not more than 10 days, or both.

8 ~~(3)~~(2) Upon a second or subsequent conviction under 61-6-301 or 61-6-302, the sentencing court
9 shall order the surrender of the vehicle registration receipt and license plates for the vehicle operated at the
10 time of the offense if that vehicle was operated by the registered owner or a member of the registered
11 owner's immediate family or by a person whose operation of that vehicle was authorized by the registered
12 owner. The court shall send the receipt and plates, along with a copy of the complaint and dispositional
13 order, to the department, which shall immediately suspend the receipt and plates for a period of 90 days
14 from the date of a second conviction or 180 days from the date of a third or subsequent conviction. The
15 receipt and plates may not be reinstated until the expiration of that period, but if the vehicle is transferred
16 to a new owner, the new owner is entitled to register the vehicle.

17 ~~(4)~~(3) The court may suspend a required fine only upon a determination that the offender is or will
18 be unable to pay the fine.

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21 **Section 4.** Section 61-11-203, MCA, is amended to read:

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

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

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3 the commission of which a motor vehicle is used, 12 points;

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5 operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, 10 points;

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

8 (f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any
9 person to stop at the scene of the accident and give the required information and assistance, as defined
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12 at the scene of the accident and give the required information or failure to otherwise ~~fail to~~ report an
13 accident in violation of the law, 4 points;

14 (h) reckless driving, 5 points;

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16 (j) a any of the mandatory motor vehicle liability protection ~~offense~~ offenses under ~~61-6-304~~
17 61-6-301 and 61-6-302, 5 points;

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

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23 are filed involving a single occurrence. If there are two or more convictions involving a single occurrence,
24 only the number of points for the specific conviction carrying the highest points ~~shall be~~ is chargeable
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SENATE BILL NO. 297

INTRODUCED BY

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(2) A motor vehicle owner who prefers to post an indemnity bond with the department in lieu of obtaining a policy of liability insurance may do so. The bond must guarantee that any loss resulting from liability imposed by law for bodily injury, death, or damage to property suffered by any person caused by accident and arising out of the operation, maintenance, and use of the motor vehicle sought to be registered must be paid within 30 days after final judgment is entered establishing the liability. The indemnity bond must guarantee payment in the amount provided for insurance under subsection (1).

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-END-

1 SENATE BILL NO. 297

2 INTRODUCED BY DOHERTY, RYAN, VAN VALKENBURG

3

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9

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

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12 Section 1. Section 61-6-301, MCA, is amended to read:

13 "61-6-301. Required motor vehicle insurance -- family member exclusion. (1) (a) Except as provided
14 in subsection (1)(b), an owner of a motor vehicle ~~which~~ that is registered and operated in Montana by the
15 owner or with ~~his~~ the owner's permission shall continuously provide insurance against loss resulting from
16 liability imposed by law for bodily injury or death or damage to property suffered by any person caused by
17 maintenance or use of a motor vehicle, as defined in 61-1-102, in an amount not less than that required
18 by 61-6-103, or a certificate of self-insurance issued in accordance with 61-6-143.

19 (b) Notwithstanding the mandatory motor vehicle liability insurance protection provided for in
20 subsection (1)(a), nothing in this part may be construed to prohibit the exclusion from insurance coverage
21 of a named family member in a motor vehicle liability insurance policy.

22 (2) A motor vehicle owner who prefers to post an indemnity bond with the department in lieu of
23 obtaining a policy of liability insurance may do so. The bond must guarantee that any loss resulting from
24 liability imposed by law for bodily injury, death, or damage to property suffered by any person caused by
25 accident and arising out of the operation, maintenance, and use of the motor vehicle sought to be registered
26 must be paid within 30 days after final judgment is entered establishing the liability. The indemnity bond
27 must guarantee payment in the amount provided for insurance under subsection (1).

28 (3) Any bond given in connection with this section is a continuing instrument and must cover the
29 period for which the motor vehicle is to be registered and operated. The bond must be on a form approved
30 by the commissioner of insurance and must be with a surety company authorized to do business in the

1 state.

2 (4) It is unlawful for a person to operate a motor vehicle upon ways of this state open to the public
 3 without a valid policy of liability insurance in effect in an amount not less than that required by 61-6-103,
 4 unless the person has been issued a certificate of self-insurance under 61-6-143, has posted an indemnity
 5 bond with the department as provided in this section, or is operating a vehicle exempt under 61-6-303."

6

7 **Section 2.** Section 61-6-302, MCA, is amended to read:

8 "**61-6-302. Proof of compliance.** (1) The registration receipt required by 61-3-322 must contain
 9 a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate
 10 the vehicle without a valid motor vehicle liability insurance policy, a certificate of self-insurance, or a posted
 11 indemnity bond, as required by 61-6-301.

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

17 ~~(3) Every~~ Each person shall carry in a motor vehicle being operated by the person an insurance card
 18 approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of
 19 compliance with 61-6-301. A motor vehicle operator shall exhibit the insurance card upon demand of a
 20 justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy
 21 or inspector of the department. A person commits an offense under this subsection if the person fails to
 22 carry the insurance card in a motor vehicle or fails to exhibit the insurance card upon demand of a person
 23 specified in this subsection. However, a person charged with violating this subsection may not be
 24 convicted if the person produces in court or the office of the arresting officer proof of insurance valid at
 25 the time of arrest."

26

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

28 "**61-6-304. Penalties.** ~~(1) It is unlawful for any person to operate a motor vehicle upon ways of this~~
 29 ~~state open to the public without a valid policy of liability insurance in effect in an amount not less than that~~
 30 ~~provided in 61-6-301 or unless the person has been issued a certificate of self insurance pursuant to~~

1 ~~61-6-143 or has previously posted an indemnity bond with the department as provided by 61-6-301 or is~~
 2 ~~operating a vehicle exempt under 61-6-303.~~

3 ~~(2)(1)~~ Conviction of a first offense under 61-6-301 ~~through 61-6-304~~ or 61-6-302 is punishable
 4 by a fine of not less than \$250 or more than \$500 or by imprisonment in the county jail for not more than
 5 10 days, or both. A second conviction is punishable by a fine of \$350 or by imprisonment in the county
 6 jail for not more than 10 days, or both. A third or subsequent conviction is punishable by a fine of \$500
 7 or by imprisonment in the county jail for not more than 10 days, or both.

8 ~~(3)(2)~~ Upon a second or subsequent conviction under 61-6-301 or 61-6-302, the sentencing court
 9 shall order the surrender of the vehicle registration receipt and license plates for the vehicle operated at the
 10 time of the offense if that vehicle was operated by the registered owner or a member of the registered
 11 owner's immediate family or by a person whose operation of that vehicle was authorized by the registered
 12 owner. The court shall send the receipt and plates, along with a copy of the complaint and dispositional
 13 order, to the department, which shall immediately suspend the receipt and plates for a period of 90 days
 14 from the date of a second conviction or 180 days from the date of a third or subsequent conviction. The
 15 receipt and plates may not be reinstated until the expiration of that period, but if the vehicle is transferred
 16 to a new owner, the new owner is entitled to register the vehicle.

17 ~~(4)(3)~~ The court may suspend a required fine only upon a determination that the offender is or will
 18 be unable to pay the fine.

19 ~~(5)(4)~~ A court may not defer imposition of penalties provided by this section."
 20

21 **Section 4.** Section 61-11-203, MCA, is amended to read:

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

23 (1) "Conviction" means a finding of guilt by duly constituted judicial authority, a plea of guilty, or
 24 a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having
 25 committed any offense relating to the use or operation of a motor vehicle which is prohibited by law,
 26 ordinance, or administrative order.

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

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

30 (b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle,

- 1 or negligent vehicular assault, 12 points;
- 2 (c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in
3 the commission of which a motor vehicle is used, 12 points;
- 4 (d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind or
5 operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, 10 points;
- 6 (e) operating a motor vehicle while ~~his~~ the license to do so has been suspended or revoked, 6
7 points;
- 8 (f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any
9 person to stop at the scene of the accident and give the required information and assistance, as defined
10 in 61-7-105, 8 points;
- 11 (g) willful failure of the driver involved in an accident resulting in property damage of \$250 to stop
12 at the scene of the accident and give the required information or failure to otherwise ~~fail to~~ report an
13 accident in violation of the law, 4 points;
- 14 (h) reckless driving, 5 points;
- 15 (i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;
- 16 (j) ~~a~~ any of the mandatory motor vehicle liability protection ~~offense~~ offenses under ~~61-6-304~~
17 61-6-301 and 61-6-302, 5 points;
- 18 (k) operating a motor vehicle without a license to do so, 2 points (this subsection (k) does not
19 apply to operating a motor vehicle within a period of 180 days from the date the license expired);
- 20 (l) speeding, 3 points;
- 21 (m) all other moving violations, 2 points.
- 22 (3) There ~~shall~~ may not be ~~no~~ multiple application of cumulative points when two or more charges
23 are filed involving a single occurrence. If there are two or more convictions involving a single occurrence,
24 only the number of points for the specific conviction carrying the highest points ~~shall be~~ is chargeable
25 against that defendant.
- 26 (4) "License" means any type of license or permit to operate a motor vehicle."
27
- END-