

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

INTRODUCED BY House BILL NO. 346
Angela Rose Ryan Carey M. Cam

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO MANDATORY MOTOR VEHICLE INSURANCE; REQUIRING PROOF OF COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY LAW BEFORE A MOTOR VEHICLE MAY BE REGISTERED; REQUIRING SUSPENSION OF A DRIVER'S LICENSE UPON A FOURTH CONVICTION; REQUIRING AN INSURANCE COMPANY TO NOTIFY THE DEPARTMENT OF JUSTICE OF THE CANCELLATION OR NONRENEWAL OF A MOTOR VEHICLE LIABILITY POLICY; AND AMENDING SECTIONS 61-5-206, 61-6-302, AND 61-6-304, MCA."

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

Section 1. 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 may suspend the driver's license 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~~ a 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 the license as specified in 61-5-302;
- (f) has committed an offense in another state ~~which~~ that if committed in this state would be grounds for suspension or revocation;
- (g) has falsified the licensee's date of birth on the application for a driver's license;
- (h) is under 21 years of age and has altered the licensee's or another's driver's license or identification card to obtain alcohol; or

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

3 (2) The department shall suspend the driver's license of a driver without a preliminary hearing upon
4 a showing that the licensee was not in compliance with 61-6-301. The department may not issue a
5 probationary license to a driver whose license was suspended under this subsection.

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

16 ~~(3)(4)~~ Upon suspending the license of any person or upon placing the person on probation, as
17 authorized in this section, the department shall immediately notify the licensee in writing and upon the
18 licensee's request shall afford the licensee an opportunity for a hearing as early as practical within not to
19 exceed 20 days after receipt of the request in the county in which the licensee resides unless the
20 department and the licensee agree that the hearing may be held in some other county. At the hearing, the
21 department through its authorized agent may administer oaths and may issue subpoenas for the attendance
22 of witnesses and the production of relevant books and papers and may require a reexamination of the
23 licensee. At the hearing, the department shall either rescind its order of suspension or probation, or, for
24 good cause, may affirm, reduce, or extend the period of probation or suspension of the license."
25

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

27 "**61-6-302. Proof of compliance.** (1) ~~The registration receipt required by 61-3-322 must contain~~
28 ~~a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate~~
29 ~~the vehicle without a valid motor vehicle liability insurance policy, a certificate of self insurance, or a posted~~
30 ~~indemnity bond, as required by 61-6-301. Except as provided in subsection (2), before an applicant~~

1 required to register a motor vehicle may do so, the applicant shall certify to the county treasurer that the
2 applicant possesses an automobile liability insurance policy, a certificate of self-insurance, or a posted
3 indemnity bond or that the applicant is eligible for an exemption under 61-6-303 covering the motor vehicle.
4 The certification must be on a form prescribed by the department. The department may immediately cancel
5 the registration and license plates of the vehicle upon notification that the insurance certification was not
6 correctly represented. A person who intentionally provides false information on an insurance certification
7 is guilty of unsworn falsification to authorities, punishable as provided in 45-7-203.

8 (2) An applicant for registration of a motor vehicle who wishes to register the vehicle by mail shall
9 sign a statement on the application stating that the applicant is in compliance with the financial liability
10 requirements of 61-6-301.

11 (3) (a) An owner of a motor vehicle who ceases to maintain the insurance or bond required or
12 whose certificate of self-insurance is canceled or whose vehicle ceases to be exempt shall immediately
13 surrender the registration and license plates for the vehicle to the county treasurer for delivery to the
14 department.

15 (b) If the department receives a cancellation or nonrenewal notice from an insurer as provided in
16 [section 4], the department shall order the surrender of the registration and license plates.

17 (c) The owner may not operate or permit operation of the vehicle in Montana until insurance has
18 again been furnished as required and the vehicle is again registered and licensed.

19 ~~(2)~~(4) Each person shall carry in a motor vehicle being operated by the person an insurance card
20 approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of
21 compliance with 61-6-301. A motor vehicle operator shall exhibit the insurance card upon demand of a
22 justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy
23 or inspector of the department. A person commits an offense under this subsection if the person fails to
24 carry the insurance card in a motor vehicle or fails to exhibit the insurance card upon demand of a person
25 specified in this subsection. However, a person charged with violating this subsection may not be convicted
26 if the person produces in court or the office of the arresting officer proof of insurance valid at the time of
27 arrest."
28

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

30 **"61-6-304. Penalties.** (1) Conviction of a first offense under 61-6-301 or 61-6-302 is punishable

1 by a fine of not less than \$250 or more than \$500 or by imprisonment in the county jail for not more than
 2 10 days, or both. A second conviction is punishable by a fine of \$350 or by imprisonment in the county
 3 jail for not more than 10 days, or both. A third or subsequent conviction is punishable by a fine of \$500
 4 or by imprisonment in the county jail for not more than 6 months, or both.

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

14 (3) Upon a fourth and subsequent conviction under 61-6-301 or 61-6-302, the court shall order
 15 the surrender of the driver's license of the registered owner of the vehicle. The court shall send the driver's
 16 license, along with a copy of the complaint and the dispositional order, to the department, which shall
 17 immediately suspend the driver's license until the registered owner provides proof of compliance with
 18 61-6-301. At that time, the owner may apply for a new driver's license as provided by law.

19 ~~(3)~~(4) The court may suspend a required fine only upon a determination that the offender is or will
 20 be unable to pay the fine.

21 ~~(4)~~(5) A court may not defer imposition of penalties provided by this section."
 22

23 NEW SECTION. Section 4. Notification of cancellation or nonrenewal. If an insurer cancels or does
 24 not renew a motor vehicle liability policy after complying with the provisions of 33-23-212 and 33-23-214,
 25 the insurer shall send a copy of the cancellation or nonrenewal notice to the department of justice.
 26

27 NEW SECTION. Section 5. Codification instruction. [Section 4] is intended to be codified as an
 28 integral part of Title 33, chapter 23, part 2, and the provisions of Title 33, chapter 23, part 2, apply to
 29 [section 4].
 30

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0346, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the laws relating to mandatory motor vehicle insurance; requiring proof of compliance with the financial responsibility law before a motor vehicle may be registered; requiring suspension of a driver's license upon a fourth conviction; requiring an insurance company to notify the Department of Justice of the cancellation or nonrenewal of a motor vehicle liability policy.

ASSUMPTIONS:

1. The effective date of this bill is October 1, 1997; therefore, annualized personal services and operating expenditures and revenues in fiscal 1998 would be 75% of the fiscal year.
2. Based upon information provided by the insurance industry, in the State of Montana approximately 90,000 motor vehicle insurance policies are issued cancellation or nonrenewal notices each year. This would generate more than 90,000 system entries to suspend driver licenses and more than 90,000 entries to record the surrender orders on the motor vehicle license plates and registrations.
3. The Department of Justice assumes that approximately 75,000 or more driver license reinstatements would be processed annually. It is also assumed that an equal number of motor vehicle license plates and registrations would be reinstated.
4. The department would need 12.00 FTE and approximately \$176,734 in fiscal 1998 and \$235,646 in fiscal 1999 personal services to process the more than 90,000 driver license suspensions and reinstatements and more than 90,000 motor vehicle registration and license plates surrenders and reinstatements, approximately 300 fourth offense driver license suspensions, and an estimated 45,000 additional incoming telephone calls. (1.00 supervisor, grade 11, at \$25,370 per year and 11.00 administrative support personnel, grade 7, at \$19,116 per year for each. FTE and personal services in fiscal 1998 would be for 75 percent of the year.)
5. Annual operating expenditures are estimated at \$192,413 in fiscal 1998 and \$256,550 in fiscal 1999 for such items as \$8,000 for printing forms, letters and envelopes, \$205,050 for postage for letters (90,000 @ \$.32 each) and mailing of license plates and registrations (75,000 @ \$2.35 each), \$22,920 for computer access and mainframe processing, \$6,480 for communications (telephone lines and long distance charges), \$8,500 for office space/rent for 1,000 sq.ft., and \$5,600 for office supplies, files, and computer papers/ribbons. Fiscal 1998 operating expenses would be for 75% of the fiscal year.
6. One-time costs in fiscal 1998 would be an additional \$4,800 in operating expenses for the installation of 12 telephone/data lines at \$200 each and approximately \$2,400 for 120 hours of computer programming costs.
7. Additional one-time costs in fiscal 1998 would be \$36,000 for 12 computers (\$3,000 x 12), \$2,100 for a 21 inch monitor for imaging, \$3,000 for two high volume printers (\$1,500 x 2), \$17,500 for 50 4-drawer filing cabinets (\$350 x 50), \$3,700 for a high volume fax machine, \$12,600 for 12 secretarial desks and computer work stations (\$1,050 x 12), and \$5,700 for 12 secretarial chairs (\$475 x 12).

(Continued)


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

JOE TROPILA, PRIMARY SPONSOR DATE

Fiscal Note for HB0346, as introduced

HB 346

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	9.00	12.00
Personal Services	176,734	235,646
Operating Expenses	199,613	256,550
Equipment	<u>80,600</u>	<u>0</u>
Total	456,947	492,196
<u>Funding:</u>		
General Fund (01)	456,947	492,196
<u>Net Impact:</u>		
General Fund (01)	(456,947)	(492,196)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Counties will incur increased postage expenditures to deliver the surrendered registration and license plates to the Department of Justice that are received in accordance with Section 2(3). There would be an unknown increase in revenues due to an increase in the number of citations issued for failure to carry or provide a driver's license and motor vehicle license plates and registrations.

TECHNICAL NOTES:

1. The private insurance industry would have increased costs to comply with Section 4 of this HB 346.
2. The title of HB 346 mentions financial responsibility laws; however, the financial responsibility laws are not referenced in the body of this bill.
3. HB 346 does not provide any enforcement provision for failure to comply with this act.

MOTION TO TAKE FROM TABLE,
PRINT & PLACE ON 2ND READING

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

House BILL NO. *346*
INTRODUCED BY *Miguel Rene Wynton Carey M. Cam*

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO MANDATORY MOTOR VEHICLE INSURANCE; REQUIRING PROOF OF COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY LAW BEFORE A MOTOR VEHICLE MAY BE REGISTERED; REQUIRING SUSPENSION OF A DRIVER'S LICENSE UPON A FOURTH CONVICTION; REQUIRING AN INSURANCE COMPANY TO NOTIFY THE DEPARTMENT OF JUSTICE OF THE CANCELLATION OR NONRENEWAL OF A MOTOR VEHICLE LIABILITY POLICY; AND AMENDING SECTIONS 61-5-206, 61-6-302, AND 61-6-304, MCA."

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

Section 1. 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 may suspend the driver's license 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~~ a 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 the license as specified in 61-5-302;

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

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

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

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

3 (2) The department shall suspend the driver's license of a driver without a preliminary hearing upon
4 a showing that the licensee was not in compliance with 61-6-301. The department may not issue a
5 probationary license to a driver whose license was suspended under this subsection.

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

16 ~~(3)~~(4) Upon suspending the license of any person or upon placing the person on probation, as
17 authorized in this section, the department shall immediately notify the licensee in writing and upon the
18 licensee's request shall afford the licensee an opportunity for a hearing as early as practical within not to
19 exceed 20 days after receipt of the request in the county in which the licensee resides unless the
20 department and the licensee agree that the hearing may be held in some other county. At the hearing, the
21 department through its authorized agent may administer oaths and may issue subpoenas for the attendance
22 of witnesses and the production of relevant books and papers and may require a reexamination of the
23 licensee. At the hearing, the department shall either rescind its order of suspension or probation, or, for
24 good cause, may affirm, reduce, or extend the period of probation or suspension of the license."
25

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

27 "**61-6-302. Proof of compliance.** (1) ~~The registration receipt required by 61-3-322 must contain~~
28 ~~a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate~~
29 ~~the vehicle without a valid motor vehicle liability insurance policy, a certificate of self insurance, or a posted~~
30 ~~indemnity bond, as required by 61-6-301. Except as provided in subsection (2), before an applicant~~

1 required to register a motor vehicle may do so, the applicant shall certify to the county treasurer that the
2 applicant possesses an automobile liability insurance policy, a certificate of self-insurance, or a posted
3 indemnity bond or that the applicant is eligible for an exemption under 61-6-303 covering the motor vehicle.
4 The certification must be on a form prescribed by the department. The department may immediately cancel
5 the registration and license plates of the vehicle upon notification that the insurance certification was not
6 correctly represented. A person who intentionally provides false information on an insurance certification
7 is guilty of unsworn falsification to authorities, punishable as provided in 45-7-203.

8 (2) An applicant for registration of a motor vehicle who wishes to register the vehicle by mail shall
9 sign a statement on the application stating that the applicant is in compliance with the financial liability
10 requirements of 61-6-301.

11 (3) (a) An owner of a motor vehicle who ceases to maintain the insurance or bond required or
12 whose certificate of self-insurance is canceled or whose vehicle ceases to be exempt shall immediately
13 surrender the registration and license plates for the vehicle to the county treasurer for delivery to the
14 department.

15 (b) If the department receives a cancellation or nonrenewal notice from an insurer as provided in
16 [section 4], the department shall order the surrender of the registration and license plates.

17 (c) The owner may not operate or permit operation of the vehicle in Montana until insurance has
18 again been furnished as required and the vehicle is again registered and licensed.

19 ~~(2)~~(4) Each person shall carry in a motor vehicle being operated by the person an insurance card
20 approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of
21 compliance with 61-6-301. A motor vehicle operator shall exhibit the insurance card upon demand of a
22 justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy
23 or inspector of the department. A person commits an offense under this subsection if the person fails to
24 carry the insurance card in a motor vehicle or fails to exhibit the insurance card upon demand of a person
25 specified in this subsection. However, a person charged with violating this subsection may not be convicted
26 if the person produces in court or the office of the arresting officer proof of insurance valid at the time of
27 arrest."

28
29 **Section 3.** Section 61-6-304, MCA, is amended to read:

30 **"61-6-304. Penalties.** (1) Conviction of a first offense under 61-6-301 or 61-6-302 is punishable

1 by a fine of not less than \$250 or more than \$500 or by imprisonment in the county jail for not more than
 2 10 days, or both. A second conviction is punishable by a fine of \$350 or by imprisonment in the county
 3 jail for not more than 10 days, or both. A third or subsequent conviction is punishable by a fine of \$500
 4 or by imprisonment in the county jail for not more than 6 months, or both.

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

14 (3) Upon a fourth and subsequent conviction under 61-6-301 or 61-6-302, the court shall order
 15 the surrender of the driver's license of the registered owner of the vehicle. The court shall send the driver's
 16 license, along with a copy of the complaint and the dispositional order, to the department, which shall
 17 immediately suspend the driver's license until the registered owner provides proof of compliance with
 18 61-6-301. At that time, the owner may apply for a new driver's license as provided by law.

19 ~~(3)~~(4) The court may suspend a required fine only upon a determination that the offender is or will
 20 be unable to pay the fine.

21 ~~(4)~~(5) A court may not defer imposition of penalties provided by this section."
 22

23 NEW SECTION. Section 4. Notification of cancellation or nonrenewal. If an insurer cancels or does
 24 not renew a motor vehicle liability policy after complying with the provisions of 33-23-212 and 33-23-214,
 25 the insurer shall send a copy of the cancellation or nonrenewal notice to the department of justice.
 26

27 NEW SECTION. Section 5. Codification instruction. [Section 4] is intended to be codified as an
 28 integral part of Title 33, chapter 23, part 2, and the provisions of Title 33, chapter 23, part 2, apply to
 29 [section 4].
 30

-END-

HOUSE BILL NO. 346

INTRODUCED BY TROPILA, ROSE, RYAN, CAREY, MCCANN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO MANDATORY MOTOR VEHICLE INSURANCE; REQUIRING PROOF OF COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY LAW BEFORE A MOTOR VEHICLE MAY BE REGISTERED; REQUIRING SUSPENSION OF A DRIVER'S LICENSE UPON A FOURTH CONVICTION; ~~REQUIRING AN INSURANCE COMPANY TO NOTIFY THE DEPARTMENT OF JUSTICE OF THE CANCELLATION OR NONRENEWAL OF A MOTOR VEHICLE LIABILITY POLICY;~~ AND AMENDING SECTIONS 61-5-206, 61-6-302, AND 61-6-304, MCA."

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

Section 1. 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 may suspend the driver's license 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~~ a 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 the license as specified in 61-5-302;

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

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

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

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

3 (2) The department shall suspend the driver's license of a driver without a preliminary hearing upon
4 a showing that the licensee was not in compliance with 61-6-301. The department may not issue a
5 probationary license to a driver whose license was suspended under this subsection.

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

16 ~~(3)(4)~~ Upon suspending the license of any person or upon placing the person on probation, as
17 authorized in this section, the department shall immediately notify the licensee in writing and upon the
18 licensee's request shall afford the licensee an opportunity for a hearing as early as practical within not to
19 exceed 20 days after receipt of the request in the county in which the licensee resides unless the
20 department and the licensee agree that the hearing may be held in some other county. At the hearing, the
21 department through its authorized agent may administer oaths and may issue subpoenas for the attendance
22 of witnesses and the production of relevant books and papers and may require a reexamination of the
23 licensee. At the hearing, the department shall either rescind its order of suspension or probation, or, for
24 good cause, may affirm, reduce, or extend the period of probation or suspension of the license."

25
26 **Section 2.** Section 61-6-302, MCA, is amended to read:

27 "**61-6-302. Proof of compliance.** (1) ~~The registration receipt required by 61-3-322 must contain~~
28 ~~a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate~~
29 ~~the vehicle without a valid motor vehicle liability insurance policy, a certificate of self insurance, or a posted~~
30 ~~indemnity bond, as required by 61-6-301. Except as provided in subsection (2), before an applicant~~

1 required to register a motor vehicle may do so, the applicant shall certify to the county treasurer that the
 2 applicant possesses an automobile liability insurance policy, a certificate of self-insurance, or a posted
 3 indemnity bond or that the applicant is eligible for an exemption under 61-6-303 covering the motor vehicle.
 4 The certification must be on a form prescribed by the department. The department may immediately cancel
 5 the registration and license plates of the vehicle upon notification that the insurance certification was not
 6 correctly represented. A person who intentionally provides false information on an insurance certification
 7 is guilty of unsworn falsification to authorities, punishable as provided in 45-7-203.

8 (2) An applicant for registration of a motor vehicle who wishes to register the vehicle by mail shall
 9 sign a statement on the application stating that the applicant is in compliance with the financial liability
 10 requirements of 61-6-301.

11 (3) (a) An owner of a motor vehicle who ceases to maintain the insurance or bond required or
 12 whose certificate of self-insurance is canceled or whose vehicle ceases to be exempt shall immediately
 13 surrender the registration and license plates for the vehicle to the county treasurer for delivery to the
 14 department.

15 ~~(b) If the department receives a cancellation or nonrenewal notice from an insurer as provided in~~
 16 ~~section 4], the department shall order the surrender of the registration and license plates.~~

17 ~~(e)(B) The owner may not operate or permit operation of the vehicle in Montana until insurance has~~
 18 ~~again been furnished as required and the vehicle is again registered and licensed.~~

19 ~~(2)(4) Each person shall carry in a motor vehicle being operated by the person an insurance card~~
 20 ~~approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of~~
 21 ~~compliance with 61-6-301. A motor vehicle operator shall exhibit the insurance card upon demand of a~~
 22 ~~justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy~~
 23 ~~or inspector of the department. A person commits an offense under this subsection if the person fails to~~
 24 ~~carry the insurance card in a motor vehicle or fails to exhibit the insurance card upon demand of a person~~
 25 ~~specified in this subsection. However, a person charged with violating this subsection may not be convicted~~
 26 ~~if the person produces in court or the office of the arresting officer proof of insurance valid at the time of~~
 27 ~~arrest."~~

28
 29 **Section 3.** Section 61-6-304, MCA, is amended to read:

30 **"61-6-304. Penalties.** (1) Conviction of a first offense under 61-6-301 or 61-6-302 is punishable

1 by a fine of not less than \$250 or more than \$500 or by imprisonment in the county jail for not more than
 2 10 days, or both. A second conviction is punishable by a fine of \$350 or by imprisonment in the county
 3 jail for not more than 10 days, or both. A third or subsequent conviction is punishable by a fine of \$500
 4 or by imprisonment in the county jail for not more than 6 months, or both.

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

14 (3) Upon a fourth and subsequent conviction under 61-6-301 or 61-6-302, the court shall order
 15 the surrender of the driver's license of the registered owner of the vehicle. The court shall send the driver's
 16 license, along with a copy of the complaint and the dispositional order, to the department, which shall
 17 immediately suspend the driver's license until the registered owner provides proof of compliance with
 18 61-6-301. At that time, the owner may apply for a new driver's license as provided by law.

19 ~~(3)(4)~~ The court may suspend a required fine only upon a determination that the offender is or will
 20 be unable to pay the fine.

21 ~~(4)(5)~~ A court may not defer imposition of penalties provided by this section."
 22

23 ~~NEW SECTION. Section 4. Notification of cancellation or nonrenewal. If an insurer cancels or does~~
 24 ~~not renew a motor vehicle liability policy after complying with the provisions of 33-23-212 and 33-23-214,~~
 25 ~~the insurer shall send a copy of the cancellation or nonrenewal notice to the department of justice.~~
 26

27 ~~NEW SECTION. Section 5. Codification instruction. [Section 4] is intended to be codified as an~~
 28 ~~integral part of Title 33, chapter 23, part 2, and the provisions of Title 33, chapter 23, part 2, apply to~~
 29 ~~[section 4].~~

30 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0346, third reading

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the laws relating to mandatory motor vehicle insurance; requiring proof of compliance with the financial responsibility law before a motor vehicle may be registered; requiring suspension of a driver's license upon a fourth conviction.

ASSUMPTIONS:

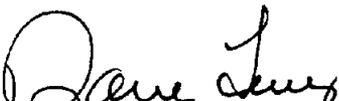
1. As amended, this bill would have no significant impact upon the Department of Justice Motor Vehicle Division.

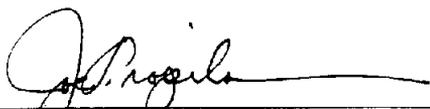
FISCAL IMPACT:

There would be no fiscal impact to the state.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

There could be an increase in revenues due to an increase in the number of citations issued by law enforcement for failure to carry or provide a driver's license and motor vehicle license plates and registrations.

 3-10-97
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


JOE TROPILA, PRIMARY SPONSOR DATE

Fiscal Note for HB0346, third reading

Am-HB 346-#2

HOUSE BILL NO. 346

INTRODUCED BY TROPILA, ROSE, RYAN, CAREY, MCCANN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO MANDATORY MOTOR VEHICLE INSURANCE; REQUIRING ~~PROOF OF COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY LAW BEFORE A MOTOR VEHICLE MAY BE REGISTERED;~~ REQUIRING SUSPENSION OF A DRIVER'S LICENSE UPON A FOURTH CONVICTION SUSPENSION OF THE DRIVER'S LICENSE OF A PERSON CONVICTED OF A FOURTH OR SUBSEQUENT VIOLATION OF MANDATORY MOTOR VEHICLE INSURANCE LAWS; REQUIRING A PERSON TO PROVIDE THE DEPARTMENT OF JUSTICE WITH PROOF OF COMPLIANCE WITH MANDATORY MOTOR VEHICLE INSURANCE LAWS BEFORE REINSTATEMENT OF LICENSE PLATES, REGISTRATION RECEIPTS, OR A SUSPENDED DRIVER'S LICENSE; REQUIRING AN ~~INSURANCE COMPANY TO NOTIFY THE DEPARTMENT OF JUSTICE OF THE CANCELLATION OR NONRENEWAL OF A MOTOR VEHICLE LIABILITY POLICY;~~ AND AMENDING SECTIONS ~~61-5-206, 61-6-302,~~ AND SECTION 61-6-304, MCA."

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

~~Section 1. 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 may suspend the driver's license 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 a 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 the license as specified in 61-5-302;~~

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

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

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

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

8 ~~(2) The department shall suspend the driver's license of a driver without a preliminary hearing upon~~
9 ~~a showing that the licensee was not in compliance with 61-6-301. The department may not issue a~~
10 ~~probationary license to a driver whose license was suspended under this subsection.~~

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

21 ~~(3)(4) Upon suspending the license of any person or upon placing the person on probation, as~~
22 ~~authorized in this section, the department shall immediately notify the licensee in writing and upon the~~
23 ~~licensee's request shall afford the licensee an opportunity for a hearing as early as practical within not to~~
24 ~~exceed 20 days after receipt of the request in the county in which the licensee resides unless the~~
25 ~~department and the licensee agree that the hearing may be held in some other county. At the hearing, the~~
26 ~~department through its authorized agent may administer oaths and may issue subpoenas for the attendance~~
27 ~~of witnesses and the production of relevant books and papers and may require a reexamination of the~~
28 ~~licensee. At the hearing, the department shall either rescind its order of suspension or probation, or, for~~
29 ~~good cause, may affirm, reduce, or extend the period of probation or suspension of the license."~~

30

1 ~~Section 2. Section 61-6-302, MCA, is amended to read:~~

2 ~~"61-6-302. Proof of compliance. (1) The registration receipt required by 61-3-322 must contain~~
 3 ~~a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate~~
 4 ~~the vehicle without a valid motor vehicle liability insurance policy, a certificate of self insurance, or a posted~~
 5 ~~indemnity bond, as required by 61-6-301. Except as provided in subsection (2), before an applicant~~
 6 ~~required to register a motor vehicle may do so, the applicant shall certify to the county treasurer that the~~
 7 ~~applicant possesses an automobile liability insurance policy, a certificate of self insurance, or a posted~~
 8 ~~indemnity bond or that the applicant is eligible for an exemption under 61-6-303 covering the motor vehicle.~~
 9 ~~The certification must be on a form prescribed by the department. The department may immediately cancel~~
 10 ~~the registration and license plates of the vehicle upon notification that the insurance certification was not~~
 11 ~~correctly represented. A person who intentionally provides false information on an insurance certification~~
 12 ~~is guilty of unsworn falsification to authorities, punishable as provided in 45-7-203.~~

13 ~~(2) An applicant for registration of a motor vehicle who wishes to register the vehicle by mail shall~~
 14 ~~sign a statement on the application stating that the applicant is in compliance with the financial liability~~
 15 ~~requirements of 61-6-301.~~

16 ~~(3) (a) An owner of a motor vehicle who ceases to maintain the insurance or bond required or~~
 17 ~~whose certificate of self insurance is canceled or whose vehicle ceases to be exempt shall immediately~~
 18 ~~surrender the registration and license plates for the vehicle to the county treasurer for delivery to the~~
 19 ~~department.~~

20 ~~(b) If the department receives a cancellation or nonrenewal notice from an insurer as provided in~~
 21 ~~section 4, the department shall order the surrender of the registration and license plates.~~

22 ~~(c)(B) The owner may not operate or permit operation of the vehicle in Montana until insurance has~~
 23 ~~again been furnished as required and the vehicle is again registered and licensed.~~

24 ~~(2)(4) Each person shall carry in a motor vehicle being operated by the person an insurance card~~
 25 ~~approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of~~
 26 ~~compliance with 61-6-301. A motor vehicle operator shall exhibit the insurance card upon demand of a~~
 27 ~~justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy~~
 28 ~~or inspector of the department. A person commits an offense under this subsection if the person fails to~~
 29 ~~carry the insurance card in a motor vehicle or fails to exhibit the insurance card upon demand of a person~~
 30 ~~specified in this subsection. However, a person charged with violating this subsection may not be convicted~~

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

3
 4 **Section 1.** Section 61-6-304, MCA, is amended to read:

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

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

20 (3) Upon a fourth and subsequent conviction under 61-6-301 or 61-6-302, the court shall order
 21 the surrender of the driver's license of the registered owner of the vehicle. The court shall send the driver's
 22 license, along with a copy of the complaint and the dispositional order, to the department, which shall
 23 immediately suspend the driver's license. THE DEPARTMENT MAY NOT REINSTATE A DRIVER'S LICENSE
 24 SUSPENDED UNDER THIS SUBSECTION until the registered owner provides THE DEPARTMENT proof of
 25 compliance with 61-6-301. At that time, the owner may apply for a new driver's license as provided by
 26 law AND THE DEPARTMENT DETERMINES THAT THE REGISTERED OWNER IS OTHERWISE ELIGIBLE FOR
 27 LICENSURE.

28 ~~(3)(4)~~ The court may suspend a required fine only upon a determination that the offender is or will
 29 be unable to pay the fine.

30 ~~(4)(5)~~ A court may not defer imposition of penalties provided by this section."

1 HOUSE BILL NO. 346

2 INTRODUCED BY TROPILA, ROSE, RYAN, CAREY, MCCANN

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO MANDATORY
 5 MOTOR VEHICLE INSURANCE; ~~REQUIRING PROOF OF COMPLIANCE WITH THE FINANCIAL~~
 6 ~~RESPONSIBILITY LAW BEFORE A MOTOR VEHICLE MAY BE REGISTERED; REQUIRING SUSPENSION OF~~
 7 ~~A DRIVER'S LICENSE UPON A FOURTH CONVICTION~~ SUSPENSION OF THE DRIVER'S LICENSE OF A
 8 PERSON CONVICTED OF A FOURTH OR SUBSEQUENT VIOLATION OF MANDATORY MOTOR VEHICLE
 9 INSURANCE LAWS; REQUIRING A PERSON TO PROVIDE THE DEPARTMENT OF JUSTICE WITH PROOF
 10 OF COMPLIANCE WITH MANDATORY MOTOR VEHICLE INSURANCE LAWS BEFORE REINSTATEMENT
 11 OF LICENSE PLATES, REGISTRATION RECEIPTS, OR A SUSPENDED DRIVER'S LICENSE; REQUIRING AN
 12 ~~INSURANCE COMPANY TO NOTIFY THE DEPARTMENT OF JUSTICE OF THE CANCELLATION OR~~
 13 ~~NONRENEWAL OF A MOTOR VEHICLE LIABILITY POLICY; AND AMENDING SECTIONS 61-5-206,~~
 14 ~~61-6-302, AND SECTION 61-6-304, MCA."~~

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

17
 18 ~~Section 1. Section 61-5-206, MCA, is amended to read:~~

19 ~~"61-5-206. Authority of department to suspend license or driving privilege or issue probationary~~
 20 ~~license. (1) The department may suspend the driver's license or driving privilege of a driver without~~
 21 ~~preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:~~

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

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

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

28 ~~(d) is incompetent to drive a motor vehicle;~~

29 ~~(e) has committed or permitted an unlawful or fraudulent use of the license as specified in~~
 30 ~~61-5-302;~~

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

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

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

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

8 ~~(2) The department shall suspend the driver's license of a driver without a preliminary hearing upon~~
9 ~~a showing that the licensee was not in compliance with 61-6-301. The department may not issue a~~
10 ~~probationary license to a driver whose license was suspended under this subsection.~~

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

21 ~~(3)(4) Upon suspending the license of any person or upon placing the person on probation, as~~
22 ~~authorized in this section, the department shall immediately notify the licensee in writing and upon the~~
23 ~~licensee's request shall afford the licensee an opportunity for a hearing as early as practical within not to~~
24 ~~exceed 20 days after receipt of the request in the county in which the licensee resides unless the~~
25 ~~department and the licensee agree that the hearing may be held in some other county. At the hearing, the~~
26 ~~department through its authorized agent may administer oaths and may issue subpoenas for the attendance~~
27 ~~of witnesses and the production of relevant books and papers and may require a reexamination of the~~
28 ~~licensee. At the hearing, the department shall either rescind its order of suspension or probation, or, for~~
29 ~~good cause, may affirm, reduce, or extend the period of probation or suspension of the license."~~

30

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

2 ~~"61-6-302. Proof of compliance. (1) The registration receipt required by 61-3-322 must contain~~
3 ~~a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate~~
4 ~~the vehicle without a valid motor vehicle liability insurance policy, a certificate of self insurance, or a posted~~
5 ~~indemnity bond, as required by 61-6-301. Except as provided in subsection (2), before an applicant~~
6 ~~required to register a motor vehicle may do so, the applicant shall certify to the county treasurer that the~~
7 ~~applicant possesses an automobile liability insurance policy, a certificate of self insurance, or a posted~~
8 ~~indemnity bond or that the applicant is eligible for an exemption under 61-6-303 covering the motor vehicle.~~
9 ~~The certification must be on a form prescribed by the department. The department may immediately cancel~~
10 ~~the registration and license plates of the vehicle upon notification that the insurance certification was not~~
11 ~~correctly represented. A person who intentionally provides false information on an insurance certification~~
12 ~~is guilty of unsworn falsification to authorities, punishable as provided in 45-7-203.~~

13 ~~(2) An applicant for registration of a motor vehicle who wishes to register the vehicle by mail shall~~
14 ~~sign a statement on the application stating that the applicant is in compliance with the financial liability~~
15 ~~requirements of 61-6-301.~~

16 ~~(3) (a) An owner of a motor vehicle who ceases to maintain the insurance or bond required or~~
17 ~~whose certificate of self insurance is canceled or whose vehicle ceases to be exempt shall immediately~~
18 ~~surrender the registration and license plates for the vehicle to the county treasurer for delivery to the~~
19 ~~department.~~

20 ~~(b) If the department receives a cancellation or nonrenewal notice from an insurer as provided in~~
21 ~~section 4), the department shall order the surrender of the registration and license plates.~~

22 ~~(c)(B) The owner may not operate or permit operation of the vehicle in Montana until insurance has~~
23 ~~again been furnished as required and the vehicle is again registered and licensed.~~

24 ~~(2)(4) Each person shall carry in a motor vehicle being operated by the person an insurance card~~
25 ~~approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of~~
26 ~~compliance with 61-6-301. A motor vehicle operator shall exhibit the insurance card upon demand of a~~
27 ~~justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy~~
28 ~~or inspector of the department. A person commits an offense under this subsection if the person fails to~~
29 ~~carry the insurance card in a motor vehicle or fails to exhibit the insurance card upon demand of a person~~
30 ~~specified in this subsection. However, a person charged with violating this subsection may not be convicted~~

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

3

4 **Section 1.** Section 61-6-304, MCA, is amended to read:

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

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

20 (3) Upon a fourth and subsequent conviction under 61-6-301 or 61-6-302, the court shall order
 21 the surrender of the driver's license of the registered owner of the vehicle. The court shall send the driver's
 22 license, along with a copy of the complaint and the dispositional order, to the department, which shall
 23 immediately suspend the driver's license. THE DEPARTMENT MAY NOT REINSTATE A DRIVER'S LICENSE
 24 SUSPENDED UNDER THIS SUBSECTION until the registered owner provides THE DEPARTMENT proof of
 25 compliance with 61-6-301. At that time, the owner may apply for a new driver's license as provided by
 26 law AND THE DEPARTMENT DETERMINES THAT THE REGISTERED OWNER IS OTHERWISE ELIGIBLE FOR
 27 LICENSURE.

28 ~~(3)~~(4) The court may suspend a required fine only upon a determination that the offender is or will
 29 be unable to pay the fine.

30 ~~(4)~~(5) A court may not defer imposition of penalties provided by this section."



FREE CONFERENCE COMMITTEE

on House Bill 346
Report No. 1, April 14, 1997

Page 1 of 2

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 346** (reference copy -- salmon) and recommend that **House Bill 346** be amended as follows:

1. Title, line 13.
Strike: "AND"

2. Title, line 14.
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 4.
Following: line 30
Insert: "(6) An offender is considered to have been previously convicted for the purposes of sentencing if less than 5 years have elapsed between the commission of the present offense and a previous conviction."

4. Page 5.
Following: line 7
Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 1997."

ADOPT

REJECT

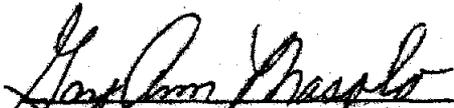
FCCR#1
HB 346

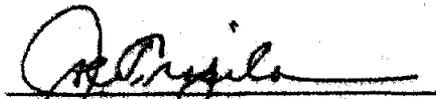
AC HB 346-1

791517CC.Hgd

And this FREE Conference Committee report be adopted.

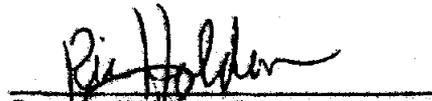
For the House:

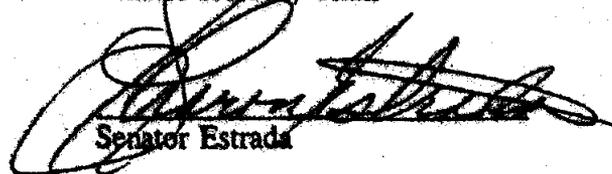

Representative Masolo, Chair

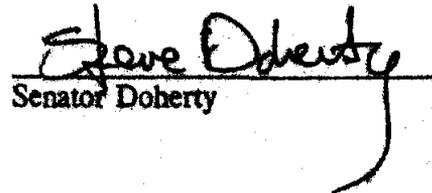

Representative Tropila

Wm. E. Boharski
Representative Boharski

For the Senate:


Senator Holden, Chair


Senator Estrada


Senator Doherty



FREE CONFERENCE COMMITTEE

on House Bill 346

Report No. 1, April 14, 1997

Page 1 of 2

CORRECTED PG# 1 DATE: 4/16/97

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 346** (reference copy -- salmon) and recommend that **House Bill 346** be amended as follows:

1. Title, line 13.

Strike: "AND"

2. Title, line 14.

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 4, line 21.

Following: second "of the"

Strike: "registered owner of"

Insert: "offender, if"

Following: "vehicle"

Insert: "operated at the time of the offense was registered to the offender or a member of the offender's immediate family"

4. Page 4.

Following: line 30

Insert: "(6) An offender is considered to have been previously convicted for the purposes of sentencing if less than 5 years have elapsed between the commission of the present offense and a previous conviction."

5. Page 5.

Following: line 7

Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 1997."

ADOPT

REJECT

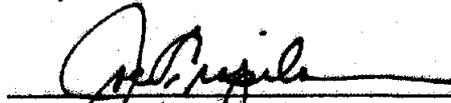
FCCR#1
Corrected
HB 346
AC HB 346-1

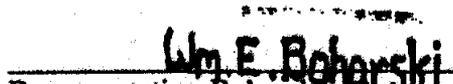
791517CC.Hgd

And this FREE Conference Committee report be adopted.

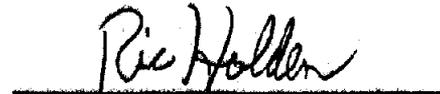
For the House:


Representative Masolo, Chair

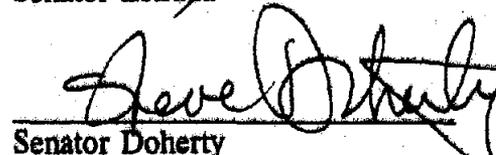

Representative Topila


Representative Boharski

For the Senate:


Senator Holden, Chair


Senator Estrada


Senator Doherty

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0346, as amended by conference committee

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the laws relating to mandatory motor vehicle insurance; requiring proof of compliance with the financial responsibility law before a motor vehicle may be registered; requiring suspension of a driver's license upon a fourth conviction.

ASSUMPTIONS:

Department of Justice:

1. The effective date HB 346 would be October 1, 1997; therefore, annualized expenditures in fiscal 1998 would be 75% of a full year.
2. The Motor Vehicle Division is estimating that approximately 1,000 motor vehicle registration suspension actions for second and subsequent offenses and approximately 150 driver license suspension actions for fourth or subsequent offenses would occur annually. The department would absorb the projected workload increase for approximately 250 hours.
3. Operating expenses are estimated at \$2,025 in fiscal 1998 and \$2,700 in fiscal 1999 for computer processing time, postage to return motor vehicle license plates, and registrations (\$2.35 x 1,000 = \$2,350) and notification of suspension and reinstatement letters, printing and supplies. Postage costs may increase if the cities and counties mail the motor vehicle license plates and registrations on a C.O.D. basis to the department.
4. Additional one-time costs in fiscal 1998 of \$2,080 are projected for approximately 104 hours of programming necessary to add these suspension and reinstatement codes to the motor vehicle and driver control systems.

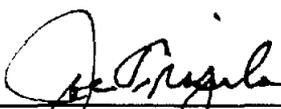
FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Operating Expenses	4,105	2,700
 <u>Funding:</u>		
General fund (01)	4,105	2,700
 <u>Net Impact:</u>		
General Fund (01)	(4,105)	(2,700)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Cities and counties would incur increased postage expenditures to deliver the surrendered registration and license plates to the Department of Justice. There would be an unknown increase in revenues due to an increase in the number of citations issued for failure to carry or provide a driver's license and motor vehicle license plates and registrations.

 4-15-97
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 4-15-97
 JOE TROPIZA, PRIMARY SPONSOR DATE

Fiscal Note for HB0346, as amended by conference committee

HB 346 - #3

HOUSE BILL NO. 346

INTRODUCED BY TROPILA, ROSE, RYAN, CAREY, MCCANN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO MANDATORY MOTOR VEHICLE INSURANCE; REQUIRING ~~PROOF OF COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY LAW BEFORE A MOTOR VEHICLE MAY BE REGISTERED; REQUIRING SUSPENSION OF A DRIVER'S LICENSE UPON A FOURTH CONVICTION~~ SUSPENSION OF THE DRIVER'S LICENSE OF A PERSON CONVICTED OF A FOURTH OR SUBSEQUENT VIOLATION OF MANDATORY MOTOR VEHICLE INSURANCE LAWS; REQUIRING A PERSON TO PROVIDE THE DEPARTMENT OF JUSTICE WITH PROOF OF COMPLIANCE WITH MANDATORY MOTOR VEHICLE INSURANCE LAWS BEFORE REINSTATEMENT OF LICENSE PLATES, REGISTRATION RECEIPTS, OR A SUSPENDED DRIVER'S LICENSE; REQUIRING AN INSURANCE COMPANY TO NOTIFY THE DEPARTMENT OF JUSTICE OF THE CANCELLATION OR NONRENEWAL OF A MOTOR VEHICLE LIABILITY POLICY; AND AMENDING SECTIONS 61-5-206, 61-6-302, AND SECTION 61-6-304, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

~~Section 1. 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 may suspend the driver's license 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 a 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 the license as specified in 61-5-302;~~



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

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

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

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

8 ~~(2) The department shall suspend the driver's license of a driver without a preliminary hearing upon~~
9 ~~a showing that the licensee was not in compliance with 61-6-301. The department may not issue a~~
10 ~~probationary license to a driver whose license was suspended under this subsection.~~

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

21 ~~(3)(4) Upon suspending the license of any person or upon placing the person on probation, as~~
22 ~~authorized in this section, the department shall immediately notify the licensee in writing and upon the~~
23 ~~licensee's request shall afford the licensee an opportunity for a hearing as early as practical within not to~~
24 ~~exceed 20 days after receipt of the request in the county in which the licensee resides unless the~~
25 ~~department and the licensee agree that the hearing may be held in some other county. At the hearing, the~~
26 ~~department through its authorized agent may administer oaths and may issue subpoenas for the attendance~~
27 ~~of witnesses and the production of relevant books and papers and may require a reexamination of the~~
28 ~~licensee. At the hearing, the department shall either rescind its order of suspension or probation, or, for~~
29 ~~good cause, may affirm, reduce, or extend the period of probation or suspension of the license."~~

30

1 ~~Section 2. Section 61-6-302, MCA, is amended to read:~~

2 ~~"61-6-302. Proof of compliance. (1) The registration receipt required by 61-3-322 must contain~~
3 ~~a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate~~
4 ~~the vehicle without a valid motor vehicle liability insurance policy, a certificate of self insurance, or a posted~~
5 ~~indemnity bond, as required by 61-6-301. Except as provided in subsection (2), before an applicant~~
6 ~~required to register a motor vehicle may do so, the applicant shall certify to the county treasurer that the~~
7 ~~applicant possesses an automobile liability insurance policy, a certificate of self insurance, or a posted~~
8 ~~indemnity bond or that the applicant is eligible for an exemption under 61-6-303 covering the motor vehicle.~~
9 ~~The certification must be on a form prescribed by the department. The department may immediately cancel~~
10 ~~the registration and license plates of the vehicle upon notification that the insurance certification was not~~
11 ~~correctly represented. A person who intentionally provides false information on an insurance certification~~
12 ~~is guilty of unsworn falsification to authorities, punishable as provided in 45-7-203.~~

13 ~~(2) An applicant for registration of a motor vehicle who wishes to register the vehicle by mail shall~~
14 ~~sign a statement on the application stating that the applicant is in compliance with the financial liability~~
15 ~~requirements of 61-6-301.~~

16 ~~(3) (a) An owner of a motor vehicle who ceases to maintain the insurance or bond required or~~
17 ~~whose certificate of self insurance is canceled or whose vehicle ceases to be exempt shall immediately~~
18 ~~surrender the registration and license plates for the vehicle to the county treasurer for delivery to the~~
19 ~~department.~~

20 ~~(b) If the department receives a cancellation or nonrenewal notice from an insurer as provided in~~
21 ~~section 4], the department shall order the surrender of the registration and license plates.~~

22 ~~(c)(B) The owner may not operate or permit operation of the vehicle in Montana until insurance has~~
23 ~~again been furnished as required and the vehicle is again registered and licensed.~~

24 ~~(2)(4) Each person shall carry in a motor vehicle being operated by the person an insurance card~~
25 ~~approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of~~
26 ~~compliance with 61-6-301. A motor vehicle operator shall exhibit the insurance card upon demand of a~~
27 ~~justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy~~
28 ~~or inspector of the department. A person commits an offense under this subsection if the person fails to~~
29 ~~carry the insurance card in a motor vehicle or fails to exhibit the insurance card upon demand of a person~~
30 ~~specified in this subsection. However, a person charged with violating this subsection may not be convicted~~

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

3

4 **Section 1.** Section 61-6-304, MCA, is amended to read:

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

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

20 (3) Upon a fourth and subsequent conviction under 61-6-301 or 61-6-302, the court shall order
 21 the surrender of the driver's license of the registered owner of OFFENDER, IF the vehicle OPERATED AT
 22 THE TIME OF THE OFFENSE WAS REGISTERED TO THE OFFENDER OR A MEMBER OF THE OFFENDER'S
 23 IMMEDIATE FAMILY. The court shall send the driver's license, along with a copy of the complaint and the
 24 dispositional order, to the department, which shall immediately suspend the driver's license. THE
 25 DEPARTMENT MAY NOT REINSTATE A DRIVER'S LICENSE SUSPENDED UNDER THIS SUBSECTION until
 26 the registered owner provides THE DEPARTMENT proof of compliance with 61-6-301. At that time, the
 27 owner may apply for a new driver's license as provided by law AND THE DEPARTMENT DETERMINES
 28 THAT THE REGISTERED OWNER IS OTHERWISE ELIGIBLE FOR LICENSURE.

29 ~~(3)~~(4) The court may suspend a required fine only upon a determination that the offender is or will
 30 be unable to pay the fine.

