

HOUSE BILL NO. 677

INTRODUCED BY G. OBLANDER, S. KLAKKEN, J. SCHILLINGER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO DRIVER'S LICENSES; REQUIRING THE SUSPENSION OF A DRIVER'S LICENSE OR DRIVING PRIVILEGE OF ANY PERSON DRIVING WITHOUT INSURANCE; AND AMENDING SECTIONS 61-5-208 AND 61-8-1011, MCA."

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

Section 1. Section 61-5-208, MCA, is amended to read:

"61-5-208. Period of suspension or revocation -- limitation on issuance of probationary license -- notation on driver's license. (1) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways, except as permitted by law.

(2) The department shall suspend the driver's license or driving privilege of any person upon its determination that the person drove a vehicle in this state without having in full force and effect a complying policy or certificate of insurance as required under Title 61, chapter 6, part 1.

(2)(3) (a) Except as provided in 44-4-1205 and 61-2-302 and except as otherwise provided in this section, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed.

(b) Subject to 61-5-231 and except as provided in subsections (4) (5) and (5) (6) of this section:

(i) upon receiving a report of a person's conviction or forfeiture of bail or collateral not vacated for a first offense of violating 61-8-1002, the department shall suspend the driver's license or driving privilege of the person for a period of 6 months;

(ii) upon receiving a report of a person's conviction or forfeiture of bail or collateral not vacated for a second offense of violating 61-8-1002 within the time period specified in 61-8-1011, the department shall suspend the driver's license or driving privilege of the person for a period of 1 year and may not issue a probationary license during the period of suspension unless the person completes at least 45 days of the 1-year

1 suspension and the report of conviction includes a recommendation from the court that a probationary driver's
2 license be issued subject to the requirements of 61-8-1010. Except as provided in subsection ~~(5)~~ (6), if the 1-
3 year suspension period passes and the person has not completed chemical dependency treatment, as required
4 under 61-8-1009, the license suspension remains in effect until treatment is completed.

5 (iii) upon receiving a report of a person's conviction or forfeiture of bail or collateral not vacated for
6 a third or subsequent offense of violating 61-8-1002 within the time period specified in 61-8-1011, the
7 department shall suspend the driver's license or driving privilege of the person for a period of 1 year and may
8 not issue a probationary license during the period of suspension unless the person completes at least 90 days
9 of the 1-year suspension and the report of conviction includes a recommendation from the court that a
10 probationary driver's license be issued subject to the requirements of 61-8-1010. Except as provided in
11 subsection ~~(5)~~ (6), if the 1-year suspension period passes and the person has not completed chemical
12 dependency treatment, as required under 61-8-1002, the license suspension remains in effect until treatment is
13 completed.

14 ~~(3)~~(4) (a) Except as provided in subsection ~~(3)~~ (b) ~~(4)~~(b), the period of suspension or revocation for a
15 person convicted of any offense that makes mandatory the suspension or revocation of the person's driver's
16 license commences from the date of conviction or forfeiture of bail.

17 (b) A suspension commences from the last day of the prior suspension or revocation period if the
18 suspension is for a conviction of driving with a suspended or revoked license.

19 ~~(4)~~(5) If a person is convicted of a violation of 61-8-1002 while operating a commercial motor vehicle,
20 the department shall suspend the person's driver's license as provided in 61-8-802.

21 ~~(5)~~(6) If a person has not completed the chemical dependency treatment required under 61-8-1009
22 before the end of the period of suspension or revocation required under this section, the department may
23 restore or renew the person's driving privilege if:

24 (a) the person completed the chemical dependency assessment required under 61-8-1009; and

25 (b) the licensed addiction counselor conducting the assessment determined that treatment was not
26 necessary.

27 ~~(6)~~(7) (a) A driver's license that is issued after a license revocation to a person described in
28 subsection ~~(6)~~ (b) ~~(7)~~(b) must be clearly marked with a notation that conveys the term of the person's probation

1 restrictions.

2 (b) The provisions of subsection ~~(6)(a)~~ (7)(a) apply to a license issued to a person for whom a
3 court has reported a felony conviction under 61-8-1008, the judgment for which has as a condition of probation
4 that the person may not operate a motor vehicle unless:

5 (i) operation is authorized by the person's probation officer; or

6 (ii) a motor vehicle operated by the person is equipped with an ignition interlock device.

7 ~~(7)(8)~~ (a) A person whose driver's license is suspended may be issued a provisional, restricted, or
8 probationary license if the person completes a court-ordered driver rehabilitation or a court-ordered
9 improvement program.

10 (b) This subsection ~~(7)~~ (8) does not apply to a person whose commercial driver's license is
11 suspended under Title 61, chapter 8, part 8."

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13 **Section 2.** Section 61-8-1011, MCA, is amended to read:

14 **"61-8-1011. Driving under influence -- conviction defined -- place of imprisonment -- home**
15 **arrest -- exceptions -- deferral of sentence not allowed.** (1) (a) For the purpose of determining the number
16 of convictions for prior offenses referred to in 61-8-1001, 61-8-1002, 61-8-1007, and 61-8-1008, "conviction"
17 means:

18 (i) a final conviction, as defined in 45-2-101, in this state, in another state, or on a federally
19 recognized Indian reservation;

20 (ii) a forfeiture, which has not been vacated, of bail or collateral deposited to secure the
21 defendant's appearance in court in this state, in another state, or on a federally recognized Indian reservation;

22 or

23 (iii) a conviction for a violation of driving under the influence, including 61-8-1002(1)(a), (1)(b),
24 (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a
25 similar offense under previous laws of this state or the laws of another state, or a violation of a similar statute or
26 regulation in another state or on a federally recognized Indian reservation.

27 (b) An offender is considered to have been previously convicted for the purposes of sentencing if
28 less than 10 years have elapsed between the commission of the present offense and a previous conviction

1 unless the offense is the offender's third or subsequent offense, in which case all previous convictions must be
2 used for sentencing purposes.

3 (c) A previous conviction for a violation of driving under the influence, including 61-8-1002(1)(a),
4 (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence in 61-8-
5 1001, or a similar offense under previous laws of this state or the laws of another state, or a violation of a
6 similar statute or regulation in another state or on a federally recognized Indian reservation, and as otherwise
7 defined in subsection (1)(a) may be counted for the purposes of determining the number of a subsequent
8 conviction for a violation of driving under the influence under 61-8-1002.

9 (d) A previous conviction for a violation of 45-5-104 for which the offense under 45-5-104 occurred
10 while the person was operating a vehicle in violation of driving under the influence, including 61-8-1002(1)(a),
11 (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence in 61-8-
12 1001, or a similar offense under previous laws of this state or the laws of another state, and a previous
13 conviction for a violation of 45-5-205 or 45-5-628(1)(e) may also be counted for the purposes of determining the
14 number of a subsequent conviction for a violation of driving under the influence under 61-8-1002.

15 (2) Except as provided in 61-8-1008, the court may order that a term of imprisonment imposed
16 under 61-8-1007 or 61-8-1008 be served in another facility made available by the county and approved by the
17 sentencing court. The defendant, if financially able, shall bear the expense of the imprisonment in the facility.
18 The court may impose restrictions on the defendant's ability to leave the premises of the facility and may
19 require that the defendant follow the rules of the facility. The facility may be, but is not required to be, a
20 community-based prerelease center as provided for in 53-1-203. The prerelease center may accept or reject a
21 defendant referred by the sentencing court.

22 (3) Subject to the limitations set forth in 61-8-1007 concerning minimum periods of imprisonment,
23 the court may order that a term of imprisonment imposed under 61-8-1007 be served by imprisonment under
24 home arrest, as provided in Title 46, chapter 18, part 10.

25 (4) A court may not defer imposition of sentence under 61-8-1007 or 61-8-1008.

26 (5) The provisions of 61-2-107, 61-5-205(2), and 61-5-208(2)(3), relating to suspension of driver's
27 licenses and later reinstatement of driving privileges, apply to any conviction under 61-8-1007 for a violation of
28 61-8-1002."

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