

Working draft for discussion
at TIC May 11-12 meeting

**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PILOT PROGRAM TO USE TRAFFIC SAFETY ENFORCEMENT CAMERAS IN WORK ZONES, SCHOOL ZONES, AND AT SCHOOL BUS STOPS; AMENDING SECTIONS 20-10-101, 20-10-111, 46-5-117, 46-5-118, 61-1-101, 61-8-203, 61-8-206, 61-8-309, 61-8-310, 61-8-314, 61-8-351, 61-8-389, AND 61-8-726, MCA."

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

Section 1. Section 20-10-101, MCA, is amended to read:

"20-10-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Bus route" means a route approved by the board of trustees of a school district and by the county transportation committee. Does "bus stop" need to be added and defined?

(2) "Eligible transportee" means a public school pupil who:

(a) is 5 years of age or older and has not reached the age of 21 on or before September 10 of the current school year or who is a preschool child with a disability between the ages of 3 and 6;

(b) is a resident of the state of Montana;

(c) regardless of district and county boundaries:

(i) resides at least 3 miles, over the shortest practical route, from the nearest operating public elementary school or public high school, whichever the case may be; or

(ii) has transportation identified as a related service in an individualized education program as developed and implemented in accordance with the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.; and

(d) is considered to reside with a parent or guardian who maintains legal residence within the boundaries of the district furnishing the transportation regardless of where the eligible transportee actually lives

1 when attending school.

2 (3) (a) "Individual transportation" means transportation by which a district is relieved of actually
3 conveying a pupil.

4 (b) The term may include paying the parent or guardian for conveying the pupil, reimbursing the
5 parent or guardian for the pupil's board and room, or providing supervised correspondence study or supervised
6 home study.

7 (4) "Passenger seating position" means, as defined in 49 CFR 571.222, the space on a school bus
8 allocated for one passenger.

9 (5) (a) "School bus" means, except as provided in subsection (5)(b), any motor vehicle that
10 complies with the bus standards established by the board of public education as verified by the department of
11 justice's semiannual inspection of school buses and the superintendent of public instruction and:

12 (i) is owned by a district or other public agency and operated for the transportation of pupils to or
13 from school or owned by a carrier under contract with a district or public agency to provide transportation of
14 pupils to or from school; or

15 (ii) is district-owned, is designed to carry 10 or fewer passengers, has an overall safety rating of
16 five stars from the national highway traffic safety administration at the time of purchase, and is insured in
17 accordance with minimum coverage requirements set forth in 20-10-109.

18 (b) A school bus does not include a vehicle that is:

19 (i) privately owned and not operated for compensation under this title;

20 (ii) privately owned and operated for reimbursement under 20-10-142;

21 (iii) either district-owned or privately owned, designed to carry not more than nine passengers, and
22 used to transport pupils to or from activity events or to transport pupils to their homes in case of illness or other
23 emergency situations and that was purchased prior to July 1, 2017;

24 (iv) an over-the-road passenger coach used only to transport pupils to activity events; or

25 (v) a passenger vehicle as defined in 20-10-129.

26 (6) "Transportation" means: Does "school zone" need to be added and defined?

27 (a) a district's conveyance of a pupil by a school bus between the pupil's legal residence or an
28 officially designated bus stop and the school designated by the trustees for the pupil's attendance; or

1 (b) individual transportation.

2 (7) "Transportation service area" means the geographic area of responsibility for school bus
3 transportation for each district that operates a school bus transportation program."
4

5 **Section 2.** Section 20-10-111, MCA, is amended to read:

6 **"20-10-111. Duties of board of public education.** (1) The board of public education, with the advice
7 of the Montana department of justice and the superintendent of public instruction, shall adopt and enforce
8 policies, not inconsistent with the motor vehicle laws, to provide uniform standards and regulations for the
9 design, construction, and operation of school buses in the state of Montana. The policies must:

10 (a) prescribe minimum standards for the design, construction, and operation of school buses
11 consistent with:

12 (i) the recommendations adopted by the national conference on school transportation; and

13 (ii) the federal motor vehicle safety standards;

14 (b) prescribe standards and specifications for the lighting equipment and special warning devices
15 to be carried by school buses in conformity with:

16 (i) current specifications approved by the society of automobile engineers;

17 (ii) motor vehicle laws; and

18 (iii) the requirement that all school buses have an alternately flashing prewarning lighting system of
19 four or more amber signal lamps to be used while preparing to stop and an alternately flashing warning lighting
20 system of four or more red signal lamps to be used while stopped in accordance with 61-9-402;

21 (c) establish other driver qualifications considered necessary in addition to the qualifications
22 required in 20-10-103;

23 (d) prescribe criteria for the establishment of transportation service areas for school bus purposes
24 by the county transportation committee that shall allow for the establishment of service areas without regard to
25 the district boundary lines within the county;

26 (e) prescribe other criteria for the determination of the residence of a pupil that may be considered
27 necessary in addition to the criteria established in 20-10-105; and

28 (f) prescribe standards for the measurement of the child seating capacity of school buses, to be

1 known as the rated capacity.

2 (2) The board of public education shall prescribe other policies necessary for the proper
3 administration and operation of individual transportation programs that are consistent with the transportation
4 provisions of this title."

5

6 **Section 3.** Section 46-5-117, MCA, is amended to read:

7 **"46-5-117. Use of license plate reader prohibited -- exceptions -- definition -- penalty.** (1) Except
8 as provided in subsection (2), an agency or employee of the state or any subdivision of the state may not use,
9 either directly or indirectly, a license plate reader on any public highway.

10 (2) (a) The department of transportation or an incorporated city or town may use a license plate
11 reader:

12 (i) to collect data for planning. If data is collected under this subsection (2)(a)(i), the department of
13 transportation or city or town shall ensure and maintain the anonymity of the vehicle, the vehicle owner, the
14 driver of the vehicle, and any passengers in the vehicle. Data collected under this subsection (2)(a)(i) without a
15 search warrant or outside of judicially recognized exceptions to search warrant requirements may not be used
16 to investigate or prosecute an individual or as evidence in court.

17 (ii) in a regulated parking system, but only to identify a vehicle's location and license plate number
18 to enforce parking restrictions.

19 (iii) in a work zone or school zone, to identify a vehicle's license plate number to enforce speed limits.
(b) The department of transportation may use a device and equipment, including license plate

20 readers, if necessary, to implement 61-10-101 through 61-10-104, 61-10-106 through 61-10-110, and 61-10-
21 154 if the devices or equipment are used in screening operations associated with:

22 (i) virtual ports of entry;

23 (ii) weigh station ramps using automated weigh station screening systems;

24 (iii) virtual weigh stations using weigh-in-motion technology; or

25 (iv) an automatic vehicle identification system that enables participating transponder-equipped
26 vehicles to be prescreened throughout the nation at designated weigh stations, port-of-entry facilities, or
27 agricultural interdiction facilities.

28 (c) Nothing in this section prohibits an agency of the state or any subdivision of the state from

using its own vehicles, aircraft, or equipment, including a license plate reader, to track, monitor, or otherwise maintain information about the agency's or subdivision's vehicles, aircraft, or equipment.

(d) State or local law enforcement may use a device and equipment, including license plate readers, if necessary, if the following requirements are met:

(i) A state or local law enforcement agency that uses an automatic license plate reader system shall adopt and publicize a written policy governing its use before the automatic license plate reader system is operational. The policy must address the following:

(A) use of any database to compare data obtained by the automatic license plate reader system;

(B) retention of data associated with the automatic license plate reader system;

(C) sharing of the data with another law enforcement agency;

(D) training of automatic license plate reader system operators;

(E) supervisory oversight of automatic license plate reader system use;

(F) access to and security of data;

(G) access to data obtained by automatic license plate reader systems not operated by the law enforcement agency; and

(H) any other subjects related to automatic license plate reader system use by the law enforcement agency.

(ii) At least once every year, the law enforcement agency shall audit its automatic license plate reader system use and effectiveness and report the findings to the head of the law enforcement agency responsible for operating the system.

(iii) Data obtained by a law enforcement agency in accordance with this subsection (2)(d) must be obtained, accessed, preserved, or disclosed only for law enforcement or criminal justice purposes.

(iv) A law enforcement agency that uses a license plate reader system shall:

(A) maintain a record of users who access license plate reader data. The record must be maintained indefinitely.

(B) keep system maintenance and calibration schedules and records on file.

(v) Operation of a license plate reader by a law enforcement agency and access to data collected by a license plate reader operated by a law enforcement agency must be for official law enforcement purposes

only. A license plate reader must be used by a law enforcement agency only to scan, detect, and identify a license plate number for the purpose of identifying a vehicle that is:

- (A) stolen;
- (B) associated with a wanted, missing, or endangered person;
- (C) registered to a person against whom there is an outstanding warrant;
- (D) in violation of commercial trucking requirements;
- (E) involved in case-specific criminal investigative surveillance;
- (F) involved in a homicide, shooting, or other major crime or incident; or
- (G) in the vicinity of a recent crime and may be connected to that crime.
- (H) driving recklessly in a work zone or school zone (as defined by...)
- (vi) A positive match by a license plate reader alone does not constitute reasonable suspicion as

Where to put new definitions?
"School zone" in Title 20?
"Work zone" in 61-8-314

grounds for a law enforcement officer to stop a vehicle. The officer shall:

- (A) develop independent reasonable suspicion for the stop; or
- (B) immediately confirm visually that the license plate on a vehicle matches the image of the license plate displayed on the license plate reader and confirm by other means that the license plate number meets one of the criteria specified in subsection (2)(d)(v).
- (vii) A law enforcement agency that uses an automatic license plate reader system in accordance with this section shall update the system from the databases specified pursuant to subsection (2)(d)(i) every 24 hours if an update is available or as soon as practicable after an update becomes available.
- (viii) A license plate reader may be installed for the sole purpose of recording and checking license plates.

(3) A public employee or public officer, as the terms are defined in 2-2-102, who violates the provisions of this section is subject to the applicable penalties provided for in Title 2, chapter 2.

(4) As used in this section, the following definitions apply:

(a) "Law enforcement agency" means:

- (i) an agency or officer of the state of Montana or of a political subdivision that is empowered by the laws of this state to conduct investigations or to make arrests; and
- (ii) an attorney, including the attorney general, who is authorized by the laws of this state to prosecute or to participate in the prosecution of a person who is arrested or who may be subject to a civil action

related to or concerning an arrest.

(b) "License plate reader" means a device principally designed and primarily used for determining the ownership of a motor vehicle, the mileage or route traveled by a motor vehicle, the location or identity of a motor vehicle, or the identity of a motor vehicle's occupants on the public highways, as defined in 60-1-103, through the use of a camera or other imaging device or any other device, including but not limited to a transponder, cellular telephone, global positioning satellite, automated electronic toll collection system, automated license plate recognition system, or radio frequency identification device that by itself or in conjunction with other devices or information can be used to determine the ownership of a motor vehicle or the identity of a motor vehicle's occupants or the mileage, location, or route traveled by the motor vehicle."

Section 4. Section 46-5-118, MCA, is amended to read:

"46-5-118. Preservation and disclosure of records by law enforcement agency. (1) Except as provided in subsection (2), captured license plate data obtained by an automatic license plate reader system that is operated by or on behalf of a law enforcement agency for law enforcement purposes pursuant to 46-5-117(2)(d) may not be preserved for more than 90 days after the date that the data is captured.

(2) Data obtained by an automatic license plate reader may be preserved for more than 90 days pursuant to any of the following:

- (a) a preservation request submitted pursuant to subsection (3);
- (b) a search warrant issued pursuant to 46-5-220; or
- (c) a federal search warrant issued in compliance with the Federal Rules of Civil Procedure.

(3) Upon the request of a law enforcement agency, the custodian of captured license plate data shall take all necessary steps to immediately preserve captured license plate data in its possession. A requesting agency must specify in a sworn written statement:

- (a) the location of the particular camera or cameras for which captured license plate data must be preserved;
- (b) the particular license plate for which captured license plate data must be preserved;
- (c) the date or dates and timeframes for which captured license plate data must be preserved;
- (d) specific and articulable facts showing that there are reasonable grounds to believe that the

captured license plate data is relevant and material to an ongoing criminal or missing persons investigation or is needed to prove a violation of a motor carrier safety regulation; and

(e) the case and the identity of the parties involved in the case.

(4) One year from the date of the initial preservation request, the captured license plate data obtained by an automatic license plate reader system must be destroyed according to the custodian's record or data retention policy, unless the custodian receives another preservation request within the 1-year period. If the custodian receives another preservation request, the 1-year retention period resets based on the date of the second request.

(5) License plate data captured in accordance with 46-5-117 is a public record but is protected from disclosure under the provisions of Title 2, chapter 6, parts 10 through 12, except to the person to whom the license plate is registered.

(6) Nothing in this section may be construed as requiring the disclosure of captured license plate data if a law enforcement agency determines that disclosure of that data will compromise an ongoing investigation.

(7) Captured license plate data gathered by law enforcement may not be sold for any purpose except as provided in 46-5-117."

Section 5. Section 61-1-101, MCA, is amended to read:

"61-1-101. Definitions. As used in this title, unless the context indicates otherwise, the following definitions apply:

(1) (a) "Authorized agent" means a person who has executed a written agreement with the department and is specifically authorized by the department to electronically access and update the department's motor vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or purposes on behalf of a third party.

(b) For purposes of this subsection (1), "person" means an individual, corporation, partnership, limited partnership, limited liability company, association, joint venture, state agency, local government unit, another state government, the United States, a political subdivision of this or another state, or any other legal or commercial entity.

1 (2) "Authorized agent agreement" means the written agreement executed between an authorized
2 agent and the department that sets the technical and operational program standards, compliance criteria,
3 payment options, and service expectations by which the authorized agent is required to operate in performing
4 specific motor vehicle or driver-related record functions.

5 (3) "Autocycle" means a three-wheeled motorcycle that is equipped with safety belts, roll bars or
6 roll hoops, a steering wheel, and seating that does not require the operator to straddle or sit astride it.

7 (4) "Bus" means a motor vehicle designed for carrying 10 or more passengers and used for the
8 transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the
9 transportation of persons for compensation.

10 (5) (a) "Business entity" means a corporation, association, partnership, limited liability partnership,
11 limited liability company, or other legal entity recognized under state law.

12 (b) The term does not include an individual.

13 (6) (a) "Camper" means a structure designed to be mounted in the cargo area of a truck or
14 attached to an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not
15 limited to a cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

16 (b) The term does not include a truck canopy cover or topper.

17 (7) "CDLIS driver record" means the electronic record of a person's commercial driver's license
18 status and history stored as part of the commercial driver's license system established under 49 U.S.C. 31309.

19 (8) "Certificate of title" means the paper record issued by the department or by the appropriate
20 agency of another jurisdiction that establishes a verifiable record of ownership between an identified person or
21 persons and the motor vehicle specifically described in the record and that provides notice of a perfected
22 security interest in the motor vehicle.

23 (9) "Commercial driver's license" means:

24 (a) a driver's license issued under or granted by the laws of this state that authorizes a person to
25 operate a class of commercial motor vehicle; or

26 (b) the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a
27 valid commercial driver's license.

28 (10) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used

1 in commerce to transport passengers or property if the vehicle:

2 (i) has a gross combination weight rating or a gross combination weight of 26,001 pounds or
3 more, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000
4 pounds;

5 (ii) has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more,
6 whichever is greater;

7 (iii) is designed to transport at least 16 passengers, including the driver;

8 (iv) is a school bus; or

9 (v) is of any size and is used in the transportation of hazardous materials.

10 (b) The following vehicles are not commercial motor vehicles:

11 (i) an authorized emergency vehicle:

12 (A) equipped with audible and visual signals as required under 61-9-401 and 61-9-402; and

13 (B) operated when responding to or returning from an emergency call or operated in another
14 official capacity;

15 (ii) a vehicle:

16 (A) controlled and operated by a farmer, family member of the farmer, or person employed by the
17 farmer;

18 (B) used to transport farm products, farm machinery, or farm supplies to or from the farm within
19 Montana within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana,
20 within 150 miles of the farm, including any area within that perimeter that is in the adjoining state; and

21 (C) not used to transport goods for compensation or for hire; or

22 (iii) a vehicle operated for military purposes by active duty military personnel, a member of the
23 military reserves, a member of the national guard on active duty, including personnel on full-time national guard
24 duty, personnel in part-time national guard training, and national guard military technicians, or active duty
25 United States coast guard personnel.

26 (c) For purposes of this subsection (10):

27 (i) "farmer" means a person who operates a farm or who is directly involved in the cultivation of
28 land or crops or the raising of livestock owned by or under the direct control of that person;

(ii) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle;

(iii) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle; and

(iv) "school bus" has the meaning provided in 49 CFR 383.5.

(11) "Commission" means the state transportation commission.

(12) "Custom-built motorcycle" means a motorcycle that is equipped with:

(a) an engine that was manufactured 20 years prior to the current calendar year and that has been altered from the manufacturer's original design; or

(b) an engine that was manufactured to resemble an engine 20 or more years old and that has been constructed in whole or in part from nonoriginal materials.

(13) "Custom vehicle" means a motor vehicle other than a motorcycle that:

(a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or

(ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least 25 years old; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(14) "Customer identification number" means:

(a) a driver's license or identification card number when the customer is an individual who has been issued a driver's license or identification card by a state driver licensing authority;

(b) a federal employer or tax identification number when the customer is a business entity that has been issued a federal employer or tax identification number;

(c) the identification number assigned by the secretary of state to a business entity authorized to do business in this state under Title 35 if the customer is a business entity that does not have a federal employer or tax identification number other than a social security number; or

(d) if the customer has not been issued one of the numbers described in subsections (14)(a) through (14)(c), a number assigned to the customer by the department when a transaction is initiated under this

1 title.

2 (15) (a) "Dealer" means a person that, for commission or profit, engages in whole or in part in the
3 business of buying, selling, exchanging, or accepting on consignment new or used motor vehicles, trailers,
4 semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, off-highway vehicles, or special
5 mobile equipment that is not registered in the name of the person.

6 (b) The term does not include the following:

7 (i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or
8 acting under a judgment or order of any court of competent jurisdiction;

9 (ii) employees of the persons included in subsection (15)(b)(i) when engaged in the specific
10 performance of their duties as employees;

11 (iii) public officers while performing or in the operation of their duties;

12 (iv) a person or business who leases property for the purpose of selling vehicles and does not have
13 personnel directly involved with the management of the vehicle business, the sale of vehicles, or regular
14 operating hours open to the public or does not have customer service representatives at the business location
15 in this state. This does not include an entity participating in a state-approved program through a third-party
16 technology service provider or a direct technology integration.

17 (v) a business that operates outside of the traditional regulatory framework of a Montana licensed
18 dealer when no Montana title is secured, and the sale of the vehicle is completed outside of the state. This
19 shadow dealer activity includes leasing and creating unmanned storefronts in this state for the purpose of
20 selling vehicles outside of the state.

21 (16) "Department" means the department of justice acting directly or through its duly authorized
22 officers or agents.

23 (17) "Domiciled" means a place where:

24 (a) an individual establishes residence;

25 (b) a business entity maintains its principal place of business;

26 (c) the business entity's registered agent maintains an address; or

27 (d) a business entity most frequently uses, dispatches, or controls a motor vehicle, trailer,
28 semitrailer, or pole trailer that it owns or leases.

1 (18) "Downgrade" means the removal of a person's privilege to operate a commercial motor vehicle,
2 as maintained by the department on the individual Montana driving record and the CDLIS driver record for that
3 person.

4 (19) "Driver" means a person who drives or is in actual physical control of a vehicle.

5 (20) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted
6 by the laws of this state, including:

7 (a) any temporary license or learner license;

8 (b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid
9 license;

10 (c) any nonresident's driving privilege;

11 (d) a motorcycle endorsement; or

12 (e) a commercial driver's license.

13 (21) "Electric personal assistive mobility device" means a device that has two nontandem wheels, is
14 self-balancing, and is designed to transport only one person with an electric propulsion system that limits the
15 maximum speed of the device to 12½ miles an hour.

16 (22) "For hire" means an action performed for remuneration of any kind, whether paid or promised,
17 either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements
18 from which a remuneration is obtained or derived for transportation service.

19 (23) (a) "Golf cart" means a motor vehicle that is designed for use on a golf course to carry a person
20 or persons and golf equipment and that has an average speed of less than 15 miles per hour.

21 (b) Except as provided in 61-3-201, a golf cart is exempt from titling, registration, and mandatory
22 liability insurance requirements under this title.

23 (24) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load
24 on the vehicle.

25 (25) "Hazardous material" means:

26 (a) any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to
27 be placarded under 49 CFR, part 172; or

28 (b) any quantity of a material listed as a select agent or toxin in 42 CFR, part 73.

1 (26) "Highway" or "public highway" means the entire width between the boundary lines of every
2 publicly maintained way when any part of the publicly maintained way is open to the use of the public for
3 purposes of vehicular travel.

4 (27) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make
5 arrests for violations of traffic regulations.

6 (28) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and
7 exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations.

8 (29) "Kit vehicle" is a motor vehicle assembled from a manufactured kit either as:

9 (a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor
10 vehicle; or

11 (b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and
12 drivetrain, commonly referred to as a donor vehicle.

13 (30) "Light vehicle" means a motor vehicle commonly referred to as:

14 (a) an automobile;

15 (b) a van;

16 (c) a "sport utility vehicle", meaning a light vehicle designed to transport 10 or fewer persons that is
17 constructed on a truck chassis or that has special features for occasional off-road use, not including trucks
18 having a manufacturer's rated capacity of 1 ton or less; or

19 (d) a truck having a manufacturer's rated capacity of 1 ton or less.

20 (31) "Low-speed electric vehicle" means a motor vehicle, on or by which a person may be
21 transported, that:

22 (a) has four wheels;

23 (b) has a maximum speed of at least 20 miles an hour and no greater than 40 miles an hour as
24 certified by the manufacturer;

25 (c) is propelled by its own power, using an electric motor or other device that transforms stored
26 electrical energy into the motion of the vehicle;

27 (d) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the
28 power grid or from renewable electrical energy sources;

- 1 (e) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;
- 2 (f) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle
- 3 identification number as provided in 49 CFR, part 565; and
- 4 (g) is equipped as provided in 61-9-432.
- 5 (32) "Low-speed restricted driver's license" means a license limited to the operation of a low-speed
- 6 electric vehicle or a golf cart issued under or granted by the laws of this state, including:
- 7 (a) a temporary license or learner license;
- 8 (b) the privilege of a person to drive a low-speed electric vehicle or golf cart under the authority of
- 9 61-5-122, whether or not the person holds a valid driver's license; and
- 10 (c) a nonresident's similarly restricted driving privilege.
- 11 (33) "Manufactured home" has the meaning provided in 15-24-201.
- 12 (34) "Manufacturer" includes any person engaged in the manufacture of motor vehicles, trailers,
- 13 semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, or off-highway vehicles as a
- 14 regular business.
- 15 (35) "Manufacturer's certificate of origin" means the original record produced and issued by the
- 16 manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and
- 17 transmitted by the manufacturer of a vehicle to the manufacturer's agent or a licensed dealer. The record must
- 18 establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of
- 19 ownership of the vehicle to the person or persons named in the certificate.
- 20 (36) (a) "Medium-speed electric vehicle" is a motor vehicle, on or by which a person may be
- 21 transported, that:
- 22 (i) has a maximum speed of 45 miles an hour as certified by the manufacturer;
- 23 (ii) is propelled by its own power, using an electric motor or other device that transforms stored
- 24 electrical energy into the motion of the vehicle;
- 25 (iii) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the
- 26 power grid or from renewable electrical energy sources;
- 27 (iv) is fully enclosed and includes at least one door for entry;
- 28 (v) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(vi) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565;

(vii) bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle's maximum speed rating; and

(viii) as certified by the manufacturer, is equipped as provided in 61-9-432.

(b) A medium-speed electric vehicle must be treated as a light vehicle for purposes of titling and registration under Title 61, chapter 3.

(c) A medium-speed electric vehicle may not have a gross vehicle weight in excess of 5,000 pounds.

(37) "Mobile home" or "housetrailer" has the meaning provided in 15-24-201.

(38) "Montana resident" means:

(a) an individual who resides in Montana as determined under 1-1-215; or

(b) for the purposes of chapter 3, a business entity that maintains a principal place of business or a registered agent in this state.

(39) (a) "Motor carrier" means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles on a public highway in this state for the transportation of property for hire on a commercial basis.

(b) The term does not include motor carriers regulated under Title 69, chapter 12.

(40) "Motor home" means a motor vehicle:

(a) designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;

(b) containing permanently installed independent life support systems that meet the NFPA 1192 standard on recreational vehicles; and

(c) providing at least four of the following types of facilities:

(i) cooking, refrigeration, or icebox;

(ii) self-contained toilet;

(iii) heating or air conditioning, or both;

(iv) potable water supply, including a faucet and sink; or

(v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply, or both.

(41) (a) "Motor vehicle" means:

(i) a vehicle propelled by its own power and designed or used to transport persons or property on the highways of the state;

(ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9; or

(iii) a golf cart only if it is equipped for use on the highways as prescribed in chapter 9 and is operated pursuant to 61-8-391 or by a person with a low-speed restricted driver's license.

(b) The term does not include a bicycle, a motorized scooter, or a moped as defined in 61-8-102, an electric personal assistive mobility device, a motorized nonstandard vehicle, or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(42) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

(b) The term does not include a vessel that has a valid marine document issued by the United States coast guard or any successor federal agency.

(43) (a) "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the operator and that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.

(b) A motorcycle designed for use on highways is a motor vehicle unless otherwise prescribed.

(c) A motorcycle designed for off-road recreational use is an off-highway vehicle unless it has been modified to meet the equipment standards specified in chapter 9 and has been registered for highway use.

(d) The term includes an autocycle.

(e) The term does not include a tractor, a bicycle or a moped as defined in 61-8-102, a motorized scooter, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.

(44) (a) "Motor-driven cycle" means a motorcycle, including a motorized scooter, with a motor that

1 produces 5 horsepower or less.

2 (b) The term does not include a bicycle or a moped, as defined in 61-8-102, or a motorized
3 nonstandard vehicle.

4 (45) (a) "Motorized nonstandard vehicle" means a vehicle, on or by which a person may be
5 transported, that:

6 (i) is propelled by its own power, using an internal combustion engine or an electric motor;

7 (ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and

8 (iii) does not display a manufacturer's certification in accordance with 49 CFR, part 567, or have a
9 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.

10 (b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known
11 as a "pocket rocket".

12 (c) The term does not include a moped as defined in 61-8-102, a motorized scooter, an electric
13 personal assistive mobility device, or a motorized wheelchair or other low-powered, mechanically propelled
14 vehicle designed specifically for use by a physically disabled person.

15 (46) (a) "Motorized scooter" means a vehicle without a seat that may be propelled solely or in part
16 by muscular propulsion or by an independent power source, such as an engine or motor. The power source
17 may not be capable of propelling the device at a speed exceeding 30 miles an hour on a level surface.

18 (b) The term does not include an electrically assisted bicycle.

19 (47) "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal
20 or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person
21 as the result of a retail sale.

22 (48) "Nonresident" means a person who is not a Montana resident.

23 (49) (a) "Not used for general transportation purposes" means the operation of a motor vehicle
24 registered as a collector's item, a custom vehicle, a street rod, or a custom-built motorcycle to or from a car or
25 motorcycle club activity or event or an exhibit, show, cruise night, or parade, or for other occasional
26 transportation activity.

27 (b) The term does not include operation of a motor vehicle for routine or ordinary household
28 maintenance, employment, education, or other similar purposes.

(50) (a) "Off-highway vehicle" means a self-propelled vehicle designed for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(b) The term does not include:

(i) vehicles designed primarily for travel on, over, or in the water;

(ii) snowmobiles; or

(iii) motor vehicles designed to transport persons or property on the highways unless the vehicle is used for off-road recreation on public lands.

(51) "Operator" means a person who is in actual physical control of a motor vehicle.

(52) "Owner" means each person who holds the legal title to a vehicle. If a vehicle is the subject of an agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession and control vested in an individual human being or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise in an individual human being, or in the event a mortgagor of a vehicle is entitled to possession and control, then the owner is the individual human being or mortgagor in whom is vested the right of possession and control.

(53) "Person" means an individual human being, corporation, partnership, association, firm, or other legal entity.

(54) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

(55) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connections.

(56) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for

1 violations of traffic regulations.

2 (57) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use,
3 having a seat or saddle on which the operator sits.

4 (b) The term does not include golf carts.

5 (58) "Railroad" means a carrier of persons or property on cars, other than streetcars, operated on
6 stationary rails.

7 (59) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without
8 cars coupled to the engine, that is operated on rails.

9 (b) The term does not include streetcars.

10 (60) "Recreational vehicle" includes a motor home, travel trailer, or camper.

11 (61) "Registration" or "register" means the act or process of creating an electronic record,
12 maintained by the department, of the assignment of a license plate or a set of license plates to and the
13 issuance of a registration decal for a specific vehicle, the ownership of which has been established or is
14 presumed in department records.

15 (62) "Registration decal" means an adhesive sticker produced by the department and issued by the
16 department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, pole
17 trailer, motorboat, sailboat, personal watercraft, or snowmobile as proof of payment of all fees imposed for the
18 registration period indicated on the sticker as recorded by the department under 61-3-101.

19 (63) "Registration receipt" means a paper record that is produced and issued or, if authorized by the
20 department, an electronic record that is transmitted by the department, its authorized agent, or a county
21 treasurer to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic
22 record of title for the vehicle, and that provides evidence of the payment of all fees required to be paid for the
23 registration of the vehicle for the registration period indicated in the receipt.

24 (64) "Retail sale" means the sale of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer,
25 motorboat, snowmobile, off-highway vehicle, or special mobile equipment by a dealer to a person for purposes
26 other than resale.

27 (65) "Revocation" means the termination by action of the department of a person's driver's license,
28 privilege to drive a motor vehicle on the public highways, and privilege to apply for and be issued a driver's

license for a period of time designated by law, during which the license or privilege may not be renewed, restored, or exercised. An application for a new license may be presented and acted on by the department after the expiration of the period of the revocation.

(66) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways, the term refers to any roadway separately but not to all roadways collectively.

(67) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

(b) The term does not include a canoe or kayak propelled by wind.

(68) "School zone" means an area near a school beginning at the school's front door, encompassing the campus and school property, and including the streets directly adjacent to the school property and for as many blocks surrounding the school as determined by the local authority establishing a special speed limit under 61-8-310(1)(d).

(69) "Sell" means to transfer ownership from one person to another person or from a dealer to another person for consideration.

(70) "Semitrailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(71) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that is not otherwise registered or licensed under the laws of the state of Montana.

(72) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.

(73) (a) "Stop", when required, means complete cessation from movement.

(b) "Stop", "stopping", or "standing", when prohibited, means any stopping or standing of a vehicle,

whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, highway patrol officer, or traffic control sign or signal.

(74) "Street" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(75) "Street rod" means a motor vehicle, other than a motorcycle, that:

(a) was manufactured prior to 1949 or was built to resemble a vehicle manufactured before 1949, including a kit vehicle intended to resemble a vehicle manufactured before 1949; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(76) "Suspension" means the temporary withdrawal by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for or be issued a driver's license for a period of time designated by law.

(77) "Temporary registration permit" means a paper record issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains:

(a) required vehicle and owner information; and

(b) the purpose for which the record was generated.

(78) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel.

(79) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests on the towing vehicle.

(b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101.

(80) "Travel trailer" means a vehicle:

(a) that is 46 feet or less in length;

(b) that is of a size or weight that does not require special permits when towed by a motor vehicle;

and

(c) that is designed to provide temporary facilities for recreational, travel, or camping use and not

1 used as a principal residence.

2 (81) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the
3 transportation of property.

4 (82) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles
5 and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

6 (83) "Under the influence" means that as a result of taking into the body alcohol, drugs, or any
7 combination of alcohol and drugs, a person's ability to safely operate a vehicle has been diminished.

8 (84) "Used motor vehicle" includes any motor vehicle that has been sold, bargained, exchanged, or
9 given away or had its title transferred from the person who first took title to it from the manufacturer, importer,
10 dealer, wholesaler, or agent of the manufacturer or importer and that has been used so as to have become
11 what is commonly known as "secondhand" within the ordinary meaning of that term.

12 (85) "Van" means a motor vehicle designed for the transportation of at least six persons and not
13 more than nine persons and intended for but not limited to family or personal transportation without
14 compensation.

15 (86) (a) "Vehicle" means a device in, on, or by which any person or property may be transported or
16 drawn on a public highway, except devices moved by animal power or used exclusively on stationary rails or
17 tracks.

18 (b) The term does not include a manually or mechanically propelled wheelchair or other low-
19 powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person
20 and that is used as a means of mobility for that person.

21 (87) "Vehicle identification number" means the number, letters, or combination of numbers and
22 letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or
23 country for the purpose of identifying the motor vehicle or a component part of the motor vehicle.

24 (88) "Vessel" means every description of watercraft, unless otherwise defined by the department,
25 other than a seaplane on the water, used or capable of being used as a means of transportation on water.

26 (89) "Wholesaler" means a person that for a commission or with intent to make a profit or gain of
27 money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a
28 used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or

1 special mobile equipment only to dealers and auto auctions licensed under chapter 4, part 1."

2

3 **Section 6.** Section 61-8-203, MCA, is amended to read:

4 **"61-8-203. Department of transportation to place traffic control devices on highways it**

5 **maintains and approve traffic control devices on highways under its jurisdiction.** (1) The department of

6 transportation shall place and maintain traffic control devices, conforming to its manual and specifications, upon

7 all highways maintained by the department of transportation that the department considers necessary to carry

8 out the provisions of chapter 9 and this chapter or to regulate, warn, or guide traffic.

9 (2) A local authority or other entity may not place or maintain a traffic control device upon a

10 highway under the jurisdiction of the department of transportation except with the department's permission.

11 (3) The unauthorized erection of a sign, marker, emblem, or other traffic control device on a

12 highway under the jurisdiction of the department of transportation by any other entity is a misdemeanor and is

13 punishable as provided in 61-8-712.

14 (4) The erection or maintenance of a sign, marker, emblem, or traffic control device on a highway

15 under the jurisdiction of the department of transportation is subject to the rules and specifications that the

16 department adopts and publishes in the interest of public safety and convenience.

17 (5) (a) An automated enforcement system designed to detect traffic violations that is attached to a

18 traffic control device may not be used to enforce traffic laws.

19 (b) Subsection (5)(a) does not apply to automated enforcement systems attached to traffic control

20 devices at railroad grade crossings, in work zones, or in school zones."

21

22 **Section 7.** Section 61-8-206, MCA, is amended to read:

23 **"61-8-206. Local traffic control devices.** (1) Local authorities in their respective jurisdictions shall

24 place and maintain traffic control devices upon highways under their jurisdiction that they consider necessary to

25 indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn, or guide

26 traffic. All traffic control devices must conform to the state manual and specifications.

27 (2) (a) An automated enforcement system designed to detect traffic violations that is attached to a

28 traffic control device may not be used to enforce traffic laws.

(b) Subsection (2)(a) does not apply to **automated enforcement systems** attached to traffic control devices **at railroad grade crossings, in work zones, or in school zones.**"

Section 8. Section 61-8-309, MCA, is amended to read:

"61-8-309. Establishment of **special speed zones and temporary special reduced speed limits -- engineering and traffic investigation.** (1) (a) (i) If the commission determines on the basis of an engineering and traffic investigation that a speed limit set by 61-8-303 or 61-8-312 is greater or less than is reasonable or safe under the conditions found to exist at an intersection, curve, or dangerous location or on a segment of a highway less than 50 miles in length under its jurisdiction, or on a highway corridor under its jurisdiction greater than 50 miles in length on which increased crash frequency or fatal crash data is observed, the commission may set a reasonable and safe special speed limit at that location or corridor. In the case of a **school zone adjacent to a state highway**, the commission is not required to base its speed limit determination solely on the results of the engineering and traffic investigation.

(ii) In the event of a vehicle emergency, adverse weather condition, or identification of another highway safety factor that warrants decreasing the speed limit for reasonable and safe travel, the commission may, in advance of the safety event, adopt localized geographic area temporary special reduced speed limits that are lower than a speed limit set by 61-8-303 or 61-8-312. The temporary special reduced speed limit becomes effective upon posting appropriate fixed or variable signs and shall remain in effect while the fixed or variable signs remain posted.

(b) If a local authority requests the department of transportation or an engineer, as provided in subsection (1)(c)(i), to conduct an engineering and traffic investigation based on the belief that a speed limit on a highway under the jurisdiction of the department of transportation is greater than is reasonable or safe, the commission may not increase the speed limit under consideration as a result of the investigation.

(c) (i) A local authority may request at its own expense that an engineering and traffic investigation be completed by a licensed professional engineer selected from a list compiled and approved by a committee as provided in subsection (1)(c)(ii).

(ii) A committee containing two department of transportation staff appointed by the director and two representatives of associations whose membership comprises cities, towns, and counties, as authorized by

7-5-2141 and 7-5-4141, shall review credentials submitted by licensed professional engineers and shall determine who appears on the list of individuals authorized to conduct engineering and traffic investigations for local governments. The list must be updated every 2 years.

(iii) Upon completion of an engineering and traffic investigation conducted for a local government, the department of transportation shall submit a report to the commission with findings and recommendations. The commission shall decide on an appropriate speed limit based on the traffic investigation within 120 days from the date the investigation is submitted to the department of transportation.

(d) A local authority may request a temporary special reduced or increased speed zone for a route or route segment that is under consideration for a reduced or increased speed limit under subsection (1)(a), (1)(b), or (1)(c). If a local authority makes multiple requests for temporary special reduced or increased speed zones, the local authority shall prioritize the requests. The department of transportation shall conduct a preliminary visual and engineering review of a route or a route segment for which a temporary special speed zone is requested. The reviewing party must include a representative of the local authority. Upon completion of the preliminary review, if the department of transportation concurs with the local authority that a temporary special reduced or increased speed limit is warranted, a temporary special reduced or increased speed zone may be established upon formal approval by the commission. The temporary special reduced or increased speed limit remains in effect until a complete traffic and engineering study has been done on the route or route segment and the commission has made a determination on changing the speed limit.

(2) Pending completion of an engineering and traffic investigation as provided for in subsection (1), the commission may temporarily set a speed limit of not less than 75 miles an hour on a segment of an interstate highway that it reasonably believes is not suitable for the limit established in 61-8-303(1)(a).

(3) The department of transportation shall erect and maintain appropriate signs giving notice of special limits. If the special limits apply to a **school zone**, the department shall consider the use of electronic signs in lieu of or in addition to other appropriate signs. When the signs are erected, the limits are effective for those zones at all times or at other times that the commission sets.

(4) The authority of the commission under this section includes the authority:

(a) to set reduced nighttime speed limits on curves and other dangerous locations; and

(b) to reassess and reset speed limits set by the transportation commission pursuant to this

1 section.

2 (5) This section does not authorize the commission to set a statewide speed limit.

3 (6) (a) The violation of a speed limit established under this section, except subsection (2), is a
4 **misdemeanor offense** and is punishable as provided in 61-8-711.

5 (b) The violation of a speed limit established under subsection (2) is punishable as provided in 61-
6 8-725."

7

8 **Section 9.** Section 61-8-310, MCA, is amended to read:

9 **"61-8-310. When local authorities may and shall alter limits or establish or alter area of **school****

10 **zone.** (1) If a local authority in its jurisdiction determines on the basis of an engineering and traffic investigation
11 that the speed permitted under 61-8-303 and 61-8-309 through 61-8-313 is greater or less than is reasonable
12 and safe under the conditions found to exist on a highway or part of a highway, the local authority may set a
13 reasonable and safe limit that:

14 (a) decreases the limit in an urban district;

15 (b) increases the limit within an urban district, but not to more than 65 miles an hour during the
16 nighttime;

17 (c) decreases the limit outside an urban district, but not to less than 25 miles an hour on a paved
18 or an unpaved road; or

19 (d) decreases the limit in a **school zone** or in an area near a senior citizen center, as defined in 23-
20 5-112, or a designated crosswalk that is close to a **school** or a senior citizen center to **not less than 15 miles an**
21 **hour.** If warranted by an engineering and traffic investigation, a local authority may adopt variable speed limits
22 to adapt to traffic conditions by time of day, provided that the variable limits comply with the provisions of 61-8-
23 206.

24 (2) A board of county commissioners may set limits, as provided in subsections (1)(c) and (1)(d),
25 without an engineering and traffic investigation on a county road.

26 (3) A local authority in its jurisdiction may determine the proper speed for all arterial streets and
27 shall set a reasonable and safe limit on arterial streets that may be greater or less than the speed permitted
28 under 61-8-303 for an urban district.

(4) (a) An altered limit established as authorized under this section is effective at all times or at other times determined by the authority when appropriate signs giving notice of the altered limit are erected upon the highway.

(b) If a local authority decreases a **speed limit in a school zone**, the local authority shall erect signs conforming with the manual adopted by the department of transportation under 61-8-202 giving notice that the **school zone** has been entered, of the altered speed limit and the penalty provided in 61-8-726, and that the **school zone** has ended.

(5) The commission has exclusive jurisdiction to set special speed limits on all state highways or highways located on the commission-designated highway system as defined in 60-1-103 in all municipalities or urban areas. The commission shall set these limits in accordance with 61-8-309.

(6) A local authority establishing or altering the area of a **school zone** shall consult with the department of transportation and the commission if the **school zone** includes a state highway or a highway located on the commission-designated highway system as defined in 60-1-103.

(7) A local authority shall consult with **district officials for a school** when:

(a) establishing or altering the **area of a school zone** near the school; or

(b) **setting a speed limit pursuant to subsection (1)(d) in a school zone near the school.**

(8) A speed limit set on an unpaved road under subsection (1)(c) must be the same for all types of motor vehicles that may be operated on the road.

(9) The violation of a speed limit established under subsections (1)(a) through (1)(c) is a **misdemeanor** offense and is punishable as provided in 61-8-711. The violation of a speed limit established under subsection (1)(d) is a **misdemeanor** offense and is punishable as provided in 61-8-726."

Section 10. Section 61-8-314, MCA, is amended to read:

"61-8-314. Traffic violations in work zone -- definitions. (1) As used in this section, the following definitions apply:

(a) "Highway worker" has the same meaning as in 61-8-301.

(b) "Public highway" has the same meaning as in 60-1-103.

(c) **"Work zone" means an area on a public highway or on the adjacent right-of-way where**

1 construction, repair, maintenance, or survey work is being performed by the department of transportation, a
2 local authority, a utility company, or a private contractor with the department of transportation or with a local
3 authority. The boundaries of the work zone must be clearly identified by the posting of signs.

4 (2) A person may not operate a motor vehicle in a work zone on a public highway in violation of
5 any of the provisions of part 3 of this chapter.

6 (3) The speed limit in a work zone must be set by the department of transportation or the local
7 authority based on traffic conditions or the condition of the construction, repair, maintenance, or survey project.

8 (4) (a) If the department of transportation, the local authority, the utility company, or the private
9 contractor determines, based on traffic conditions or the condition of the construction, repair, maintenance, or
10 survey project, that special speed limits in work zones are warranted, then the department, the local authority,
11 the utility company, or the private contractor shall post signs that:

12 (i) conform to the department of transportation's manual on uniform traffic control devices;

13 (ii) indicate the boundaries of the work zone; and

14 (iii) display the speed limit in effect within the work zone.

Consider adding "notify of the use of
traffic safety enforcement cameras in
the work zone"

15 (b) The department of transportation, the local authority, the utility company, or the private
16 contractor shall clearly indicate at the boundary of a work zone that a person who violates any of the provisions
17 of part 3 of this chapter in the work zone is subject to the fine provided in subsection (5)(a).

18 (c) The department of transportation, the local authority, the utility company, or the private
19 contractor shall remove or cover the signs when no work is in progress and no hazard exists.
...and turn off traffic safety enforcement cameras...

20 (5) A person convicted of a traffic violation in a work zone is guilty of a misdemeanor. On arrest
21 and conviction:

22 (a) if a highway worker was present in the work zone at the time of the traffic violation and within
23 1,000 feet of the traffic violation, the person shall be punished by a fine of not less than double the penalty
24 provided for the violation in part 7 of this chapter; or

25 (b) if no highway worker was present in the work zone at the time and place of the traffic violation,
26 the person is subject to the penalty provided for the violation in part 7 of this chapter."

27

28 **Section 11.** Section 61-8-351, MCA, is amended to read:

"61-8-351. Meeting or passing school bus -- vehicle operator liability for violation -- penalty. (1)

(a) When a school bus that has stopped on the roadway, paved shoulder, or street to receive or discharge school children has actuated flashing red lights as specified in 61-9-402, a driver of a motor vehicle that is approaching the school bus from either direction:

- (i) shall stop the motor vehicle not less than approximately 30 feet from the school bus; and
- (ii) may not proceed past the school bus until the school bus ceases operation of its flashing red lights.

(b) A driver of a motor vehicle may not overtake a stopped school bus on the right side of the school bus.

(2) When a school bus that is preparing to stop on the highway or street to receive or discharge school children has actuated flashing amber lights as specified in 61-9-402, a driver of a motor vehicle that is approaching the school bus from either direction shall slow to a rate of speed that is reasonable under the conditions existing at the point of operation and must be prepared to stop on the actuation of flashing red lights when the school bus has stopped.

(3) Each bus used for the transportation of school children must bear upon the front and rear plainly visible signs containing the words "SCHOOL BUS" in letters not less than 8 inches in height.

(4) (a) Each bus used for the transportation of school children must be equipped with visual signals meeting the requirements of 61-9-402. Amber flashing lights must be actuated by the driver approximately 150 feet in cities and approximately 500 feet in other areas before the bus is stopped to receive or discharge school children on the highway or street. Red lights must be actuated by the driver of the school bus only when the school bus is stopped on the highway or street to receive or discharge school children.

(b) A school district board of trustees may adopt a policy prohibiting the operation of amber or red lights when a school bus is stopped at the school site to receive or discharge school children and the receipt or discharge does not involve street crossing by the children. The lights may not be operated in violation of that policy.

(c) If a school bus is stopped outside of the roadway or paved shoulder and the school bus will receive or discharge school children in a location outside of the roadway or paved shoulder, the school bus may not actuate the flashing red lights so long as the school children do not enter the roadway or paved shoulder.

(5) (a) When a school bus route includes a **bus stop** that requires a school child to cross a roadway, the school bus must be equipped with an **extended stop arm** that partially obstructs the roadway. A school child may not cross a roadway to enter or exit from a school bus unless the roadway has been partially obstructed by the extended stop arm.

(b) **The extended stop arm must be equipped with additional flashing red lights** as specified in 61-9-402 and must be capable of extending a distance of at least 54 inches from the school bus at a height of not less than 36 inches. **Consider adding provision for traffic safety enforcement cameras in this section**

(c) The board of trustees shall approve each **school bus stop** that requires a school child to cross a roadway.

(d) A school bus that experiences a mechanical problem or an emergency that requires the school bus to stop at a nondesignated bus stop is not subject to the requirements of this subsection (5).

(6) When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or for school functions, all markings on the bus indicating "SCHOOL BUS" must be covered or concealed.

(7) The driver of a motor vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus that is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway.

(8) (a) A person who observes a violation of this section may prepare a written, in addition to an oral, report indicating that a violation has occurred. The report may contain information concerning the violation, including:

- (i) the time and approximate location at which the violation occurred;
- (ii) the license plate number and color of the motor vehicle involved in the violation;
- (iii) identification of the motor vehicle as a passenger car, truck, bus, motorcycle, or other type of motor vehicle; and
- (iv) a description of the person operating the motor vehicle when the violation occurred.

(b) A report under subsection (8)(a) constitutes particularized suspicion under 46-5-401(1) that an operator of the vehicle committed a violation of this section.

(c) A person who observes a violation of this section may file a written or oral complaint with the county sheriff's office. At the sheriff's discretion, the report may be transferred to the highway patrol or city police department. The report must be investigated by a peace officer, and the investigating officer shall contact the reporting party within 30 days to provide an update on the status or outcome of the investigation.

(9) (a) A person who violates subsection (1)(a) is guilty of a misdemeanor and is subject to the following penalties:

(i) for a first offense, a fine of not less than \$500 or more than \$1,000, a sentence of community service of not less than 50 hours or more than 100 hours, or both;

(ii) for a second offense, a fine of not less than \$1,000 or more than \$2,000, a sentence of community service of not less than 100 hours or more than 200 hours, or both; and

(iii) for a third or subsequent offense, a fine of not less than \$3,000 or more than \$5,000, a sentence of imprisonment for a term of not less than 30 days, or both.

(b) Violation of subsection (1)(b) is a misdemeanor and is punishable on conviction by a fine of not more than \$1,000, by imprisonment for not more than 6 months, or both.

(c) A driver of a motor vehicle who makes contact with any portion of a school bus stopped pursuant to subsection (5), including making contact with an extended stop arm or a school child within 30 feet of a school bus, is guilty of a misdemeanor and is subject to the penalties allowed in subsection (9)(a)."

Section 12. Section 61-8-389, MCA, is amended to read:

"61-8-389. Reckless endangerment of emergency personnel -- reckless endangerment of highway workers. (1) (a) An operator of a vehicle who violates 61-8-388 when an emergency vehicle is stationary and using its emergency lights or siren commits the offense of reckless endangerment of emergency personnel.

(b) An operator of a vehicle who violates 61-8-388 when a highway worker vehicle is stationary and using its emergency lights commits the offense of reckless endangerment of highway workers.

(2) An operator of a vehicle commits the offense of reckless endangerment of highway workers if the person purposely, knowingly, or negligently drives a motor vehicle in a highway work zone, as defined in 61-8-314, in a manner that endangers persons or property or if the person purposely removes, ignores, or

1 intentionally strikes an official traffic control device in a work zone for reasons other than:

2 (a) avoidance of an obstacle;

3 (b) an emergency; or

4 (c) to protect the health and safety of an occupant of the vehicle or of another person.

5 (3) Reckless endangerment of emergency personnel or reckless endangerment of highway

6 workers is punishable under 61-8-715."

7

8 **Section 13.** Section 61-8-726, MCA, is amended to read:

9 **"61-8-726. Violating speed limit in school zone -- penalty doubled -- disposition of fines.** (1) A

10 person convicted of violating a special speed limit in a school zone imposed by a local authority pursuant to 61-

11 8-310(1)(d) is guilty of a misdemeanor. Upon arrest and conviction, the person shall be punished by a fine of

12 not less than double the penalty provided for the violation in 61-8-711.

13 (2) The fine proceeds must be allocated as follows:

14 (a) 50% of the fine collected must be distributed as provided in 3-10-601, 46-17-402, or 46-18-235;

15 and

16 (b) 50% must be forwarded to the local authority that adopted the special speed limit as provided

17 in 61-8-310(1)(d) for the purposes of erecting signs providing notice of the school zone, the speed limit, and the

18 penalty or for other local law enforcement needs."

19 - END -