HOUSE BILL NO. 92

INTRODUCED BY P. GREEN

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF JUSTICE TO ACCEPT A LICENSED ADDICTION COUNSELOR'S ASSESSMENT IN DETERMINING WHETHER TO RESTORE DRIVING PRIVILEGES FOR INDIVIDUALS CONVICTED OF AN OFFENSE INVOLVING DRIVING UNDER THE INFLUENCE; AMENDING SECTION 61-5-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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) (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 ~~subsection~~ subsections (4) and (5) 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 61-8-1002, 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 suspension and the report of conviction includes a recommendation from the court that a probationary driver's license be issued subject to the requirements of 61-8-1010. ~~If~~ Except as provided in subsection (5), if the 1-year suspension period passes and the person has not completed chemical dependency treatment, as required under 61-8-1002, the license suspension remains in effect until treatment is completed.

(iii) upon receiving a report of a person's conviction or forfeiture of bail or collateral not vacated for a third or subsequent offense of violating 61-8-1002 within the time period specified in 61-8-1002, 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 90 days of the 1-year suspension and the report of conviction includes a recommendation from the court that a probationary driver's license be issued subject to the requirements of 61-8-1010. ~~If~~ Except as provided in subsection (5), if the 1-year suspension period passes and the person has not completed chemical dependency treatment, as required under 61-8-1002, the license suspension remains in effect until treatment is completed.

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

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

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

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

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

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

~~(5)~~(6) (a) A driver's license that is issued after a license revocation to a person described in subsection ~~(5)(b)~~ (6)(b) must be clearly marked with a notation that conveys the term of the person's probation

restrictions.

(b) The provisions of subsection ~~(5)(a)~~ (6)(a) apply to a license issued to a person for whom a court has reported a felony conviction under 61-8-1008, the judgment for which has as a condition of probation that the person may not operate a motor vehicle unless:

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

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

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **SECTION 3. RETROACTIVE APPLICABILITY.** [THIS ACT] APPLIES RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO AN INDIVIDUAL WHO MET THE REQUIREMENTS OF 61-5-208(5) ON OR AFTER JULY 1, 2022.

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