

HOUSE BILL NO. 469

INTRODUCED BY T. SHARP, S. KELLY, E. BYRNE, N. NICOL, G. KMETZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING DRIVER'S LICENSE LAWS; REVISING THE EXEMPTION FOR OUT-OF-STATE DRIVER'S LICENSES FOR LICENSES OR DRIVING PRIVILEGE CARDS ISSUED EXCLUSIVELY TO PERSONS UNLAWFULLY PRESENT IN THE UNITED STATES; REQUIRING THE MOTOR VEHICLE DIVISION OF THE DEPARTMENT OF JUSTICE TO DETERMINE BY RULEMAKING THE CLASSES OF LICENSES OR CARDS THAT ARE ISSUED BY OTHER STATES EXCLUSIVELY TO PERSONS UNLAWFULLY PRESENT IN THE UNITED STATES; REORGANIZING DEPARTMENT RULEMAKING REGARDING DRIVER'S LICENSES; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 61-5-104 AND 61-14-201, MCA."

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

Section 1. Section 61-5-104, MCA, is amended to read:

"61-5-104. Exemptions. (1) The following persons are exempt from licensure under this chapter:

(a) a person who is a member of the armed forces of the United States while operating a motor vehicle owned by or leased to the United States government and being operated on official business;

(b) a person who is a member of the armed forces of the United States on active duty in Montana who holds a valid license issued by another state and the spouse of the person who holds a valid license issued by another state;

(c) a person on active duty in the armed forces of the United States and in immediate possession of a valid license issued to that person in a foreign country by the armed forces of the United States, for a period of 45 days from the date of the person's return to the United States;

(d) a person who temporarily drives, operates, or moves a road machine, farm tractor, as defined in 61-9-102, or implement of husbandry for use in intrastate commerce on a highway;

(e) a person who is a locomotive engineer, assistant engineer, conductor, brake tender, railroad utility person, or other member of the crew of a railroad locomotive or train being operated upon rails, including

operation on a railroad crossing a public street, road, or highway. A person employed as described in this subsection is not required to display a driver's license to a law enforcement officer in connection with the operation of a railroad train within Montana.

(f) a person who temporarily drives, operates, or moves an off-highway vehicle on a forest development road in this state, as defined in 61-8-110, that has been designated and approved for off-highway vehicle use by the United States forest service if the person:

(i) is under 16 years of age but at least 12 years of age; and

(ii) at the time of driving, operating, or moving the off-highway vehicle, has in the person's possession a certificate showing the successful completion of an off-highway vehicle safety education course approved by the department of fish, wildlife, and parks and is in the physical presence of a person who possesses a license issued under this chapter.

(2) A nonresident who is at least 15 years of age and who is in immediate possession of a valid operator's license OR DRIVING PRIVILEGE CARD issued to the nonresident by the nonresident's home state or country may operate a motor vehicle, except a commercial motor vehicle, in this state, unless the license OR DRIVING PRIVILEGE CARD is determined by the department to be of a class issued exclusively to persons unlawfully present in the United States.

(3) (a) A nonresident who is in immediate possession of a valid commercial driver's license issued to the nonresident by the nonresident's home jurisdiction, in accordance with the licensing and testing standards of 49 CFR, part 383, may operate a commercial motor vehicle in this state.

(b) For the purpose of this chapter, "jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, a province or territory of Canada, or the federal district of Mexico.

(4) A nonresident who is at least 18 years of age, whose home state or country does not require the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than 90 days in any calendar year, if the motor vehicle is registered in the home state or country of the nonresident.

(5) (a) A driver's license issued under this chapter to a person who enters the United States armed forces, if valid and in effect at the time that the person enters the service, continues in effect so long as the service continues, unless the license is suspended, revoked, or cancelled for a cause as provided by law, and for up to 90 days following the date on which the licensee is honorably separated from the service.

(b) A person serving in the United States armed forces may renew the person's driver's license at any point of the person's service, and any renewed license continues in effect as long as the service continues, unless the license is suspended, revoked, or cancelled for a cause as provided by law.

(c) A person serving in the United States armed forces may apply for a Montana driver's license upon meeting the requirements in 61-5-103, and this license continues in effect as long as the service continues, unless the license is suspended, revoked, or cancelled for a cause as provided by law, and for up to 90 days following the date on which the licensee is honorably separated from the service."

Section 2. Section 61-14-201, MCA, is amended to read:

"61-14-201. Rulemaking authority -- driver's licenses and identification cards. (1) The department shall adopt rules governing the calculation of grace periods for renewals and the calculation of other time periods established by statute or federal regulation.

(2) The department shall adopt rules to set the standards for driver's license examinations and reexaminations.

(3) The department shall adopt rules establishing the functional abilities and skills required to exercise ordinary and reasonable control to safely operate a motor vehicle. The rules:

(a) must include operational restrictions based on the driver's ability and skills;

(b) may direct the design of one or more types of skills tests. A skills test may consist of:

(i) a comprehensive assessment of a person's functional abilities by means of an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or

(ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the department, as related to a specific physical or mental condition or conditions or a request for reexamination.

(c) must include appropriate licensing criteria relating to the use of adaptive equipment or operational limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction.

(4) The department shall adopt rules establishing vision requirements for a person to safely operate a motor vehicle. The rules:

(a) must include the minimum uncorrected or corrected visual acuity requirements for both

1 unrestricted and restricted licenses and operational restrictions based on the visual acuity of an applicant or
2 licensee, including the use of bioptic lenses; and

3 (b) may include minimum field of vision and depth perception requirements for both unrestricted
4 and restricted licenses.

5 (5) The rules in subsections (3) and (4):

6 (a) may take into consideration any nationally recognized standards or recommended practices or
7 standards of other jurisdictions for assessment of a person's functional abilities and skills;

8 (b) may be derived from medical guidelines and information compiled by driver licensing medical
9 advisory or review boards from other jurisdictions, as well as information received from advocacy groups for
10 persons with disabilities and senior citizens; and

11 (c) except as provided in 61-5-105, may not use a person's age or a person's physical or mental
12 disability, limitation, or condition as a justification for the denial of a license.

13 (6) The department shall adopt rules governing the issuance of a restricted learner license,
14 including when the department may issue a restricted learner license to allow for a driver to practice driving
15 skills.

16 (7) The department shall adopt rules governing the issuance of a hardship license to a person who
17 is at least 13 years of age and because of individual hardship needs a restricted driver's license, including a
18 person who holds a learner license under 61-5-106. The department must consider, among other criteria,
19 whether a hardship license is needed because the applicant's parent or guardian is not available to accompany
20 the licensee, whether due to employment or circumstances related to the operation of a farm or ranch or
21 because the parent or guardian does not hold a valid driver's license, and the licensee is required to drive to the
22 licensee's school bus stop.

23 (8) The department shall adopt rules governing the issuance, renewal, and cancellation of
24 identification cards that align with the proof of identity, residence, and authorized presence standards for a
25 driver's license.

26 (9) The department shall adopt rules governing restrictions for personal communication limitations
27 and other medical information that would be helpful to a peace officer during a traffic stop.

28 (10) The department shall adopt by rule a list of the specific classes of driver's licenses AND DRIVING

PRIVILEGE CARDS issued by other states that are issued exclusively to persons unlawfully present in the United States. IF THE DEPARTMENT CANNOT DETERMINE WHETHER THE DRIVER'S LICENSE OR DRIVING PRIVILEGE CARD WAS ISSUED TO AN INDIVIDUAL WHO IS LAWFULLY PRESENT IN THE UNITED STATES, THE DRIVER'S LICENSE OR DRIVING PRIVILEGE CARD MUST BE CONSIDERED TO BELONG TO THE CLASS CONSIDERED INVALID IN MONTANA.

(11) The department may adopt rules to administer and enforce the provisions of Title 61, chapter 5.

~~(2)(12)~~ The department may adopt rules governing acceptable methods of proof of identification, including name, date of birth, and authorized presence, that an individual must submit when applying for a license or identification card, including a new, renewal, or replacement license or identification card.

~~(3)(13)~~ The department may adopt rules governing the determination of the driver's license expiration date, minimum and maximum license terms, and license renewal requirements for a driver's license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law.

~~(4) The department shall adopt rules governing the calculation of grace periods for renewals and the calculation of other time periods established by statute or federal regulation.~~

~~(5)(14)~~ The department may adopt rules governing the renewal of a driver's license by a person in the military assigned to active duty who had a valid Montana driver's license at the time of entering active duty.

~~(6) The department shall adopt rules to set the standards for driver license examinations and reexaminations.~~

~~(7)(15)~~ The department may adopt rules to set the standards for photographs, certifications, and signature requirements for the issuance of driver's licenses.

~~(8) The department shall adopt rules establishing the functional abilities and skills required to exercise ordinary and reasonable control to safely operate a motor vehicle. The rules:~~

~~(a) must include operational restrictions based on the driver's ability and skills;~~

~~(b) may direct the design of one or more types of skills tests. A skills test may consist of:~~

~~(i) a comprehensive assessment of a person's functional abilities by means of an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or~~

~~(ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the~~

department, as related to a specific physical or mental condition or conditions or a request for reexamination.

(c) must include appropriate licensing criteria relating to the use of adaptive equipment or operational limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction.

(9) The department shall adopt rules establishing vision requirements for a person to safely operate a motor vehicle. The rules:

(a) must include the minimum uncorrected or corrected visual acuity requirements for both unrestricted and restricted licenses and operational restrictions based on the visual acuity of an applicant or licensee, including the use of bioptic lenses; and

(b) may include minimum field of vision and depth perception requirements for both unrestricted and restricted licenses.

(10) The rules in subsections (8) and (9):

(a) may take into consideration any nationally recognized standards or recommended practices or standards of other jurisdictions for assessment of a person's functional abilities and skills;

(b) may be derived from medical guidelines and information compiled by driver licensing medical advisory or review boards from other jurisdictions, as well as information received from advocacy groups for persons with disabilities and senior citizens; and

(c) except as provided in 61-5-105, may not use a person's age or a person's physical or mental disability, limitation, or condition as a justification for the denial of a license.

(11) The department shall adopt rules governing the issuance of a restricted learner license, including when the department may issue a restricted learner license to allow for a driver to practice driving skills.

(12) The department shall adopt rules governing the issuance of a hardship license to a person who is at least 13 years of age and because of individual hardship needs a restricted driver's license, including a person who holds a learner license under 61-5-106. The department must consider, among other criteria, whether a hardship license is needed because the applicant's parent or guardian is not available to accompany the licensee, whether due to employment or circumstances related to the operation of a farm or ranch or because the parent or guardian does not hold a valid driver's license, and the licensee is required to drive to the licensee's school bus stop.

~~(13)~~(16)The department may adopt rules governing probationary licenses, including:

- (a) issuance to a person whose license has been suspended or revoked or whose license is subject to a discretionary suspension or revocation;
- (b) the establishment of restrictions placed on a probationary license;
- (c) the expiration of a probationary license;
- (d) the cancellation of a probationary license for violating the restrictions on the probationary license or for another law violation; and
- (e) the issuance, withdrawal, and monitoring of a restricted-use driving permit issued under 61-5-232.

~~(14)~~(17)The department may adopt rules governing the requirements for a veteran designation on a driver's license or identification card.

~~(15)~~(18)The department may adopt rules governing the issuance of a replacement driver's license.

~~(16)~~(19)The department may adopt rules governing the certification process for cooperative driver testing program instructors.

~~(17)~~(20)The department may adopt rules for the implementation of online driver's license renewal.

~~(18) — The department shall adopt rules governing the issuance, renewal, and cancellation of identification cards that align with the proof of identity, residence, and authorized presence standards for a driver's license.~~

~~(19)~~(21)The department may adopt rules for determining moving violations.

~~(20)~~(22)The department may adopt rules for charging a fee for not appearing at a scheduled commercial skills test or motorcycle test and for the waiver of the fee for good cause shown.

~~(21) — The department shall adopt rules governing restrictions for personal communication limitations and other medical information that would be helpful to a peace officer during a traffic stop.~~

~~(22)~~(23)The department may adopt rules governing the conditions under which an applicant is eligible to receive a driver's license or identification card by expedited service and to set the fee for expedited service.

~~(23)~~(24)(a) By September 1, 2025, the department shall establish a program that allows every qualifying applicant for a driver's license the option to acquire a digital version of the applicant's driver's license in addition to the physical version issued pursuant to 61-5-116.

(b) By July 1, 2025, the department shall adopt rules to implement subsection ~~(23)(a)~~ (24)(a), including but not limited to issuance requirements, specifications, security and privacy protections, and allowable uses associated with the digital driver's license.

~~(24)(25)~~The department may adopt rules to implement any other provision of this title."

NEW SECTION. **Section 3. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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