

HOUSE BILL NO. 229

INTRODUCED BY D. ZOLNIKOV, G. BENNETT, A. DOANE, M. MILLER, D. MORTENSEN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT WHEN TEMPORARY ROADBLOCKS MAY BE USED BY LAW ENFORCEMENT AGENCIES ~~ONLY DURING AN ACTIVE EMERGENCY~~; AUTHORIZING RULEMAKING; AND AMENDING ~~SECTION~~ SECTIONS 46-5-502 AND 46-5-510, MCA."

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

Section 1. Section 46-5-502, MCA, is amended to read:

"46-5-502. Authority to establish roadblocks. ~~(1) When responding to an active emergency, Any a~~
A law enforcement agency of this state is authorized to establish, within its jurisdiction, temporary roadblocks on the highways of this state for the purpose of apprehending persons wanted for violation of the laws of this state, of any other state, or of the United States who are using the highways of this state, identifying drivers, or checking for driver's licenses, vehicle registration, and insurance. Temporary roadblocks are not authorized for any other purpose. A TEMPORARY ROADBLOCK MAY ALSO BE ESTABLISHED IN RESPONSE TO AN ACTIVE EMERGENCY.

(2) (A) A TEMPORARY ROADBLOCK MAY BE ESTABLISHED IN AN AREA WHERE A SIGNIFICANT NUMBER OF KNOWN CAUSAL FACTORS OF MOTOR VEHICLE ACCIDENTS INVOLVING FATALITIES, INJURIES, OR OTHER SERIOUS LEGAL VIOLATIONS ARE KNOWN TO HAVE OCCURRED. DURING A TEMPORARY ROADBLOCK, VERIFICATION OF A VALID DRIVER'S LICENSE, VEHICLE REGISTRATION, AND INSURANCE MAY BE REQUIRED.

(B) WHENEVER A LAW ENFORCEMENT AGENCY CONDUCTS A TEMPORARY ROADBLOCK UNDER THIS SUBSECTION (2):

(i) THE DISCOVERY OF ORDINARY CRIMINAL ACTIVITY THAT IS PURELY INCIDENTAL TO THE PURPOSE OF ENSURING ROADWAY SAFETY MAY BE PROSECUTED; AND

(ii) SECONDARY VIOLATIONS MAY NOT BE ENFORCED.

~~(2) "Active~~ (3) THE TERM "ACTIVE emergency" means an incident that threatens public safety, health, or welfare and requires immediate action.

SECTION 2. SECTION 46-5-510, MCA, IS AMENDED TO READ:

"46-5-510. Establishing temporary roadblock -- plan required -- exception. (1) A written plan for



1 establishing a temporary roadblock pursuant to 46-5-502(2):

2 (a) must be designed by supervisory officers within the law enforcement agency to ensure motorist
3 safety, minimize motorist inconvenience, and prevent the arbitrary selection of vehicles by providing a schedule
4 for the selection of vehicles to be stopped;

5 (b) must be approved in advance of conducting the roadblock by supervisory officers within the law
6 enforcement agency who will not be present where a temporary roadblock is conducted;

7 (c) must ensure that a temporary roadblock is minimally intrusive and does not allow for unconstrained
8 discretion by law enforcement agents performing the roadblock; and

9 (d) must include:

10 (i) the purpose of the temporary roadblock;

11 (ii) the location, date, and time at which the temporary roadblock will be conducted;

12 (iii) the pattern sequence of vehicles to be stopped;

13 (iv) a drawing that shows how the spot check will be established;

14 (v) a copy of the public service announcement to be used to advertise the temporary roadblock; and

15 (vi) the names of the media to be notified of the temporary roadblock.

16 (2) All major media outlets in the area where the temporary roadblock is to be performed must be notified
17 at least 48 hours prior to the scheduled temporary roadblock.

18 (3) This section does not apply to a roadblock established by a law enforcement agency pursuant to
19 46-5-502(1).

20 (4) The department of justice may adopt rules to implement the provisions of this part."

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