

SENATE BILL NO. 193

INTRODUCED BY J. COHENOUR

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A NEW SCHOOL BUS PURCHASED ON OR AFTER JANUARY 1, 2020, TO HAVE SEATBELTS; PROVIDING EXCEPTIONS; LIMITING LIABILITY; REVISING DEFINITIONS; REVISING SCHOOL BUS RATED CAPACITY REQUIREMENTS; AND AMENDING SECTIONS 20-10-101, 20-10-141, AND 61-9-421, MCA."

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

**NEW SECTION. Section 1. Lap-shoulder belt requirement for school buses -- limits on liability.**

(1) A school bus that is purchased new on or after January 1, 2020, for use in the state of Montana must be equipped with lap-shoulder belts for each passenger.

(2) A school district that uses a school bus equipped with lap-shoulder belts shall:

- (a) require all passengers on the school bus to use the lap-shoulder belts; and
- (b) ensure that all lap-shoulder belts are properly maintained and in good working order.

(3) A person may not be charged with violating this section or any administrative rule adopted to implement this section if another passenger on the school bus fails to use or improperly uses the lap-shoulder belt and the school has adopted an enforceable, publicly available lap-shoulder belt usage policy.

(4)(a) When a school district has adopted an enforceable, publicly available lap-shoulder belt usage policy, the state, the county, the school district, a school bus driver under contract with a school district, or an agent or employee of the school district is not liable in an action for personal injury by a school bus passenger:

- (i) because the injured party failed to use or improperly used a lap-shoulder belt; or
- (ii) when the injury was caused solely by another passenger's use or nonuse of a lap-shoulder belt in a dangerous or unsafe manner.

(b) A person may recover damages for a personal injury caused by a broken or improperly maintained lap-shoulder belt.

**NEW SECTION. Section 2. Exemption from lap-shoulder belt requirement.** [Section 1] does not

apply to:



- 1 (1) a school bus purchased prior to January 1, 2020; or
- 2 (2) a school bus purchased on or after January 1, 2020, if the board of trustees for the school district:
- 3 (a) determines that the school district's budget does not permit the school district to purchase a school
- 4 bus equipped with lap-shoulder belts as required by [section 1] based on actual market prices for the school bus
- 5 to be purchased; and
- 6 (b) votes to approve the determination in subsection (2)(a) in a public meeting that is publicly
- 7 documented.

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9 **Section 3.** Section 20-10-101, MCA, is amended to read:

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

11 definitions apply:

12 (1) "Bus route" means a route approved by the board of trustees of a school district and by the county

13 transportation committee.

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

15 (a) is 5 years of age or older and has not reached the age of 21 on or before September 10 of the current

16 school year or who is a preschool child with a disability between the ages of 3 and 6;

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

18 (c) regardless of district and county boundaries:

19 (i) resides at least 3 miles, over the shortest practical route, from the nearest operating public elementary

20 school or public high school, whichever the case may be; or

21 (ii) has transportation identified as a related service in an individualized education program as developed

22 and implemented in accordance with the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.; and

23 (d) is considered to reside with a parent or guardian who maintains legal residence within the boundaries

24 of the district furnishing the transportation regardless of where the eligible transportee actually lives when

25 attending school.

26 (3) "Passenger seating position" means, as defined in 49 CFR 571.222, the space on a school bus

27 allocated for one passenger.

28 (4) (a) "School bus" means, except as provided in subsection (4)(b), any motor vehicle that complies with

29 the bus standards established by the board of public education as verified by the department of justice's

30 semiannual inspection of school buses and the superintendent of public instruction and:

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

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

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

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

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

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

13 (iv) an over-the-road passenger coach used only to transport pupils to activity events.

14 (c) If a school district that owns, operates, or uses a vehicle that is not a school bus pursuant to  
 15 subsection (4)(b), and if that vehicle is equipped with lap-shoulder belts, then the school district's enforceable,  
 16 publicly available lap-shoulder belt usage policy applies to any passenger riding in that vehicle for activity events.

17 (5) "Transportation" means:

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

20 (b) "individual transportation" by which a district is relieved of actually conveying a pupil. Individual  
 21 transportation may include paying the parent or guardian for conveying the pupil, reimbursing the parent or  
 22 guardian for the pupil's board and room, or providing supervised correspondence study or supervised home  
 23 study.

24 (6) "Transportation service area" means the geographic area of responsibility for school bus  
 25 transportation for each district that operates a school bus transportation program."

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27 **Section 4.** Section 20-10-141, MCA, is amended to read:

28 **"20-10-141. Schedule of maximum reimbursement by mileage rates.** (1) The mileage rates in  
 29 subsection (2) for school transportation constitute the maximum reimbursement to districts for school  
 30 transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and

1 20-10-146. These rates may not limit the amount that a district may budget in its transportation fund budget in  
 2 order to provide for the estimated and necessary cost of school transportation during the ensuing school fiscal  
 3 year. All bus miles traveled on bus routes approved by the county transportation committee are reimbursable.  
 4 Nonbus mileage is reimbursable for a vehicle driven by a bus driver to and from an overnight location of a school  
 5 bus when the location is more than 10 miles from the school. A district may approve additional bus or nonbus  
 6 miles within its own district or approved service area but may not claim reimbursement for the mileage. Any  
 7 vehicle, the operation of which is reimbursed for bus mileage under the rate provisions of this schedule, must be  
 8 a school bus, as defined by this title, driven by a qualified driver on a bus route approved by the county  
 9 transportation committee and the superintendent of public instruction.

10 (2) (a) The rate for each bus mile traveled must be determined in accordance with the following  
 11 schedule:

12 (i) 50 cents for a school bus as defined in 20-10-101(4)(a)(ii);

13 (ii) 95 cents for a school bus with a rated capacity of not more than 49 passenger seating positions;

14 (iii) \$1.15 for a school bus with a rated capacity of 50 to 59 passenger seating positions;

15 (iv) \$1.36 for a school bus with a rated capacity of 60 to 69 passenger seating positions;

16 (v) \$1.57 for a school bus with a rated capacity of 70 to 79 passenger seating positions; and

17 (vi) \$1.80 for a school bus with 80 or more passenger seating positions.

18 (b) Nonbus mileage, as provided in subsection (1), must be reimbursed at a rate of 50 cents a mile.

19 (3) The rated capacity is the number of passenger seating positions of a school bus as determined under  
 20 the policy adopted by the board of public education. The board may not adopt a rated capacity that exceeds the  
 21 rated capacity rating of the school bus determined by the school bus manufacturer. If modification of a school bus  
 22 to accommodate pupils with disabilities reduces the rated capacity of the bus, the reimbursement to a district for  
 23 pupil transportation is based on the rated capacity of the bus prior to modification.

24 (4) The number of pupils riding the school bus may not exceed the passenger seating positions of the  
 25 bus."

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27 **Section 5.** Section 61-9-421, MCA, is amended to read:

28 **"61-9-421. Certain vehicles exempt.** ~~Section~~ Except as provided in [section 1], 61-9-420 is not  
 29 applicable to a vehicle that:

30 (1) is a motorbus, schoolbus, taxicab, moped, quadricycle, or motorcycle or is not required to be

1 equipped with safety belts under 49 CFR 571 as it reads on January 1, 1984; or  
2 (2) has a seating capacity as designated by the manufacturer of two persons and there are two persons  
3 4 years of age or older in the vehicle."

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5 **NEW SECTION. Section 6. Two-thirds vote required.** Because [section 1] limits governmental liability,  
6 Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of  
7 the legislature for passage.

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9 **NEW SECTION. Section 7. Codification instruction.** [Sections 1 and 2] are intended to be codified  
10 as an integral part of Title 20, chapter 10, part 1, and the provisions of Title 20, chapter 10, part 1, apply to  
11 [sections 1 and 2].

12 - END -