

SENATE BILL NO. 90

INTRODUCED BY N. SWANDAL

1
2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING DRIVING; REMOVING
5 MANDATORY INCARCERATION FOR DRIVING WHILE SUSPENDED OR REVOKED; ALLOWING A COURT
6 TO SUSPEND OR DEFER PENALTIES; AMENDING SECTION 61-5-212, MCA; AND PROVIDING AN
7 APPLICABILITY DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 **Section 1.** Section 61-5-212, MCA, is amended to read:
12 **"61-5-212. Driving while license suspended or revoked -- penalty -- second offense of driving**
13 **without valid license or licensing exemption -- seizure of vehicle or rendering vehicle inoperable.** (1) (a)
14 A person commits the offense of driving a motor vehicle without a valid license or without statutory exemption or
15 during a suspension or revocation period if the person drives:
16 (i) a motor vehicle on any public highway of this state at a time when the person's privilege to drive or
17 apply for and be issued a driver's license is suspended or revoked in this state or any other state unless the
18 person has obtained a restricted-use driving permit under 61-5-232;
19 (ii) a commercial motor vehicle while the person's commercial driver's license is revoked, suspended,
20 or canceled in this state or any other state or the person is disqualified from operating a commercial motor vehicle
21 or from obtaining a commercial driver's license; or
22 (iii) a motor vehicle on any public highway of this state without possessing a valid driver's license, as
23 provided in 61-5-102, or without proof of a statutory exemption, as provided in 61-5-104.
24 (b) (i) ~~Except as provided in subsection (1)(b)(ii), a~~ A person convicted of the offense of driving a motor
25 vehicle without a valid driver's license or without proof of a statutory exemption for the second time ~~or driving~~
26 ~~during a suspension or revocation period~~ shall be punished by imprisonment for not less than 2 days or more than
27 6 months and may be fined not more than \$500.
28 (ii) Except as provided in subsection (1)(b)(iii), a person convicted of the offense of driving during a
29 suspension or revocation period shall be fined an amount not to exceed \$500 or imprisoned for a term of not more
30 than 6 months, or both.

1 ~~(ii)~~(iii) If the reason for the suspension or revocation was that the person was convicted of a violation of
2 61-8-401, 61-8-406, or 61-8-411 or a similar offense under the laws of any other state or the suspension was
3 under 61-8-402 or 61-8-409 or a similar law of any other state for refusal to take a test for alcohol or drugs
4 requested by a peace officer who believed that the person might be driving under the influence, the person shall
5 be punished by imprisonment for a term of not less than 2 days or more than 6 months or a fine not to exceed
6 \$2,000, or both, and in addition, the court may order the person to perform up to 40 hours of community service.

7 (2) (a) Upon receiving a record of the conviction of any person under this section upon a charge of
8 driving a noncommercial vehicle while the person's driver's license, privilege to drive, or privilege to apply for and
9 be issued a driver's license was suspended or revoked, the department shall extend the period of suspension
10 or revocation for an additional 1-year period.

11 (b) Upon receiving a record of the conviction of any person under this section upon a charge of driving
12 a commercial motor vehicle while the person's commercial driver's license was revoked, suspended, or canceled
13 or the person was disqualified from operating a commercial motor vehicle under federal regulations, the
14 department shall suspend the person's commercial driver's license in accordance with 61-8-802.

15 (3) The vehicle owned and operated at the time of an offense under this section by a person whose
16 driver's license is suspended for violating the provisions of 61-8-401, 61-8-402, 61-8-406, 61-8-409, 61-8-410,
17 or 61-8-411 must, upon a person's first conviction, be seized or rendered inoperable by the county sheriff of the
18 convicted person's county of residence for a period of 30 days.

19 (4) The sentencing court shall order the action provided for under subsection (3) and shall specify the
20 date on which the vehicle is to be returned or again rendered operable. The vehicle must be seized or rendered
21 inoperable by the sheriff within 10 days after the conviction.

22 (5) A convicted person is responsible for all costs associated with actions taken under subsection (3).
23 Joint ownership of the vehicle with another person does not prohibit the actions required by subsection (3) unless
24 the sentencing court determines that those actions would constitute an extreme hardship on a joint owner who
25 is determined to be without fault.

26 ~~(6) A court may not suspend or defer imposition of penalties provided by this section."~~

27
28 COORDINATION SECTION. SECTION 2. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 133 AND
29 [THIS ACT] ARE PASSED AND APPROVED, THEN [THIS ACT] IS VOID.

