

HOUSE BILL NO. 415

INTRODUCED BY F. GARNER

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING HIGHWAY WORK ZONES; CLARIFYING SIGNAGE REQUIREMENTS FOR HIGHWAY WORK ZONES; REVISING THE DEFINITION OF A HIGHWAY WORK ZONE; PROHIBITING USE OF HAND-HELD ELECTRONIC COMMUNICATIONS DEVICES IN HIGHWAY WORK ZONES AND PROVIDING EXCEPTIONS; AND AMENDING SECTIONS 61-8-301, 61-8-314, AND 61-8-370, MCA."

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

Section 1. Section 61-8-301, MCA, is amended to read:

"61-8-301. Reckless driving -- reckless endangerment of highway worker. (1) A person commits the offense of reckless driving if the person:

- (a) operates a vehicle in willful or wanton disregard for the safety of persons or property; or
- (b) operates a vehicle in willful or wanton disregard for the safety of persons or property while passing, in either direction, a school bus that has stopped and is displaying the visual flashing red signal, as provided in 61-8-351 and 61-9-402. This subsection (1)(b) does not apply to situations described in 61-8-351(6).

(2) A municipality may enact and enforce 61-8-715 and subsection (1) of this section as an ordinance.

(3) A person who is convicted of the offense of reckless driving or of reckless endangerment of a highway worker is subject to the penalties provided in 61-8-715.

(4) (a) A person commits the offense of reckless endangerment of a highway worker if the person purposely, knowingly, or negligently drives a motor vehicle in a highway ~~construction~~ work zone in a manner that endangers persons or property or if the person purposely removes, ignores, or intentionally strikes an official traffic control device in a ~~construction~~ work zone for reasons other than:

- (i) avoidance of an obstacle;
- (ii) an emergency; or
- (iii) to protect the health and safety of an occupant of the vehicle or of another person.

(b) As used in this section:

- (i) ~~"construction zone" has the same meaning as is provided in 61-8-314; and~~

1 ~~——(ii) "highway worker" means an employee of the department of transportation, a local authority, a utility~~
 2 ~~company, or a private contractor; and~~

3 (ii) "work zone" has the same meaning as provided in 61-8-314."
 4

5 **Section 2.** Section 61-8-314, MCA, is amended to read:

6 **"61-8-314. Traffic violations in ~~construction zone and work zone -- definitions.~~** (1) As used in this
 7 section, the following definitions apply:

8 ~~(a) "Construction zone" means an area on a public highway or on the adjacent right-of-way where~~
 9 ~~construction, repair, maintenance, or survey work is being performed by the department of transportation, a local~~
 10 ~~authority, a utility company, or a private contractor under contract with the department of transportation or a local~~
 11 ~~authority. A construction zone may include a work zone.~~

12 ~~——(b) "Public highway" has the same meaning as in 60-1-103.~~

13 ~~(c)(b) "Work zone" means the area where the construction, repair, maintenance, or survey work is~~
 14 ~~actually taking place. The boundaries of the work zone must be clearly identified by the posting of signs an area~~
 15 ~~on a public highway or on the adjacent right-of-way where construction, repair, maintenance, or survey work is~~
 16 ~~being performed by the department of transportation, a local authority, a utility company, or a private contractor~~
 17 ~~under contract with the department of transportation or a local authority.~~

18 (2) A person may not operate a motor vehicle in a ~~construction zone or in a work zone~~ on a public
 19 highway in violation of any of the provisions of part 3 of this chapter.

20 (3) The speed limit in a ~~construction zone or in a work zone~~ must be set by the department of
 21 transportation or the local authority based on traffic conditions or the condition of the construction, repair,
 22 maintenance, or survey project.

23 (4) (a) If the department of transportation, the local authority, the utility company, or the private contractor
 24 determines, based on traffic conditions or the condition of the construction, repair, maintenance, or survey project,
 25 that special speed limits in work zones ~~or construction zones~~ are warranted, then the department, the local
 26 authority, the utility company, or the private contractor shall post signs that:

27 (i) conform to the department of transportation's manual on uniform traffic control devices;

28 (ii) indicate the boundaries of the ~~construction zone and the work zone~~; and

29 (iii) display the speed limit in effect within ~~both zones~~ the work zone.

30 (b) The department of transportation, the local authority, the utility company, or the private contractor

1 shall clearly indicate at the boundary of a construction work zone that a person who violates any of the provisions
 2 of part 3 of this chapter in the work zone is subject to the fine provided in subsection ~~(5)(a)~~ (5).

3 (c) The boundaries of the work zone ~~may not exceed 500 feet in advance of and beyond the actual~~
 4 ~~construction activity.~~

5 ~~— (d) The department of transportation, the local authority, the utility company, or the private contractor~~
 6 ~~shall remove or cover the signs when no work is in progress and no hazard exists~~ extend from the first sign
 7 warning of the presence of a work zone to the sign displaying the words "end road work" or to the last temporary
 8 traffic control device.

9 (5) ~~(a)~~ A person convicted of a traffic violation in a work zone is guilty of a misdemeanor. Upon arrest
 10 and conviction, the person shall be punished by a fine of not less than double the penalty provided for the
 11 violation in part 7 of this chapter.

12 ~~(b) A person convicted of a traffic violation in a construction zone is guilty of a misdemeanor. Upon arrest~~
 13 ~~and conviction, the person is subject to the penalty provided for the violation in part 7 of this chapter."~~

14
 15 **NEW SECTION. Section 3. Hand-held electronic communications device use prohibited in work**
 16 **zone -- exceptions.** (1) Except as provided in subsection (2), a person may not use or have in the person's
 17 immediate physical possession a hand-held electronic communications device while operating a motor vehicle
 18 on a roadway in a work zone, as defined in 61-8-314, including operation while temporarily stationary on the
 19 roadway in the work zone because traffic has been halted to facilitate the construction, repair, maintenance, or
 20 survey project.

21 (2) The provisions of this section do not apply if the vehicle has been driven off of or to the side of the
 22 roadway and has stopped in a location where it can safely remain stationary or if the person operating the vehicle
 23 is:

24 (a) a highway worker, as defined in 61-8-301, who is directly engaged in the construction, repair,
 25 maintenance, or survey project for which the work zone was established;

26 (b) using the hand-held electronic communications device to obtain emergency assistance, to report a
 27 police or fire emergency, or in the reasonable belief that an individual's life or safety is in danger;

28 (c) an employee of a governmental fire agency, ambulance service, or law enforcement agency, is an
 29 emergency responder, or is the operator of an authorized emergency vehicle, as defined in 61-8-102, while
 30 operating an authorized emergency vehicle in the performance of the person's duties as an emergency service

1 provider;

2 (d) registered with a county sheriff to assist in emergency response and holds a valid amateur radio
3 operator license issued by the federal communications commission and is using a two-way radio while engaged
4 in an emergency response;

5 (e) employed as a commercial motor vehicle operator or a school bus driver and is using a hand-held
6 electronic communications device within the permissible scope of the person's employment; or

7 (f) using a hands-free accessory.

8 (3) As used in this section, the following definitions apply:

9 (a) "Hand-held electronic communications device" means a hand-held or portable electronic device that
10 uses shortwave analog or digital radio transmission between the device and a transmitter to permit wireless
11 communications to and from the user of the device. A hand-held electronic communications device includes but
12 is not limited to a cell phone, text messaging device, paging device, personal digital assistant, and tablet or laptop
13 computer.

14 (b) "Hands-free accessory" means an external accessory that connects to a hand-held electronic
15 communications device and enables the operator of a motor vehicle to use the hand-held electronic
16 communications device without touching it.

17 (c) "Immediate physical possession" means touching the hand-held electronic communications device.
18 Having the device on one's person or in a motor vehicle does not constitute immediate physical possession.

19 (4) A person who violates the provisions of this section is subject to the penalty provided in 61-8-314.
20

21 **Section 4.** Section 61-8-370, MCA, is amended to read:

22 **"61-8-370. Securing of load -- requirement -- exemptions.** (1) A person operating a loaded vehicle
23 on a public highway shall load the vehicle or secure the load sufficiently to prevent littering or creating an
24 obstruction dangerous to the public traveling on the highway.

25 (2) The following vehicles are exempt from the provisions in subsection (1):

26 (a) a commercial motor vehicle that is operating in compliance with state and federal laws and
27 requirements governing the securing of loads;

28 (b) a vehicle transporting processed or unprocessed agricultural products or inputs, including but not
29 limited to fertilizer, manure, and pesticides;

30 (c) a vehicle performing road maintenance; and

1 (d) a vehicle in a marked ~~construction~~ work zone."

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3 NEW SECTION. **Section 5. Codification instruction.** [Section 3] is intended to be codified as an
4 integral part of Title 61, chapter 8, part 3, and the provisions of Title 61, chapter 8, part 3, apply to [section 3].

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